

REGULATORY UPDATE: RECENT AMMENDMENTS TO MICHIGAN PESTICIDE LAWS AND CURRENT INDUSTRY ISSUES

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Revised Act 451, Part 83, Pesticide Control (effective June 5, 2002)

Recently, the Michigan Department of Agriculture (MDA), Pesticide and Plant Pest Management Division completed the process of amending the Michigan Environmental and Natural Resources Protection Act, Part 83, Pesticide Control.

Beginning in 1999, MDA and a number of regulated industries identified the need to amend specific sections of Act 451, Part 83 and Regulation 636. The process began by building a legislative workgroup of association and public interest representatives to identify issues for discussion. Throughout the process, the workgroup remained focused on making the law easier to understand by editing out unnecessary wordiness and adding additional regulatory language where necessary. These legislative amendments were signed by the Governor on June 5, 2002.

Because of the size and scope of the document, the following summary only identifies the major changes to the law. Amendments to Act 451, Part 83 include:

- Revision and addition of several definitions.
- Rewording of several sections to make them more understandable and readable, without making substantive changes to current law.
- Clarification that the distribution of pesticides within the state, including internet sales, is included under the regulatory authority of the act, in addition to the marketing and selling of pesticides.
- A “truth in labeling” provision making it illegal to represent that a pesticide application has characteristics, benefits, or qualities that it does not have or that it may be used on a site for which it is not labeled
- Clarification of the responsibility of a commercial applicator for a person applying pesticides under his or her supervision.
- A provision that the department will require a pesticide applicator to present their certification credential upon request.
- Prohibit a licensed business from representing that a pesticide application is necessary to control a pest when the pest that is not present or likely to occur.
- Deregulation of certain antimicrobial pesticide applications.
- An increase in fees for registration of pesticide products (now \$40/yr), for commercial applicator certification (now \$75/3 years) or commercial registered technicians (now \$45/3 years), and for licensing applicator businesses (now \$100/yr) and restricted use pesticide dealers (now \$100/yr).
- Clarification of MDA’s authority to conduct inspections and investigations to ensure that pesticides are only used in compliance with the law.

For a copy of the amended version of Act 451, Part 83, Pesticide Control, visit the Michigan legislature web site at:

<http://www.michiganlegislature.org/mileg.asp?page=print&objName=mcl-451-1994-ii-2-nonpoint-pollution-sources-83>

Revised Regulation 636, Pesticide Applicators

Recently, the Michigan Department of Agriculture, Pesticide and Plant Pest Management Division completed the process of amending Regulation 636, Pesticide Applicators.

Beginning in 1999, the Michigan Department of Agriculture (MDA) and a number of regulated industries identified the need to amend specific sections of Regulation 636, Pesticide Applicators. The process began by building a rulemaking workgroup of association and public interest representatives to identify issues for discussion. Throughout the process, the workgroup remained focused on making the regulation easier to understand by editing out unnecessary wordiness and adding additional regulatory language when justified to the satisfaction of the group. The final version became effective July 4, 2002.

Generally, the amendments adopt many practices in place that will facilitate the pesticide applicator certification process and maintain programs like the recertification by seminar program. Again, several housekeeping edits make listing all amendments too lengthy, but the major changes are detailed below. Amendments to Regulation 636 include:

1. Reducing the applicator certification or registration application period from 12 months to 6 months to allow for more timely closure of pending applications. The life of an active credential will remain 3 years, but an applicator applying to the department for certification or registration will need to complete the process of testing and registered applicator training within a 6 month period, beginning on the date the application is submitted.
2. Adding certification categories for small animal pest management (category 7G) and sewer line root control (category 5C), rescinding the category for contractual public health pest management (category 7C) and combining fumigation standards. The contractual public health management category is no longer necessary as applicators can certify and license in other categories as needed to perform contractual work for a governmental agency. Applicators currently holding category 7C credentials will be receiving additional information soon.
3. Development of guidelines for verification of an applicators two-week exemption for training. Uncertified/unregistered applicators who apply pesticides under the direct supervision of a certified applicator **and** under an MDA approved registered technician training program will require the approved trainer to notify MDA of the two week training start date. Procedures for notification will be provided to approved trainers in the near future.

4. Elimination of Rule 10, which provided special provisions for restricted use pesticide applications by registered applicators.
5. Clarification of the information required in commercial applicator records and how this information must be maintained. Recordkeeping will now require commercial applicators to record the EPA registration number for general and restricted use pesticides. Recordkeeping will be clarified to be “verifiable” records and maintenance of these records will be the responsibility of the employer of the commercial applicator at the place of business. MDA also defined “concentration of the pesticide applied” to indicate the volume of pesticide formulation and the volume of carrier used to create an end use dilution. Lastly, MDA added crop site as an alternate to either target pest or purpose for agricultural applicators.

For a copy of the amended version of Regulation 636, Pesticide Applicators visit the Michigan Office of Regulatory Reform web site at:

http://www.state.mi.us/orr/emi/admincode.asp?AdminCode=Single&Admin_Num=28500636001&Dpt=AC&RngHigh=