Chapter 2
Pesticide Laws

This Chapter provides an overview of federal and state laws that apply to pesticides. The laws that govern pesticide application are sometimes complex and cover pesticide use, storage, reporting, recordkeeping, disposal, disposal of pesticides, and more. They also ensure that pesticides on the market have been evaluated for impacts on human health and the environment.

The Worker Protection Standard requires posting an area after pesticide application, as shown in this greenhouse.
Institution: NCDA
Source: pesticidepics.org (Virginia Tech)
Section 1: Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and Amendments

Pesticides are regulated to protect public health, prevent environmental harm, and help ensure they provide the benefits of pest management. With the exception of human and veterinary drugs, no other class of chemicals in the United States is as extensively tested before being registered and sold. This Section provides an overview of the primary law that governs pesticide use in the U.S., the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

Learning Objectives:

1. Describe the difference between unclassified-use and restricted-use pesticides (RUPs)
2. Explain why FIFRA limits how and by whom RUPs can be applied.
3. Explain why EPA and the U.S. Food and Drug Administration establish pesticide tolerance levels for food and feed.
4. Identify four violations of FIFRA that may result in civil or criminal penalties.
5. Understand the pesticide applicator’s best “rule of thumb” to ensure compliance with all federal and state pesticide regulations.

Terms to Know:
- Active ingredient
- FIFRA
- Minimum risk pesticides
- Registered pesticides
- Restricted-use pesticide (RUP)
- Unclassified-use pesticide or general-use pesticide

Pesticides and FIFRA

The U.S. Environmental Protection Agency (EPA) is responsible for implementing the primary federal law regulating pesticides—the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The law registers pesticides, which authorizes pesticide products for sale and use in the United States. Registration decisions are based on a detailed assessment of the product’s potential effects on human health and the environment when used according to label directions. FIFRA also requires the EPA to re-evaluate older pesticides to ensure that they are safe to use.

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Approved pesticide labels have the force of law. Anyone who uses a pesticide without following label directions may face civil and/or criminal penalties. FIFRA gives the EPA authority to stop the sale or use of any pesticide. The EPA can issue removal orders and seize products to keep them out of the market.

FIFRA requires the EPA, states, tribes, and territories to establish programs to protect workers and provide applicator training and certification. Individual states may impose stricter regulations on a pesticide, but labeling and packaging must be identical nationwide. Uniform packaging standards include container type, size, and color.

Under FIFRA, all pesticides are classified by the potential hazards they pose when used as directed on the label. The two main classifications are unclassified-use and restricted-use pesticides. Unclassified-use pesticides are sometimes referred to as general-use, although the EPA rarely classifies a pesticide as general-use.

The EPA classifies some pesticides as restricted-use if the pesticide might have a harmful effect on human health or the environment, or if the pesticide has a history of misuse. There are limitations on who may use and apply these restricted-use pesticides (RUPs). This restricted-use classification must be stated on the front of the label in large text.

A pesticide’s active ingredient (chemical compound in the product that adversely affects the pest) may be listed as both unclassified and restricted-use when used in different pesticide products. For example, a liquid formulation of an insecticide used on fruit trees might be classified as restricted-use if it contains a high percentage of the active ingredient (for example, 70 percent). But the same insecticide with only 5 percent of the active ingredient in a granular formula used on turf insects could be an unclassified or general-use pesticide.

FIFRA provisions allow pesticides:

- To be applied to control a target pest not specified on the label, if the pesticide is applied according to label directions to a crop, animal, or site specifically listed on the label.
- To be applied by any method that is not prohibited by the label.
- To be applied at a dosage, concentration, or frequency less than that specified on the label.
- To be mixed with fertilizer or another pesticide, if it is not prohibited by the label.

All states have signed cooperative agreements with the EPA that designate a state lead agency to enforce the provisions of FIFRA. In Minnesota, the state lead agency is the Minnesota Department of Agriculture (MDA), which enforces both federal pesticide regulations and the Minnesota state Pesticide Control law.
Pesticide Registration

No pesticide can be registered or offered for sale unless its labeling specifies how it can be used with sufficient safeguards for human health and the environment. Several types of registration (and certain exemptions) outlined in FIFRA enable pesticides to be used in the United States and in Minnesota. These include:

- Federal registration of pesticides with EPA,
- State registration,
- Special local need registration under Section 24(c),
- Emergency exemption under Section 18, and
- Exemption of minimum-risk pesticides from registration under Section 25(b).

All of these registration and exemption options are discussed in detail in Chapter 3, The Pesticide Label. In Minnesota, pesticides used, sold, or distributed in the state must also be registered with the MDA.

Minimum Risk Pesticides

Minimum risk pesticides, often called 25(b) products after the related section in federal law, are a special class of pesticides that are not subject to federal registration requirements because their ingredients, both active and inactive (inert), have been deemed demonstrably safe by EPA for the intended use.

To qualify for the Section 25(b) exemption, each of the active and inert ingredients in a product must be on the EPA’s approved list of minimal-risk active and inert ingredients. MDA does not require registration of EPA-designated minimum-risk pesticides.

Keep in mind that while these products are exempt from federal and Minnesota registration, all other pesticide laws apply. For information on minimum-risk pesticide labels, see Chapter 3, The Pesticide Label. For a list of minimum-risk active and inert ingredients, see this EPA website: www.epa.gov/oppbppd1/pesticides/regtools/25b_list.htm.

Pesticide Re-registration

Since the 1988 amendments to FIFRA, the EPA has undertaken a comprehensive review of older pesticides (those registered before November 1, 1984). The EPA review process considers more recent health and safety data about pesticides’ impacts on health and the environment. After evaluating new data on pesticides’ active ingredients, the EPA determines whether they are eligible for re-registration.
Unlawful Acts and Federal Penalties

A variety of actions by pesticide manufacturers, sellers, and users are unlawful under the provisions of FIFRA. These actions include:

- Distributing, selling, or delivering any unregistered pesticide;
- Making any advertising claim about a pesticide that is not included in the registration statement;
- Selling any registered pesticide if its content does not conform to label data;
- Selling an adulterated or misbranded pesticide;
- Detaching, altering, defacing, or destroying any part of a container or its label or labeling;
- Refusing to keep records or allow authorized EPA inspections;
- Making a guarantee other than that specified by the label;
- Advertising a RUP without giving the product classification;
- Making a RUP available to a non-certified applicator (except as provided by specific sections in the law); and
- Using a pesticide in any manner not consistent with the label.

Both civil and criminal penalties can be assessed for FIFRA violations, an indication of the importance of following the instructions on the pesticide label. Use all pesticides according to label directions—**the label is the law!**
Section 2: Other Federal Pesticide Laws

This Section describes federal laws that, along with FIFRA, govern pesticide applicators, as well as workers. Covered are federal laws that affect employee health and safety, transportation requirements, recordkeeping, storage, organic requirements, and other aspects of application are also covered in this Section.

Learning Objectives:

1. Identify three things that employers must provide for agricultural employees using pesticides to comply with the Worker Protection Standard (WPS).

2. Discuss how keeping adequate records of all pesticide applications can benefit the pesticide applicator.

Terms to Know:

- Aggregate exposure
- Food tolerance
- Handler
- National Organic Program
- Placard
- Restricted entry interval (REI)
- Worker

Before mixing and loading pesticides, read the label and follow directions to the letter. Photo: USDA/NRCS
FIFRA is not the only federal law covering pesticide-related activities. In some cases, the pesticide label will alert applicators to other federal laws or requirements. Contact Minnesota's lead state agency, the Minnesota Department of Agriculture (MDA), with questions about whether other federal or state laws apply to you.

**Food, Drug and Cosmetic Act (FDCA)**

Pesticide residues may remain in small amounts in or on fruits, vegetables, grains, other foods, and animal feeds. Before allowing the use of a pesticide on food crops, a **food tolerance**, or maximum residue for food or feed, must be established for that pesticide under the Food, Drug and Cosmetic Act. The tolerance is the amount of pesticide residue that legally may remain in or on treated crops, animals, or animal products (milk or eggs) sold for food or feed. Not all 25(b) minimum-risk pesticides have established food tolerances. Both imported and domestic food must meet pesticide tolerance levels.

Levels of pesticide residue that exceed the tolerance can trigger enforcement actions. The commodity may be condemned or seized by the government, and violators may be prosecuted. Instructions on correct application rate are especially important, as are directions on the minimum number of days that must pass after pesticide application before harvest, slaughter, freshening, or grazing takes place.

**Food Quality Protection Act (FQPA)**

The Food Quality Protection Act (FQPA), a 1996 amendment to FIFRA, requires that all pesticides meet tougher safety standards for sensitive populations. FQPA requires “with reasonable certainty” that no harm will come to infants, children, or other individuals more sensitive to pesticides than the general population (such as people with certain chronic health problems).

The standard considers **aggregate exposure**, which combines the risks from dietary exposure as well as other exposures that are not workplace related, such as drinking water and residential lawn care. In situations where the data is uncertain, an additional safety factor is included in the exposure tolerance decision. In addition, the FQPA requires the EPA to review every registered pesticide on a 15-year cycle. This review allows the public to be confident that older pesticides are periodically assessed using current scientific and regulatory standards. Under FQPA, pesticide manufacturers must restrict label uses of pesticides to reduce the aggregate exposure to acceptable levels.

**Worker Protection Standard (WPS)**

The Worker Protection Standard (WPS) is a federal rule under FIFRA that authorizes the EPA to take steps to reduce illness and injury among
agricultural employees from pesticide exposure. The WPS applies to businesses, farms, greenhouses, nurseries, timber operations, and other commercial producers of plants and pesticides used in plant research. Under the WPS, employers are required to provide employees and, in some cases, their family members with:

- Information about pesticide exposure;
- Protection against pesticide exposure; and
- Mitigation of pesticide exposure.

This section will help you decide if you, your business, or your employees are covered by the WPS.

**Pesticide Uses Covered by the WPS**

Most pesticides used in the production of agricultural plants on farms and in forests, nurseries, and greenhouses are covered by the WPS. This includes pesticides used:

- On plants,
- In the soil, or
- In the planting medium in which plants are (or will be) grown.

Both general-use and restricted-use pesticides (RUPs) are covered by the WPS. To determine if a pesticide is covered by the WPS, look at the pesticide label. Look for a box with the title: “Agricultural Uses Requirements.” The box is usually found under the “Directions for Use” area on the pesticide label. Some pesticide labels may include uses of the product that are covered by the WPS and other uses that are not covered by the WPS. It is your responsibility to follow the WPS requirements for all WPS-covered pesticide uses.

**Employees Covered by the WPS**

Employees covered by the WPS are considered either pesticide handlers or workers. A **handler** is anyone (including individuals self-employed on family-owned farms or in greenhouses and nurseries) employed to:

- Mix, load, transfer, or apply pesticides;
- Handle open containers of pesticides;
- Post flags to define an area for pesticide application;
- Clean, handle, adjust, or repair parts of mixing, loading, or application equipment that may contain pesticide residues;
- Assist with the application of pesticides, including incorporating the pesticide into the soil after application;
- Enter a greenhouse or other enclosed area after application and before the safe inhalation exposure level of the pesticide is reached. (This exposure level is listed on the product label. An enclosed area that meets the WPS ventilation criteria is considered safe to enter.)
Enter a treated area outdoors after application of any soil fumigant to adjust or remove soil coverings, such as tarps; or
Dispose of pesticides covered by the WPS.

A person is not considered a handler if she or he only:
- Handles pesticide containers that have been either triple-washed, pressure-rinsed, or cleaned according to instructions on the pesticide label; or
- Handles unopened pesticide containers.

A worker covered under the WPS is anyone who is employed (or self-employed) for any type of compensation and harvests, weeds, or waters agricultural plants on farms or in forests, nurseries, or greenhouses.

An employee may be considered a handler one time and a worker another time, depending on which tasks the employee is doing.

**Employers Covered by the WPS**

The WPS requires employers to perform certain duties for their handler and worker employees. WPS requirements for employers differ from those that apply to worker and handler employees. Some WPS requirements are straightforward; others are more complex. See the *Worker Protection Standards for Agricultural Pesticides—How to Comply: What Employers Need to Know* (referred to often as the WPS How to Comply Manual) for detailed information about WPS employer requirements, available online at [www.epa.gov/pesticides/health/worker.htm](http://www.epa.gov/pesticides/health/worker.htm). To get current information on WPS requirements, contact the MDA or the University of Minnesota Extension.

All employers are required under WPS to provide:
- Information about pesticide application and safety at an accessible central location on the agricultural establishment,
- Pesticide safety training for workers and handlers,
- Employee decontamination sites,
- An information exchange between employers of commercial applicators (owners of for-hire services) and operators of agricultural establishments contracting for pesticide-application services, and
- Emergency assistance for pesticide exposure.

In addition, employers of handlers are responsible for:
- Application restrictions and applicator monitoring,
- Specific instructions for handlers (such as product-specific safety information and personal protective equipment or PPE),
- Equipment safety training, and
- PPE, including provisions for its use, care, cleaning, and disposal.
Finally, employers of workers are responsible for:

- Restricting worker exposure during pesticide application,
- Maintaining a restricted entry interval (REI) for workers after application, which prevents workers from entering a treated area until it is safe to do so,
- Giving workers notice in writing and verbally about applications, and
- Providing product-specific WPS information, such as the REI and PPE requirements found on the pesticide label of WPS-covered products. General WPS requirements that apply to all pesticide uses are not listed on the label.

WPS-covered handlers and workers who are currently certified and licensed through the Private Pesticide Applicator Training Program are exempt from the WPS pesticide safety training requirement.

Information about WPS requirements can be found in the WPS How to Comply Manual. To find out about recent changes to WPS requirements, how to obtain the WPS How to Comply Manual, WPS training items, and other WPS support materials, contact your county Extension office, MDA field staff person, or:

- Steve Poncin, Pesticide and Fertilizer Management Division
  Minnesota Department of Agriculture
  625 Robert Street North
  St. Paul, MN 55155-3529
  Telephone: (651) 201-6136
- Dean Herzfeld, University of Minnesota Extension
  Department of Plant Pathology
  495 Borlaug Hall
  1991 Upper Buford Circle
  St. Paul, MN 55108
  Telephone: (612) 624-3477

**OSHA Requirements**

An employer with 11 or more employees is required to keep records and make reports to the Occupational Safety and Health Administration (OSHA) in the U.S. Department of Labor. The records must include all work-related deaths, injuries, and illnesses. You do not have to record minor injuries needing only first-aid treatment. However, a record must be made if the injury involves any of the following:

- Medical treatment,
- Loss of consciousness,
- Restriction of work or motion, or
- Transfer to another job.
“Farm Bill” Pesticide Recordkeeping Requirement

In Minnesota, all certified private applicators must keep a record for each restricted-use pesticide (RUP) application they make. This includes private applicators who are crop farmers, producers of fruit and vegetables, livestock growers, greenhouse and nursery growers, sod growers, and others.

This requirement took effect in spring 1993. It is the result of a U.S. Department of Agriculture (USDA) rule created under a provision of the Food, Agriculture, Conservation, and Trade Act of 1990 (better known as the FACT Act or “Farm Bill”). The information that must be recorded is similar to what is recommended for good farm records as part of an integrated pest management or farm financial management program.

The following information is now required to be recorded for all applications of RUPs by private applicators:

- **Brand or product name** of RUP applied.
- **EPA registration number** of RUP applied (from the label).
- **Total amount of RUP applied** (of the product, not just the active ingredient) given in any usual unit of measure (acre, linear feet, bushel, cubic feet, square feet, number of animals treated) as normally expressed on the pesticide label. Examples showing calculations of total amounts are included at right.
- **Location of the application.** One of four options can be used:
  1) County, range, township, and section number system.
  2) Personal identification system using maps and/or written description that accurately and clearly identifies the location of the RUP application.
  3) An identification system used by a USDA agency such as map systems used by Agricultural Stabilization and Conservation Service or Soil Conservation Service.
  4) Legal property description.
- **Size of the area treated.**
- **Crop, commodity, stored product, or site** to which the RUP was applied.
- **Month, day, and year** the RUP was applied.
- **Name and certification number of the applicator** who applied the RUP.

Spot treatments under the rule are RUP applications taking place in one day with total treated areas of less than one-tenth acre have fewer recordkeeping requirements.

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**Broadcast Application Example:**
If the label rate is 2 pints per acre and you treat 80 acres, the total amount applied would be 160 pints or 40 gallons.

**Banding Example:**
If the label rate is 2 pints per acre and you band apply it (15” band on 30” rows), the total amount applied would be half of the amount calculated for broadcast application. For 80 acres, the total amount applied would be a total of 80 pints or 20 gallons.
You need to record only:

- Brand or product name.
- EPA registration number.
- Total amount of the RUP applied.
- “Spot application” for “location,” followed by a concise description of the location and treatment. (Example: Spot application; noxious weeds were sprayed throughout fields 5 and 6.)
- Month, day and year of application.

This spot treatment clause does not apply to RUP applications in greenhouses or nurseries. All the required information must be kept for RUP applications in greenhouses and nurseries.

The information is to be recorded within 14 days of the RUP application and must be kept for two years from the date of application. The rule requires private applicators to keep the original records and to allow access to the records when requested. The information may be recorded in any form, including handwritten notes, or in a computer or other existing farm recordkeeping system. There is no official form that must be used, but the University of Minnesota Extension does have a fact sheet that can be used as an example: AG-FS-0915 Pesticide Application Record (see Appendix D). USDA offers a recordkeeping manual at no cost. See the USDA website for the manual at www.ams.usda.gov.

The actual applicator is responsible for making and keeping the RUP application record. Commercial applicators who apply pesticides for private applicators must provide a copy of the application record to their customers within 30 days after application. Commercial applicators may hold the records of RUP applications for their customers, if the customer has signed a statement allowing this procedure. Commercial applicators must make these records available to their customers upon request in a timely manner. They also must maintain separate records for each client.

Private applicators do not have to submit the records to anyone. Under the rule, private applicators do have to give the USDA, MDA, and health-care providers access to the records. The USDA and MDA may inspect private applicators’ records for compliance.

Licensed health-care professionals who are providing medical care or first aid to someone who may have been exposed to the RUP must have access to the records to facilitate diagnosis or treatment of an exposure. If a licensed health-care professional determines it to be a medical emergency, access to the records of the RUP application relating to the medical emergency is to be provided immediately. Under the rule, anyone who has access to these records must keep all information strictly confidential at all times.

Chapter 2. Pesticide Laws
USDOT Rules for Shipment of Pesticides

Rules for shipping pesticides and other dangerous substances across state lines are issued by the U.S. Department of Transportation (USDOT). These rules tell you which pesticides are dangerous to humans and may create a health hazard during transportation. If you haul pesticides between states, you need to know these rules.

- Pesticides must be in their original packages. Each package must meet USDOT standards.
- The vehicle must have correct hazardous material placarding when transporting certain pesticides in quantity. A placard on the vehicle indicates what risk the cargo poses to health or the environment, so that emergency responders can protect themselves and the public in case of an accident.
- Pesticides may not be hauled in the same vehicle being used to transport food products.
- You must contact USDOT right away after any accident in which someone is killed or injured badly enough to go to a hospital, or the damage is more than $50,000.
- You must tell USDOT about all spills or leaks during shipment.
- State and local laws may require you to take further precautions. Check with the Minnesota Department of Transportation (MnDOT) or the MDA to find out about state or local requirements.

FAA Rules on Aerial Application of Pesticides

Application of pesticides from planes is regulated by the Federal Aviation Administration (FAA) and by the state. The FAA judges the flying ability of pilots and the safety of the aircraft. FAA rules also state that an aerial applicator may not apply any pesticide except as the label directs.

In Minnesota, all commercial aerial applicators and non-commercial aerial applicators who use RUPs must be certified to apply pesticides. Contact the MDA for more information about aerial application.

SARA Title III Reporting of Pesticide Storage

The federal Superfund Amendments and Reauthorization Act (SARA) regulates the cleanup of hazardous waste sites in the United States. One part of this act, known as SARA Title III Section 302, requires that people who use and store certain hazardous materials notify their State Emergency Response Commission (SERC). This notification helps state and local emergency response personnel respond to fires, spills, and accidents that may involve hazardous materials.
The SERC must be notified if you store, or plan to store, any product on the EPA’s “Extremely Hazardous Substances List.” A number of commonly used pesticides are on this list. The list shows the “threshold planning quantity” for each material. Notification is needed only if the amount stored is greater than the threshold planning quantity.

For more information about how private applicators comply with this rule, contact:

Homeland Security and Emergency Management
A Division of the Minnesota Department of Public Safety
444 Cedar Street, Suite 223
St. Paul, Minnesota 55101-6223
Phone: (651) 201-7400 Fax: (651) 296-0459
dps.hsem@state.mn.us
www.epcra.state.mn.us/saratitleIII

2002 National Organic Program Final Rule 7 CFR

USDA, through its National Organic Program, oversees the development and implementation of national standards for production of organically certified commodities as outlined in the 2002 National Organic Program Final Rule. Part of the national standards includes designating those materials that can be used in the production of certified organic commodities as determined by Organic Materials Review Institute (OMRI). Pesticides with active and inert ingredients that apply for and meet these standards will have the organic “three leaf” symbol and the OMRI logo on the label and can be used in the production of certified organic commodities. Note: not all minimum risk 25(b) products meet these organic standards, so be certain to check the label.
Section 3: State Laws

Minnesota laws cover many areas of pesticide use, including protection of the environment; pesticide sales, storage, and facilities; applicator training and licensing; and much more. This Section describes Minnesota laws that apply to private pesticide applicators.

Learning Objectives:

1. Describe the process of becoming a certified private pesticide applicator in Minnesota.
2. Outline the requirements for posting notices in areas where pesticides have been applied.
3. Identify whom applicators must notify in case of a pesticide accident, such as a spill or leak.
4. Define “pesticide incident”.

Terms to Know:

- Chemigation
- Commercial applicator
- Noncommercial applicator
- Posting
- Certified Private Pesticide Applicator
- Structural pest control applicator

In Minnesota, pesticides are regulated under the Minnesota Pesticide Control Laws as enacted and amended by the Minnesota State Legislature. The Minnesota Pesticide Control and the Agricultural Chemical Liability laws are found in Chapter 18 of the Minnesota State Statutes. The Minnesota Department of Agriculture (MDA) is the main administrator and enforcer of these laws. In Minnesota, the state pesticide law “preempts” local government from regulating pesticides. As a result, only the state government can regulate pesticides.
Private Pesticide Applicator Certification

Private applicators are persons who apply pesticides on land that they own or rent for farming purposes. Only private applicators who are certified may apply RUPs. This manual is intended for people who are certified as private applicators. In Minnesota, persons who are not certified may not apply RUPs, even when supervised by someone who is certified.

In Minnesota, there are several types of pesticide applicators:

- **Noncommercial applicators** are persons who apply pesticides to property owned or controlled by their employer (a private company, public institution, or unit of government). Noncommercial applicators must be certified and licensed if they plan to apply RUPs (except on golf courses, where all pesticides must be applied by a licensed applicator). Examples include county employees who spray road ditches and maintenance workers spraying turf weeds at an apartment complex.

- **Commercial applicators** are persons who apply pesticides for hire or as a contractual service where money is paid. All commercial applicators must be certified and licensed to apply any pesticides (RUP, non-RUP, organic, etc.).

- **Structural pest control applicators (SPCAs)** are “for hire” structural and building applicators certified and licensed, who control structural pests in, on, and around buildings.

To become a Certified Private Pesticide Applicator in Minnesota, you must complete and pass an open book test (available in your county Extension office or available online). If you pass, you will be issued a receipt. The receipt may be used as proof of certification until you receive the Private Pesticide Applicator card from the MDA. On the card is your private pesticide applicator certification number.

The certification numbers of all Certified Private Applicators can be found on the MDA website at [www.mda.state.mn.us/en/licensing/license-lookup.aspx](http://www.mda.state.mn.us/en/licensing/license-lookup.aspx). A certified private applicator must obtain a separate fumigation endorsement from MDA to purchase and use fumigants.

To buy and use RUPs, you must provide proof of certification. The following are guidelines for purchasing and using RUPs:

- Persons who are not certified may order and pay for RUPs, but may not take delivery or apply the RUPs.
- Persons—such as a spouse, other family members, or an employee—may take delivery (physical possession) of the RUP from the dealer, provided they show the applicator’s valid certification or license to the dealer.
A private applicator does not need to be certified to hire a commercial applicator to apply RUPs.

All applicators of RUPs must be certified or licensed at the time they take delivery of or apply the RUP.

Persons may not take delivery of a RUP without providing the dealer a valid certification or license of the applicator.

A private applicator’s certification lasts until March 1 following the third calendar year of certification. This means everyone certified or recertified any time in 2011 will have the private certification expire on March 1, 2014.

The private pesticide applicator certification card you receive from the MDA will indicate when your current certification will expire. If you lost your certification card and wish to have a replacement, contact the MDA. State law requires a fee to replace a card.

State law requires persons who are private applicators to be certified when using a RUP to produce an agricultural commodity:

- For traditional exchange of services without financial compensation (when no money changes hands, such as a barter for services between neighbors); or
- On a site owned, rented, or managed by the person or the person’s employees; or
- When the private applicator is one of two or fewer employees and the owner or operator of the agricultural establishment is a certified private applicator or is licensed as a non-commercial applicator.

Under the third condition, if there are two or fewer employees applying RUPs on a farm or in a nursery, greenhouse, or orchard for production of an agricultural commodity, then the employee applicators can be certified as private applicators if the owner or operator is also a certified private or licensed non-commercial pesticide applicator.

On the other hand, if a farm, orchard, nursery, or greenhouse has three or more employees who apply RUPs on their property, then all the employee RUP applicators must be certified and licensed as Noncommercial pesticide applicators.

**Reporting Agricultural Chemical Spills**

Agricultural chemical incidents, including pesticide spills and threatened releases, must be reported to the Duty Officer immediately upon discovery. If the spill occurs on a public highway, also notify local, county, or state police. All reports of agricultural incidents received by the MN Duty Officer are forwarded to the MDA on-call team, which is responsible for directing and assisting the state response and cleanup of agricultural chemical incidents. The MDA on-call team is available 24 hours a day.
An incident includes a flood, fire, tornado, transportation accident, storage container rupture, portable container rupture, leak, spill, emission, discharge, escape, disposal, or other event that releases or immediately threatens to release an agricultural chemical accidentally or otherwise into the environment and may cause unreasonable adverse effects on public health or the environment. An incident does not include a release resulting from the normal use of a product.

Under Minnesota law, all incidents (releases, spills, etc.) involving agricultural chemicals must be immediately reported by the responsible party or property owner to the MDA Incident Response Program through the State Duty Officer. The only exception is an incident that meets all of these conditions:

- The responsible party or owner of real property is a licensed or certified private or commercial pesticide applicator, and
- The total amount of pesticide involved in the release plus any other releases which have occurred at the site during the preceding year is less than the maximum amount of the pesticide that, consistent with its label, can be legally applied to one acre of cropland; and
- The chemical released during the incident does not go into or near public water or groundwater.

An agricultural chemical incident must be reported to be eligible for Agricultural Chemical Response and Reimbursement Account (ACRRA) reimbursement of cleanup costs. See Chapter 7, Safe Handling of Pesticides, for more information on reporting pesticide spills.

Posting Pesticide-treated Fields

There are three cases that require posting of pesticide-treated fields or sites in Minnesota: posting to comply with the federal Worker Protection Standard (WPS), posting to comply with pesticide label directions, and posting to comply with Minnesota state chemigation law (for pesticides applied through irrigation systems).

Posting to Comply with WPS Requirements

The WPS requires agricultural employers (in farms, greenhouses, nurseries, and forestry) to notify employees of pesticide applications that occur on the farm or business and the pesticide’s restricted entry interval (REIs). REI is the time interval following a pesticide application during which workers cannot enter a pesticide-treated area. (The WPS has special REI requirements for greenhouse and nursery pesticide applications. See the WPS How to Comply Manual for more information.)

Under the WPS, there are a few exceptions where early entry into treated areas—that is, before the REI expires—is allowed (see the WPS How to
Comply Manual for more information). REIs for WPS-covered pesticides are listed on the pesticide label. REIs commonly range from 4 hours to 48 hours.

In most cases, WPS requires employers to either 1) tell their employees (verbally notify) which fields are being treated with pesticides, how long the REI is in effect for each field, and to stay out of the treated areas until the REI is over; or 2) post the treated fields. A few pesticide labels will include the following WPS statement: “Notify workers of the application by warning them orally and by posting signs at entrances to treated areas.” In this case an employer must notify employees both orally and by posting pesticide-treated areas. Most of the pesticides with this label statement are those with a DANGER-POISON signal word.

Self-employed farmers with no employees other than immediate family members are not required to comply with WPS (see the WPS How to Comply Manual for more information about this exemption).

A warning sign used for posting a field must:

- Be at least 14 inches by 16 inches in size, and the letters must be at least 1 inch in height;
- Have a background color that contrasts with red; and
- Position the words “Danger” and “Peligro,” plus “Pesticides” and “Pesticidas,” at the top of the sign, and the words “Keep Out” and “No Entre” at the bottom of the sign. Letters for all words must be clearly legible.

Additional information, such as the name of the pesticide and the date of application, may appear on the warning sign if it does not detract from the appearance of the sign or change the meaning of the required information.

Signs must be visible from all usual points of entry to the treated area, including at least each access road, each border with any labor camp adjacent to the treated area, and each footpath and other walking route that enters the treated area. Signs cannot be posted sooner than 24 hours before the pesticide application and must be taken down within three days after the REI is over.

The person responsible for posting the warning sign under the WPS is the employer or owner/operator of the farm, not the pesticide applicator.

Information regarding WPS posting and where WPS warning signs can be purchased is available at county extension offices and the MDA.
Posting Required by the Pesticide Label

A few pesticide labels may require posting of pesticide-treated fields or sites for some or all uses of that pesticide not covered by the WPS. As is always the case, all pesticide label directions must be followed, including this posting requirement.

Posting Required by State Chemigation Law

State posting requirements are different for chemigation. Chemigation is the application of agricultural chemicals (pesticides and fertilizers) through irrigation systems. Concern about water contamination and other issues has led to changes in the regulation of pesticide applicators who chemigate. More information on chemigation and posting chemigated fields or sites is contained later in this Section.

Waste Pesticides and Container Disposal

Some pesticide wastes are listed under federal and state hazardous waste laws. Waste pesticides must be disposed of properly. In Minnesota, disposal of excess pesticides is under control of the MDA. Local governments play a role in waste pesticide removal. For more, see the MDA website at www.mda.state.mn.us/appd/wastepest/default.htm.

The disposal of solid and hazardous waste is regulated by the Minnesota Pollution Control Agency (MPCA). The MPCA also controls the burning of trash. See Chapter 7, Safe Handling of Pesticides, for information on how to dispose of pesticide containers and residues.

Pesticides in Aquatic Environments

In addition to the pesticide laws administered by the MDA, the use of pesticides in lakes and other aquatic environments is also regulated by the Minnesota Department of Natural Resources (DNR). Applying pesticides in aquatic environments may require additional permits, certification in the aquatics pesticide applicator category, and compliance with a number of other regulations. Contact the DNR Division of Ecological Resources Section, Aquatic Plant Management Program at (651) 259-5092 for more information or visit www.dnr.state.mn.us/eco/apm/index.html.

Chemigation

Chemigation is the application of pesticides and fertilizers through irrigation systems. In Minnesota, chemigation is sometimes used on field crops and turf, as well as in greenhouses, nurseries, and other locations. Only pesticides registered for sale in Minnesota that list chemigation as an approved use on the label may be applied through irrigation systems.
Owners/operators of any chemigation system in Minnesota must have a MDA chemigation system user permit before chemigating. Other Minnesota requirements include:

- Installing several safety anti-pollution and backflow safeguard devices on the chemigation system;
- Posting chemigated treated areas;
- Following setbacks and containment requirements for the chemigation system components to protect wells and other water sources;
- Keeping records of pesticides and fertilizers applied through irrigation systems; and
- Implementing several other management measures.

Obtain details about specific chemigation systems from their respective manufacturers. Minnesota also requires additional protection for chemigation systems connected to potable wells or public water-supply systems. For specific details on required safety devices and measures for systems connected to public water supplies, contact the Minnesota Department of Health Well Management Program at (651) 201-4600 or (800) 383-9808, website [www.health.state.mn.us/divs/eh/wells/](http://www.health.state.mn.us/divs/eh/wells/).

Minnesota requires all operators who will be applying pesticides through irrigation systems to obtain a chemigation permit. Minnesota defines “operators” of chemigation systems as the “legal entity” (a person or persons, including any employee or family member involved in a joint operation in which revenues and expenses are shared) who will operate the chemigation system.

This definition does not mean that each employee or family member is required to be permitted. Because operators change from year to year—and because operation of chemigation systems involves maintenance, installation, use of the system, and anti-pollution equipment confirmed to be present and operable—all operators of a chemigation system must have a permit, not just the original permittee.

For the details of MDA’s chemigation requirements, see the chemigation website: [www.mda.state.mn.us/chemicals/fertilizers/chemigation.aspx](http://www.mda.state.mn.us/chemicals/fertilizers/chemigation.aspx).
Section 4: Summary, Resources, and References

Federal and state regulations about pesticides are designed to protect the public and the environment from potential harm. If you use pesticides in ways not allowed by law, you may be fined or even imprisoned. It is the applicator’s responsibility to be familiar with these laws and to comply with the requirements.

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) is the primary law that regulates how pesticides are produced, transported, sold, used, and disposed of in the U.S. Under FIFRA, all pesticides must be either unclassified/general-use or restricted-use. Restricted-use pesticides must be registered with the EPA before they can be sold and other restrictions apply to their use and handling.

Other important pesticide-related laws include the Federal Food, Drug, and Cosmetics Act (FFDCA), the Food Quality Protection Act (FQPA), the Worker Protection Standard (WPS), and USDA’s recordkeeping requirements. The FFDCA regulates the tolerances (maximum amounts of pesticide residue) that may remain in human food and animal feed.

The state lead agency for pesticides is the Minnesota Department of Agriculture (MDA). Under an agreement with the EPA, the MDA implements and enforces both federal and state pesticide regulations and oversees pesticide applicator certification.

Laws and regulations about pesticide use are constantly evolving. Some changes in pesticide laws and regulations apply to:

- Certification of pesticide applicators,
- New worker protection standards,
- Reporting pesticide spills,
- Pesticide record keeping requirements,
- Chemigation, and
- Posting pesticide-treated fields.

It is the certified applicator’s responsibility to keep up with legal requirements at all governmental levels. By complying with federal and state pesticide laws, the applicator avoids penalties and ensures that pesticides are handled and applied safely.

The following table lists federal and state agencies and the types of pesticide use under their jurisdictions.
Federal and State Regulatory Agencies

<table>
<thead>
<tr>
<th>Federal Agency</th>
<th>Duty</th>
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<tbody>
<tr>
<td>U.S. Department of Transportation (USDOT)</td>
<td>Shipment of pesticides across state lines</td>
</tr>
<tr>
<td>U.S. Environmental Protection Agency (EPA)</td>
<td>Pesticide classification and use; certification of applicators; residues in agricultural products; worker protection standards</td>
</tr>
<tr>
<td>Federal Aviation Administration (FAA)</td>
<td>Aviation safety</td>
</tr>
<tr>
<td>Occupational Safety and Health Administration (OSHA)</td>
<td>Worker safety</td>
</tr>
<tr>
<td>U.S. Department of Agriculture (USDA)</td>
<td>Meat and poultry safety and quality; Private pesticide applicator RUP recordkeeping</td>
</tr>
<tr>
<td>U.S. Food and Drug Administration (FDA)</td>
<td>Pesticide residues in food</td>
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<thead>
<tr>
<th>State Agency</th>
<th>Duty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minnesota Department of Agriculture (MDA)</td>
<td>Registration, sale, misuse, accidents, and cleanup of pesticides; licensing and certification of applicators and dealers; handling and disposal of pesticide wastes, containers, and contaminated materials; environmental protection; chemigation</td>
</tr>
<tr>
<td>Minnesota Department of Health (MDH)</td>
<td>Coordination of poison information centers in Minnesota; state drinking water standards; regulation of wells</td>
</tr>
<tr>
<td>Minnesota Department of Natural Resources (MDNR)</td>
<td>Public waters aquatic plant management permit; rough fish removal</td>
</tr>
<tr>
<td>Homeland Security and Emergency Management, a division of Minnesota Department of Public Safety</td>
<td>Emergency response planning for hazardous chemical accidents and releases</td>
</tr>
<tr>
<td>Minnesota Pollution Control Agency (MPCA)</td>
<td>Disposal of hazardous and solid waste</td>
</tr>
<tr>
<td>Minnesota Department of Transportation (MnDOT)</td>
<td>Regulation of transportation of pesticides on public roadways</td>
</tr>
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Useful Websites

The following is a list of useful websites. Please note that websites change frequently and may be replaced or rerouted. Each of these websites was checked prior to publishing this edition of the manual, but may have changed more recently. We apologize for any inconvenience you may experience accessing these sites.

University of Minnesota Extension: www.extension.umn.edu/
  ♦ Crop management: www.extension.umn.edu/Agriculture/
  ♦ Pesticide Safety and Environmental Education for private applicators: www.extension.umn.edu/pesticides/private.html
Minnesota Department of Agriculture: www.mda.state.mn.us/

- Minnesota pesticide registration search page: http://www2.mda.state.mn.us/webapp/lis/productsdefault.jsp

Minnesota Pesticide Control Law (18B):
www.revisor.leg.state.mn.us/stats/18B/