ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES AGRICULTURAL CHEMISTRY ADMINISTRATIVE CODE

CHAPTER 80-1-14 APPLICATION OF PESTICIDES BY AIRCRAFT

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80-1-14-.01 Purpose.

In accordance with the provisions of Code of Ala. 1975, §2-27-50 through §2-27-63, which regulates the custom application of pesticides by aircraft and ground equipment, the following regulations relating thereto are hereby approved and adopted by the State Board of Agriculture and Industries for the administration and enforcement of said Act.
Author: Marise Mims Sandidge
Statutory Authority: Code of Ala. 1975, §2-27-57.
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80-1-14-.02 Definitions.

For the purpose of this chapter the following words and phrases shall have the meaning ascribed to them in this Rule and as ascribed by Code of Ala. 1975, §2-27-50 through §2-27-63.

(1) Application equipment: the entire mechanism required to dispense pesticides but shall not include the mechanism of the carrying vehicle.

(2) Applicant: any individual, firm, partnership, corporation, association or other legal entity or organization making application for a license to engage in the business of custom

application of pesticides as defined under provisions of this Act.

(3) Agricultural Aircraft Operation: the operation of an aircraft for the purpose of dispensing any pesticide directly affecting agriculture, horticulture, forest preservation, or for any other pest control operation.

(4) Adverse Effect: personal injury, damage to personal property, damage to real property, damage to the environment or any combination of these.

(5) Drift: the drifting or movement of a pesticide by air currents or diffusion onto property beyond the boundaries of the target area to be treated with pesticide.

(6) Emergency: an occurrence which can impair public health, safety or result in injury, damage, or loss of life and which calls for immediate action. An emergency may be minor or of such magnitude as to create a disaster.

(7) Environment: water, air, land and all plants and man and other animals living therein and the interrelationships which exist among these.

(8) Pilot: the person in control of the aircraft during the application of a pesticide.

(9) Target Area: intended site of pesticide application.

(10) Calibration of Equipment: adjustment of application equipment in order to control the rate of dispersal and droplet or particle size of a pesticide dispersed by the equipment.

(11) Competent: proficiency in the performance of the particular functions associated with pesticide application, the degree of competence being directly related to the nature of the activity and the associated responsibility.

(12) Direct Supervision: the act or process whereby the application of a pesticide is made by a competent person acting under the restrictions and control of a Supervisor who is available if and when needed, even though such Supervisor is not physically present at the time and place the pesticide is applied.

(13) Decal: an identification symbol to be affixed to equipment used in custom pesticide operation(s) signifying that requirements of law have been met.

(14) Full-Time Employee: any person employed full time by a licensee with the exception of clerical, janitorial, office

maintenance employees or those employees performing work completely disassociated with the custom application of pesticides.

(15) Hazard: a probability that a given pesticide or the use of a pesticide will have adverse effects on man or the environment in a given situation, the relative likelihood of danger or ill effects being dependent on a number of interrelated factors present at any given time.

(16) Label: the written, printed, or graphic matter on, or attached to the pesticide or immediate container thereof and the outside container or wrapper of the retail package, if any there be, of the pesticide.

(17) Licensee: any individual, firm, partnership, corporation, association, or other legal entity or organization which holds a valid license issued under the provisions of this Act to engage in the business of custom application of pesticides.

(18) License: a document issued by the Commissioner authorizing the practice of custom application of pesticide(s) utilizing the equipment indicated thereon.

(19) Supervisor: an individual who is permitted by the Commissioner to recommend the use of, use, or supervise the use of pesticides for persons engaged in the custom application of pesticides.

(20) Non-Target Organisms: an organism exposed or potentially exposed to a pesticide other than the pest(s) the applicator intends to control.

(21) Place of Business: any location in Alabama where licensee maintains records, receives orders, holds financial transactions and generally engages in business activities. A Place of Business may or may not be identified by street address.

(22) Pesticide Management Area: an area designated by the Commissioner with approval of the Board, in which commercial pesticide application shall be prohibited or limited as to pesticide(s) and/or method(s) of application.

(23) Pesticide Overspray: the application of a pesticide onto property beyond the boundaries of the target area which is caused by the failure to control the direct flow of the pesticide or by a failure to control the application equipment in surrounding conditions of use and application in a manner which fails to confine the pesticide to the target area.

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80-1-14-.03 Classification Of Supervisors And Licensees.

Supervisors shall be classified according to the type of pesticide application performed. Supervisor certification cards and Custom Pesticide Applicator Licenses shall be issued in accordance with the following categories and subcategories providing the applicant for same has met the requirements for qualifications of each:

(1) Category I Demonstration Pest Control. This category includes Licensees and Supervisors who use or supervise the use of pesticides for the purpose of demonstrating to the public the proper use and techniques of application of pesticides excluding compounds and formulations used in basic research for the sole purpose of obtaining experimental data or research information and not used for the immediate purpose of controlling pests or preventing damage to plants, animals or other materials caused by pests.

(2) Category II Agricultural Pest Control. This category includes Licensees and Supervisors who use or supervise the use of pesticides in production of agricultural crops including, but not limited to, tobacco, peanuts, cotton, feed grains, soybeans, forage, vegetables, small fruits, tree fruits, nuts, and non-crop agricultural lands.

(3) Category III Forest Pest Control. This category includes Licensees and Supervisors who use or supervise the use of pesticides in forests, forest nurseries, and forest seed producing areas.

(4) Category IV Right-Of-Way Pest Control. This category includes Licensees and Supervisors who use or supervise the use of pesticides in the maintenance of public roads, electric power lines, pipelines, railroad rights-of-way and other similar rights-of-way areas.

(5) Category V Aquatic Pest Control. This category includes Licensees and Supervisors who use or supervise the use of pesticides which are purposefully applied to standing or running water, excluding Licensees and Supervisors engaged in public health-related activities included in subrule (6) of this rule.

(6) Category VI Public Health Pest Control. This category includes Licensees and Supervisors who use or supervise the use of pesticides in public health programs for the management

and control of pests having medical and public health importance.
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80-1-14-.04 Supervisor Certification.

(1) Applicant for Supervisor in one or more of the categories given in Rule No. 80-1-14-.03 of these Rules must submit statements in writing as to training and experience in handling and application of pesticides.

The minimum requirement for an applicant shall be: working under the supervision of a Supervisor for a minimum period of twelve (12) calendar months during a period of actual pesticide application. A minimum of three (3) calendar months of this time must be spent as acting assistant to a Supervisor.

This shall not apply to applicants that meet the requirements of Code of Ala. 1975, §2-27-55, as it applies to reciprocal licenses.

(2) Applicant for Supervisor in one or more of the categories in Rule No. 80-1-14-.03 shall take a written examination to demonstrate competency in that category. Beginning October 1, 2004, each application and reapplication for written examination shall be accompanied by an examination fee of $75 by the applicant.

Should an applicant fail the examination this applicant will not be permitted to be re-examined for a minimum of 10 days from date of previous examination.

(3) To continue certification, a Supervisor shall show proof in a manner prescribed by the Commissioner of attending a refresher course on pesticides and pesticide application approved by the Commissioner. Such refresher course shall be attended within twelve (12) calendar months prior to application for renewal of Supervisor certification.

In lieu of a refresher course, a Supervisor may choose to be re-examined for continuance of certification.
Author: Marise Mims Sandidge, John P. Hagood, Robert J. Russell
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80-1-14-.05 Custom Pesticide Applicator's License.

(1) An applicant for a license shall have each place of business he/she operates in Alabama under the direct supervision of a Supervisor. The Supervisor so named for each place of business shall be responsible for licensee's custom pesticide application administered through that assigned place of business and for that assigned place of business only.

(2) An applicant for a license may either be listed as Supervisor or (s)he may designate a full-time employee as Supervisor to be in charge of and responsible for applicant's custom application of pesticide(s).

(3) The Commissioner shall be notified in writing as to the exact location of each place of business operated by applicant.

(4) It shall be the responsibility of Licensee to inform the Commissioner in writing of any change of location and address or change in Supervisor at any location of business within ten (10) days after such change has occurred.

(5) Upon certification that applicant for a license has met all requirements Code of Ala. 1975, §2-27-53, the Commissioner shall issue applicant a license. Each license issued shall:

(a) Show each place of business operated by licensee and the name of the Supervisor in charge;

(b) List by decal number, all equipment maintained at each place of business;

(c) State any limitations or prohibitions on pesticide use imposed on licensee in accordance with Code of Ala. 1975, §2-27-53(c);

(d) Remit to the Department of Agriculture and Industries before January 1 of each year a licensing fee in the amount of $100 for each applicant.

(e) Be subject to amendment as required from time to time.

Author: Marise Mims Sandidge, John P. Hagood
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80-1-14-.06 Inspection And General Requirements.

(1) Licensee's application equipment shall at all times be maintained in proper functional condition consistent with the type of dispensing equipment being used. The application equipment shall be properly calibrated as to the type of pesticide(s) and methods of application to be used. To this end, Licensee shall demonstrate to the Commissioner or his representative, upon his inspection, that application equipment used by Licensee is functioning properly and is correctly calibrated.

(2) Licensee shall maintain his pesticide storage, mixing, and disposal facilities including the general grounds in a manner so as not to cause injury or damage to man, domestic and wild animals, other wildlife, aquatic areas, or the environment. To this end the Commissioner or his representative shall inspect the pesticide storage, mixing and disposal facilities and the general grounds of a Licensee and determine that:

(a) All pesticides are stored in a well lighted, well ventilated, clean area which can be secured from entry by lock;

(b) There are no unlabeled, leaking or damaged containers in the storage area;

(c) Restricted use pesticides are stored separately from general use pesticides;

(d) Fixed mixing facilities are uncluttered, well ventilated, well lighted, and secured from entry by lock.

(3) Pilots and Licensees shall use and operate, in any agricultural aircraft operation, pesticide application equipment which shall be free of leaks and shall have a positive shutoff system to prevent leaking and dissemination of pesticides on any non-target areas over which the flight is made. Such equipment shall not allow spillage, dripping, and backflow or create a hazard from vapors or drift.

(4) No pesticide(s) shall be applied by an aerial applicator as long as any person is visible in the target area other than those assisting in the application.

(5) The Licensee or pilot shall immediately notify the Commissioner of any emergency or accidental release of pesticide(s) from the application or auxiliary equipment. The following information shall be provided:

(a) The name of the pilot,

(b) The Licensee involved,

(c) The name of the property owner or operator,

(d) The location of the incident,

(e) The name of the pesticide,

(f) The estimated amount of pesticide involved,

(g) The estimated size of the area that received the spill,

(h) The description of what is located within 300 feet from the edge of the spill in all directions,

(i) The number of humans or animals known to have been contaminated,

(j) The weather conditions at the site of the emergency or accidental release of pesticide(s).

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80-1-14-.07 Pesticide Application Limitations.

(1) Based on evidence presented at a hearing before the Commissioner, the Commissioner may, with approval of the Board, declare an area or locality, described by prominent geographical features, as a pesticide management area in which custom pesticide application shall not be permitted or shall be limited as to method of application and pesticide(s) used and to time of year when application of pesticide(s) can occur.

The Commissioner shall issue an order defining the area to be designated a pesticide management area giving the conditions and extent of the limitations on custom pesticide application. A copy of the Commissioner's order shall be mailed to all persons affected by the order.

(2) Based upon evidence at a hearing before the Commissioner, the Commissioner may amend any license by specifying on its face any limitations under which Licensee may continue to apply certain pesticides; or specify on the license those pesticides Licensee is prohibited from applying.

(3) The pilot shall, prior to application, learn and confirm:

(a) The boundaries and exact location of the target areas,

(b) The identity of non-target areas and safety hazards located on or adjacent to the target areas.

(4) Spray and spreading equipment shall be thoroughly rinsed after each pesticide application except when the next application operation will be made using the same pesticide, or if another pesticide, one which by its manufacturer's recommendations is compatible with that previously in the equipment, and will not result in any adverse effects or illegal residues. Rinsing shall be conducted in an area where an environmental hazard will not be created by the drainage or disposal of waste materials and conducted with methods which will not create an environmental or human hazard.

(5) All pesticides applied as liquids, in liquid carriers, or as dusts shall be released within 15 feet above the canopy of the target area, except where obstructions in or adjacent to the target area would endanger the safety of the pilot while applying pesticides at that altitude.

(6) All pesticides applied aerially as dry granules or pellets shall be released within 40 feet above the canopy of the target area, except where obstructions in or adjacent to the target area would endanger the safety of the pilot while applying pesticides at that altitude.

(7) Pesticide application is prohibited when wind speeds exceed label directions or 10 m.p.h. whichever is lowest.

(8) Licensee dispensing pesticide(s) by aircraft shall be limited as follows:

(a) No pesticide shall be deposited by aircraft within 400 feet of the premises of schools, hospitals, nursing homes, or occupied churches.

(b) No pesticide shall be deposited by aircraft on any dedicated road or on any vehicle using such road.

(c) No pesticide labeled toxic or harmful to aquatic life shall be deposited in or near any body of water in such manner as to be hazardous to aquatic life unless such aquatic life is the intended target of the pesticide.

(d) No pesticide shall be deposited inside any residential or business property line unless written consent for such an application to occur has been obtained from an inhabitant of said residence or business who is at least eighteen (18) years of age. The consent agreement shall include the following:

1. Date of agreement,

2. Time period for which the Agreement is valid,

3. Address, location, or designation of residence or business,

4. Signature of the consenting inhabitant of residence or business.

(9) No person shall dispense or cause to be dispensed from aircraft engaged in custom pesticide application any pesticide:

(a) Under such conditions that the applied pesticide would drift outside of the target area to be treated and cause or create a hazard or potential adverse effect to man or the non-target environment;

(b) Under conditions that would result in pesticide overspray;

(c) Not registered with the Alabama Department of Agriculture and Industries and/or Environmental Protection Agency;

(d) In a manner inconsistent with its registered label;

(e) In a manner that creates a hazard to persons, property, established apiaries, aquatic life, wildlife, and other non-target organisms.

Author: Marise Mims Sandidge
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80-1-14-.08 Records And Reports.

(1) Licensee must maintain, for a minimum of three years, records of pesticide applications made in Alabama. These records shall be completed within 72 hours after each application or sooner if requested by the Commissioner or his designated representative for the purposes of a pesticide incident investigation. These books and reports shall be located at a pertinent place of business in Alabama and contain at least the following information:

(a) Names of Licensee;

(b) Names and address of the person for whom the pesticide was applied;

(c) Identification of farm or land sites treated with pesticide(s);

(d) Name of crop which was treated;

(e) Total number of acres treated;

(f) The year, month, day and approximate time the pesticide was applied;

(g) The brand/or trade name, manufacturer, and formulation of the pesticide applied;

(h) Amount of formulated product or active material applied per acre (must specify);

(i) Total gallons or pounds per acre of the final tank mix applied;

(j) Name of person making application of pesticide;

(k) Signature of person completing this record.

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80-1-14-.09 Exemptions.

No person, method, procedure or type of application equipment used for aerial application of pesticides shall be exempt from any of the provisions of this Section except as stated herein:

(1) Persons exempted under Section 2-27-52, Code of Ala. 1975, are also exempted under this Section.

(2) During an emergency proclaimed by the Commissioner, specific aerial applicators may, on a temporary basis, be exempted from all, or from specific regulations by the Commissioner.

(3) Persons certified and/or licensed under the category of public health pest control and under supervision of a state, federal or other governmental agency or a utility which is regulated by the Alabama Public Service Commission, when conducting a control operation for disease vectors or other pests of public health significance, shall be exempted from Sections 80-1-14-.06(4), and 80-1-14-.07(5), (6), (7) and (8).

(4) Aerial applicators under contractual agreement with state, federal or public agency and under supervision of such an agency when conducting a pest control operation may be exempted from all or from specific rules, provided that, at least 30 days prior to the proposed initiation of the subject operation they present to the Commissioner a complete description of the operation which meets or exceeds the following standards:

(a) Project Description: The application shall include all of the following:

1. Explanation of why the project is needed,

2. Identification of target pest or pests,

3. Map showing treatment area,

4. Total acreage to be treated,

5. Proposed range of dates of application.

(b) Description of the Pesticide: The application shall contain a description of the pesticide(s) proposed for use under the exemption. Such information shall include:

1. A statement that the pesticide product(s) proposed for use carry current state and federal registration and are currently labeled for the proposed use. Include EPA registration number for each pesticide,

2. Material Safety Data Sheet (MSDS). Include an MSDS for each pesticide proposed for use,

3. A statement specifying the composition of the final spray mixture to be applied to the target area. Identify any diluent(s), adjuvant(s), or other materials to be used with the pesticide(s) in the final spray mixture.

(c) Aircraft Information: The description shall include the following:

1. Identification of type(s) of aircraft proposed for use (fixed wing, helicopter, etc.),

2. Identification of equipment specifications.

(d) Environmental Evaluation: The description shall include the following:

1. Identify or map any hospitals, schools, nursing homes, watersheds, and any other sensitive areas in or near the proposed treatment area,

2. List any rare, threatened, or endangered species in the proposed treatment area and describe measures if any, which will be used to lessen adverse environmental impacts to such species or the habitat or same from the proposed treatment(s),

3. Describe alternative methods or options of pest control. A "no treatment" alternative should be included. Describe probable environmental consequences of each alternative,

4. Describe measures which shall or may be taken to mitigate the adverse environmental impact(s) of the proposed project.

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