

Effective 7/1/2017

Chapter 14 Utah Pesticide Control Act

4-14-101 Title.

This chapter is known as the "Utah Pesticide Control Act."

Renumbered and Amended by Chapter 345, 2017 General Session

4-14-102 Definitions.

As used in this chapter:

- (1) "Active ingredient" means an ingredient that:
 - (a) prevents, destroys, repels, controls, or mitigates pests; or
 - (b) acts as a plant regulator, defoliant, or desiccant.
- (2) "Adulterated pesticide" means a pesticide with a strength or purity that is below the standard of quality expressed on the label under which the pesticide is offered for sale.
- (3) "Animal" means all vertebrate or invertebrate species.
- (4) "Beneficial insect" means an insect that is:
 - (a) an effective pollinator of plants;
 - (b) a parasite or predator of pests; or
 - (c) otherwise beneficial.
- (5) "Certified applicator" means an individual who is licensed by the department to apply:
 - (a) a restricted use pesticide; or
 - (b) a general use pesticide for hire or in exchange for compensation.
- (6) "Certified qualified applicator" means a certified applicator who is eligible to act as a qualifying party.
- (7) "Defoliant" means a substance or mixture intended to cause leaves or foliage to drop from a plant, with or without causing abscission.
- (8) "Desiccant" means a substance or mixture intended to artificially accelerate the drying of plant or animal tissue.
- (9) "Distribute" means to offer for sale, sell, barter, ship, deliver for shipment, receive, deliver, or offer to deliver pesticides in this state.
- (10) "Environment" means all living plants and animals, water, air, land, and the interrelationships that exist between them.
- (11)
 - (a) "Equipment" means any type of ground, water, or aerial equipment or contrivance using motorized, mechanical, or pressurized power to apply a pesticide.
 - (b) "Equipment" does not mean any pressurized hand-sized household apparatus used to apply a pesticide or any equipment or contrivance used to apply a pesticide that is dependent solely upon energy expelled by the person making the pesticide application.
- (12) "EPA" means the United States Environmental Protection Agency.
- (13) "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act.
- (14)
 - (a) "Fungus" means a nonchlorophyll-bearing thallophyte or a nonchlorophyll-bearing plant of an order lower than mosses and liverworts, including rust, smut, mildew, mold, yeast, and bacteria.
 - (b) "Fungus" does not include fungus existing on or in:

- (i) a living person or other animal; or
 - (ii) processed food, beverages, or pharmaceuticals.
- (15) "Herbicide" means a substance that is toxic to plants and is used to control or eliminate unwanted vegetation.
- (16) "Insect" means an invertebrate animal generally having a more or less obviously segmented body:
- (a) usually belonging to the Class Insecta, comprising six-legged, usually winged forms, including beetles, bugs, bees, and flies; and
 - (b) allied classes of arthropods that are wingless usually having more than six legs, including spiders, mites, ticks, centipedes, and wood lice.
- (17) "Label" means any written, printed, or graphic matter on, or attached to, a pesticide or a container or wrapper of a pesticide.
- (18)
- (a) "Labeling" means all labels and all other written, printed, or graphic matter:
 - (i) accompanying a pesticide or equipment; or
 - (ii) to which reference is made on the label or in literature accompanying a pesticide or equipment.
 - (b) "Labeling" does not include any written, printed, or graphic matter created by the EPA, the United States Departments of Agriculture or Interior, the United States Department of Health, Education, and Welfare, state experimental stations, state agricultural colleges, and other federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.
- (19) "Land" means land, water, air, and plants, animals, structures, buildings, contrivances, and machinery appurtenant or situated thereon, whether fixed or mobile, including any used for transportation.
- (20) "Misbranded" means any label or labeling that is false or misleading or that does not strictly comport with the label and labeling requirements set forth in Section 4-14-104.
- (21) "Misuse" means use of any pesticide in a manner inconsistent with the pesticide's label or labeling.
- (22) "Nematode" means invertebrate animals of the Phylum Nematelminthes and Class Nematoda, including unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, also known as nemas or eelworms.
- (23) "Ornamental and turf pest control" means the use of a pesticide to control ornamental and turf pests in the maintenance and protection of ornamental trees, shrubs, flowers, or turf.
- (24)
- (a) "Pest" means:
 - (i) any insect, rodent, nematode, fungus, weed; or
 - (ii) any other form of terrestrial or aquatic plant or animal life, virus, bacteria, or other microorganism that is injurious to health or to the environment or that the department declares to be a pest.
 - (b) "Pest" does not include:
 - (i) viruses, bacteria, or other microorganisms on or in a living person or other living animal; or
 - (ii) protected wildlife species identified in Section 23A-1-101 that are regulated by the Division of Wildlife Resources in accordance with Sections 23A-2-102, 23A-2-201, 23A-2-301, 23A-2-302, and 23A-2-303.
- (25) "Pesticide" means any:
- (a) substance or mixture of substances, including a living organism, that is intended to prevent, destroy, control, repel, attract, or mitigate any insect, rodent, nematode, snail, slug, fungus,

- weed, or other form of plant or animal life that is normally considered to be a pest or that the commissioner declares to be a pest;
 - (b) any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant;
 - (c) any spray adjuvant, such as a wetting agent, spreading agent, deposit builder, adhesive, or emulsifying agent with deflocculating properties of its own used with a pesticide to aid the pesticide's application or effect; and
 - (d) any other substance designated by the department by rule.
- (26) "Pesticide applicator" is a person who:
- (a) applies or supervises the application of a pesticide; and
 - (b) is required by this chapter to have a license.
- (27)
- (a) "Pesticide applicator business" means an entity that:
 - (i) is authorized to do business in this state; and
 - (ii) offers pesticide application services.
 - (b) "Pesticide applicator business" does not include an individual licensed agricultural applicator who may work for hire.
- (28) "Pesticide dealer" means any person who distributes restricted use pesticides.
- (29)
- (a) "Plant regulator" means any substance or mixture intended, through physiological action, to accelerate or retard the rate of growth or rate of maturation, or otherwise alter the behavior of ornamental or crop plants.
 - (b) "Plant regulator" does not include plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.
- (30) "Qualifying party" means a certified qualified applicator who is the owner or employee of a pesticide applicator business and who is registered with the department as the individual responsible for ensuring the training, equipping, and supervision of all pesticide applicators who work for the pesticide applicator business.
- (31) "Restricted use pesticide" means:
- (a) a pesticide, including a highly toxic pesticide, that is a serious hazard to beneficial insects, animals, or land; or
 - (b) any pesticide or pesticide use restricted by the administrator of EPA or by the commissioner.
- (32) "Spot treatment" means the limited application of an herbicide to an area that is no more than 5% of the potential treatment area or one-twentieth of an acre, whichever is smaller, using equipment that is designed to contain no more than five gallons of mixture.
- (33) "Weed" means any plant that grows where not wanted.
- (34) "Wildlife" means all living things that are neither human, domesticated, nor pests.

Amended by Chapter 34, 2023 General Session

4-14-103 Registration required for distribution -- Application -- Fees -- Renewal -- Local needs registration -- Distributor or applicator license -- Fees -- Renewal.

- (1)
- (a) A person that is not registered with the department may not distribute a pesticide in this state.
 - (b) Application for registration shall be made to the department upon forms prescribed and furnished by the department accompanied with an annual registration fee determined by the department pursuant to Subsection 4-2-103(2) for each pesticide registered.

- (c) Upon receipt by the department of a proper application and payment of the appropriate fee, the commissioner shall issue a registration to the applicant allowing distribution of the registered pesticide in this state through June 30 of each year, subject to suspension or revocation for cause.
- (d)
 - (i) Each registration is renewable for a period of one year upon the payment of an annual registration renewal fee in an amount equal to the current applicable original registration fee.
 - (ii) Each renewal fee shall be paid on or before June 30 of each year.
- (2) The application shall include the following information:
 - (a) the name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant's name;
 - (b) the name of the pesticide;
 - (c) a complete copy of the label that will appear on the pesticide; and
 - (d) any information prescribed by rule of the department considered necessary for the safe and effective use of the pesticide.
- (3)
 - (a) Except as provided in Subsection (3)(b), forms for the renewal of registration shall be emailed to registrants at least 30 days before the day on which the registrant's registration expires.
 - (b) If a registrant requests to receive forms for the renewal of registration by mail, the department shall mail the forms to the registrant at least 30 days before the day on which the registrant's registration expires.
 - (c) A registration in effect on June 30 for which a renewal application has been filed and the registration fee tendered shall continue in effect until the applicant is notified either that the registration is renewed or that the registration is suspended or revoked pursuant to Section 4-14-108.
- (4) The department may, before approval of any registration, require the applicant to submit the complete formula of any pesticide, including active and inert ingredients, and may also, for any pesticide not registered according to 7 U.S.C. Sec. 136a or for any pesticide on which restrictions are being considered, require a complete description of all tests and test results that support the claims made by the applicant or the manufacturer of the pesticide.
- (5) A registrant who desires to register a pesticide to meet special local needs according to 7 U.S.C. Sec. 136v(c) shall, in addition to complying with Subsections (1) and (2), satisfy the department that:
 - (a) a special local need exists;
 - (b) the pesticide warrants the claims made for the pesticide;
 - (c) the pesticide, if used in accordance with commonly accepted practices, will not cause unreasonable adverse effects on the environment; and
 - (d) the proposed classification for use conforms with 7 U.S.C. Sec. 136a(d).
- (6) A registration is not required for a pesticide distributed in this state pursuant to an experimental use permit issued by the EPA or under Section 4-14-105.
- (7) A pesticide dealer may not distribute a restricted use pesticide in this state without a license.
- (8) A person shall receive a license before applying:
 - (a) a restricted use pesticide; or
 - (b) a general use pesticide for hire or in exchange for compensation.
- (9)
 - (a) A license to engage in an activity listed in Subsection (7) or (8) may be obtained by:
 - (i) submitting an application on a form provided by the department;

- (ii) showing evidence of competence in the pesticide profession, as established by rule, and complying with the rules adopted by the department under this chapter;
 - (iii) demonstrating good character;
 - (iv) having no outstanding infractions and owing no money to the department; and
 - (v) paying the license fee determined by the department according to Subsection 4-2-103(2).
- (b) A person may apply for a triennial license that expires on December 31 of the second calendar year after the calendar year in which the license is issued.
- (c) Notwithstanding Section 63J-1-504, the department shall retain the fees as dedicated credits and may only use the fees to administer and enforce this title.

Amended by Chapter 79, 2022 General Session

Renumbered and Amended by Chapter 345, 2017 General Session

4-14-104 Labeling requirement for pesticides specified.

- (1) Each container of pesticide distributed in this state shall bear a label setting forth:
- (a) the name, brand, or trademark under which the pesticide is distributed;
 - (b) subject to Subsection (2), an accurate statement of the ingredients on:
 - (i) the part of the immediate container that is presented or displayed under customary conditions of purchase; and
 - (ii) on the outside container and wrapper of the retail package, if there be one, through which the ingredient statement on the immediate container cannot be clearly read;
 - (c) a warning or caution statement if necessary, which, if complied with together with any requirements imposed under Section 3(d) of FIFRA, is adequate to protect health and the environment;
 - (d) the net weight or measure of the content;
 - (e) the name and address of the manufacturer, registrant, or person for whom manufactured;
 - (f) the EPA registration number assigned to each establishment in which the pesticide was produced and the EPA registration number assigned to the pesticide, if required by regulations under FIFRA;
 - (g) the federal use classification under which the pesticide is registered or designated for "experimental use only"; and
 - (h) directions for use of the pesticide sufficient to carry out the purposes for which the product is intended and which, if complied with together with any requirements imposed under Section 3(d) of FIFRA, are adequate to protect health and the environment.
- (2) An ingredient statement may appear prominently on another part of a container, as permitted under Section 2(q)(2)(A) of FIFRA, if the size or form of the container makes it impractical to place the ingredient statement on the part of the retail package that is presented or displayed under customary conditions of purchase.
- (3) If the pesticide is highly toxic the label shall, in addition to the other label requirements, display:
- (a) the skull and crossbones;
 - (b) the word "POISON" in red prominently displayed on a background of distinctly contrasting color; and
 - (c) a statement of a practical treatment, first aid or otherwise, in case of poisoning by the pesticide.

Renumbered and Amended by Chapter 345, 2017 General Session

4-14-105 Issuance of experimental use permits -- Application -- Terms and conditions for issuance.

- (1) The department upon application may:
 - (a) issue an experimental use permit to any person if the department determines that the applicant needs such a permit in order to accumulate information necessary to register a pesticide under Section 4-14-103; or
 - (b) refuse to issue an experimental permit if the department determines that issuance is not warranted or that the pesticide use to be made under the proposed terms and conditions may cause unreasonable adverse effects on the environment.
- (2) The department may also with respect to issuance of an experimental use permit:
 - (a) prescribe the terms and conditions for the conduct of the experimental use that in all events shall be under the supervision of the department; and
 - (b) revoke or modify any experimental use permit if the department determines that the terms or conditions of the experimental use are being violated, or that the terms and conditions prescribed are inadequate to avoid unreasonable adverse effects to the environment.
- (3) Application for an experimental use permit may be made before, after, or simultaneously with an application for registration.

Renumbered and Amended by Chapter 345, 2017 General Session

4-14-106 Department authorized to make and enforce rules.

The department may, by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules to:

- (1) declare as a pest any form of plant or animal life that is injurious to health or the environment, except:
 - (a) a human being; or
 - (b) a bacteria, virus, or other microorganism on or in a living person or animal;
- (2) establish, in accordance with the regulations issued by the EPA under 7 U.S.C. Sec. 136w(c) (2), whether pesticides registered for special local needs under the authority of 7 U.S.C. Sec. 136v(c) are highly toxic to man;
- (3) establish, consistent with EPA regulations, that certain pesticides or quantities of substances contained in these pesticides are injurious to the environment;
- (4) adopt a list of "restricted use pesticides" for the state or designated areas within the state if the department determines upon substantial evidence presented at a public hearing that restricted use is necessary to prevent damage to property or to the environment;
- (5) establish qualifications for a pesticide applicator business; and
- (6) adopt any rule, not inconsistent with federal regulations issued under FIFRA, considered necessary to administer and enforce this chapter, including rules relating to the sale, distribution, use, and disposition of pesticides if necessary to prevent damage and to protect the public health.

Amended by Chapter 154, 2020 General Session

4-14-107 Enforcement -- Inspection and sampling authorized -- Notice of deficiency to be given registrant -- Objects of inspection delineated -- Warrants.

- (1) The department, to determine compliance with this chapter, shall periodically:
 - (a) sample, inspect, and analyze pesticides distributed within this state;
 - (b) observe and investigate the use and application of pesticides within this state; and

- (c) inspect equipment used to apply pesticides in this state to determine if the equipment complies with this chapter.
- (2)
 - (a) If a pesticide sample, upon analysis, fails to comply with this chapter, the department shall give written notice to that effect to the registrant or owner of the pesticide.
 - (b) Nothing in this chapter, however, shall be construed as requiring the department to refer minor violations for criminal prosecution or for the institution of condemnation proceedings if the department believes the public interest will best be served through informal action.
- (3) The department, for the purpose of enforcing this section, is authorized at reasonable times to enter any private or public premises for the purpose of:
 - (a) inspecting any equipment used in applying pesticides;
 - (b) inspecting or sampling lands actually or reported to be exposed to pesticides;
 - (c) inspecting storage or disposal areas;
 - (d) investigating complaints of injury to animals or lands;
 - (e) sampling pesticides wherever located, including in vehicles; or
 - (f) observing the use and application of a pesticide.
- (4) The department may proceed immediately, if admittance is refused, to obtain an ex parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises for any purpose specified in Subsection (3) of this section.

Renumbered and Amended by Chapter 345, 2017 General Session

4-14-108 Suspension or revocation -- Grounds -- Stop sale, use, or removal order authorized -- Court action -- Procedure -- Award of costs authorized.

- (1) The department may revoke or suspend the registration of any pesticide upon satisfactory evidence that the registrant has used fraudulent or deceptive practices in the registration of the pesticide or in the pesticide's distribution in this state.
- (2)
 - (a) The department may issue a "stop sale, use, or removal order" to the owner or distributor of any designated pesticide or lot of pesticide that the department finds or has reason to believe is being offered or exposed for sale in violation of this chapter.
 - (b) The order described in Subsection (2)(a) shall be in writing and no pesticide subject to the order shall be moved, offered, or exposed for sale, except upon the subsequent written release by the department.
 - (c) Before a release is issued, the department may require the owner or distributor of the "stopped" pesticide or lot to pay the expense incurred by the department in connection with the withdrawal of the product from the market.
- (3)
 - (a) The department is authorized in a court of competent jurisdiction to seek an order of seizure or condemnation of a pesticide that violates this chapter or, upon proper grounds, to obtain a temporary restraining order or permanent injunction to prevent the violation of this chapter.
 - (b) No bond shall be required of the department in an injunctive proceeding brought under this section.
- (4)
 - (a) Subject to Subsection (4)(b), if condemnation is ordered, the pesticide or equipment shall be disposed of as the court directs.

- (b) The department may not order condemnation without giving the registrant or other person an opportunity to apply to the court for permission to relabel, reprocess, or otherwise bring the pesticide into conformance, or for permission to remove the pesticide from the state.
- (5) If the court orders condemnation, court costs, fees, storage, and other costs shall be awarded against the claimant of the pesticide or equipment.
- (6) The department may:
 - (a) deny an application for a pesticide applicator license;
 - (b) revoke a pesticide applicator license for cause; or
 - (c) suspend a pesticide applicator license for cause.
- (7)
 - (a) If a pesticide applicator license is revoked or suspended under Subsection (6), the license shall be returned to the department within 14 days of the day on which the licensee received notice of the revocation or suspension.
 - (b) A licensee who fails to return a license, as described in Subsection (7)(a), may be subjected to an administrative fine of up to \$100 for each 14 days the license is not returned.

Renumbered and Amended by Chapter 345, 2017 General Session

4-14-109 Examination requirements for license to act as applicator may be waived through reciprocal agreement.

The department may waive any or all examination requirements specified in rule for a noncommercial, commercial, or private pesticide applicator through a reciprocal agreement with another state whose examination requirements and standards for licensure are substantially similar to those of Utah.

Renumbered and Amended by Chapter 345, 2017 General Session

4-14-110 Defenses.

- (1) As an affirmative defense to any action brought as a result of the alleged misuse or misapplication of a pesticide, a person may present evidence that as of the time of the alleged violation, the person was in compliance with label directions, this chapter, and any rules issued in accordance with this chapter.
- (2) A person is not liable for injuries resulting from the misuse or misapplication of a pesticide unless the person was negligent.

Renumbered and Amended by Chapter 345, 2017 General Session

4-14-111 Registration required for a pesticide business.

- (1) A pesticide applicator business shall register with the department by:
 - (a) submitting an application on a form provided by the department;
 - (b) paying the registration fee; and
 - (c) certifying that the business is in compliance with this chapter and departmental rules authorized by this chapter.
- (2)
 - (a) By following the procedures and requirements of Section 63J-1-504, the department shall establish a registration fee based on the number of pesticide applicators employed by the pesticide applicator business.
 - (b)

- (i) Notwithstanding Section 63J-1-504, the department shall deposit the fees as dedicated credits and may only use the fees to administer and enforce this chapter.
 - (ii) The Legislature may annually designate the revenue generated from the fee as nonlapsing in an appropriations act.
- (3) The department shall issue a business registration certificate to a pesticide applicator business if the individual or entity:
- (a) has complied with the requirements of this section;
 - (b) has shown evidence of competence in the pesticide profession and meets the certification requirements established by rule;
 - (c) provides evidence that the owner or qualifying party is a certified applicator;
 - (d) provides evidence that the owner or qualifying party:
 - (i) has been a certified applicator for at least two years out of the 10 years immediately before the date of the application for a business registration certificate is received by the department;
 - (ii) holds an associate degree or higher in horticulture, agricultural sciences, biological sciences, pest management, or a related field; or
 - (iii) has held a comparable license issued in another state, district, territory, or jurisdiction and meets the requirements described in Subsection 4-1-112(2);
 - (e) demonstrates good character;
 - (f) has no outstanding infractions and owes no money to the department; and
 - (g) pays the licensing fee established by the department.
- (4) A registration certificate expires on December 31 of the second calendar year after the calendar year in which the registration certificate is issued.
- (5)
- (a) The department may suspend a registration certificate if the pesticide applicator business violates this chapter or any rules authorized by it.
 - (b) A pesticide applicator business whose registration certificate has been suspended may apply to the department for reinstatement of the registration certificate by demonstrating compliance with this chapter and rules authorized by this chapter.
- (6) A pesticide applicator business shall:
- (a) only employ a pesticide applicator who has received a license from the department, as required by Section 4-14-103; and
 - (b) ensure that all employees comply with this chapter and the rules authorized by this chapter.
- (7) An individual or entity applying for a business registration certificate does not have to meet the requirements of Subsection (3)(d) if the individual's or entity's sole use of pesticides is limited to:
- (a) providing ornamental and turf pest control spot treatment services; and
 - (b) herbicides with labels that contain the signal word "caution" or "warning."

Amended by Chapter 104, 2024 General Session