Regulation 633 & Regulation 636 Scoping Document

Program Contact: Lauren Gott, Pesticide Certification Specialist
Email: MDARD-Pesticide@Michigan.gov | Phone: 800-292-3939

Introduction

The Michigan Department of Agriculture & Rural Development (MDARD) is planning to revise Regulation 633 (Restricted Use Pesticides) and Regulation 636 (Pesticide Applicators) to meet new Environmental Protection Agency (EPA) requirements.

In addition to these federally mandated updates, MDARD is considering a limited number of state-level revisions aimed at better supporting applicators while maintaining high standards for safety in pesticide application. This document outlines both the required federal changes and MDARD's proposed state-level updates.

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Regulation 633 Revisions

RUP Dealer Recordkeeping

40 CFR 171.303(b)(7)(vii)

The EPA is introducing additional recordkeeping requirements following the sale of a restricted use pesticide (RUP). This mandatory update will have a minimal impact on RUP dealers, as many have already begun keeping records in accordance with the new EPA requirements.

Regulation 636 Revisions

Certification Categories and Standards for Commercial Applicators

40 CFR 171.101, 40 CFR 171.103

Commercial categories and standards must meet 40 CFR 171.101 and 40 CFR 171.103 requirements.

- Several categories will have the language “or supervise the use of” removed from their description.
- Category 11 soil fumigation will be split from the fumigation standard. The national soil fumigation manual will be adopted.
- Category 12 non-soil fumigation will be split from the fumigation standard. The national non-soil fumigation manual will be adopted.
- Category 13 aerial applicators will be split from the aerial standard. The national aerial manual will continue to be utilized.

This mandatory update will have a minimal impact on aerial applicators, applicators applying fumigants, and RUP dealers. Following the EPA’s decision to break these standards out into stand-alone categories, applicants will no longer need to pass the category exams for them.

Certification Standard for Drones

40 CFR 171.101 (Drones and fixed wing aircraft are not separated in 40 CFR 171)

MDARD is proposing to distinguish between fixed-wing aircraft and drones, rather than continuing to classify both under Category 13 (Aerial Applicators).

If a specific drone category were established, MDARD would develop a dedicated study manual and certification exam for drone operators.

This proposed change is expected to have minimal impact on commercial and private applicators who operate drones, as well as restricted use pesticide (RUP) dealers. Commercial applicators would still be required to pass the appropriate category exams. MDARD would maintain existing certification standards while providing clearer, more tailored guidance for drone operations.

Certification Categories and Standards for Private Applicators

40 CFR 171.105

The EPA is requiring private categories and standards to reference the federal standards mandated in 40 CFR 171.105, which include soil fumigation, non-soil fumigation, and aerial applicator standards. This mandatory update will have minimal impact on private applicators and RUP dealers. Private applicators may demonstrate core competency by completing a training program rather than passing an exam.

Certification Exam Procedures

40 CFR 171.103(a)(2)

MDARD is proposing to limit applicators to three exam attempts in every six-month period. Currently, there is no limitation on the number of times an applicant can attempt to pass an exam. Other new

EPA mandated examination procedures will have a minor impact on pesticide applicators as Michigan has had more stringent procedures in place for over 30 years.

Recertification Cycle

40 CFR 171.107(a)

MDARD is proposing to extend the minimum certification cycle to five years instead of the current three-year certification cycle. If this change is implemented, most certification processes will remain the same. Earning additional recertification credits on a more routine schedule would need to be considered. This proposed change is expected to affect commercial and private applicators and RUP dealers.

The EPA is requiring verification of identification for applicants who recertify by seminar credits. This mandatory change is expected to affect commercial and private applicators and entities hosting a seminar. Other EPA mandated recertification by seminar procedures have a minor impact on pesticide applicators as Michigan has had recertification by seminar policies in place for several years. Recently, clearer policy and guidance was created for applicators, hosts, and how MDARD approves/denies credit opportunities.

Commercial Registered Applicator Program

This is a state-level program.

MDARD is proposing to eliminate the training requirement for registered applicators. If this change is implemented, applicators would need to pass the commercial core exam to become registered. Entities would not need an approved trainer or a category-specific training program, and eliminating current program requirements would allow for easier access to registration. MDARD would no longer need to review or approve training programs, track approved trainers or programs, maintain the trainer's exam and training manual, or issue approval or denial letters.

- Entities could utilize the two-week training period (in which certified applicators directly supervise noncertified applicators) to train their employees while they work on passing the commercial core exam.

This proposed change would affect entities with registered applicator training programs and registered applicators, allowing for easier access to registration.

Commercial Applicator Records of Restricted Use Pesticides

40 CFR 171.303(b)(7)(vi)

The EPA is requiring additional recordkeeping requirements following the application of RUPs. This mandatory update will have a minimum impact on commercial applicators if they are not already meeting the record keeping requirements.

Commercial Applicator Records of General-use Pesticides

This is a state-level requirement.

MDARD is proposing making recordkeeping requirements consistent for both general and restricted use pesticides.

If this change is implemented, it would have minor impacts as commercial applicators are most likely keeping records of the new requirements for RUPs.

Supervision of Private Noncertified Applicators

40 CFR 171.201

The EPA is requiring private applicators who directly supervise noncertified applicators to ensure all 40 CFR 171.201 requirements are met.

- Noncertified applicators must be trained either as a handler under the Worker Protection Standard or undergo a special noncertified applicator training program that meets the requirements established in 40 CFR 171.201(D)(3).
- Noncertified applicators must be 18 years old (or 16 years old if they qualify for a family exemption).

This mandatory update will have a significant impact on private applicators who supervise noncertified applicators. Some growers may utilize handlers who are under 18 years old and will not qualify for the family exemption.

Penalties for Violations of Certification Exam or Recertification Policies

40 CFR 171.303(b)(7)

The EPA requires penalties for violating state laws and regulations. MDARD is proposing a tiered approach to enforcing violations of exam and seminar procedures, starting with expulsion from the exam or seminar, a delay in the ability to take an exam or earn credits, and eventual denial of the ability to take an exam or recertify by credits. This will have minor impacts on pesticide applicators as Michigan has had certification and recertification procedures in place for several years.

For additional information, visit MDARD's Certification & Training Changes webpage at https://www.michigan.gov/mdard/licensing/pesticide/pesticide-applicator-certification/certification-and-training or by scanning the QR code.