

U.S.

● **FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (AERIAL APPLICATOR CERTIFICATION)**

STATUTORY CITATION: 7 USC §§ 136 – 136y

RELATED REGULATIONS: 40 CFR Part 171

GENERAL SUMMARY: Under rulemaking authority granted by the Federal Insecticide, Fungicide, and Rodenticide Act, the Environmental Protection Agency has adopted standards regulating the certification of commercial and private applicators who use or supervise the use of restricted-use pesticides applied by aircraft.

SPECIFIC TERMS AND CONDITIONS

In addition to satisfying the certification requirements applicable to all categories of pesticide applicators, as outlined in the previous entry, individuals seeking certification to apply restricted-use pesticides from the air — or to supervise aerial pesticide operations — are required to demonstrate practical knowledge of pest problems and pest control practices, including (among others) the following:

- (1) Labeling requirements and restrictions specific to aerial application of pesticides.
- (2) How to choose, calibrate and maintain aerial application equipment.
- (3) Weather-related factors to consider before and during aerial application.
- (4) Methods for minimizing off-target pesticide drift.
- (5) Competency in performing aerial applications that avoid drift and assure individual and public safety.

Private applicators who use or supervise the use of restricted-use pesticides applied by fixed- or rotary-wing aircraft are subject to very similar certification requirements.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Any state which has adopted adequate pesticide use laws and regulations, establishes and implements adequate procedures for their enforcement, and agrees to maintain records and make reports as required, may enter into a cooperative agreement with the federal government for the enforcement of pesticide use restrictions. Under terms of such an agreement and in accordance with an EPA-approved state plan, the state is regarded as having primary enforcement responsibility for pesticide use violations.

All states except Wyoming currently exercise primary enforcement responsibility for pesticide violations under the Federal Insecticide, Fungicide, and Rodenticide Act. For state enforcement agency identification and contact information, see the first entry under "*Pesticides & Agricultural Chemicals*" for each state.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *Office of Pesticide Programs, Office of Chemical Safety and Pollution Prevention, U.S. Environmental Protection Agency, Washington, D.C. 20460 (703-305-7090)*. In those states which have not been granted primary enforcement responsibility, and in any other state where EPA finds that the cooperating state agency has failed to take warranted enforcement action, EPA may exercise its enforcement powers directly. EPA compliance personnel are authorized to investigate complaints of misuse of pesticide products and for such purposes may enter fields and other workplaces, interview workers and employers, and inspect and copy records. After notice and opportunity for a hearing, the agency may assess civil money penalties against commercial and private applicators found to have violated any provision of the Act. Criminal penalties are also prescribed.

● **FEDERAL AVIATION ACT OF 1958**

STATUTORY CITATION: 49 USC §§ 44701 – 44702

RELATED REGULATIONS: 14 CFR Part 137

GENERAL SUMMARY: The Federal Aviation Act regulates the nation's air commerce and establishes controls over airspace, air traffic and navigation, primarily in the interest of public safety and national defense.

SPECIFIC TERMS AND CONDITIONS: Under the Act's rulemaking authority, the administrator of the Federal Aviation Administration has adopted regulations governing agricultural aircraft operations in the U.S. and the issuance of commercial and private agricultural aircraft operator certificates for such operations.

CERTIFICATION — With few exceptions, no one may conduct agricultural aircraft operations (including the application of pesticides and other agricultural chemicals) without an agricultural aircraft operator certificate issued by the FAA. Prerequisites for a certificate include all of the following:

- (1) A commercial or private pilot's license.
- (2) An airworthy and certificated aircraft.
- (3) Passage of a knowledge test, covering (a) pre-flight preparations, (b) safe handling of pesticide products and proper disposal of used containers, (c) general effects of exposure to such products and precautions to be observed in their use, (d) symptoms of poisoning, emergency treatment measures and location of poison control centers, (e) performance capabilities and limitations of the aircraft to be used, and (f) safe flight and pesticide application procedures.
- (4) Passage of a flight skill test, which includes certain prescribed maneuvers commonly performed in aerial pesticide applications.

A facsimile of the agricultural aircraft operator certificate issued to a pilot must be carried on each aircraft the pilot uses for

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aerial pesticide application purposes. The original certificate, as well as the registration and airworthiness certificates issued for the aircraft itself, must be kept available for inspection at the operator's base location.

OPERATING RULES — Pilots dispensing pesticides and other agricultural chemicals must follow specific rules covering aircraft design, equipment, personnel, and operating procedures. Among other restrictions, no one may dispense any material or substance from an aircraft in a manner that creates a hazard to persons or property on the ground, and aerial applicators may not apply any pesticide registered under the Federal Insecticide, Fungicide, and Rodenticide Act for a use other than that for which it is registered, or contrary to any safety instructions or use limitations on its label.

RECORDS AND REPORTS — Every holder of a commercial agricultural aircraft operator certificate must maintain current records showing (1) the name and address of each person for whom agricultural aircraft services were provided, (2) the date each service was performed, (3) the name and quantity of the pesticide or similar product dispensed for each operation conducted, and (4) the name, address and certificate number of each pilot involved in the operation and the date each pilot met the knowledge and skill requirements described above.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Enforcement Division, Federal Aviation Administration, U.S. Department of Transportation, Washington, D.C. 20591 (202-267-5158)*. Anyone with knowledge of a violation of the agricultural aircraft operations regulations may report it to any FAA regional or district office. The FAA is authorized to conduct investigations, hold hearings, issue subpoenas, require the production of relevant documents, records and property, and take evidence. Individuals or firms found in violation are subject to civil money penalties, seizure of aircraft, suspension or revocation of certification, and criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Alaska

● **STATE ENVIRONMENTAL CONSERVATION LAWS (AERIAL PESTICIDE APPLICATIONS)**

STATUTORY CITATION: Alaska Stat. § 46.03.320

RELATED REGULATIONS: Alaska Admin. Code Title 18, § 90.505

GENERAL SUMMARY: In order to help conserve, improve and protect the state's environment and natural resources, Alaska's environmental conservation laws authorize broad controls over the registration, labeling, sale, transportation, handling and use of pesticides. In addition to the general standards outlined above, this authority includes provisions governing pesticide applications by aircraft.

SPECIFIC TERMS AND CONDITIONS: No one may direct, conduct, participate in or allow the use of a pesticide by aircraft or helicopter without first obtaining a permit from the state agency for each such use. The aerial permit application form requires detailed information regarding the product to be used, the location and size of the target area, the method of application, the certification of the aircraft to be used, and related details.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Control Program, Division of Environmental Health, Department of Environmental Conservation, Wasilla, Alaska 99654 (800-478-2577). Representatives of the Department may, at reasonable times and with the consent of the owner or occupier, enter premises to investigate actual or suspected violations of the pesticide rules established under state law. This agency is empowered to issue compliance orders and to pursue civil action in the state courts against violators who fail to comply with such orders.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Arizona

● ARIZONA PESTICIDE CONTROL LAW (AERIAL APPLICATORS)

STATUTORY CITATION: Ariz. Rev. Stat. §§ 3-361 – 3-377

RELATED REGULATIONS: Ariz. Admin. Code §§ 3-3-101 – 3-3-506

GENERAL SUMMARY: Aside from provisions regulating the ground use of pesticides, the state pesticide control law and the associated regulations contain explicit language regarding the application of pesticides by aircraft.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No person may operate an aircraft for the purpose of applying pesticides to agricultural crops unless the person has a valid agricultural aircraft pilot license and a valid commercial applicator certification, both issued by the state. To qualify for such a license, the applicant must pass an examination testing knowledge and understanding of pesticide use and safety, safe flight and application procedures, pesticide laws and regulations, and other subjects. Aerial applicators must also have a valid commercial pilot's certificate issued by the Federal Aviation Administration.

AIRCRAFT LICENSING AND CERTIFICATION — Like other pesticide application equipment, any aircraft used to apply pesticides for hire must have a valid state equipment tag, as well as an airworthiness certificate issued by the Federal Aviation Administration.

BUFFER ZONES — Certain designated pungent or highly toxic pesticide products may not be applied from the air within prescribed distances from schools, daycare centers, health care institutions and residences.

PESTICIDE MANAGEMENT AREAS — Within designated urban areas that are adjacent to farmlands and have a history of problems or complaints concerning aerial pesticide applications, applicators must notify the state agency at least 24 hours prior to applying certain chemical compounds from the air.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Environmental Services Division, Arizona Department of Agriculture, Phoenix, Arizona 85007 (602-542-3578)*. This agency is authorized to conduct investigations, on complaint or on its own initiative, regarding violations of the pesticide control law. A copy of every such complaint filed with the agency must be forwarded by the agency to the state attorney general, who must be consulted before final disposition of each case to ensure that proper action is taken. Enforcement measures available to the agency include citation, suspension or revocation of the pesticide applicator's license, and civil money penalties. Violators may also be subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

PRIVATE CIVIL ACTION — Anyone who is adversely affected may bring civil action in state court against a person alleged to be in violation of the pesticide control law or its regulations, or against the enforcement agency for alleged failure to perform any non-discretionary duty under the law. However, no private action may be undertaken before 60 days after the complainant has filed a complaint with the agency and notified the alleged violator, or if within those 60 days the agency begins and diligently performs the duty which is the subject of the complaint, nor may private civil action be taken if the attorney general is diligently prosecuting the case before the agency or in state court.

California

● **STATE PEST CONTROL LAWS (*AIRCRAFT OPERATION REGULATION*)**

STATUTORY CITATION: Cal. Food & Agric. Code §§ 11901–11940

GENERAL SUMMARY: The Food and Agricultural Code contains provisions which regulate the operation of aircraft engaged in pest control services. The Code requires, in part, that aerial pest control pilots be certified by the state and registered in each county in which they operate, and that aerial operators have adequate financial security to satisfy any legal judgment arising in connection with their crop dusting or spraying activities.

SPECIFIC TERMS AND CONDITIONS

PILOTS' CERTIFICATES — It is unlawful for anyone to operate an aircraft for pest control purposes unless the pilot flying the aircraft holds a valid pest control pilot's certificate issued by the state. Before an appropriate pest control aircraft pilot certificate is granted, the applicant must, among other conditions, pass an examination to demonstrate the pilot's ability to legally and safely conduct pest control operations and the pilot's knowledge of the nature and effect of pest control materials. After conducting aerial pest control under the supervision of a pest control aircraft pilot holding a valid journeyman certificate, the apprentice pilot can qualify to take the journeyman pilot exams. Pesticide aircraft operators must also have an appropriate and valid commercial pilot's certificate and a current medical certificate, both issued by the Federal Aviation Administration.

COUNTY REGISTRATION — No one may act as an aerial pest control pilot in any county in California without first registering with the county agricultural commissioner. Ag commissioners have the same authority as the state enforcement agency to revoke, suspend or refuse to issue such registration.

FINANCIAL RESPONSIBILITY — Any time a pest control aircraft operator is subject to a final legal judgment for damages resulting from an aerial pesticide application and the judgment remains unpaid for more than 30 days, the state enforcement agency must suspend the operator's license. The suspension will remain in effect until the judgment is satisfied or the operator submits proof of his or her financial ability to pay. Proof of financial responsibility may be met by furnishing evidence that the dusting or spraying activity which led to the judgment was covered by a surety bond or liability insurance policy, in an amount no less than \$25,000.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *California Department of Pesticide Regulation, Sacramento, California 95814 (916-324-4100)*. The Department is responsible for examining and certifying aerial pest control pilots in the state, and for monitoring compliance with statutory and regulatory standards applicable to their conduct. The Department may suspend, revoke, or refuse to issue a pilot's certificate if evidence presented at a hearing indicates the pilot is not qualified to conduct aerial operations or has violated any state pesticide-related law, regulation or order.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – County agricultural commissioners are responsible for the registration of aircraft pilots engaged in aerial pesticide application activities within their respective jurisdictions. Registration may be denied, suspended or revoked on any of the grounds specified as cause for denial, suspension or revocation of a pest control aircraft pilot's certificate.

Colorado

● **PESTICIDE APPLICATORS' ACT (AERIAL APPLICATORS)**

STATUTORY CITATION: Colo. Rev. Stat. §§ 35-10-101 – 35-10-128

RELATED REGULATIONS: 8 Code Colo. Regs. § 1203-2-2.14

GENERAL SUMMARY: Under the general rulemaking authority of the Pesticide Applicators' Act, the state agriculture department has adopted licensing provisions specifically applicable to aerial applicators.

SPECIFIC TERMS AND CONDITIONS

Commercial applicators are prohibited from applying pesticides from the air without an endorsement on their license permitting them to do so. As a requirement for obtaining the endorsement, the applicant or licensee must present proof that at least one pilot employed by the applicant holds a commercial agricultural aircraft certificate issued by the Federal Aviation Administration. The licensee is required to notify the state agency whenever there is no longer a certified pilot in its employ, and the licensee must cease aerial pesticide application operations until satisfactory proof of certification of new personnel is furnished to the state agency.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Pesticides Programs Section, Colorado Department of Agriculture, Broomfield, Colorado 80021 (303-869-9056)*. The Department is responsible for the licensing and certification of commercial pesticide applicators in Colorado, including aerial operators.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Connecticut

● **CONNECTICUT PESTICIDE CONTROL ACT (*AERIAL APPLICATORS*)**

STATUTORY CITATION: Conn. Gen. Stat. §§ 22a-46 – 22a-66x

RELATED REGULATIONS: Conn. Agencies Regs. §§ 22a-54-1 – 22a-54-3 and 22a-66-7

GENERAL SUMMARY: The Connecticut Pesticide Control Act confers broad authority on the state environmental protection department to adopt pesticide standards, including requirements and restrictions on the application of pesticides by air.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION OF AERIAL APPLICATORS — No one may apply or offer to apply any pesticide or fertilizer by aircraft without first obtaining a certificate from the state authorizing aerial operations. Each applicant must be qualified to fly an aircraft, must pass an examination demonstrating competence to apply pesticides safely and effectively, and must maintain liability insurance coverage of at least \$100,000 for bodily injury (each occurrence) and \$100,000 for property damage (each occurrence).

AERIAL APPLICATION PERMITS — Before any pesticide or fertilizer may be applied to a crop or to land from the air, the owner of the crop or land must obtain a permit from the state. A permit may not be granted until the target area and surrounding property have been inspected and the applicant produces evidence that the material to be applied and the method of application will not harm public health, water, animal life or property.

REGULATORY RESTRICTIONS — No pesticide may be applied from the air to a tract of land less than 10 acres in size, unless the tract is part of a larger parcel of at least 10 acres. Before an aerial spray operation may be undertaken, a written release is generally required from any resident whose property is within 300 feet of the flight path of the airplane to be used, or within 200 feet in the case of application by helicopter.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Pesticide Management Program, Bureau of Materials Management and Compliance Assurance, Department of Energy and Environmental Protection, Hartford, Connecticut 06106 (860-424-3369).*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Florida

● **FLORIDA PESTICIDE LAW (AERIAL APPLICATORS)**

STATUTORY CITATION: Fla. Stat. §§ 487.011–487.175

RELATED REGULATIONS: Fla. Admin. Code R. 5E-9.036

GENERAL SUMMARY: Regulations adopted under authority of the Florida Pesticide Law include standards relevant to application of pesticides by aircraft.

SPECIFIC TERMS AND CONDITIONS: Among other provisions spelled out in the regulations, aerial applicators must comply with these requirements:

REGISTRATION — Each aircraft used for aerial application of pesticides must be registered with the state enforcement agency each year.

PROOF OF INSURANCE — The individual or firm applying for registration must deposit a surety bond in the minimum amount of \$100,000 covering damage or injury to people or property as the result of aerial pesticide application by the registered aircraft. As an alternative, the applicant may file a certificate of insurance, verifying insurance coverage of not less than \$100,000 for property damage and \$300,000 for bodily injury.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Bureau of Licensing and Enforcement, Division of Agricultural Environmental Services, Department of Agriculture and Consumer Services, Tallahassee, Florida 32399 (850-617-7997).* This agency is in charge of examining and licensing pesticide applicators in the state, and monitoring their compliance with the Department's rules implementing the provisions of the law outlined above. Any worker or other person who suffers injury or property damage stemming from application of a pesticide may file a written statement with the enforcement agency. The Department must investigate the alleged injury or damage and notify all concerned parties of its findings. If investigation reveals a violation of the law, the Department will determine an appropriate administrative action, which may include a warning letter, license probation, license suspension or revocation, or an administrative fine. Violators are also subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Hawaii

● HAWAII PESTICIDES LAW (*AERIAL APPLICATORS*)

STATUTORY CITATION: Haw. Rev. Stat. §§ 149A-1 – 149A-53

RELATED REGULATIONS: Hawaii Admin. Rules, §§ 4-66-1 – 4-66-67

GENERAL SUMMARY: In addition to its licensing provisions and general application standards, the Hawaii Pesticides Law authorizes state regulations governing the certification of aerial applicators and the application of pesticides by aircraft.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION — Aerial pest control applicators must demonstrate broad knowledge regarding drift and drift control, weather effects, application equipment and techniques, and the potential for adverse effects of aerial applications on people, beneficial insects, wildlife, livestock, and non-target plants.

RECERTIFICATION — To qualify for renewal of an aerial applicator certificate, the holder must complete 25 hours of prescribed training or pass a written examination.

AERIAL PERMITS — No one may apply a restricted-use pesticide by aircraft without obtaining a special permit issued by the state agency. Among other requirements that must be met before a permit is issued, the plantation or farm applying for the permit must state the purpose of the aerial treatment, identify the pesticide and dosage to be used, and submit a map or sketch showing the proposed site and the surrounding homes, roadways, waterways and agricultural fields. A permit may cover a single treatment, or may be issued for multiple or continuous treatments when conditions are not expected to change during subsequent treatments conducted in the same designated area.

OPERATING CONDITIONS — Spray equipment must be leakproof, and power rigs used for inter-row or broadcast applications must be equipped with a pressure control device and pressure gauge.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Pesticides Branch, Plant Industry Division, Hawaii Department of Agriculture, Honolulu, Hawaii 96814 (808-973-9401)*. The Department is responsible for the certification of aerial pesticide applicators in the state and for monitoring the aerial application of pesticide products. Authorized representatives of the Department may inspect aerial application equipment and loading areas, and may take other measures to enforce these provisions. Civil or criminal penalties, ranging from a fine to a prison term, may be imposed for any infraction.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Idaho

● **STATE PESTICIDE LAWS (AERIAL APPLICATORS)**

STATUTORY CITATION: Idaho Code §§ 22-3401 – 22-3426

RELATED REGULATIONS: Idaho Admin. Code R. 02.03.03

GENERAL SUMMARY: The administrative rules adopted under the state pesticide laws include explicit provisions regulating the application of pesticides from the air.

SPECIFIC TERMS AND CONDITIONS

RECORDKEEPING — In addition to the requirements applicable to other professional pesticide applicators, individuals and firms that apply pesticides commercially by aircraft must maintain a record of the time of day of each application of pesticides, and of the approximate wind speed and direction at the time of application.

OPERATING RESTRICTIONS — During spray operations, pilots are prohibited from turning or flying low over towns or densely populated areas without written authorization, or directly over an occupied structure (such as a housing facility or school) without permission from the owner of the structure. Aerial pesticide application is forbidden at any location when the sustained wind speed is over 10 miles per hour, or in wind conditions exceeding product label directions. Chemicals may not be applied when wind speed favors drift beyond the area intended for treatment, or when chemical distribution is adversely affected.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Enforcement Program, Division of Agricultural Resources, Idaho State Department of Agriculture, Boise, Idaho 83712 (208-332-8613).*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Louisiana

● LOUISIANA PESTICIDE LAW (*AERIAL APPLICATORS*)

STATUTORY CITATION: La. Rev. Stat. §§ 3:3201 – 3:3391.12

RELATED REGULATIONS: La. Admin. Code Title 7, §§ 1105 – 1113

GENERAL SUMMARY: As part of the regulatory framework established under the Louisiana Pesticide Law, the state agriculture commissioner has adopted specific rules governing the application of pesticide products by aircraft.

SPECIFIC TERMS AND CONDITIONS

APPLICATOR CERTIFICATION — No one may apply pesticides from the air in Louisiana without being certified as a commercial applicator.

APPLICATION STANDARDS — With the single exception of mosquito control applicators, commercial applicators applying pesticides from fixed-wing aircraft must adhere to very specific requirements for booms, spray nozzles, and gallons-per-acre application restrictions.

TIME AND LOCATION LIMITATIONS — Aerial application of any pesticide is prohibited while it is raining. In general, no pesticide may be applied from the air within 100 feet from the edge of the swath to any inhabited structure, or within 1,000 feet of any school grounds during normal school hours.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Pesticide and Environmental Programs Division, Louisiana Department of Agriculture and Forestry, Baton Rouge, Louisiana 70806 (225-922-1234; toll-free 866-927-2476)*. A person who believes that he or she has suffered damages as a result of a pesticide application may file a damage complaint with the Department. Complaints must be in writing, on a form prescribed by the Department, signed, and submitted within 15 days after the alleged action or discovery of the damage, whichever is later.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Maine

● BOARD OF PESTICIDES CONTROL LAW (*AERIAL APPLICATIONS*)

STATUTORY CITATION: Me. Rev. Stat. Title 22, §§ 1471-A – 1471-X

RELATED REGULATIONS: 01 026 Me. Code R. Chs. 10 – 90

GENERAL SUMMARY: Under rulemaking authority granted by this statute, the Board of Pesticides Control has established standards governing aerial application of pesticides.

SPECIFIC TERMS AND CONDITIONS

IDENTIFICATION OF TARGET SITE — The farm operator or other person contracting for an aerial pesticide application must ensure that the target area is positively identified beforehand, using GPS coordinates, effective site markings visible to the applicator, or some other method approved by the state agency.

SITE PLANS — Before any aerial application within 1,000 feet of a sensitive area that is likely to be occupied, the farm operator or other person contracting for the application must provide the applicator with a site plan that includes a map — drawn to scale — delineating the area's boundaries and property lines and showing significant landmarks, flight hazards and the sensitive areas involved.

APPLICATION CHECKLIST — Before conducting an aerial application within 1,000 feet of a sensitive area, the applicator is required to complete a state-approved pre-application checklist for each target site. Among other things, the checklist must include (1) the date and time, a description of the target site, and the name of the applicator, (2) confirmation that any required notifications have been carried out, (3) wind speed and direction, and (4) confirmation that there are no humans visible in or near the target area.

WIND SPEED LIMITS — Unless otherwise specified on the pesticide product label, an applicator may not conduct an aerial application within 1,000 feet of a sensitive area likely to be occupied unless the wind speed is between 2 and 10 miles per hour.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Board of Pesticides Control, Maine Department of Agriculture, Conservation and Forestry, Augusta, Maine 04333 (207-287-2731)*. The Board is responsible for certification of pesticide applicators in the state and for monitoring their professional activities. For this purpose, representatives of the Board are authorized to enter any public or private premises at reasonable times to inspect application equipment, to inspect pesticide storage and disposal areas, to investigate complaints of injury or damage from pesticides, and to sample pesticides and pesticide residues on crops, soil, water or elsewhere in the environment. Anyone who violates any of the statutory provisions or the regulations issued thereunder is subject to a fine of up to \$500 for the first offense and a fine of no less than \$500 for each subsequent offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

● MAINE AERONAUTICS ACT (*AGRICULTURAL AVIATION*)

STATUTORY CITATION: Me. Rev. Stat. Title 6, § 151

GENERAL SUMMARY: Chapter 8 of the Maine Aeronautics Act includes a provision relevant to the use of aircraft in agricultural operations.

SPECIFIC TERMS AND CONDITIONS

Anyone applying pesticides from the air must adhere to federal regulations governing certification of pilots and aircraft and agricultural aircraft operations (*see entry, U.S. — Pesticides & Agricultural Chemicals — Aerial Application Standards*).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Aeronautics, Maine Department of Transportation, Augusta, Maine 04330 (207-624-3000)*. In all parts of the state, Division inspectors have the same authority to investigate reported or suspected violations of the agricultural aviation regulations, and to make arrests for any such violation, as police and other local law enforcement officers have in their respective jurisdictions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Massachusetts

● **MASSACHUSETTS PESTICIDE CONTROL ACT (AERIAL APPLICATORS)**

STATUTORY CITATION: Mass. Gen. Laws Ch. 132B, §§ 1 – 16

RELATED REGULATIONS: 333 Mass. Code Regs. 13.04

GENERAL SUMMARY: Under authority of the Pesticide Control Act, the agriculture department has adopted regulatory standards related explicitly to application of pesticides from the air.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION OF AERIAL APPLICATORS — No one is authorized to apply pesticides by aircraft unless specifically certified by the state as an aerial applicator.

AERIAL APPLICATION PERMITS — Before any airplane or other fixed-wing aircraft may be used to apply pesticides to a particular field, a permit must be obtained from the state enforcement agency at least 21 days prior to the application, authorizing treatment of the field. The state agency will not issue such a permit until it can be determined that aerial application will not, among other things, be likely to cause injury to humans.

POSTING — Agricultural fields that are within 500 feet of a protected area (such as a school, hospital, residence or other building where people gather) and that are targeted for treatment by pesticides from the air must be posted with warning signs between 2 and 24 hours before the application. The signs must remain in place at least 48 hours after the field is treated and be removed no sooner than the expiration of the product's restricted entry interval. Each sign — at least 14 inches by 16 inches in size, and in at least one-inch lettering — must include the words "Danger," "Pesticides," "Keep Out," and the corresponding terms in Spanish.

APPLICATION CONDITIONS — Among other restrictions, aerial agricultural applications are prohibited when there is visible drift to non-target areas, and pilots are generally forbidden to make turns over protected areas and bodies of water.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Pesticide Enforcement, Division of Crop and Pest Services, Massachusetts Department of Agricultural Resources, Boston, Massachusetts 02114 (617-626-1781)*. Inspectors and other authorized representatives of the Department have the right to enter any premises, at reasonable times and with a properly executed search warrant, for the purpose of investigating specific complaints or suspected violations of the Pesticide Control Act. Both civil money penalties and criminal fines and imprisonment may be imposed on persons found to have violated any provision of the Act.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Michigan

● **NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (*AERIAL PESTICIDE APPLICATORS*)**

STATUTORY CITATION: Mich. Comp. Laws § 324.8315

RELATED REGULATIONS: Mich. Admin. Code R. 285.636.1 – 285.636.17 and 285.637.1 – 285.637.17

GENERAL SUMMARY: In addition to the general standards and requirements outlined in the previous entry, Part 83 of the Natural Resources and Environmental Protection Act includes explicit provisions regulating the application of pesticides by aircraft.

SPECIFIC TERMS AND CONDITIONS

Before engaging in the aerial application of pesticides, a private agricultural or commercial applicator must meet at least one of these requirements: (1) have at least 3 years of experience, with not fewer than 200 hours of agricultural aerial application under the supervision of a commercial aerial applicator, (2) be licensed as a commercial aerial applicator before December 27, 1988, or (3) successfully complete a state-recognized aerial applicator training program.

In addition, once every 3 years, every aerial applicator must either (1) participate in a state-approved application flight-efficiency clinic, using an aircraft that the applicator operates, or (2) retake the certification examinations and submit to an inspection by the enforcement agency of the applicator's aircraft, equipment and spray operations.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Pesticide and Plant Pest Management Division, Michigan Department of Agriculture and Rural Development, Lansing, Michigan 48909 (517-284-5639; toll-free 800-292-3939).*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Mississippi

● AGRICULTURAL AVIATION LICENSING LAW OF 2009

STATUTORY CITATION: Miss. Code §§ 69-21-101 – 69-21-128

RELATED REGULATIONS: 2 Miss. Admin. Code 1-3-10

GENERAL SUMMARY: The Agricultural Aviation Licensing Law regulates the licensing of persons engaged in the aerial application of pesticides, poisons, seeds, fertilizer and chemicals on agricultural lands in Mississippi, and requires the registration of all commercial agricultural aircraft in the state.

PROVISIONS APPLICABLE TO AGRICULTURE

LICENSING AND REGISTRATION — It is unlawful for any person to dispense any pesticide, fertilizer or seed by aircraft, either as a pilot or as the operator of such a business, unless the person has an applicator's license or pilot's license issued by the state agriculture department for that purpose. Likewise, all aircraft used for aerial application of agricultural substances must be registered with the department.

FINANCIAL RESPONSIBILITY — Every individual seeking a license for aerial agricultural operations must submit proof of financial responsibility to the state licensing agency, in the form of a surety bond or a liability insurance policy, covering damages resulting from aerial applications. Liability coverage must be in an amount not less than \$100,000 for personal injury, \$300,000 for multiple injuries, and \$100,000 for property damage.

RECORDKEEPING — Aerial applicators are required to keep a record of each pesticide application. The record must include the date of the application, the product used, the rate of application, the crop or site treated, the target pest involved, the number of acres treated, the location of the site, the identity of the property owner, the wind velocity and other climatic conditions at the time of application, the name of the pilot, the registration number of the aircraft used, and a write-up on any accidents or other unusual occurrences during the application.

DUTIES OF THE CHIEF PILOT — The person designated as the chief pilot of an agricultural aircraft operation is responsible for supervision of the operation, for regularly checking records to assure compliance with the law, and for ascertaining that each pilot is aware of and complies with his or her responsibilities under applicable state and federal regulations.

PROHIBITED ACTIVITIES — The enforcement agency may suspend an aerial applicator's or pilot's right to do business in Mississippi if the agency finds that the applicator or pilot has, among other infractions, applied pesticides in a faulty or negligent manner, failed or refused to keep required records or make required reports, performed work in a category for which the applicator or pilot is not licensed, or been convicted of a violation of the federal pesticide laws. It is illegal for anyone in the state to use or apply a pesticide product in a manner inconsistent with its labeling.

APPLICATION RESTRICTIONS — The regulations adopted under the Agricultural Aviation Licensing Law include numerous restrictions on the conditions under which aerial pesticide applications may be conducted, and require applicators and pilots to have meteorological equipment on hand for measuring and recording the geographic coordinates of application sites, wind speed and direction, and air temperatures. Spray equipment is subject to very specific standards for prevention of drift.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, Mississippi State, Mississippi 39762 (662-325-3390).* The Department has charge of licensing aerial applicators and pilots under the Agricultural Aviation Licensing Law, inspecting agricultural aircraft and related equipment, and monitoring aerial agricultural operations in the state. In exercising its enforcement authority, the Department may suspend an applicator's or pilot's right to do business, revoke or suspend the individual's license, or take other appropriate action if it finds that the individual has violated any provision of the law or any of the Department's rules and regulations. Violators are also subject to criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Nebraska

● **PESTICIDE ACT (AERIAL APPLICATORS)**

STATUTORY CITATION: Neb. Rev. Stat. §§ 2-2655 – 2-2659

RELATED REGULATIONS: 25 Neb. Admin. Code, Ch. 2, § 005.02B(12)

GENERAL SUMMARY: In addition to the general standards outlined in the previous entry, the Pesticide Act imposes explicit licensing requirements on aerial pesticide applicators.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may apply pesticides by use of an aircraft unless he or she holds a Nebraska aerial pesticide business license, or is employed by such a licensee. Moreover, a person licensed as a commercial applicator may apply pesticides from an aircraft only under the direct supervision of a person holding a Nebraska aerial pesticide business license. The license application must include, among other items, the FAA registration number of all aircraft owned, rented or leased by the applicant that will be utilized for aerial pesticide operations.

STANDARDS OF COMPETENCY — Aerial applicators must demonstrate practical knowledge specifically related to aerial spraying, including (1) aerial equipment calibration and maintenance, (2) target crops and pests, (3) pesticide drift and potential for non-target injury, and (4) re-entry intervals.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Pesticide Program, Animal and Plant Health Protection, Nebraska Department of Agriculture, Lincoln, Nebraska 68509 (402-471-2351; toll-free 877-800-4080).*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

New Hampshire

● PESTICIDE CONTROL LAW (*AERIAL APPLICATION*)

STATUTORY CITATION: N.H. Rev. Stat. §§ 430:28 – 430:50

RELATED REGULATIONS: N.H. Code Admin. R. Pes. 506.01 – 506.10 and 901.01

GENERAL SUMMARY: New Hampshire's pesticide control law includes a provision explicitly requiring certain notifications prior to application of pesticides from the air, and authorizes the state pesticide control board to establish rules regulating the aircraft application of pesticides.

SPECIFIC TERMS AND CONDITIONS

PRIOR APPROVAL OF AERIAL APPLICATIONS — No one may apply pesticides by aircraft without first obtaining a permit to do so from the enforcement agency. The permit application must include, among other information, (1) the identities of both the pesticide applicator and the person requesting the service, (2) a description identifying the target organism, the method of application, the pesticide product to be used, and the number and dates of the proposed applications, (3) a detailed map of the treatment area, and (4) a list of all property owners having property within 1,320 feet of the treatment area.

PUBLIC NOTIFICATIONS —

(1) If the proposed aerial application is in a non-residential area, at the same time that the permit application is submitted to the state pesticide enforcement agency, the applicant must publish a notice in a general-circulation newspaper in the affected area, and provide written notice to property owners within 1,320 feet of the treatment area and to certain public officials, summarizing the proposed aerial treatment and advising all parties that they have 15 days from the date of the notice to submit written comments to the state agency.

(2) If residential, commercial or institutional buildings are located within 200 feet of the proposed treatment area, a written notice of any impending aerial pesticide application must be submitted to all persons owning, inhabiting or using the properties, no sooner than 60 days and no later than 14 days before the application is to begin. The notice must include a description of the treatment area, the name of and contact information for the applicator or the person requesting the service, the purpose of the application, the pesticides to be used, the date or range of dates during which the treatment will take place, the telephone number of the state pesticide enforcement agency, the telephone number of the New Hampshire Poison Control Center, and the public-related precautions that appear on the pesticide product label.

RECORDKEEPING — As are other classes of commercial applicators, aerial pesticide applicators are required to make and preserve a record of each application of pesticides, as described in the previous entry. In addition, however, aerial operators must submit each such record to the state agency within 7 days following the day of application.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Pesticide Control, New Hampshire Department of Agriculture, Markets and Food, Concord, New Hampshire 03301 (603-271-3550)*. Anyone who violates any provision of the pesticide control law, the associated regulations, or a Department order is guilty of a criminal offense and is also liable for a civil money penalty of up to \$5,000 and an administrative fine of up to \$1,000 for each violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

New Jersey

● **PESTICIDE CONTROL ACT OF 1971 (AERIAL APPLICATION)**

STATUTORY CITATION: N.J. Rev. Stat. §§ 13:1F-1 – 13:1F-18

RELATED REGULATIONS: N.J. Admin. Code 7:30-10.6

GENERAL SUMMARY: In addition to more general regulatory provisions, the state environmental protection department has adopted rules dealing explicitly with aerial application of pesticides.

SPECIFIC TERMS AND CONDITIONS

AERIAL APPLICATION EQUIPMENT — Equipment used in the application of pesticides from the air must be properly calibrated, free of leaks, and equipped with a prescribed shut-off system. Spray equipment must be thoroughly rinsed prior to application of a different, non-compatible substance.

AERIAL APPLICATION STANDARDS — Among other restrictions on aerial application, pesticides applied in liquid or dust form must generally be released within 15 feet above the target. Pesticide granules or pellets generally may not be released from an altitude any higher than 40 feet above the target.

DISTANCE LIMITATIONS — As a rule, no pesticide may be applied any closer than 100 feet from a private residence without the written consent of the occupant, or within 300 feet of an occupied school, hospital, nursing home, or any building used for business, social or religious purposes.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Bureau of Pesticide Compliance and Enforcement, Division of Waste Enforcement, Pesticides and Release Prevention, New Jersey Department of Environmental Protection, Trenton, New Jersey 08625 (609-984-6568).* The Department may suspend or revoke the license of any application business or applicator found to have violated any of these provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

North Carolina

● **NORTH CAROLINA PESTICIDE LAW OF 1971 (AERIAL APPLICATORS)**

STATUTORY CITATION: N.C. Gen. Stat. §§ 143-434 – 143-470.1

RELATED REGULATIONS: 02 N.C. Admin. Code 09L .1000

GENERAL SUMMARY: Generally above and beyond the conditions and restrictions that the North Carolina Pesticide Law imposes on ground users of pesticides in the state, the statute and associated regulations contain licensing, inspection and other compliance provisions explicitly related to the application of pesticides from the air.

SPECIFIC TERMS AND CONDITIONS

LICENSING — The contractor and each pilot involved in aerial application of pesticides must be licensed. Among other qualifications for licensing, a pilot must generally have at least 125 hours and one year's flying experience in aerial pesticide application activities. An applicant who lacks the required experience may be licensed as an apprentice aerial pesticide pilot, authorized to apply pesticides from the air but only under the direct supervision of a fully licensed aerial applicator. While overseeing an apprentice, the supervising pilot must operate out of the same airstrip as the applicator and be available periodically throughout the day to provide advice and assistance.

AIRCRAFT INSPECTION — Each aircraft used in the application of pesticides must be inspected annually and must bear a license plate or decal issued by the state enforcement agency. The agency may also conduct unannounced aircraft inspections, to determine if equipment is properly calibrated and maintained.

COMPLIANCE WITH FEDERAL REQUIREMENTS — A license to engage in the aerial application of pesticides will not be granted to an applicant who has not met federal requirements governing agricultural aviation operations (*see entry, U.S. — Pesticides & Agricultural Chemicals — Aerial Application Standards*).

RECORDKEEPING — In general, within 72 hours after each aerial application, the contractor or pilot must complete a written record of the treatment. In addition to other required information, the record must show the name and address of the person for whom the pesticide was applied, the location of the farm or other site treated, the crop involved, the total number of acres treated, the date and time of the application, the name of the pesticide used, the amount applied per acre, and the name of the pilot.

APPLICATION STANDARDS — Among many other restrictions and conditions prescribed by regulation, no pesticide may be applied from the air while anyone other than those assisting in the application are in the target area. Aerial spray equipment must be free of leaks and have shut-off systems to prevent release of pesticides over non-target areas. Pilots are required to observe specified precautions to prevent drift, and to comply with special rules when applying pesticides in restricted areas such as the immediate vicinity of dwellings, public roads, and public buildings.

HANDLING AND LOADING OF PESTICIDES — Pilots or workers handling or loading any pesticide product whose label displays the word "Danger" must wear approved respirators and protective clothing, including chemical-resistant gloves and boots. Water and detergent for personal washing must be available at all handling and loading sites.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Pesticide Section, Structural Pest Control and Pesticide Division, North Carolina Department of Agriculture and Consumer Services, Raleigh, North Carolina 27699 (919-733-3556)*. Apart from the licensing process, representatives of the Department may enter public and private property to inspect aircraft and related equipment used in the aerial application of pesticides, in connection with either routine compliance monitoring or investigation of a specific complaint of injury or damage.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

North Dakota

● **AERONAUTICS LAWS (AERIAL SPRAYING)**

STATUTORY CITATION: N.D. Cent. Code § 2-05-18

RELATED REGULATIONS: N.D. Admin. Code 6-02-02

GENERAL SUMMARY: The state aeronautics statutes include a provision which regulates the aerial spraying of pesticides in North Dakota, largely by requiring the licensing of aerial pesticide applicators and their compliance with administrative regulations adopted by the state aeronautics commission under the law's rulemaking authority.

SPECIFIC TERMS AND CONDITIONS

APPLICATOR LICENSING — Every person or firm engaged in applying pesticides commercially by aircraft must be licensed by the state aeronautics commission as an aerial applicator, and a license decal must be affixed to each aircraft used by the licensee for aerial pesticide operations. As a precondition for licensing, pilots generally must have at least 250 hours of flight time in command of the type of aircraft to be used for agricultural spraying and meet other experience-related qualifications. In addition, operators of aerial application businesses (or their chief pilots) must attend state-approved training, attend an annual aerial applicator safety meeting, or receive the information provided at the annual meeting.

FAA-licensed private pilots may apply pesticides by aircraft to their own land, provided they (1) meet experience criteria similar to those applicable to commercial aerial applicators, (2) provide the state licensing agency with a legal description of the land they own or farm, and (3) do not offer pesticide application services to others for hire or for any other form of compensation.

AIRCRAFT REGISTRATION — All airplanes and helicopters used for aerial application of pesticides must be registered with the state prior to actual use and prior to issuance of an aerial applicator's license to the aircraft's owner or operator. Each such aircraft must be in good functional condition, free from obvious points of leakage and equipped with prescribed shut-off valves to prevent discharge of pesticides over non-target areas.

RECORDKEEPING — The owner, operator, pilot or other person in charge of an aerial pesticide operation must make and preserve for at least 3 years a record of each pesticide application. The record must include the same information as required by the state agriculture department under the Pesticide Act, outlined in the previous entry. By December 1 of each year, the licensee must file an annual summary with the state aeronautics agency, indicating the total number of acres treated for each category of application.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *North Dakota Aeronautics Commission, Bismarck, North Dakota 58502 (701-328-9650)*. The Commission is responsible for licensing aerial pesticide applicators, registering aircraft used to apply pesticides, and monitoring compliance with the procedural requirements imposed on aerial operators. In addition to license revocation, aerial pesticide applicators who violate any of the provisions applicable to their operations are subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Rhode Island

● **PESTICIDE CONTROL ACT (*AERIAL APPLICATION*)**

STATUTORY CITATION: 23 R.I. Gen. Laws §§ 23-25-1 – 23-25-39

RELATED REGULATIONS: R.I. Code R. 12 020 013, Rules 19 and 21

GENERAL SUMMARY: Under rulemaking authority in the Pesticide Control Act, the state environmental management department has adopted rules explicitly applicable to the aerial application of pesticides.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION OF AERIAL APPLICATORS — Applicants for licensing or certification who intend to apply pesticides from an aircraft must (1) post a \$100,000 performance bond, or (2) obtain a liability insurance policy with bodily injury coverage limits of at least \$100,000 per occurrence and \$200,000 aggregate, and property damage coverage of at least \$100,000.

PRIOR AUTHORIZATION OF AERIAL APPLICATIONS — No one may apply any pesticide by aircraft without prior written approval from the state enforcement agency.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Agriculture, Rhode Island Department of Environmental Management, Providence, Rhode Island 02908 (401-222-2781).*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

South Carolina

● **SOUTH CAROLINA PESTICIDE CONTROL ACT (*AERIAL APPLICATION*)**

STATUTORY CITATION: S.C. Code §§ 46-13-10 – 46-13-240

RELATED REGULATIONS: S.C. Code Regs. 27-1070 – 27-1085

GENERAL SUMMARY: Under the rulemaking authority of the South Carolina Pesticide Control Act, the administering agency has adopted licensing and use standards explicitly applicable to aerial pesticide operations.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND CERTIFICATION — Like their counterparts operating on the ground, all persons who apply restricted-use pesticides by aircraft must either be licensed and certified by the administering agency, or work under the direct supervision of a certified licensed applicator. Licensing and certification require successful completion of a basic examination covering general subject matter and a specific test for aerial operators.

AIRCRAFT LOADING ZONES — Areas where pesticide aircraft are loaded must be adequately marked, and must also be posted with general warnings that toxic pesticides or pesticide containers may be stored in the area and that pesticides may have been spilled on the ground within the loading zone.

APPLICATION DISCLOSURES — With respect to each application of a pesticide, aerial applicators must provide their customers with a statement containing, at a minimum, (1) the name and address of the spraying firm or company, (2) the identity of the target pest or purpose of the pesticide application, (3) the chemical or common name of the pesticide's active ingredient, and (4) the name of the responsible licensed applicator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Department of Pesticide Regulation, Regulatory Services Division, Clemson University, Pendleton, South Carolina 29670 (864-646-2164).* This agency is responsible for testing, licensing and certifying aerial operators and other pesticide applicators in the state, and for enforcing their adherence to the rules and regulations applicable to their operations. Enforcement officers may issue a stop-use order against the owner or custodian of a pesticide or pesticide device (including any aircraft used in the application of pesticides) whenever there is reasonable cause to believe it is being used in violation of these provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Tennessee

● **AERIAL PESTICIDE APPLICATION LAW**

STATUTORY CITATION: Tenn. Code §§ 43-8-301 – 43-8-315

RELATED REGULATIONS: Tenn. Comp. R. & Regs. 0080-09-03 and 0080-09-04

GENERAL SUMMARY: Chapter 8, Part 3 of the state agriculture statutes restricts the commercial aerial application of pesticides in Tennessee and contains rulemaking provisions authorizing administrative adoption of related regulations.

SPECIFIC TERMS AND CONDITIONS

LICENSING AND CERTIFICATION — Before engaging in the application of pesticides by aircraft, a pilot must obtain a license from the state to do so. Issuance of a commercial aerial applicator's license requires the applicant, among other prerequisites, (1) to hold a valid license issued by the Federal Aviation Administration authorizing agricultural aircraft operations, and (2) to demonstrate proficiency in aerial pesticide application, by meeting the requirements of certification for that category of operation.

Aircraft licenses must be prominently displayed on each aircraft, and each pilot must carry his or her license at all times while engaged in aerial pesticide application activities.

INSURANCE — No aerial applicator's license may be issued unless the applicant submits proof of liability insurance coverage in the amount of \$100,000.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Pesticide Section, Consumer and Industry Services Division, Tennessee Department of Agriculture, Nashville, Tennessee 37220 (615-837-5148)*. The Department is responsible for testing and licensing of aerial pesticide applicators in the state, and for monitoring their professional activities. After opportunity for hearing, the Department may suspend or revoke the license of any operator found to have violated the statutory or regulatory provisions applicable to aerial applicators, and may impose civil penalties of up to \$2,500 per violation. Operating without a license, using pesticides in a manner inconsistent with label instructions, or otherwise failing to comply with such provisions is a Class A misdemeanor, punishable by a fine of up to \$2,500, imprisonment for up to one year, or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Texas

● AGRICULTURE CODE (*AERIAL PESTICIDE APPLICATION*)

STATUTORY CITATION: Tex. Agric. Code §§ 76.001 – 76.203

RELATED REGULATIONS: 4 Tex. Admin. Code § 7.37

GENERAL SUMMARY: Under rulemaking authority in the Agriculture Code, the state agriculture department has adopted regulatory provisions requiring farm operators to provide workers, residents, and certain facilities with notification prior to aerial application of pesticides on nearby fields.

SPECIFIC TERMS AND CONDITIONS

NOTIFICATION RIGHTS — Anyone who works or lives within 1/4 mile of a field to which pesticides may be applied — as well as persons in charge of schools, hospitals, licensed daycare centers and similar facilities within 1/4 mile of a field to which pesticides may be applied — may request that the operator of the farm where the field is located provide prior notification of an aerial application of a pesticide to that field. The request must be in writing and must generally include (1) the name and address of the person making the request, (2) a home and work telephone number where the person can be reached, (3) the date of the request, (4) the location of the field for which the request is being made, and (5) a statement asking for notification prior to the aerial application of pesticides to the specified area. The request must be sent to the farm operator by certified mail.

EFFECTIVE DATES — A request for prior notification remains in effect through December 31 of the year the request is received. Under normal circumstances, the farm operator must begin providing notice within 10 days of receipt of the request.

TIME AND METHOD OF NOTIFICATION — In general, notification must be given no later than on the day before each scheduled aerial application, either by (1) raising a flag or posting a sign that conforms to state-prescribed standards of content and visibility, or (2) giving the notification in writing, in person or by telephone, in English and, when appropriate, in Spanish.

Exception — When an immediate pesticide treatment is required and time does not allow notification within the normal prior-day timeframe, the farm operator must give notice as soon as reasonably possible before the application.

CONTENT OF NOTICE — Regardless of how notification is given, it must include (1) the intended date and approximate time of application, (2) the name of the pesticide to be applied, and (3) the location of the field to which the application is to be made.

REMOVAL OF FLAGS OR SIGNS — Any flags or signs posted in compliance with a required notification must be lowered or removed within 24 hours after the pesticide re-entry interval expires. In no case may flags or signs be left up for more than 72 hours after the end of the re-entry period.

SPECIAL NOTES OR ADVISORIES

MANDATORY PRIOR NOTIFICATION OF FARM LABOR CAMPS — In the case of (1) labor housing that is located adjacent to a field targeted for an aerial pesticide application and owned, managed or controlled by the farm operator involved, or (2) a licensed farm labor camp located adjacent to or within 1/4 mile of a targeted field, no request for notification is required. The farm operator must provide notice no later than on the day before each scheduled aerial application, either (1) by telephone or in person to the head of each household residing in the camp, or (2) by written notice posted on a bulletin board to which camp occupants have access.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Pesticide Programs, Agricultural and Consumer Protection Division, Texas Department of Agriculture, Austin, Texas 78711 (512-475-1620; toll-free 800-835-5832)*. The Department is responsible for assuring compliance with the pesticide laws and the associated regulations. Under Chapter 7 of the administrative regulations, anyone within the affected area of an aerial application of pesticides who believes that the required warnings described above were not properly given prior to application, or who experiences adverse effects from any pesticide application, may file a complaint with the Department, which must investigate it and make a full written report. The law provides for both civil and criminal penalties for violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Vermont

● **PESTICIDE CONTROL LAW (AERIAL APPLICATORS)**

STATUTORY CITATION: Vt. Stat. Title 6, §§ 1101 – 1112

RELATED REGULATIONS: Vt. Code R. 20-031-012

GENERAL SUMMARY: In addition to the provisions regulating ground application of pesticides, the state agriculture agency has adopted explicit standards relevant to application of pesticides by aircraft.

SPECIFIC TERMS AND CONDITIONS: Individuals who apply pesticides from the air must be certified as aircraft pest control applicators and must obtain certification in the specific category of activity in which they will engage, which may include agriculture. To qualify for certification, the applicant must pass prescribed examinations to assure the individual's skill and knowledge regarding the safe application of pesticides from the air. Among the topics tested are weather and drift, calibration of aerial equipment, pesticide loading procedures, and labeling. Furthermore, aerial operators must obtain an annual permit before treating agricultural commodities.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Management Section, Vermont Agency of Agriculture, Food and Markets, Montpelier, Vermont 05620 (802-828-2431). This agency is responsible for licensing and certifying aerial pesticide applicators in the state, and is authorized to revoke or suspend licensing and certification for failure to adhere to the regulations governing their operations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

● **STATE AERONAUTICS LAWS (OPERATION OF AIRCRAFT)**

STATUTORY CITATION: Vt. Stat. Title 5, § 426

RELATED REGULATIONS: Vt. Code R. 14-010-001 Part XI

GENERAL SUMMARY: Section 426 of the Vermont aeronautics laws authorizes the state transportation agency to promulgate rules regulating the operation of aircraft engaged in crop dusting or spraying activities.

SPECIFIC TERMS AND CONDITIONS: At least 10 days before making a flight for the purpose of crop dusting or spraying pesticides, the owner of the aircraft to be used must apply to the state for authority to do so. Permission to conduct aerial pesticide operations must be renewed annually.

In addition to obtaining authorization under the state aeronautics laws, the applicator must also have a valid pesticide operator's or applicator's license issued by the state agriculture department for the appropriate type of aerial pesticide application to be performed.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Aviation Section, Operations Division, Vermont Agency of Transportation, Montpelier, Vermont 05633 (802-828-2723). This agency is responsible for reviewing applications for authorization to apply pesticides by aircraft. Failure to comply with these provisions is punishable by a \$500 fine, imprisonment for up to 90 days, or both such penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Pesticide Management Section, Vermont Agency of Agriculture, Food and Markets, Montpelier, Vermont 05620 (802-828-3475). This agency is responsible for certification of aerial pesticide applicators, which is a prerequisite for issuance of an annual permit to engage in aerial pesticide operations.

West Virginia

● **WEST VIRGINIA PESTICIDE CONTROL ACT OF 1990 (AERIAL APPLICATION)**

STATUTORY CITATION: W. Va. Code §§ 19-16A-1 – 19-16A-27

RELATED REGULATIONS: W. Va. Code R. § 61-12A-6.3.n

GENERAL SUMMARY: Regulations adopted under the West Virginia Pesticide Control Act include requirements explicitly relevant to aerial operations.

SPECIFIC TERMS AND CONDITIONS: In addition to demonstrating competence in agricultural plant pest control by passing a state-administered written examination, applicants for certification as aerial pesticide applicators must hold a valid agricultural applicator certificate from the Federal Aviation Administration. Like most other classes of commercial pesticide applicators, aerial applicators must have liability insurance or other financial security covering potential legal damages arising from their operations, in the minimum amount of \$300,000 for bodily injury or death, and \$100,000 for property damage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Pesticide Regulatory Unit, Regulatory and Environmental Affairs Division, West Virginia Department of Agriculture, Charleston, West Virginia 25305 (304-558-2209). The Department is responsible for the testing, licensing and certification of aerial pesticide applicators in the state, and for assuring their compliance with the Act and the corresponding regulations governing their activities.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Wisconsin

● PESTICIDE LAWS (*AERIAL APPLICATION*)

STATUTORY CITATION: Wis. Stat. §§ 94.67 – 94.71

RELATED REGULATIONS: Wis. Admin. Code § ATCP 29.53

GENERAL SUMMARY: In addition to general provisions governing ground applications of pesticides, the administrative rules established under the state pesticide laws also contain explicit standards regulating the aerial application of pesticides.

SPECIFIC TERMS AND CONDITIONS

CERTIFICATION — No one may apply a pesticide from the air unless certified as an aerial applicator. In addition to the requirements for general certification, an aerial operator must (1) provide proof that he or she is licensed and fully trained to operate and apply pesticides with each type of aircraft used for that purpose, and (2) demonstrate competency and practical knowledge of aerial pest control, the health and environmental hazards related to aerial applications, and the prevention of pesticide over-spray and drift.

AIRCRAFT REQUIREMENTS AND OPERATIONS — Aircraft used to apply pesticides must meet state and federal standards, and must be operated in accordance with state and federal operating procedures.

PRIOR NOTICE OF APPLICATIONS — At least 24 hours before the application of any pesticide by aircraft, the owner of the land to be treated is required to notify the operators of all migrant labor camps immediately adjacent to the targeted areas, and to notify the residents of any closely adjoining property who give written request for such notification. The notification may be oral or written, but must include the intended date and time of the application, the identity of the pesticide product to be applied, and the location of the application site.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Bureau of Agrichemical Management, Division of Agricultural Resource Management, Wisconsin Department of Agriculture, Trade and Consumer Protection, Madison, Wisconsin 53708 (608-224-4545).* The Department is responsible for the testing, certification and licensing of aerial pesticide applicators in Wisconsin, and for assuring their compliance with the statutory and regulatory provisions applicable to aerial operations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Wyoming

● **WYOMING ENVIRONMENTAL PESTICIDE CONTROL ACT OF 1973 (AERIAL APPLICATION)**

STATUTORY CITATION: Wyo. Stat. §§ 35-7-373

RELATED REGULATIONS: Wyo. Code R. 010-0005 Ch. 28

GENERAL SUMMARY: The Wyoming Environmental Pesticide Control Act includes a provision requiring registration of aircraft used to apply pesticides, and the regulations adopted under the Act prescribe special competencies for certification of commercial aerial applicators.

SPECIFIC TERMS AND CONDITIONS

REGISTRATION OF AIRCRAFT — Anyone engaged in the activity or business of applying pesticides by air must register each aircraft utilized for that purpose with the state each year. The registrant must provide the state agency with (1) the name of the aircraft's manufacturer and its model and type, (2) the identification number assigned to the aircraft, (3) the name of the aircraft's owner, and (4) the name of the user of the aircraft, if different from the owner. There is a \$25 annual registration fee.

CERTIFICATION OF AERIAL APPLICATORS — In addition to the general knowledge and competencies required of all categories of pesticide applicators, applicants for aerial certification must demonstrate practical knowledge of aerial equipment calibration and maintenance, as well as methods of avoiding problems associated with pesticide application from the air, such as drift and non-target injury.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Pesticide Section, Technical Services Division, Wyoming Department of Agriculture, Cheyenne, Wyoming 82002 (307-777-7321; toll-free 800-877-9975).* This agency is responsible for the registration of aircraft used in aerial spraying, certification of aerial applicators, and the enforcement of application standards relevant to such operations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*