

Applicator Use Laws

PART I of Applicator Use Laws was printed in the October issue of WEEDS TREES AND TURF. At that time, it was noted that many states are currently establishing licensing procedures in line with proposed Federal legislation. This legislation has now become law. The Federal Environmental Pesticide Control Act of 1972 was signed by President Nixon on October 21.

Therefore, it is pertinent to review several points in this Act pertaining to applicators of environmental protection chemicals. These include certification of applicators, licensing or certification standards, training and the effective date of compliance.

Within one year EPA will prescribe standards for certification of applicators. These standards will include provisions for use and handling of chemicals or the use and handling of chemicals covered by an individual's certification.

States desiring to certify applicators may at any time submit a state plan through the governor of the state to EPA. Criteria for approval by Administrator Ruckelshaus include: 1. designation of a state agency responsible for administering the plan; 2. assurance that the agency has or will have the legal authority and qualified personnel necessary to carry out the plan; 3. appropriation of adequate funds to the administration of the plan; 4. issuance of such reports to EPA as the administrator may require; 5. standards for certification of applicators that conform with those standards prescribed by EPA. The Law clearly specifies that the burden of responsibility for state certification of applicators rests on the states.

Training of applicators will be accomplished two ways. EPA is authorized to enter into cooperative agreements with states or form contracts with Federal or state agencies. The services of the state cooperative extension service may be used to inform farmers of accepted uses and other regulations of the Law. Currently, most states have made no provision to train applicators.

The new Law further states that a period of four years from the date of enactment shall be provided for certification of applicators. Further, within three years each state desiring to certify applicators must submit a state plan to EPA. No more than one year may lapse after state submission before the Administrator must approve the state plan or indicate reasons for disapproval. Consideration of plans resubmitted by states will be expedited.

The following completes the state-by-state breakdown on the use and application laws for commercial applicators:

MONTANA

Administered by the state department of agriculture, Montana passed its first pesticide use and application law, effective January 1, 1972. The act updates existing

registration laws and provides for regulating "restricted use pesticides."

NEBRASKA

Until it was approved in February, Nebraska had no pesticide use and application law. Under the new Legislative Bill No. 905, the term pest control professional is defined as "any person who operates pest control equipment, applies economic poisons, or buys and sells economic poisons for a valuable consideration. Legislative Bill No. 285, approved February 18, 1972, amends certain sections of the statutes relating to aeronautics by authorizing the department of aeronautics to issue appropriate certificates designating qualified individuals to conduct aerial pesticide application operations in the state, after meeting certain qualifications, including experience, training, and financial responsibility.

The legislature further has resolved "that the Extension Service of the University of Nebraska is urged to expand its educational programs in the use of chemical pesticides and herbicides by providing additional training courses or seminars for farmers and ranchers, and by encouraging county agents to provide additional instruction at the local level."

NEVADA

The Nevada Pesticides Act is the new name for the older Economic Poisons Law. It continues to be unlawful to apply pesticides by aircraft or ground equipment without a license. Additionally, the executive director of the state department of agriculture has the authority to eliminate from use in the state any pesticide which endangers the agricultural or nonagricultural environment and which is not beneficial for the purpose for which it is sold. Under the custom application law, Assembly Bill No. 280 would permit the acceptance of liability insurance policies with a deductible feature of \$500 for aerial operators and \$250 for all others.

NEW HAMPSHIRE

Unless registered with the Pesticides Control Board, it is unlawful to engage in commercial application of pesticides. Exemptions include research and experimental work and individuals making their own application provided their crops are not offered for sale. Renewal of licenses is on a calendar year basis. However, the applicant for renewal must furnish sample, accurate record of his use of pesticides for the preceding calendar year. Another relevant law concerning licensing of applicators is the New Hampshire Arborist Law.

NEW JERSEY

There is no pesticide use and application law in this state. Rather Assembly Bill No. 1386, approved June 1, 1971, supplements the current economic poison act and authorizes the department of environmental protection to adopt regulations, after consultation with the pesticides control council, which will regulate the use and application of pesticides. Thus the Pesticides Control Act of 1971 becomes in effect the first pesticide use and application law.

NEW MEXICO

A license is required in this state to act, operate, do business, or engage in custom application of pesticides. Exemptions to the Pesticide Applicators Law include: stump treatment, axe frilling, tree injection, plant treatment adjacent to buildings and termite and household insect control. While there is no charge to take the examination, a \$25 annual fee is levied for each unit of aerial application equipment, and \$10 annual fee for each unit of "any other applicator." Permits expire December 31 and are renewable upon application made prior to March 31. Afterwards, a written examination is required.

N. C. Applicators Face Big Decision

The N. C. Pesticide Law of 1971 requires all "restricted-use" commercial ground applicators, pesticide dealers and pest control consultants to obtain an interim license by Jan. 1. Aerial applicators had to obtain an interim license by last July 1.

The N. C. Department of Agriculture will mail an application for an interim license by Nov. 1 to all restricted-use commercial ground applicators pesticide dealers and pest control consultants currently on the department's mailing list. Other people may apply for an application by writing to William B. Buffalo, Administrator, Pesticide Branch, N. C. Department of Agriculture, Raleigh, N. C. 27611.

Commercial ground applicators and pest control consultants know they must apply for a license, commented John H. Wilson, pesticide education coordinator at N. C. State University. But dealers may have difficulty determining if they are selling restricted-use pesticides or if they want to sell them in the future.

So far, the N. C. Pesticide Board has placed over 60 pesticides on the restricted-use list. Included on the list are such common pesticides as heptachlor, DDVP, dieldrin, Mirex, parathion, paraquat, warfarin, Thimet, and Systox. Any dealer selling such pesticides must obtain an interim license and then qualify for a permanent license by Jan. 1, 1974.

Wilson said county officials of the Agricultural Extension Service can help dealers to determine if they are now handling restricted-use pesticides. The Extension Service is also preparing an educational program that can help restricted-use dealers qualify for their permanent license by the end of next year.

"The new law is not intended to put anyone out of the pesticide business," Wilson said. "But selling pesticides in the future is going to be different from selling apples."

NEW YORK

Fifty-five chemicals are now listed as restricted pesticides in this state. These may be distributed, sold, purchased, possessed and used only upon issuance of a commercial or purchase permit. In addition, the state has listed seven chemicals which may only be distributed, sold, purchased, possessed or used for the purposes listed by the state. Further, 10 pesticides are listed for which no permitted uses will be allowed. This designation of restricted pesticides by chemical name is the largest published list available and represents the first attempt for a state to limit pesticide usage. It is also interesting to note that an applicant for a license must satisfy the commissioner of agriculture and markets that he has sufficient knowledge and experience concerning the proper use and application of pesticides prior to taking the examination and issuance of a license. Licenses are issued for one year although registration may be cancelled or refused for specified causes (including application of pesticides contrary to the registered label usage).

NORTH CAROLINA

In the new pesticides control law which became effective January 1, 1972, the seven-member pesticides control board has the authority to require the examination and licensing of "applicators" and "consultants." It also repeals the general statutes of the Aerial Crop Dusting Law applicable to custom application of pesticides by aircraft. The new law authorizes the board to adopt a list of "restricted use pesticides" and to regulate their use, including the establishment of a "permit" system.

NORTH DAKOTA

The Aerial Spraying law prohibits anyone to engage in aerial spraying without obtaining a license for each aircraft from the North Dakota Aeronautics Commission. At presstime, no other information was available as to whether ground applicators must be licensed.

OHIO

Under the provisions of the Pesticide Use and Application Act, it is unlawful to act as a pesticide applicator, pesticide operator, or public operator unless licensed by the director of agriculture. Following the necessary qualifications, application and examination, the applicator is charged \$50, the pesticide operator \$10, and the public operator has no fee assessment. Provisions are made for reciprocity for nonresident applicators.

OKLAHOMA

While it is unlawful to engage in custom application of pesticides without a license, the Oklahoma Pesticide Applicators Law exempts the application of pesticides on lawns, trees, shrubs, and in the control of termites and household insects. For other application jobs a written examination is required. Fees are \$25 for a resident aerial applicator; \$25 for each aircraft for a non-resident aerial applicator; and \$10 for other applicators. The Ornamental Spraying and Pruning Law requires the licensing of persons who engage in the business of spraying or pruning trees, shrubs, or weeds. Further, the Oklahoma Phenoxy Herbicide Law requires dealers who sell phenoxy herbicides to obtain permits and keep

records, and requires users who buy one quart or more of a phenoxy herbicide to keep records and report to the state department of agriculture upon request.

OREGON

Minimum requirements for licensing is 18 years of age. Exemptions to the Oregon Pesticide Application Law make a formidable list. They include: the State of Oregon and its agents, counties, cities, municipal corporations, irrigation and drainage districts, public utilities, manufacturers and governmental agencies using pesticides in research, caretakers using manually operated equipment, retailers (unless demonstrating application of pesticides), railroads (except when using volatile herbicides in power equipment), manual laborers, and pollenicide applicators. Preference is given to applicants in taking the written examination. Exempt are: applicants with four years of college, majoring in entomology or agronomy; a trainee completing 1,000 hours experience; former licensees who worked three months during a year in two out of the last three years. Regulations establish that four types of licenses may be issued, herbicide, insecticide-fungicide, structural pest and rodenticide, and fumigation. A "special applicator" and "special trainee" license may be issued to individuals in government employment.

PENNSYLVANIA

Currently there is no pesticide use and application law. However, there are a number of laws which restrict pesticide usage or control the application of pesticides.

RHODE ISLAND

This is one of two states where there are no exemptions to the licensing law. Everyone must be licensed.

SOUTH CAROLINA

At presstime, there was no evidence of a pesticide use and application law. Relevant laws applying to county licensing of structural pest control operators has been authorized in legislation applying to Georgetown, Williamsburg, Clarendon and Greenwood counties. Applicable also is the South Carolina Economic Poison Law of 1954.

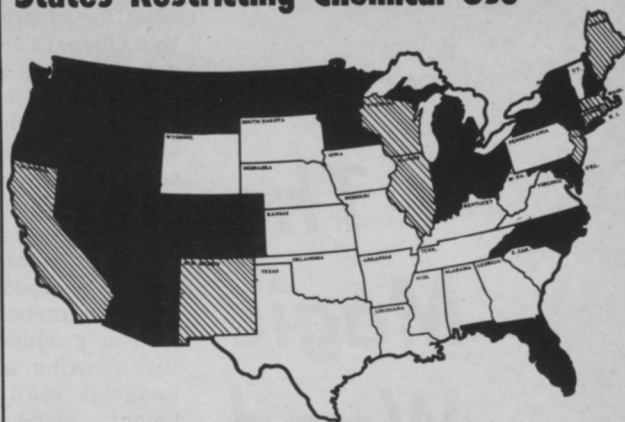
SOUTH DAKOTA

The applicant must submit a written application (under oath) in order to activate the licensing machinery. The regulations provide for an examination of the applicant apply insecticides, herbicides or fungicides on agricultural land, and for a special examination for applicants applying parathion, TEPP, Metacide or other chemicals designated by the secretary of agriculture. The applicant must also file an affidavit that he has no outstanding claims or unpaid judgments. The regulations provide for a class "A" and class "B" permits for aircraft operators. Special permits are also required for application of pesticides within 10 rods (165 feet) of watered areas, and may be issued only after conference with the director of the department of game, fish and parks.

TENNESSEE

Senate Bill 1434, approved April 25, 1972, repeals the

States Restricting Chemical Use



■ States which restrict or have the authority to restrict the sale and use of certain designated chemicals.

▨ These states use terms or include authority for a state agency to prohibit, restrict or otherwise control the use of designated chemicals through the issuance of regulations.

Alaska
California (restricted materials or injurious materials)
Connecticut (prescribed or prohibit use)
Hawaii (herbicides only)
Illinois
Maine (relating to waters)
Massachusetts (hard, persistent pesticides)
New Jersey
New Mexico (environmentally harmful, persistent pesticides)
Rhode Island (banned or restricted pesticides)
Wisconsin

existing pest control act and adopts the Tennessee Pest Control Operators Act of 1972. This act is admittedly concerned primarily with structured pest control activities. However, the Board is authorized to "... determine the different categories of service or classes (of) ... licenses" and a number of such categories have been established, including agricultural pest control by aircraft. Perhaps more important is the licensing procedures. Unless licensed, it is unlawful to solicit, give advice, or engage in work for compensation, for the control or eradication of insect pests, plant diseases, pest animals, and wood-destroying organisms. Applicants for licenses are certified as first-class or second-class, depending upon qualifications. These include two years experience or two years college study in an appropriate field. Included in the application must be references and copies of proposed contracts to be used in the business. A preliminary written exam is given each calendar quarter, followed by appearance and examination before the Board. Oral exams are prohibited. Licensees must report each month's business to the department of agriculture and send copies of all contracts for termite service.

TEXAS

There is no pesticide use and application law per se. The Texas Herbicide Law, however, regulates the sale, use, and transportation of herbicides and requires commercial applicators to obtain a permit. Those who sell herbicides are required to be licensed by the department of agriculture. Equipment used in custom application must also be inspected and licensed. In a recent amendment to the law, authority was given to county commissioner courts to exempt, revoke exemptions and reinstate exemptions of counties from the provisions of

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the law governing sale, use and transportation of herbicides where it relates to custom applicators.

UTAH

The Economic Poison Application Act of 1951 is still applicable. It requires applicators to be licensed unless a custom applicator is compensated less than \$50 per year. The application form must also list the equipment or devices used in custom application. The board of agriculture may issue a license without examination to a nonresident licensed in a state having substantially the same provisions as the Utah Act. The Utah Pesticide Control Act, a new legislation approved March 22, 1971 authorizes the commissioner of agriculture to license dealers selling restricted use pesticides.

VERMONT

This is another state where there are no exemptions from the licensing law. Vermont has three classes of pesticides. Class C pesticides (low concentration, less hazardous pesticides commonly sold at retail) are now subject to be sold only by licensed persons. The law currently states that all classes of pesticides may now be sold only by licensed dealers.

VIRGINIA

Currently there is no pesticide use and application law on the books. However, the Virginia Pesticide Law, an economic poison act, incorporates sections authorizing the commissioner to restrict or prohibit the sale or use of economic poisons, and makes it unlawful to use a pesticide contrary to label directions, or to the regulations of the board of agriculture and commerce.

WASHINGTON

A pesticide applicator's license is required. Under the Washington Pesticide Application Act the director is authorized to classify licenses as pest control operators, ornamental sprayers, agricultural crop sprayers and right-of-way sprayers, with separate classifications of ground, aerial, or manual application, House Bill No. 636-X, approved May 20, 1971 amends this Act. One change is provision of authority to re-examine pesticide applicators when new categories or new knowledge make such retesting advisable.

WEST VIRGINIA

No pesticide use and application law is in effect.

Service Training Program Announced By Jacobson

A new series of service training courses for golf and park maintenance personnel has been announced by Jacobsen Manufacturing Company for its newly expanded Product Training Center in Racine, Wis.

The schedule is a part of a new curriculum disclosed by Ron Wiltsey, product training supervisor, which also includes sessions for service

men from both turf and consumer distributors as well as service station and dealer service personnel.

Courses for golf course and park maintenance people will begin January 15th, with the final class starting April 9. These three-day sessions include engine tear-down and theory, reel mower grinding, transmission, clutches, hydraulics and practical work involving turf equipment.

Three classes will be held for turf distributor service personnel starting

However the Pesticide Act of 1961 (Economic Poison Law) and the Interagency Pesticide Committee Act are currently applicable. The latter is an advisory committee, without administrative or operation authorities or responsibilities. Its duties are to review current use of pesticides, review state pesticide programs, consider problems arising from pesticide use, recommend pesticide control legislation to the governor, and advise on and approve all programs involving use of pesticides on state property.

WISCONSIN

No pesticide use and application law, currently. Relevant laws include the Pesticide Law (Economic poison law) and the Pesticide Review Board. The latter creates a board and defines authority. The department of natural resources may also adopt rules pertaining to the use of pesticides, but such rules are not effective until approved by the board. Likewise, the department of agriculture may adopt rules to govern the use of pesticides and to determine the times and methods of application and other conditions of use. These rules are not effective until approved by the board.

WYOMING

No pesticide use and application law is in effect. But, an Aerial Spraying statute requires annual registration of all aerial applicators, keeping of certain records of each application, specific safety devices on aircraft, etc. Also, provisions of the Wyoming Pesticide Law are applicable to applicators.

PUERTO RICO

It is unlawful to engage in the application of pesticides for profit unless licensed by the secretary of health. Nonresidents must be licensed under "An Act to regulate the commercial application of insecticides and/or economic poisons in Puerto Rico." Licenses are issued after written exam is passed. Renewal must be accompanied by a certification that pesticides to be used will be only those registered by the department of agriculture, proof that all supervising employees have experience, ability, and skill in applying pesticides, proof of insurance and payment of the fee for renewal (\$10).

VIRGIN ISLANDS

No pesticide use and application law at presstime. Regulations have been issued under authority of the Virgin Islands Code relating to insect and pest control. Permits are issued when the commissioner is satisfied that the applicant is qualified.

in mid-October. In addition to service, these classes also include instruction on conducting similar service training programs in the field.

The recently-expanded Jacobsen Product Training Center includes a workbench classroom, a well-equipped audio-visual lecture room and a modern kitchen for convenience lunches.

For detailed brochure write: Product Training Center, Jacobsen Manufacturing Company, 1721 Packard Avenue, Racine, Wisconsin 53403.