ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES AGRICULTURAL CHEMISTRY ADMINISTRATIVE CODE

CHAPTER 80-1-13 SALE AND USE OF PESTICIDES

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80-1-13-.01 Purpose.

The purpose of this Chapter is to implement and standardize the use of pesticides in Alabama for the benefit of the citizens of this state.

Author: Charles H. Barnes
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80-1-13-.02 Definitions.

For the purpose of this Chapter and to further implement and expand upon the definitions set out in Code of Ala. 1975, §§2-27-2 and 2-27-50, the following definitions should be applicable:

(a) **Agricultural Commodity** means any plant, or part thereof, animal or animal product, produced by a person (including farmers, ranchers, vineculturists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by man or animals.

(b) **Category(ies)** means a unique class of pesticide applicators requiring special skills and knowledge.

(c) **Competent** means understanding the particular functions associated with pesticide application, the degree of competency being directly related to the nature of the pesticide activity and the associated responsibility.

(d) **Commercial Applicator** means a permitted applicator (whether or not he is a private applicator with respect to some pesticide uses) who uses or supervises the use of restricted use pesticides and other pesticides for any purpose or on any property other than provided by (f) of this rule. Commercial applicators shall be further identified according to the type of pesticide application engaged in as follows:

1. **Custom Pesticide Applicator** means a permitted applicator who uses or supervises the use of restricted use pesticides and other pesticides as a full-time employee of a licensed custom pesticide applicator. All persons engaged in the custom application of pesticide for remuneration must meet all certification, license/ permit and insurance requirements prior to engaging in this work. Such persons who use such equipment and/or labor for hire to service property not owned or leased by them, including service by contract for any government agency property, are specifically not exempted from such requirements under §2-27-52.

2. **Custodial Pesticide Applicator** means a commercial applicator who uses or supervises the use of restricted use pesticides and other pesticides for purposes other than production of an agricultural commodity on property owned, leased, or otherwise in control of another person as part of his permanent salaried employment for the owner, lessor, or person in control of the property.

3. **Governmental Pesticide Applicator** means a permitted applicator who uses or supervises the use of restricted use pesticides and other pesticides as a part of his permanent employment with a federal, state, county or municipal governmental agency in pest control programs conducted by such governmental agencies.

4. **Resident Pesticide Applicator** means a permitted applicator who uses or supervises the use of restricted use pesticides and other pesticides for purposes other than the production of an agricultural commodity on property owned or leased by him or to property owned or leased by another person if applied without compensation other than trading personal services with another property owner.

5. **Pesticide Consultant** means a permitted applicator who advises, consults or makes recommendations for the application of any pesticides on property owned, leased, or otherwise controlled by another person.

6. **Pest** means any insect, rodent, nematode, fungus, weed, or any form or terrestrial or aquatic plant of animal life or virus, bacteria or other microorganisms (except viruses, bacteria or other microorganisms on or in living man or other living animals).

(e) **Permitted Applicator** means an individual who is permitted by the Commissioner to recommend the use of, use or supervise the use of restricted use pesticides and other pesticides as a commercial or custom applicator.

(f) **Private Applicator** means a permitted applicator who uses or supervises the use of any pesticide which is classified for restricted use for purpose of producing any agricultural commodity on property owned or rented by him or his employer or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person.

(g) **Pesticide** means any substance or mixture of substances intended for preventing, destroying, repelling, attracting or mitigating any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life and/or bacteria and viruses, except bacteria or viruses on or in living man or other animals, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

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80-1-13-.03 Pesticide Containers.

(1) The practice of opening a manufacturer's sealed, properly labeled container containing pesticides and selling portions thereof in unlabeled, unsealed containers is expressly prohibited. The sale, offering for sale, or transportation of any pesticide shall be accomplished with the pesticide contained in the manufacturer's original properly labeled, sealed container, except pesticides may be shipped or transported in bulk under certain conditions as hereinafter provided.

(2) Pesticides may be shipped or transported in large bulk containers, provided a label showing the name of the pesticide, together with its chemical name, trade name or common name, if available, the percentage of active ingredient, and the necessary and usual caution statement is attached and affixed to the container in a conspicuous place.

(3) All containers used to transport pesticides in bulk or otherwise, shall conform as closely as possible to the United States Department of Transportation's regulations governing transportation of explosives and other dangerous articles, except that the Commissioner may permit minor deviations where he determines such deviations will not endanger man or the environment. The Commissioner shall inspect and approve all such bulk containers.

(4) Unless approved in writing by the Commissioner, reuse of pesticide containers is prohibited.

(a) The Commissioner may permit reuse of pesticide containers on a case by case basis.

(b) Large bulk containers used for bulk transportation of pesticides as authorized under paragraphs (1) and (2) of this rule shall not be subject to the limited reuse requirement of this rule.

(5) The Alabama Department of Agriculture Board hereby adopts by reference, including subsequent amendments, Part 165 of Title 40: Protection of Environment of the Code of Federal Regulations, entitled "Pesticide Management and Disposal Subpart E – Standards for Pesticide Containment Structures." Copies of this material may be obtained from the U.S. Government Printing Office, Washington, D.C. 20401, at a cost determined by that office.

Author: Charles H. Barnes, Robert J. Russell
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80-1-13-.04 Registrations.

(1) Every pesticide or device which is distributed, sold, offered for sale, delivered, or transported within this state shall be registered with the Alabama Department of Agriculture and Industries in accordance with registration and registration requirements of Code of Ala. 1975, §2-27-9 as follows:

(a) The biennial registration fee for a pesticide or device shall not exceed six hundred ($600). The fee structure shall be paid according to the following schedule:

1. All registrations issued to registrants whose names begin with the letters A through M shall expire on December 31, 2013. Upon expiration of registration on December 31, 2013, a registrant whose name begins with letters A through M may renew a registration for a period of two years upon payment of a fee of five hundred dollars ($500) per product. The registration shall be valid until December 31, 2015. The registrant may renew every two years thereafter upon payment of the fee of six hundred dollars ($600).

2. All registrations issued to registrants whose names begin with the letters N through Z shall expire on December 31, 2012. Upon expiration of the registration on December 31, 2012, a registrant whose name begins with letters N through Z may renew a registration for a period of two years upon payment of a fee of five hundred dollars ($500) per product. The registration shall be valid until December 31, 2014. After December 31, 2014, the registrant may renew a registration for a period of two years upon payment of a fee of six hundred dollars ($600) per product.

3. Registrants whose names begin with a numeric character shall follow the schedule for the first letter of the alphabetic spelling of said numeric character.

4. All registrations issued by the department to a registrant who is applying to register an additional pesticide during the second year of the registrant's registration period shall expire December 31 of that year.

5. An application for registration shall be accompanied by a fee of six hundred dollars ($600) for each pesticide except as provided in 80-1-13-.04(1) and 80-1-13-.04(1)(a)2 above."

(b) Registrations fees not paid by March 1, or within 60 days following its due date will pay a delinquency penalty of one hundred fifty dollars ($150) per product in addition to the required registration fee.

(2) Pesticides sold, offered for sale, or distributed in the state under a federal and state experimental pesticide label must be labeled **For experimental use only**. Such label must be affixed to the container so as to be conspicuous, and easily read under normal conditions and circumstances. Persons selling, distributing, or otherwise supplying pesticides to users for experimental purposes and provide the Commissioner of Agriculture and Industries with the following information:

(a) Quantity of the pesticide to be used in the state.

(b) The chemical and common name of the pesticide.

(c) The established tolerance levels for the pesticide as determined by the federal government where required.

(d) Company personnel responsible for the experiment.

(3) After the conclusion of the experiment, experimental information gathered during the experiment shall be supplied the Commissioner, which will justify the manufacturer's contention that the pesticides were for experimental purposes under actual commercial use conditions.
Author: Charles H. Barnes, John P. Hagood, Robert J. Russell, Patrick B. Moody
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80-1-13-.05 Dealer License Requirements.

(1) Before a dealer license as required by Code of Ala. 1975, §2-27-10, is issued to any person who sells, offers for sale or distributes restricted use pesticides to purchasers including farmer users, commercial applicators, pest control operators, and other users of Restricted Use Pesticides, the dealer or person in the dealer's employ shall demonstrate by written examination his ability and knowledge for safely handling, keeping, storing, delivering, transporting, and selling such products. Written examinations for pesticide dealers shall be conducted annually and at other times at various locations throughout the State of Alabama. The examination shall be prepared and assembled by

representatives of the School of Agriculture and the Cooperative Extension Service of Auburn University, representatives of the Alabama Department of Agriculture and Industries and/or other agencies knowledgeable in the subject of pesticides. A passing grade must be scored on the written examination before a dealer license will be issued to an applicant. The name of the person passing the examination shall be included on the license as may be issued and that person shall be responsible for the restricted pesticide sales of the licensed dealer. In the event the person who took and passed the examination shall cease to be in the employ of the licensed dealer, the license shall be void until someone else in the employ of the dealer takes and passes the examination. All persons so examined shall take and pass a written examination every three years.

In addition to the above mentioned personal qualifications, the dealer's physical premises such as his warehouse, his sales outlet, other handling and keeping facilities shall be subject to inspection and approval by the Commissioner or his authorized representatives of the Department of Agriculture and Industries.

(2) Each dealer selling Restricted Use Pesticide shall display the dealer license in a conspicuous location in his place of business.

(3) The dealer licensee shall maintain accurate and adequate records on forms supplied by the Commissioner of Sales of Restricted Use Pesticides to be kept in a post binder or similar binder or on a computer database and format approved by the Commissioner. The dealer licensee is required to maintain, for a minimum of three years, sales records of restricted use pesticides. These records shall include:

(a) A log of Restricted Use Pesticide sales which shall show:

1. The date on which the Restricted Use Pesticide is sold;

2. The trade name of the Restricted Use Pesticide, and either the common name, if available, or the chemical name;

3. Name and address of person to whom delivery is made if other than the permit holder;

4. Restricted Use Pesticide Use Permit Number;

5. The amount and concentration of product sold; and

6. Name and address of the Pesticide Use Permit holder.

(b) A copy of the dealer's invoice or other acceptable records of purchase of restricted use pesticides from the dealer.

(4) Sale of Restricted Use Pesticides shall be made only to persons holding a Pesticide Use Permit as required by this rule.

(5) Each person licensed as a dealer of restricted use pesticides shall, on or before January 1 of each year, submit to the Department of Agriculture and Industries payment of a permitting fee of $45.00 for each outlet through which that dealer engages in the sale of restricted use pesticide.

(6) A license issued to any dealer who fails to comply with or violates any of the requirements hereof shall be revoked.
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80-1-13-.06 Classes Of Permitted Applicators.

Pesticide use permits issued under the provisions of Code of Ala. 1975, §2-27-11, shall be divided into the following classes:

(a) Private Applicator Permit issued to Private Pesticide Applicators.

(b) Commercial Applicator Permit issued to all users of restricted use pesticides other than Private Applicators. The Commercial Applicator Permits shall be further identified and issued according to the type of pesticide application the permit applicant will engage in. The types of Commercial Applicator Permits shall be as follows:

1. Custom Pesticide Applicator.

2. Custodial Pesticide Applicator.

3. Governmental Pesticide Applicator.

4. Resident Pesticide Applicator.

5. Pesticide Consultant.

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80-1-13-.07 Categories Of Commercial Type Pesticide Applicators.

Applicators to which commercial pesticide applicator permits, defined in Rule 80-1-13-.06 above are issued, shall obtain their permit in one or more of the following categories:

(1) Agricultural Pest Control.

(a) Plant. This category includes commercial applicators using or supervising the use of restricted use pesticides and other pesticides in production of agricultural crops, including without limiting, tobacco, peanuts, cotton, feed grains, soybeans, forage, vegetables, small fruits, tree fruits and nuts, as well as on grasslands and non-crop agricultural lands.

(b) Animal. This category includes commercial applicators using or supervising the use of restricted use and other pesticides on animals, including without limiting, beef cattle, dairy cattle, swine, sheep, horses, goats, poultry, and livestock, and to places on or in which animals are confined.

Doctors of Veterinary Medicine engaged in the business of applying restricted use and other pesticides for hire, publicly holding themselves out as pesticide applicators, or engaged in large-scale use of restricted use and other pesticides are exempt from this category.

(2) Forest Pest Control. This category includes commercial applicators using or supervising the use of restricted use and other pesticides in forests, forest nurseries, and forest seed-producing areas.

(3) Ornamental and Turf Pest Control. This category includes commercial applicators using or supervising the use of restricted use and other pesticides to control pests in the maintenance and production of ornamental trees, shrubs, flowers and turf.

(4) Seed Treatment. This category includes commercial applicators using or supervising the use of restricted use and other pesticides on seeds.

(5) Aquatic Pest Control. This category includes commercial applicators using or supervising the use of any restricted use and other pesticide purposefully applied to standing or running water, excluding applicators engaged in public health related activities in (h) of this rule.

(6) Right-of-way Pest Control. This category includes commercial applications using or supervising the use of restricted use and other pesticides in the maintenance of public roads, electric power lines, pipelines, railway rights-of-way or other similar areas.

(7) Industrial, Institutional, Structural and Health-Related Pest Control.

(a) Industrial, Institutional and Household Pest Control. This category includes commercial applicators using or supervising the use of restricted use and other pesticides in, on, or around food-handling establishments, human dwellings, institutions such as schools and hospitals, industrial establishments, including warehouses and grain elevators, other structures and adjacent areas, public or private, for the protection of stored, processed, or manufactured products.

(b) Wood-Destroying Organisms Pest Control. This category includes commercial applicators who apply restricted use and other pesticides for the purpose of preventing, controlling or eradicating termites, various wood borers, fungi, and/or other wood-destroying organisms within, under and on structures, including adjacent outside areas.

(c) Fumigation Pest Control. This category includes commercial applicators who apply restricted use and other fumigants to one or more rooms in a structure or to the entire structure at the desired concentration and for the necessary length of time to control and eradicate pests such as insects, rodents, other vermin and/or organisms.

(8) Public Health Pest Control. This category includes commercial applicators using or supervising the use of restricted use and other pesticides in public health programs for the management and control of pests having medical and public health importance. Usually, applicants in this category are government employees.

(9) Regulatory Pest Control. This commercial applicator category includes state, federal or other governmental employees who use or supervise the use of restricted use and other pesticides in the control of regulated pests.

(10) Demonstration and Research Pest Control. This category includes commercial applicators who demonstrate to the public the proper use and techniques of application of restricted use and other pesticides or supervise such demonstrations.

(a) Demonstration. Applicators in this category shall be persons who demonstrate the proper use and techniques of pesticide application, or supervise such demonstration, as part of their employment including both commercial and educational demonstrations.

(b) Research. Applicators in this category shall be persons who perform or engage in both commercial educational and basic research on pesticides and their uses.

(11) Argicutural Commodity Fumigation. This category includes commercial applicators who apply or supervise the application of restricted use and other fumigants to control pests in raw or processed agricultural commodities.

(12) Aerial applicator will be a subcategory under all above categories where appropriate.

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80-1-13-.08 Examination Required For Commercial Applicator Permit.

(1) Commercial Applicator Permit applicants shall be initially deemed to be competent when the applicant has taken and passed a written examination developed, given and graded by the Examining Board, created and existing under Code of Ala. 1975, §2-28-2, in the category(ies), set out in Rule 80-1-13-.07 above, the applicant desires permitting. Examination scores shall be valid for (12) months after the date of examination. In addition to any other requirement, the applicant shall pay a permit fee of $45 per category for which the applicant seeks certification or recertification to the Department of Agriculture & Industries for the issuance or the reissuance of any permit.

(2) The written examination for Commercial Applicator Permit shall measure applicant's knowledge and understanding of pesticides and the use of pesticides.

(3) A practical knowledge of the principles and practices of pest control and safe use of pesticides shall be tested and this testing shall be based on examples of problems and situations appropriate to the particular category or subcategory of the applicator's certification and the following areas of competency:

(a) Label and Labeling Comprehension:

1. The general format and terminology of pesticide labels and labeling,

2. The understanding of instructions, warnings, terms, symbols, and other information commonly appearing on pesticide labels,

3. Classification of the product, general or restricted, and

4. Necessity for use consistent with the label.

(b) Safety Factors including:

1. Pesticide toxicity and hazard to man and common exposure routes,

2. Common types and causes of pesticide accidents,

3. Precautions necessary to guard against injury to applicators and other individuals in or near treated areas,

4. Need for and use of protective clothing and equipment,

5. Symptoms of pesticide poisoning,

6. First aid and other procedures to be followed in case of a pesticide accident, and

7. Proper identification, storage, transport, handling, mixing procedures and disposal methods for pesticides and used pesticide containers, including precautions to be taken to prevent children from having access to pesticides and pesticide containers.

(c) Environment. The potential environmental consequences of the use and misuse of pesticides as may be influenced by such factors as:

1. Weather and other climatic conditions,

2. Types of terrain, soil or other substrate,

3. Presence of fish, wildlife and other nontarget organisms, and

4. Drainage patterns.

(d) Pests. Factors such as:

1. Common features of pest organisms and characteristics of damage needed for pest recognition,

2. Recognition of relevant pests, and

3. Pest development and biology as it may be relevant to problem identification and control.

(e) Pesticides. Factors such as:

1. Types of pesticides,

2. Types of formulations,

3. Compatibility, synergism, persistence and animal and plant toxicity of the formulations,

4. Hazards and residues associated with use,

5. Factors which influence effectiveness or lead to such problems as resistance to pesticides, and

6. Dilution procedures.

(f) Equipment. Factors including:

1. Types of equipment and advantages and limitations of each type, and

2. Uses, maintenance and calibration.

(g) Application Techniques. Factors including:

1. Methods of procedure used to apply various formulations of pesticides, solutions and gases, together with a knowledge of which technique of application to use in a given situation,

2. Relationship of discharge and placement of pesticides to proper use, unnecessary use and misuse, and

3. Prevention of drift and pesticide loss into the environment.

(h) Applicable state and federal laws and regulations.

(4) Should an applicant fail the examination this applicant will not be permitted to be re-examined for a minimum of 10 days, unless such period is waived by Commissioner, from date of previous examination.

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80-1-13-.09 Private Applicator Permit Requirements.

(1) No person younger than eighteen (18) years old will be permitted as a private applicator. In hardship cases, however, persons under the age of eighteen (18) may be permitted at the discretion of the Commissioner after appropriate consultations with the affected parties or their representatives. The Commissioner shall determine by examination that each applicant for a Restricted Use Pesticide Permit is competent to supervise and/or use restricted use pesticides listed on the application for permit.

(2) Private applicator permit applicants shall be deemed to be competent upon passing a standard examination that covers the following topics:

(a) Recognize common pests to be controlled and damage caused by them.

(b) Read and understand the label and labeling information, including the common name of pesticides he applies; pest(s) to be controlled, timing and methods of application; safety precautions; any preharvest or reentry restrictions; and any specific disposal procedures.

(c) Apply pesticides in accordance with label instructions and warnings, including the ability to prepare the proper concentration of pesticide to be used under particular circumstances taking into account such factors as area to be covered, speed at which application equipment will be driven and the quantity dispersed in a given period of operation.

(d) Recognize local environmental situations that must be considered during application to avoid contamination.

(e) Recognize poisoning symptoms and procedures to follow in case of a pesticide accident.

(f) Applicable state and federal laws and regulations.

(3) The procedure for obtaining a Private Applicator Permit shall be as follows:

(a) The Alabama Cooperative Extension System’s county office(s) is designated to train private pesticide applicators and provide a private pesticide applicator training manual, application for permit, and a test. If applicant is unable to attend training session provided by the Cooperative Extension Service office, applicant shall secure appropriate training manual, permit application, and test to complete at home.

Application fees for permit and completed test are to be forwarded to the Alabama Department of Agriculture for issuance of permit.

(b) The applicant or permittee shall submit a permit fee of $25 for each application and reapplication as a Private Applicator.

(c) In the event of an emergency situation of an urgent nature where this procedure cannot be followed, the County Extension Agency may contact the Department of Agriculture and Industries by telephone and request emergency permission for the applicant to purchase a Restricted Use Pesticide. In this initial contact, the extension agent shall indicate that he has provided the person with the emergency training on proper use of the restricted use pesticide needed.

(4) The name and address of the dealer or dealers from whom purchase is to be made shall be given to the Department of Agriculture and Industries. The Department will then contact such dealer or dealers by telephone and give verbal approval to the dealer to sell the needed Restricted Use Pesticide to the individual approved for emergency purchase of the pesticide. The pesticide dealer will then indicate the emergency sale in his record with the name of the person at the Department of Agriculture and Industries who authorized such emergency purchase. Reoccurring emergency requests from the same private applicator shall not be permitted. Emergency permits are not renewable.
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80-1-13-.10 Renewal Of Restricted Use Pesticide Use Permits.

(1) Private Pesticide Applicator Permits shall be renewable three years from date of issue. The procedure for renewal of a private Pesticide Applicator shall be the same as for the initial permit.

(2) Commercial pesticide applicator permits shall be renewable three years from date of issue and renewal shall be based on a point system where the permit holder must accumulate a total of 30 points in the three-year period according to the following schedule:

(a) Proven attendance at a training session approved by the Commissioner in all the categories in which the permit holder is certified and desires to retain certification.

(b) Accomplishment of reexamination by passing an examination in permit category(ies) previously certified 30 Points.

(c) Commercial pesticide applicator permits shall be renewed for up to one year after the expiration date. For renewal by reexamination, the exam(s) shall be passed within twelve (12) calendar months of permit expiration date. All renewal paperwork and the permit renewal fee must be received by the Department no later than one year after permit expiration date.

(d) Permits that have been expired for more than one year cannot be renewed. A new permit may be obtained as prescribed in Rule No. 80-1-13-.08.

(3) For permit renewal purposes the Commissioner shall subtract up to 15 points per year for proven negligent pesticide application.
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80-1-13-.11 Denial, Suspension, Revocation, Or Modification Of Restricted Use Pesticide Use Permits.

(1) The Commissioner may deny the initial issuance or renewal of a Private Pesticide Applicator Permit or a Commercial Pesticide Applicator Permit when it is evident that an applicant for such permit has:

(a) Failed to meet the competency standards required for issuance of a permit as provided in Rules 80-1-13-.08 and 80-1-13-.09 of this Chapter,

(b) Caused injury to man and/or the environment by misuse of a pesticide,

(c) Failed or refuses to keep true and accurate records of pesticide application as required by Rule 80-1-13-.14 of this Chapter (private applicators shall not be required to keep records of pesticide application unless required by the labeling of a pesticide),

(d) Violated provisions of the Alabama Pesticide Law or any regulations thereof or Federal Insecticide Fungicide and Rodenticide Act, as amended,

(e) Used any pesticide in a manner inconsistent with its labeling; and all other written, printed or graphic matter

accompanying the pesticide or device at any time; or to which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the Environmental Protection Agency, the United States Departments of Agriculture and Interior, the Department of Health, Education and Welfare, state experiment stations, state agricultural colleges, and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides,

(f) Failed or refuses to comply with the permit requirements of these regulations including renewal requirements.

(2) The Commissioner may suspend, revoke, or as may be necessary for protection of man and the environment, modify any permit issued under these regulations when it is evident that the permit holder has:

(a) Caused injury to man and the environment by misuse of a pesticide;

(b) Failed or refuses to keep true and accurate records of pesticide application as required by this Chapter, (private applicators shall not be required to keep records of pesticide application unless required by the labeling of a pesticide);

(c) Violated provisions of Code of Ala. 1975, Chapter 27 of Title 2, these rules, or the Federal Insecticide, Fungicide and Rodenticide Act, as amended;

(d) Used any pesticide in a manner inconsistent with its labeling; and all other written, printed, or graphic matter accompanying the pesticide or device at any time; or, to which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the Environmental Protection Agency, the United States Departments of Agriculture and Interior, the Department of Health, Education and Welfare, state experiment stations, state agricultural colleges and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

(e) Failed or refuses to comply with the permit requirements of these rules including renewal requirements.

Author: Charles H. Barnes
Statutory Authority: Code of Ala. 1975, §§2-27-8, 2-27-57.
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80-1-13-.12 Use Of Restricted Use Pesticides Under Direct Supervision Of A Permitted Pesticide Applicator.

(1) The Commissioner may allow a competent person to apply restricted use pesticides when such application is under the direction of a Private or Commercial Pesticide Applicator who holds a valid permit issued by authority of these rules and regulations and such permit authorizes the use of the pesticide being used.

(2) The Private or Commercial Pesticide Applicator Permit holder shall be available to the person under his direct supervision based on the hazard of the pesticide application situation as follows:

(a) In those cases where physical presence of the permit holder is not required, direct supervision may be accomplished by providing the competent person detailed written or oral instructions for the proper application of the pesticide and instructions or provisions for contacting the permit holder in the event he is needed, or

(b) More hazardous pesticide application situations or the labeling of the pesticide may require the physical presence of the permit holder to supervise the application of a restricted use pesticide by a nonpermitted applicator, and in such cases, the permit holder shall be physically present.

Author: Charles H. Barnes
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History: Filed April 19, 1982.

80-1-13-.13 Enforcement, Inspection, Sampling And Analysis.

(1) To assure himself that all applicable provisions of the pesticide law and these rules are being complied with, that all pesticides are being mixed, formulated, used, and disposed of in accordance with the pesticide's labeling, that all records required are being maintained, and that pesticides are not being used in a manner that would unreasonably harm man or the environment, the Commissioner or his authorized agent may enter at reasonable times onto a pesticide user's premises during periods of pesticide application or normal business hours whichever condition applies to the situation. During such entry the Commissioner or his agent may examine and copy any and all records required by these rules; sample and analyze all pesticides diluted ready for application, or ready for dilution for application and observe the techniques of application as may be necessary to

evaluate such techniques in terms of the labeling of the pesticide being applied.

(2) One sample shall be taken by inspection personnel from each formulated batch of pesticides found in trade channels and the batch number and other identifying information on the container shall be shown on the inspection report prepared by the inspector of the Department of Agriculture and Industries.

(a) Each sample shall be taken from the container by the use of an instrument that will obtain a fair and representative mixture of the entire container. The pesticide container shall be resealed as necessary by the inspector after the sample is taken.

(b) Each sample from a pesticide in powder or dust form shall be a minimum of four ounces and each liquid sample shall be a minimum of two ounces.

(c) For samples taken from sealed containers the manufacturer, as shown by label registration, shall be notified of the results of the sample analysis and a copy thereof shall be obtained.

(3) Samples disclosing any violations shall be retained for a period of 180 days from date the deficiency is reported. Samples disclosing no violation may be discarded as soon as the analysis has been completed.

(4) All samples shall be analyzed by methods adopted by the Association of Official Analytical Chemists (AOAC), if such a method has been approved.

(a) In absence of AOAC method those analytical methods prescribed by the Commissioner shall be used.

(b) If no reliable method is available to the Commissioner, it shall be the responsibility of the manufacturer to supply a method of analysis along with the registration application.

(5) For samples taken from manufacturer's sealed container, the allowable deviation from guaranteed analysis shall be as follows:

Percent Guarantee	Allowable Deviation Percent of Guarantee
.01 to 10%	10%
10.01 to 100%	5%

Author: Charles H. Barnes
Statutory Authority: Code of Ala. 1975, §§2-27-8, 2-27-57.
History: Filed April 19, 1982.

80-1-13-.14 Books And Records.

(1) Private Applicators shall not be required to keep books and records unless required by the labeling of the pesticides.

(2) All commercial pesticide permit holders shall keep for a period of not less than three years books and records which shall accurately and truthfully show for each and every application of a restricted use and other pesticides the following:

(a) The Environmental Protection Agency registration number of the pesticide used,

(b) The amount of the pesticide used,

(c) The uses to which the pesticide was put including:

1. The crop or site on which used,

2. The pest being controlled,

3. The rate of pesticide application,

4. The location of each application, and

5. The date and time of the pesticide application.

Author: Charles H. Barnes, Robert J. Russell
Statutory Authority: Code of Ala. 1975, §§2-27-8, 2-27-57.
History: Filed April 19, 1982. **Amended:** Filed October 24, 2008; effective November 28, 2008.

80-1-13-.15 Pesticide Classification.

To prevent conflict between requirements of the Federal Insecticide Fungicide and Rodenticide Act as amended and rules and regulations promulgated thereunder and these rules and regulations, the Commissioner shall classify as restricted use pesticides under these rules all pesticides classified as restricted use pesticides by the Administrator of Environmental Protection Agency. In addition the Commissioner may classify as restricted use pesticides any pesticides classified by the Administrator of EPA as general use should the Commissioner consider such restricted classification necessary to protect man and the environment from unreasonable adverse effects from the general use of that pesticide in Alabama.
Author: Charles H. Barnes
Statutory Authority: Code of Ala. 1975, §§2-27-8, 2-27-57.
History: Filed April 19, 1982.

80-1-13-.16 Stop Sale, Use, Removal Or Hold Orders.

(1) When a pesticide, pesticide container or device is found to be deficient or otherwise in violation of the state pesticide laws or rules and regulations promulgated thereunder, the Commissioner of Agriculture and Industries or others under his direction shall issue a stop sale, stop use, hold or suspension from sale order. The material, container or device to which such an order is directed shall be branded not for sale or use until further notice. Such orders shall be issued in accordance with Code of Ala. 1975, §2-2-30.

(2) It shall be the responsibility of the manufacturer of pesticides that have been found to deviate from the guaranteed analysis in excess of that allowed by regulation to return such pesticide to the manufacturer or formulator within 30 days following receipt of the violation report from the Department of Agriculture and Industries.

(3) The manufacturer shall advise the Department of Agriculture and Industries of the date on which the violative material is picked up.

(4) The manufacturer shall then advise the Department of Agriculture and Industries, Agricultural Chemistry Section, in writing within six months after the material is returned to the plant as to what disposition was made of such material.

(5) Failure to comply with these requirements, if proven, may constitute grounds for refusing registration of the product.
Author: Charles H. Barnes
Statutory Authority: Code of Ala. 1975, §§2-27-8, 2-27-57.
History: Filed April 19, 1982.

80-1-13-.17 Exemptions From Chapter; Exceptions.

(1) As provided under the provisions of Code of Ala. 1975, §2-27-5, bona fide public or private research institutions or agencies are exempt from the provisions of the pesticide law or this Chapter. This exemption is also extended to the manufacturer, user or shipper of a pesticide for bona fide experimental use only, except that an experimental label must be affixed to the containers of the pesticide and provided that the manufacturer or shipper obtains a permit as prescribed below.

(2) The permit required under the provisions of §2-27-5(3) above for manufacturers and shippers of pesticides for bona fide experimental use only shall not be required when experiments

require the use of less than 10 pounds of technical pesticide or less than five acres in area at one location. When the above criteria cannot be met the application for this specialized permit shall contain the following information:

(a) Name or code number and amount of the pesticide to be used,

(b) Name of the person or persons supervising work,

(c) Location of experimental project,

(d) Crops or other objects on which it will be used,

(e) Certification that edible crops, animals or their products from the experimental use will not enter trade channels, and

(f) Agreement to provide the Commissioner with a report of results of the experiment.

Author: Charles H. Barnes
Statutory Authority: Code of Ala. 1975, §§2-27-8, 2-27-57.
History: Filed April 19, 1982.

80-1-13-.18 Penalties For Violation Of Chapter.

The penalty for violation, if proven, of this Chapter shall be as provided under the provisions of Code of Ala. 1975, §2-27-16.
Author: Charles H. Barnes
Statutory Authority: Code of Ala. 1975, §§2-27-8 and 2-27-57.
History: Filed April 19, 1982.