



15.05.01
Regulations Pertaining To
The Pesticide Applicator's Law

MARYLAND DEPARTMENT OF
AGRICULTURE

PESTICIDE REGULATION SECTION
50 Harry S. Truman Parkway
Annapolis, Maryland 21401
Telephone: (410)841-5710
FAX: (410)841-2765
Internet: www.mda.state.md.us

Title 15 DEPARTMENT OF AGRICULTURE

Subtitle 05 PESTICIDE USE CONTROL

Chapter 01 Use and Sale of Pesticides, Certification of Pesticide Applicators and Pest Control Consultants, and Licensing of Pesticide Businesses

Authority: Agriculture Article, §§2-103, 5-204, 5-207, and 5-210.2, Annotated Code of Maryland

.01 Definitions.

A. The following terms have the meanings indicated.

B. Terms Defined.

- (1) "Application" means the spreading of pesticides, by contract or otherwise, for any person owning or renting property.
- (2) "Certified applicator" means a person who is certified by the Secretary under this chapter.
- (3) "Customer" means a person who has entered into a contract with a licensee for pest control and includes the owner of property on which a licensee has applied a pesticide.
- (4) "Department" means the Maryland Department of Agriculture or its designated representative.
- (5) "Device" means an instrument or mechanical contrivance intended to trap, locate, destroy, control, repel, or mitigate pests.
- (6) "EPA" means United States Environmental Protection Agency.
- (7) "Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.
- (8) "Labeling" means all written, printed, or graphic matter:
 - (a) Accompanying the pesticide or device at any time; or
 - (b) To which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the:
 - (i) Environmental Protection Agency;
 - (ii) United States Departments of Agriculture, Interior, and Health, Education, and Welfare;
 - (iii) State experiment stations;
 - (iv) State agricultural colleges; and
 - (v) Other similar federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.
- (9) "Nonbulk pesticide" means any liquid or nonliquid pesticide distributed, sold, offered for sale, packaged, or repackaged in containers of less than 56 gallons liquid or 100 pounds net dry weight.
- (10) "Person" means an individual, corporation, partnership, association, firm, or other business entity.
- (11) "Pest" means an insect, snail, slug, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism (except viruses, bacteria, or other microorganisms, on or in living man or any other living animal) which normally is considered to be a pest or which the Secretary declares to be a pest.
- (12) "Pest control" means engaging in, or offering to engage in, recommending, advertising, soliciting the use of, supervising the use of, or using, a pesticide or device for the identification, control, eradication, mitigation, detection, inspection, or prevention of a pest in, on, or around any house, building, water, air, land, plant, structure, or animal.
- (13) "Pest control applicator" means a person engaged in the business of pest control, including, except as provided by the Secretary, a person who applies pesticides on any premises where the public is commonly invited for the sale of goods or services.
- (14) "Pest control consultant" means a person who engages in the business of:
 - (a) Offering or supplying technical advice or supervision;
 - (b) Inspecting for or identifying pests; or

- (c) Recommending the use of a specific pesticide for the purpose of controlling a pest in or on water, air, land, plants, structures, or animals.
- (15) "Pesticide" means any substance or mixture of substances intended for:
 - (a) Preventing, destroying, repelling, or mitigating any pest;
 - (b) Use as a plant regulator, defoliant, or desiccant; or
 - (c) Use as a spray adjuvant such as a wetting agent or adhesive.
- (16) "Pesticide business license" means a license issued by the Secretary to any business according to this chapter.
- (17) "Place of business" means any location from which pest control is conducted.
- (18) "Private applicator" means a person who uses a restricted use pesticide for the purpose of producing an agricultural commodity on property owned or rented by the applicator or applicator's employer.
- (19) "Public agency applicator" means a person employed by a unit of federal, State, county or local government or any training institution which is engaged in pest control.
- (20) "Registered employee" means an employee of a firm or public agency engaged in pest control.
- (21) "Restricted use pesticide" means a pesticide so classified by Agriculture Article, Title 5, Annotated Code of Maryland, the federal government, or the Maryland Secretary of Agriculture.
- (22) "Secretary" means the Secretary of Agriculture or a designee.
- (23) "Supervision" means, unless otherwise provided by federal or State labeling, the act or process whereby the application of a pesticide is made by a competent person acting under the instructions and control of a certified applicator who is:
 - (a) Responsible for actions of that person; and
 - (b) Available when needed, though the certified applicator may not be physically present at the time and place the pesticide is applied.

.02 General Requirements for Applying or Recommending Pesticides.

A. This regulation sets forth the general requirements which a person, when applying or recommending a pesticide, shall follow.

B. Pesticide Use or Recommendation. When using or recommending pesticides, a person shall:

- (1) Use or recommend only those pesticides which are registered with the Department;
- (2) Use or recommend pesticides in strict accordance with:
 - (a) The Maryland Pesticide Applicators Law;
 - (b) The Maryland Pesticide Registration and Labeling Law; and
 - (c) Except as otherwise provided by State and federal law, the manufacturer's labeling directions;
- (3) Observe all precautions in the handling, use, storage, and disposal of pesticides and their containers so that:
 - (a) Pesticides do not move from the intended site of application;
 - (b) Nontarget areas or organisms, including humans, do not suffer injury; and
 - (c) Unreasonable adverse effects on the environment do not occur or are minimized; and
- (4) Comply with 40 CFR 165 (Pesticide Management and Disposal) and 40 CFR 170 (Worker Protection Standard), as amended, which are incorporated by reference.

C. Limitations on Restricted Use Pesticide. A person may not use a restricted use pesticide unless that person is a certified applicator or is a person working under the supervision of a certified applicator.

.03 General Requirements for Licensees, Permittees, Certificate Holders, or Registered Employees.

A. Licensing Requirements.

- (1) A private applicator shall obtain a certificate as provided under Regulation .07 of this chapter.
- (2) A pest control applicator, pest control consultant, or public agency applicator shall obtain a certificate as provided under Regulation .08 of this chapter.
- (3) Each place of business performing pest control shall be licensed as provided under Regulation .10 of this chapter.
- (4) A public agency performing pest control shall obtain a permit as provided under Regulation .11 of this chapter.
- (5) A person who sells or distributes restricted use pesticides shall obtain a permit as provided under Regulation .13 of this chapter.

B. Transfer of Certificate, License, or Permit Prohibited. A certificate, license, or permit issued under this chapter may not be transferred to any person.

C. Safety and Precautionary Requirements. In addition to the requirements set forth in Regulation .02 of this chapter, a licensee, permit holder, certified applicator, or registered employee shall:

- (1) Use an effective anti-siphon device or back-flow preventer on all hoses or lines used to fill or rinse pest control equipment, pesticide containers, or areas where pesticides are mixed, loaded, or stored;
- (2) Make use of scientific training, practical experience, and commonly recognized pesticide industry guidelines or recommendations which do not conflict with this chapter, when inspecting for, or treating, pests;
- (3) Consider recommended alternative pest control measures, such as mechanical, cultural, physical, biological, or chemical control;
- (4) Use and provide each employee with personal protective equipment and applicable safety information as indicated on the pesticide label or as required by regulation;
- (5) Immediately notify the Department by telephone of any pesticide accident, incident, fire, flood, or spill, and report to the Department the full details of the event, including any remediation taken; and
- (6) Have available at the time and place of application a copy of the label for the pesticide being applied.

D. Notifying Department of Certain Business Changes. Each licensee, permit holder, certified applicator, or consultant immediately shall notify the Department in writing if there is any change in business ownership, name, address, or phone number.

E. Certified Applicator Requirement.

- (1) Designated Person. A licensee or permit holder, except a dealer, shall designate an individual who is certified in those categories for which each place of business is licensed. This designated person may not serve as the certified individual for more than one place of business.
- (2) Loss of Certified Applicator. A licensee or permit holder immediately shall notify the Department when a certified applicator is no longer employed.

F. Vehicle Identification Requirement. The pesticide business name and license number shall appear on each motor vehicle transporting pesticides or devices used in pest control. The license number, which shall be preceded by the abbreviation for the Maryland Department of Agriculture, namely, "MDA", and the business name, shall be:

- (1) In bold print not less than 2 inches high; and
- (2) Displayed on both sides of the vehicle.

G. Permitting Department to Sample and Inspect. A licensee or permittee shall permit the Department, upon presenting credentials, and at reasonable times, to sample any pesticide and inspect any:

- (1) Device, container, product, apparatus, or equipment used, or intended for use, in pest control operations;
- (2) Location from which pest control is conducted; and
- (3) Pest control activity by a certified applicator or person under the applicator's supervision.

.04 Pest Control Employees — Responsibilities of Employer, the Department, and Employees.

A. Responsibility of Licensee or Permittee.

- (1) Registering Employees. A licensee or permittee shall register with the Department each employee who performs pest control either when applying, respectively, for a license or permit, or within 30 days after the employee's employment.
- (2) Providing Identifying Information. A licensee or permittee shall provide the Department with the employee's name, social security number, and 1-inch by 1-inch photograph.
- (3) Paying Initial and Renewal Registration Fees.
 - (a) New Employees. Beginning October 1, 2010, a licensee or permittee shall pay an initial registration fee of \$30 for each new registered employee required to be registered under Regulation .04A(1) of this chapter.
 - (b) Existing Employees of Pest Control Consultant Licensees. Beginning January 1, 2011, a licensee or permittee shall pay an annual renewal fee of \$30 for each registered employee required to be registered under Regulation .04A(1) of this chapter.
 - (c) Existing Employees of Pest Control Business Licensees and Not-for-Hire Licensees. Beginning July 1, 2011, a licensee or permittee shall pay an annual renewal fee of \$30 for each registered employee required to be registered under Regulation .04A(1) of this chapter.
- (4) Exemption. Permitted Public Agencies are exempted from paying the initial and renewal registration fees for registered employees.
- (5) Duration.
 - (a) An employee registration for an employee of a Pesticide Business licensee, a Not-for-Hire licensee, or a permitted public agency becomes effective beginning July 1, or whenever obtained, and expires June 30.
 - (b) An employee registration for an employee of a Pest Control Consultant Licensee becomes effective beginning January 1, or whenever obtained, and expires December 31.

(6) Paying a Late Fee. If an application for renewal of an employee registration card is received by the Department more than 30 days after the renewal date of the registration card, the licensee is subject to a \$30 late fee.

(7) Notifying Department of Employee's Termination. Within 30 days after termination of the registered employee, a licensee or permittee shall give the Department written notice of the employment termination.

(8) Training Employees.

(a) Ensuring Completion of Approved Program. Each licensee or permittee is responsible for ensuring that each employee, other than a certified applicator, successfully completes a training program approved by the Department. Employee training shall be completed within 30 days of employment and before registration with the Department.

(b) Prohibiting Untrained Employee From Certain Work. A licensee or permittee may not allow an employee who has failed to successfully complete an approved training program to perform pest control services unless a certified applicator or registered employee is physically present at the time and place of the pest control service.

(c) Verifying Training Completion. Upon request by the Department, each licensee or permittee shall provide written evidence that an employee has completed an approved training program. The licensee or permittee shall maintain throughout the duration of an employee's employment a record showing the date on which the employee completed the approved program.

B. Responsibility of Department.

(1) Approval of Training Program. The Department may approve any training program that includes at least the following subjects:

- (a) Pesticide laws and regulations;
- (b) Label comprehension;
- (c) Safety and emergency procedures;
- (d) Proper pesticide handling and storage;
- (e) Pest identification and control recommendations;
- (f) Pesticide application techniques;
- (g) Environmental and health concerns; and
- (h) Integrated pest management principles.

(2) Issuance of Identification Card. The Department shall issue an identification card to each employee that a licensee or permittee registers with the Department.

C. Responsibility of Employees.

(1) Use and Return of Identification Card. A registered employee shall carry an identification card and shall show it, on request, to any interested person. Upon termination, the registered employee shall return the identification card to the Department.

(2) Need to Complete Training Program. An employee who has not successfully completed a Department-approved training program may not apply pesticides unless a certified applicator or registered employee is physically present at the time and place of application.

.05 Specific Requirements for Fumigation Operations.

A. Requirements Pertaining to Employees. To perform fumigation work, an employee of a licensee, permittee, or certificate holder shall:

- (1) Be trained in fumigation practices;
- (2) Have adequate knowledge of the fumigant; and
- (3) Be provided with safety equipment necessary for the employee's protection.

B. Notification Requirement.

(1) Soil Fumigation. Before applying a soil fumigant within 300 feet of any residence, the certified applicator shall notify the occupant of the residence at least 24 hours before the application either by telephone, in person, or by written notice delivered to the residence. The notice shall include the following:

- (a) Name of the certified applicator in charge and the applicator's telephone number where the applicator can be reached at any time;
- (b) Name of fumigant; and
- (c) Date and approximate time of fumigation and estimated length of fumigation period.

(2) Structural Fumigation. Before conducting any structural fumigation, the certified applicator shall give written notice to the local fire and health departments. The notice shall include the following:

- (a) Pesticide business name, address, telephone number, and license number;

- (b) Name of the certified applicator in charge and the applicator's telephone number or numbers where the applicator can be reached at all times;
- (c) Name of fumigant;
- (d) Location and type of structure; and
- (e) Date and approximate time of fumigation and estimated length of fumigation period.

C. Posting of Warning Signs. The certified applicator shall post a warning sign on each side of the structure, container, or commodity to be treated. Each sign shall include:

- (1) The skull and crossbones;
- (2) The name of the fumigant;
- (3) A warning statement, such as "keep out";
- (4) The name of the company; and
- (5) The name and telephone number of the pest control applicator.

D. Posting of Guard. With the exception of commodities fumigated in transit or soil fumigation, the certified applicator shall post a guard on the site during the entire fumigation period. A guard shall remain on duty at the site at all times to prevent unauthorized persons from coming into contact with the fumigant.

E. Required Inspection. The certified applicator shall clear a structure or area of all persons before the fumigation. The applicator shall inspect the structure or area before reoccupancy for safe reentry.

.06 Specific Requirements for Storing Pesticides.

A. Minimum Requirements for Storing Nonbulk Pesticides. At a minimum, a person licensed, certified, permitted, or registered by the Department under this chapter who is storing nonbulk pesticides shall ensure that the pesticides being stored and the pesticide storage areas meet the following requirements:

- (1) The storage area shall be secured or locked to prevent unauthorized access;
- (2) Pesticides shall be stored in a separate building or, at a minimum, shall be separated by a physical barrier from living and working areas and from food, feed, fertilizer, seed, and safety equipment;
- (3) A warning sign approved by the Department shall be placed on the exterior of the storage area;
- (4) Pesticides shall be stored in a dry, ventilated area;
- (5) The pesticide storage area shall be kept clean;
- (6) A supply of absorbent material sufficient enough to absorb a spill equivalent to the capacity of the largest container in storage shall be kept in the storage area;
- (7) The storage area shall contain only pesticide containers that are properly labeled and are free of leaks;
- (8) The storage area shall have an appropriate fire extinguisher available; and
- (9) Pesticides shall be stored in an area located at least 50 feet from any water well or stored in secondary containment approved by the Department.

B. Transport of Pesticides.

- (1) During transport, pesticide containers and application equipment shall be secured to prevent shifting or release of pesticides.
- (2) Pesticides may not be placed or carried in the same compartment as the driver, food, or feed, unless in a manner that provides adequate protection for the safety and health of passengers from the pesticides.

C. Pesticide Service Containers.

- (1) Pesticide Concentrate. If pesticide concentrate is temporarily stored or transported, its container shall have a securely attached label with the following information:
 - (a) Common name, if available, or chemical name of pesticide;
 - (b) U.S. EPA registration number;
 - (c) Signal word—Danger, Warning, or Caution; and
 - (d) Percent concentration.
- (2) Pesticide End-Use Dilutions or End-Use Concentrates. If a pesticide is stored or transported, excluding application equipment, and if it does not require further dilution, its container shall have a securely attached label with the following information:
 - (a) Common name, if available, or chemical name of pesticide preceded by the words "Diluted" or "End-Use Concentrate";
 - (b) U.S. EPA registration number;
 - (c) Signal word—Danger, Warning, or Caution; and
 - (d) Percent of concentration or pounds of active ingredient per volume.

D. Pesticide Container. A pesticide container may not be used for any purpose other than containing the originally labeled product, unless the product label states otherwise.

.07 Private Applicator Certificate.

- A. Each applicant for a private applicator certificate shall obtain from the Department a certificate before the initial purchase or use of a restricted use pesticide.
- B. Each applicant shall apply to the Department, using a Departmental form.
- C. Each applicant for a private applicator certificate shall be 16 years old or older, demonstrate proof of practical knowledge of pest control, and meet the following requirements:
- (1) Pay a certificate fee of \$7;
 - (2) Pass an examination given by the Department.
- D. Duration. A certificate is valid for 3 years.
- E. Certificate Renewal. A certificate may be renewed every 3 years by:
- (1) Applying to the Department;
 - (2) Paying a certificate fee of \$7; and
 - (3) Demonstrating knowledge of pesticide use by participating, within the 12 months before expiration of the current certificate, in a training course approved by the Department.
- F. Record-Keeping Requirements. A person certified as a private applicator shall maintain records, as indicated in this section, on each general use or restricted use pesticide application. The records shall be held for 2 years, and shall be available, on request, to the Department. The following information shall be recorded:
- (1) Name and address of certified applicator;
 - (2) Name and address of applicator, if different from §F(1) of this regulation;
 - (3) Location of treated area, including county, address of farm or production area, and field designation, if available;
 - (4) Date of pesticide application;
 - (5) Brand name or common name and EPA registration number of pesticide used;
 - (6) Application rate of pesticide used;
 - (7) Total amount of pesticide product used;
 - (8) Acreage, size of area treated, or number of plants or animals treated; and
 - (9) Crop, stored product, site, or commodity treated.

.08 Pest Control Applicator, Pest Control Consultant, and Public Agency Applicator Certification, and Categories of Pest Control.

- A. Certification. A person shall apply to the Department, using Departmental forms, for certification as a pest control applicator, pest control consultant, or public agency applicator in any of the following categories or subcategories of pest control:
- (1) Agricultural. This category consists of the following subcategories:
 - (a) Plant. This subcategory authorizes a pest control applicator, public agency applicator, or pest control consultant to perform pest control:
 - (i) In the production of agricultural crops including, but not limited to, small grains, soybeans, forage, tobacco, vegetables, small fruits, and tree fruits; and
 - (ii) On grasslands and noncrop agricultural lands.
 - (b) Animal.
 - (i) This subcategory authorizes a pest control applicator, public agency applicator, or pest control consultant to perform pest control on livestock or poultry, including, but not limited to swine, sheep, horses, goats, chickens, and turkeys, where such animals are housed or otherwise confined.
 - (ii) A veterinary practitioner is not required to be certified under this chapter unless that person is a pest control applicator or pest control consultant.
 - (c) Grain Treatment. This subcategory authorizes a pest control applicator, public agency applicator, or pest control consultant to perform pest control on, in, or around stored grain to prevent insect and rodent damage, including the use of a fumigant for this purpose.
 - (2) Forest. This category authorizes a pest control applicator, public agency applicator, or pest control consultant to perform pest control in forests, forest nurseries, reforestation projects, or forest-seed producing areas.
 - (3) Ornamental or Turf. This category authorizes a pest control applicator, public agency applicator, or pest control consultant to perform pest control in the maintenance and production of ornamental trees, shrubs, flowers, and turf. Subcategories are:
 - (a) Ornamental plants and shade trees—exterior;
 - (b) Ornamental plants—interior; and
 - (c) Turf and lawn pest control.

- (4) Seed Treatment. This category authorizes a pest control applicator, public agency applicator, or pest control consultant to perform pest control on seed.
- (5) Aquatic. This category authorizes a pest control applicator, public agency applicator, or pest control consultant to perform pest control in or on standing or running water, wetland areas, or within tidal areas. This category does not include applicators engaged in public health pest control listed below.
- (6) Right-of-Way and Weed. This category authorizes a pest control applicator, public agency applicator, or pest control consultant to perform pest control in the maintenance of:
- (a) Any public road, electric powerline, pipeline, railway right of way, or similar area; and
 - (b) Noncropland, fence lines, structural perimeters, or similar area.
- (7) Industrial, Institutional, Structural, and Health Related Pest Control. This category authorizes a pest control applicator, public agency applicator, or pest control consultant to perform pest control in, on, or around any food handling establishment, dwelling, business, or institution, such as schools, hospitals, industrial establishments, boxcars, ships, and airplanes. Subcategories are:
- (a) General pest control—pest control of household pests within or adjacent to a structure of any kind. This subcategory does not include any subcategory indicated below.
 - (b) Wood destroying insects—pest control involving termites and other wood destroying insects in or on a structure of any kind. This subcategory includes pretreating areas before completion of a structure.
 - (c) Wildlife control—pest control involving birds, mammals, reptiles, and other wildlife not covered by the rodent control category. A person who holds a current Wildlife Damage Control Permit, as required by the Maryland Department of Natural Resources under COMAR 08.03.15, is not required to hold a license, permit, or certificate for wildlife pest control under the Maryland Pesticide Applicators Law, if that person does not:
 - (i) Provide damage control services for European starlings, feral pigeons, and house sparrows; or
 - (ii) Use pesticides, including repellants, in the course of that person's operations.
 - (d) Rodent control—pest control involving rodents found in or around structures.
 - (e) Fumigation—pest control involving the use of a fumigant to treat structures or commodities.
- (8) Public Health. This category authorizes a pest control applicator, public agency applicator, or pest control consultant to perform pest control in public health programs for the management and control of pests having medical and public health importance including, but not limited to, the management and control of mosquitoes.
- (9) Regulatory. This category authorizes a public agency applicator to perform pest control of regulated pests.
- (10) Demonstration and Research. This category authorizes a person to demonstrate pesticide and pest control application techniques or to supervise these demonstrations. Examples of individuals in this category are extension specialists, county agents, teachers, and commercial representatives demonstrating pesticide products, and those individuals demonstrating methods used in public programs. This category also includes a person who conducts research with pesticides and, in doing so, uses or supervises the use of pesticides.
- (11) Miscellaneous. This category authorizes a pest control applicator, pest control consultant, or public agency applicator to perform pest control in a category not included above. Subcategories are:
- (a) Wood treatment—pest control for the preservation of wood or wood products, including utility pole maintenance, and includes, but is not limited to, pressure treatments, dipping, soaking, diffusion, injection, and topical applications;
 - (b) Tributyltin (TBT) antifoulant paint—pest control involving the use of marine antifoulant paints containing tributyltin;
 - (c) Sewer root control—pest control involving the control of roots in sewer lines.
- (12) Consultant. This category authorizes a pest control consultant to perform pest identification, provide technical advice on pest control procedures, and make pesticide recommendations.
- (13) Aerial. This category authorizes a pest control applicator or public agency applicator to perform pest control by fixed-wing or rotary aircraft to any crop or land area.

B. Certification Requirements.

- (1) Pest Control Applicator, Pest Control Consultant, and Public Agency Applicator. Each applicant for a pest control applicator certificate, pest control consultant certificate, or public agency applicator certificate shall be 18 years old or older, demonstrate proof of practical and scientific knowledge of pest control and meet the following requirements:
- (a) Pay an annual fee of \$75 plus \$25 for each category in excess of one (public agency applicators are exempt from the fee);
 - (b) Pass an examination given by the Department; and
 - (c) Have one of the following:

- (i) One year of experience acceptable to the Department as a full-time registered employee engaged in those categories in which the applicant seeks to be certified (proof of experience may include affidavits from former employers, certification or licensure from other states or the federal government);
- (ii) A degree or academic certificate acceptable to the Department;
- (iii) A combination of education and experience acceptable to the Department.

(2) Recertification. A certificate shall be renewed annually by:

- (a) Applying to the Department;
- (b) Demonstrating satisfactory knowledge of pesticide use by attending a training course approved by the Department, or by reexamination; and
- (c) Paying the annual certification fee.

C. Duration.

(1) A pest control applicator certificate is valid beginning July 1, or whenever obtained, until June 30.

(2) A pest control consultant certificate is valid beginning January 1, or whenever obtained, until December 31.

D. If an application for renewal of a Pest Control Applicator or Pest Control Consultant Certificate is received by the Department more than 30 days after the expiration date of the certificate, the applicant is subject to a \$30 late fee.

.09 Examinations for Certification of Pest Control Applicator, Pest Control Consultant, and Public Agency Applicator.

A. Each applicant for certification shall pass a written examination, given by the Department, in each category for which the applicant qualifies. Each applicant shall apply to the Department at least 1 month before the scheduled examination date and specify the category in which the applicant seeks to be certified.

B. The Department shall give the examination at least twice a year.

C. An applicant shall correctly answer 70 percent of each examination.

D. There is a \$10 fee for each reexamination. Public agency certificate applicants are exempt from the fee.

E. An individual who has not renewed the certificate by its expiration date, June 30th of each year, may be reexamined as provided by this chapter.

F. An individual who passes an examination, but does not complete the other requirements for certification within 1 year from the date of the examination, shall be required by the Department to retake the examination.

.10 Licenses — Types and Requirements.

A. Types. Each place of business performing pest control shall be licensed in those categories in which it operates. The licenses are:

- (1) Pesticide business license—issued to a business performing pest control work;
- (2) Pest control consultant license—issued to a business providing pest control consultation; and
- (3) Not-for-hire license—issued to a person who performs, or whose employees perform, pest control services on property that is:
 - (a) Owned by the person; and
 - (b) Open to, or routinely used or enjoyed by members of the public, at the person's express or implied invitation, even though a fee or other charge may be administered for the property's use or enjoyment.

B. Requirements. An applicant for license or renewal of a license shall annually:

- (1) Apply to the Department on a Departmental form;
- (2) Designate an individual who is certified in those categories for which the business is licensed;
- (3) Pay a \$150 fee.

C. Insurance Requirements. An applicant for a pesticide business license or a renewal of a pesticide business license shall:

- (1) Meet the requirements for minimum financial responsibility for bodily injury and property damage by carrying liability insurance with limits not less than:
 - (a) Bodily injury—\$100,000 each person, \$300,000 each occurrence;
 - (b) Property damage—\$15,000 each occurrence, \$30,000 annual aggregate provision.
- (2) Furnish to the Department a certificate of insurance by an insurance company licensed to do business in the State. The license shall keep the insurance in force for the licensing period.

D. Duration.

(1) A pesticide business license is valid beginning July 1, or whenever obtained, to June 30.

(2) A pest control consultant license is valid beginning January 1, or whenever obtained, to December 31.

(3) A not-for-hire license is valid beginning July 1, or when obtained to June 30.

E. If an application for renewal of a Pesticide Business license, Pest Control Consultant license, or Not-for-Hire license is received by the Department more than 30 days after the expiration date of the license, the applicant is subject to a \$30 late fee.

.11 Public Agency Permit — Operation and Requirements.

- A. Operation. A public agency that performs pest control shall annually obtain a public agency permit indicating those categories in which the Department authorizes it to perform pest control.
- B. Requirements. An applicant for a permit annually shall apply to the Department on Departmental forms and designate an individual who is certified in those categories in which the agency is permitted to do pest control.
- C. Records. Records of each pest identification, pesticide recommendation, and pesticide application shall be made as provided in Regulation .12 of this chapter.
- D. Duration. A public agency permit is valid beginning July 1, or whenever obtained, until June 30.

.12 Records.

Each licensee and permit holder shall maintain for 2 years records of each pest identification, pesticide recommendation, or pesticide application, and shall make these records immediately available, on request, to the Department. The following information shall be recorded, when applicable:

- A. Name of applicator or consultant;
- B. Date of application, recommendation, or pest identification;
- C. The plant, animal, or site to which the pesticide was applied or recommended, and the pest to be controlled;
- D. Acreage, square footage, cubic footage, linear footage, or numbers of plants or animals or a description of the area or structure treated with the acreage, square footage, cubic footage, or linear footage recorded when label instructions specify these measurements;
- E. Address of treated property;
- F. Name of owner or tenant of property;
- G. Common name and EPA registration number of pesticide or pesticides used or recommended;
- H. Rate and concentration of pesticides used or recommended;
- I. Total amount of pesticide used;
- J. Type of equipment used;
- K. Time of day of application; and
- L. The direction and estimated velocity of the wind at the site when the pesticide was applied, although this information need not be recorded if the application consists of baits in bait stations or is made in, or within 3 feet of, a structure.

.13 Dealer Permit — Operation, Requirements, and Restrictions.

- A. Operation. A person who sells or distributes restricted use pesticides shall hold a dealer permit from the Department.
- B. Requirements. An applicant for this permit shall:
 - (1) Apply to the Department;
 - (2) List the dealer's name or business name, location, and phone number;
 - (3) Assign an individual to act as the Department's contact at the dealer's business office;
 - (4) Keep sales records as outlined in §E of this regulation; and
 - (5) Pay a \$25 permit fee.
- C. The permit shall be valid beginning January 1, or whenever obtained, until December 31.
- D. Restriction.
 - (1) A dealer may not sell or distribute a restricted use pesticide to any person other than:
 - (a) A permitted dealer; or
 - (b) A certified applicator or that person's authorized representative.
 - (2) Proof of authorization shall be provided before sale or distribution.
- E. Records. A person who sells or distributes restricted use pesticides shall maintain records, as indicated below, on the sale or distribution of each restricted use pesticide. These records shall be held for 2 years, and shall be available, on request, to the Department. The following information shall be recorded:
 - (1) Name of pesticide or pesticides sold or distributed, including formulation;
 - (2) Quantity sold or distributed;
 - (3) Date of sale or distribution;
 - (4) Name and address of purchaser or receiver; and
 - (5) Name and address of the certified applicator, if different from §E(4) of this regulation.

.14 Standards for Inspection for Pests.

A. Responsibilities — General. The following standards apply to each person regulated under this chapter, and each pest inspection shall be done according to the following standards by a person who is competent to determine the presence of target pests or their damage:

- (1) Each inspection shall include a careful visual observation and thorough examination of the readily accessible area, object, material, structure, or part of a structure inspected. Particular attention shall be directed to those areas where target pests are likely to occur, based upon the habits and natural tendencies of the target pest.
- (2) The inspector shall report accurately all findings in writing to the person or persons for whom the inspection was performed.
- (3) The report shall indicate any findings or visible evidence of the target pest or pests. The initial inspection report for any wood destroying insect shall include a diagram of the structure inspected that indicates locations where target pests are found. Upon subsequent inspection, the initial inspection diagram shall be updated if structural changes are visible or when an insect reinfestation is observed.
- (4) A copy of any inspection report for pest control contracted shall be held by each licensee, permit or certificate holder for 2 years, and shall be made available, upon request, to the Department.

B. This section applies only to inspections for wood destroying insects made in connection with a property transfer or for the purpose of securing a real estate loan. A person performing this inspection (licensee, certificate holder, or registered employee) shall:

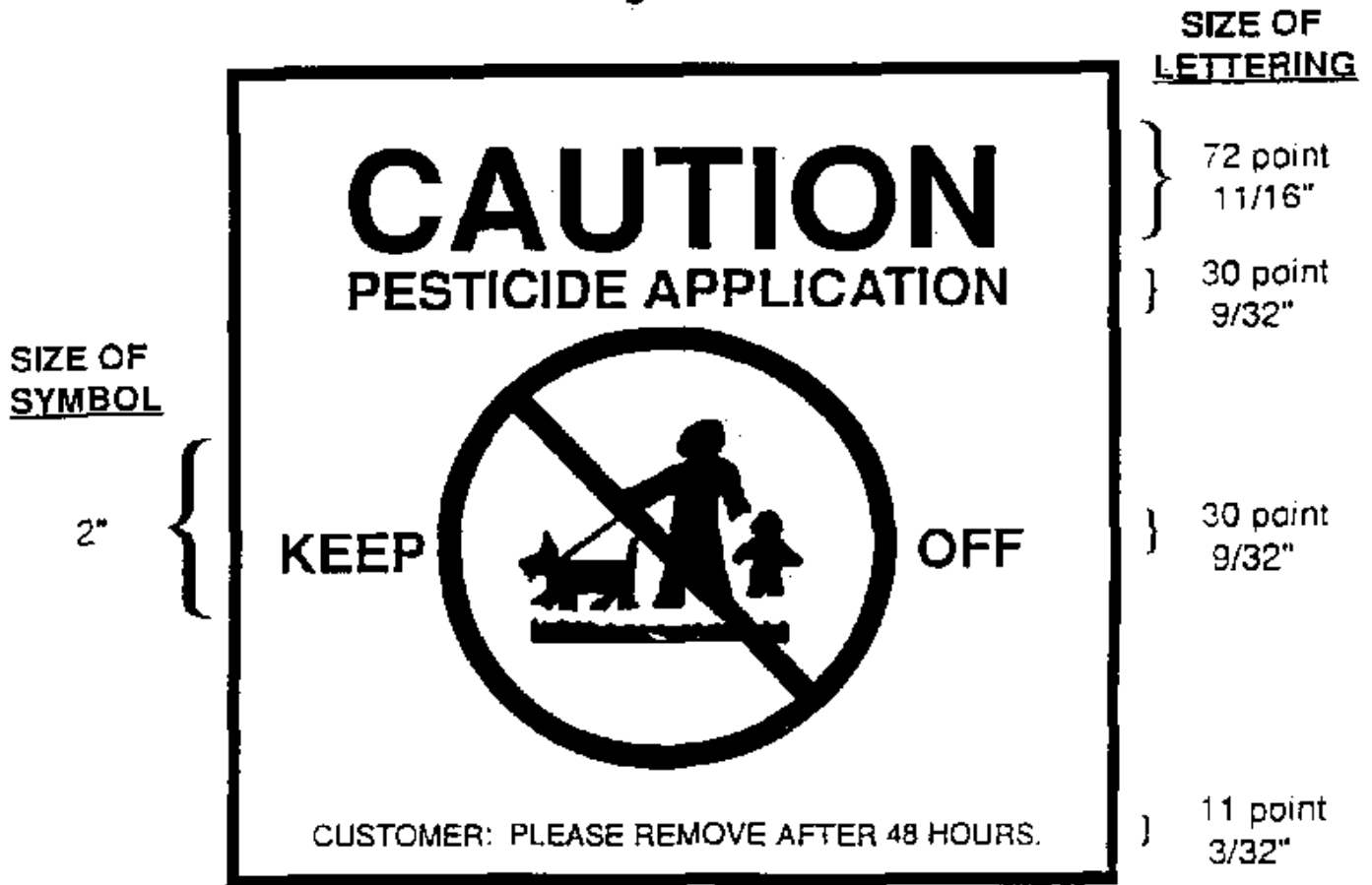
- (1) Sound or probe readily accessible structural members to inspect for wood destroying insects, and direct particular attention to the following readily accessible areas of the structure under inspection:
 - (a) Exterior. The exterior of a structure below eye level, without the use of ladders, shall be inspected.
 - (b) Interior/General, Including the Attic. The interior of the structure, including readily accessible attic area, shall be inspected.
 - (c) Interior/Basement. The interior of the basement area shall be inspected.
 - (d) Interior/Crawl Space. The crawl space area shall be inspected.
- (2) Using Form MD-1, Maryland Wood Destroying Insect Inspection Report, complete an inspection report containing the following information:
 - (a) Date of inspection;
 - (b) Name and address of licensee performing inspection;
 - (c) Name of person performing inspection;
 - (d) Name of property owner or seller if known;
 - (e) Address of property or structure inspected;
 - (f) Description of structure inspected;
 - (g) Indicate areas of the structure inaccessible to inspector, including, but not limited to, areas of the basement, crawl space, main level, attic, exterior and attached garage or porch, and indicate reason why the area is inaccessible;
 - (h) Indicate presence or absence of wood destroying insects;
 - (i) Indicate visible evidence, if any, of wood destroying insects, including a description of the specific location of damage and insect, or insects, involved;
 - (j) Indicate visible damage, if any, to the structure, and if known indicate whether damage has, or will be, corrected or further evaluated;
 - (k) Indicate if insect control measures were performed;
 - (l) Indicate visible evidence of previous treatment;
 - (m) A statement required by the department about conditions conducive to infestation that may be present in or around structures;
 - (n) The name of the inspector and signature and title of the company representative if different from the inspector.
- (3) Include with the inspection report a diagram of the structure inspected showing the locations where visible evidence of wood destroying insects is found, including the specific location of damage observed.
- (4) The licensee is responsible for the cost of producing the inspection report form required under this section.

.15 Posting of Sign.

A. A licensee or permittee applying a pesticide to a lawn or to exterior landscape plants shall post, at the time of application, a sign which conforms to the requirements of this regulation. This regulation applies only to a licensee or permittee in pest control category III—ornamental or turf, as described in Regulation .08 A(3) of this chapter.

B. The licensee or permittee who is required to post a sign under this regulation shall model it after that shown in Figure A and shall see that it meets the requirements described in §B(1)—(8) of this regulation:

Figure A



- (1) Size—4 inches in height × 5 inches in width.
- (2) Composition—made of a sturdy, weather resistant material.
- (3) Type—rigid, as opposed to a flag.
- (4) Color—yellow background with black, bold-faced lettering.
- (5) Information contained on front of sign—the same words and symbols in the specified sizes as shown in Figure A.
- (6) Information contained on the back of the sign shall:
 - (a) Indicate the following:
 - (i) Date applied;
 - (ii) Name of licensee/permittee;
 - (iii) Telephone number of licensee/permittee;
 - (b) Be at least 18 point type (5/32 inch) in size; and
 - (c) Be either stamped or hand printed on the sign, printed on a stick-on label and placed on the sign, or printed on the sign.
- (7) Stake—flexible, preferably not wire.
- (8) Posting height—the bottom of the sign shall be at least 12 inches but not more than 16 inches above the surface of the soil.

C. For cemeteries, golf courses, parks, and similar sites, the Department may permit the licensee or permittee, before posting the sign, to vary the sign characteristics required by §B of this regulation.

D. The licensee or permittee shall place the sign required by this regulation at one of the following locations:

- (1) At each primary access to the property treated, with the front of the sign facing the access;

(2) If only a spot pesticide application is made, or only a small area of a large area receives a pesticide application, a sign may be posted at the location where the pesticide application was made, with the front of the sign facing the probable path of access to the area; or

(3) For cemeteries, golf courses, parks, and similar sites, a sign shall be placed as described either in §D(1) or (2) of this regulation, or in a location approved by the Department.

E. The sign shall remain in place for 48 hours following the pesticide application, after which time the customer is responsible for removal of the sign.

F. A person may not remove, alter, or deface the sign or agree to conspire with another to remove, alter, or deface the sign within 48 hours of its posting.

G. The customer or licensee may not be held liable for any penalty for sign removal under this chapter if the sign is removed by another person or cause over which the customer or licensee has no control.

.16 Pesticide Information for Customer.

A. When a pesticide is applied, or at the time a customer enters into a contract with a licensee for pest control, a licensee shall provide a customer with the following written information:

(1) Name of licensee;

(2) Maryland pesticide business license number;

(3) Licensee telephone number;

(4) Maryland Poison Center telephone number;

(5) Common name of pesticide or active ingredient applied; and

(6) One of the following:

(a) An original or legible copy of the current pesticide product label,

(b) An original or a legible copy of that portion of the current pesticide product label or labeling containing precautionary statements regarding hazards to humans or animals and environmental hazards, if any, or

(c) A document containing appropriate health, safety, or precautionary information that has been taken from the pesticide label and approved by the Department before its distribution.

B. In addition to the required information in §A(6) of this regulation, a licensee may provide the customer with additional product information, such as:

(1) A Material Safety Data Sheet (MSDS);

(2) A U.S. Environmental Protection Agency fact sheet on the product; or

(3) Additional labeling information provided by the product manufacturer (registrant).

C. Product information, other than the current product label or labeling, that the licensee provides to the customer to comply with the requirements in §A(6) of this regulation shall be approved by the Department before its distribution.

D. Upon the customer's request, the licensee shall provide the customer with advance notice of a pesticide application.

.17 List of Pesticide Sensitive Individuals.

A. Operations.

(1) This regulation applies only to a licensee or permittee in pest control category III—ornamental or turf, as described in Regulation .08A(3) of this chapter.

(2) The Department shall prepare, from information provided by an applicant for registration, a list of:

(a) Pesticide sensitive individuals who have registered with the Department under §B of this regulation; and

(b) Property owners who are contiguous or adjacent to those registered individuals and who may contract for pest control.

(3) The Department shall distribute:

(a) The list by February 15 of each year to licensees and permittees in the ornamental or turf pest control category; and

(b) An updated list, when determined necessary by the Department.

B. Requirements for Registration.

(1) Upon request, the Department shall register a person:

(a) With a documented pesticide sensitivity, provided that person submits to the Department a current valid certificate from a physician indicating the person's pesticide sensitivity; or

(b) Who submits to the Department a physician's certificate indicating the person should not be exposed to a pesticide because of a current diagnosed condition or ailment.

- (2) An applicant for registration shall provide the Department with the name, street address, and telephone number of the applicant and of each contiguous or adjacent property owner.
- (3) A person qualifying for registration according to §B(1) of this regulation:
 - (a) May apply to the Department at any time for registration; and
 - (b) Shall notify immediately the Department of any address change.
- (4) A physician's certificate is needed only for an initial registration.
- (5) Registration is free.
- (6) Annual renewal of registration shall be on a form provided by the Department.

C. Requirements of Licensee or Permittee. Before making a pesticide application to a property contiguous or adjacent to the property of a registered individual, a licensee or permittee shall notify the person registered with the Department:

- (1) By telephone the day before, or the morning of, a planned pesticide application; or
- (2) In person, or by a written notice delivered to the residence of the registered individual, before the pesticide is applied to a contiguous or adjacent property.

.18 Enforcement.

A. The Department may issue a civil penalty or suspend, revoke, or deny any license, certificate, permit, or registered employee identification card, for any of the following reasons:

- (1) Violating any provision of the Maryland Pesticide Applicators Law, these regulations, or the Federal Insecticide, Fungicide, and Rodenticide Act, as amended;
- (2) Failing to establish and consistently maintain liability insurance required by this chapter;
- (3) Conducting a pesticide application or inspection for pests in a faulty, careless, or negligent manner;
- (4) Failing to make or maintain records or reports as required by the Department;
- (5) Making false or fraudulent records or reports, including a false or misleading pest inspection report;
- (6) Operating equipment for the purpose of applying pesticides without the supervision of a certified applicator;
- (7) Committing fraud or misrepresentation in making application for licensure or certification;
- (8) Exceeding the limits of the type or purpose of operation, as defined on the license, certificate, or permit;
- (9) Failing or neglecting to maintain equipment used in pesticide application in good and proper working order;
- (10) Presenting false or misleading information in the inspection for, identification of, or control of, pests;
- (11) Being convicted of fraud in the performance of pest control;
- (12) Failing to allow the Department to inspect or sample as outlined in Regulation .03G of this chapter;
- (13) Applying a pesticide without a certificate or license as required by this chapter;
- (14) Failing to provide to the Secretary any requested record as required by this chapter;
- (15) Failing to ensure that each employee, other than a certified applicator, completes a Department-approved training program;
- (16) Failing to pay a civil penalty imposed under Regulation .20 of this chapter.
- (17) Applying a pesticide to the property of another without the expressed permission of this property's owner or other person with authority to exercise control, management, or possession of the property.

B. In an emergency, the Secretary shall suspend a license, certificate, or permit immediately upon finding that public health, safety, or welfare imperatively warrants it.

C. An individual whose certificate, or part, is revoked or suspended may be required to retake the examination in the category for which that individual applies to be recertified after the suspension or revocation.

.19 Hearings and Appeals.

A. Hearings.

- (1) When a person is charged by the Secretary with a violation of this chapter, the Secretary shall give the person charged an opportunity to be heard pursuant to COMAR 15.01.01 concerning procedural rules on hearings.
- (2) Following an emergency suspension a hearing shall be held promptly.

B. Appeals. A person whose license, certificate, permit, or registered employee identification card is denied, revoked, or suspended, may appeal according to Department regulations and the Administrative Procedure Act.

.20 Assessment of Civil Penalty.

A. If the Department determines that a person has violated any provision of the Maryland Pesticide Applicators Law, these regulations, or the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, it may impose a civil penalty of not more than \$2,500 for a first violation and not more than \$5,000 for each subsequent violation. The total penalties imposed on a person for violations that result from the same set of facts and circumstances may not exceed \$25,000.

- B. In assessing a civil penalty imposed under §A, of this regulation, the Department shall give consideration to:
- (1) The willfulness of the violation, the extent to which the existence of the violation was known to the violator but uncorrected by the violator, and the extent to which the violator exercised reasonable care;
 - (2) Any actual harm to human health or to the environment including injury to or impairment of the use of the waters of this State or the natural resources of this State;
 - (3) The cost of control;
 - (4) The nature and degree of injury to or interference with general welfare, health, and property;
 - (5) The extent to which the location of the violation, including location near areas of human population, creates the potential for harm to the environment or to human health or safety; and
 - (6) The extent to which the current violation is part of a recurrent pattern of the same or similar type of violation committed by the violator.
- C. A person may appeal under Agriculture Article, §2-405, Annotated Code of Maryland, the Department's decision to impose a penalty.
- D. Unless a stay has been granted, a person against whom a civil penalty has been imposed under this regulation shall pay the amount of the penalty promptly to the Department.