

AGRICULTURE

AGRICULTURAL SEED

1. Types of Activities Regulated

The Montana Department of Agriculture (DOA) regulates seed producers, labelers, and dealers to ensure seed quality and seed products free of noxious or restricted weed seeds. Licenses are required, with some exceptions, for facilities in the state that condition¹ agricultural seed (producers), for when a person's name and address appear on the label of agricultural seed (labelers), and for a person who sells agricultural seed in Montana (dealers).

Statute: 80-5-120, *et seq.*, MCA

Rule: ARM 4.12.3002, *et seq.*

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

2. Application Requirements

A license application for a facility that conditions, labels or sells agricultural seed is available from the DOA. The application requests the applicant's name, place of business, and mailing address; the location of each seed conditioning facility if applying for a seed conditioning plant license; a sample label if applying for a seed labeler's license; and a list of persons who may be selling seed for the company. A license is required for each location where seed is located or sold. Licenses must be renewed annually and expire on June 30.

Statute: 80-5-130, *et seq.*, MCA

Rule: ARM 4.12.3008

¹ A conditioned seed is one that is dried, cleaned, scarified, or altered in a way that changes its purity or germination properties.

3. Fees

The license fee for an out-of-state person selling seed in Montana is \$110. The license fee for a Montana producer, labeler or dealer is \$55.

Seed labelers located outside of Montana who sell agricultural seed in the state must report sales and pay an assessment of 20 cents per \$100 in gross annual sales. The report and fee are due July 31 for the preceding 12 month period.

Statute: 80-5-130, MCA

Rule: ARM 4.12.3009

4. Additional Information

A label is required on all containers of seed sold in Montana. The labels must be truthful and appropriate to the product and contain specific information required by law.

Seeds offered for sale or sold must not contain any prohibited noxious weed seeds as designated under the Montana County Weed Act (7-22-2101(8)(a)(i), MCA).

Statute: 80-5-123, MCA

Rule: ARM 4.12.3010

ANIMAL FEEDING OPERATIONS

See DISCHARGE PERMITS, ANIMAL FEEDING OPERATIONS, p. 206.

BEE KEEPING (APIARIES)

1. Types of Activities Regulated

The Montana Department of Agriculture (DOA) issues certificates of registration for four types of apiaries: general, pollination, landowner, and hobbyist.

Apiaries with a *general* certificate of registration must be located three or more miles apart to prevent the spread of diseases and pests. There is no distance limit for pollination, landowner, and hobbyist apiaries but other restrictions apply. For *landowner* certification, the applicant must own (or control for purposes other than placing honeybees) the land where the hives are located. *Pollination* apiaries are established for the pollination of

commercial crops and certificates of registration are issued for a specific period designated by the DOA. *Hobbyist* beekeepers may only keep up to five hives (with a maximum of two hobby beekeepers in a family, for 10 hives per family) and registration is voluntary.

Used beekeeping equipment shipped into or out of state must be inspected by the DOA.

Statute: 80-6-101, *et. seq.*, MCA

Rule: ARM 4.12.102, *et seq.*

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

2. **Application Requirements**

Apiary registration forms are available from the DOA or online at <http://agr.mt.gov/crops/bees/beeform.pdf>. Application requirements and conditions vary according to the type of certification requested. Apiaries must be registered by April 1 of each year.

Statute: 80-6-111 through 80-6-114, MCA

3. **Fees**

The apiary site registration fee is \$15. The fee for the issuance of a certificate of health for bees that are seasonally transported is \$125.

Statute: 80-6-202, MCA

Rule: ARM 4.12.113

4. **Additional Information**

Alfalfa leaf-cutting bee samples may also be certified and application forms for certification are available from the department. For certified samples, the Alfalfa Seed Committee or its agent will select a sample of the total population of bees to test for pathogens, parasites, predators, and nest destroyers. The sample is certified if departmental standards are met. For noncertified samples, the alfalfa seed grower may send in a sample consisting of no more than a pint of bees. Basic sample analysis costs \$30 per sample and sex/ratio percentage emergence is an additional \$20.

18 AGRICULTURE

Statute: 80-6-1101, *et seq.*, MCA

CROPLAND LEASES ON STATE LANDS

1. Types of Activities Regulated

The Board of Land Commissioners may lease state lands for general agricultural use. Cropland leases are based on a crop share rental value of not less than one-fourth of the annual crop or the usual landlord's share prevailing in the area, whichever is greater. See also GRAZING, p. 20.

Statute: 77-6-501, *et seq.*, MCA

Rule: ARM 36.25.102, *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Agriculture and Grazing Management Bureau

2. Leasing Procedures

- 1) Leases go to the highest bidder unless the Board determines that this decision is not in the state's best interest.
- 2) Present lease holders have a preference right over others seeking to lease the same land. The lease holder may meet the highest bid made by any applicant by exercising their preference right except under certain conditions when the land has been subleased. Additionally, the preference is valid only if the lessee has not abused any conditions of the lease. Lessees may appeal the bid to the Board if they consider the bid excessive.
- 3) Lease terms are five or 10 years.

Statute: 77-6-201, *et seq.*, MCA

FERTILIZER REGISTRATION

1. Types of Activities Regulated

- A. Fertilizer Registration: Fertilizers and soil amendments, except unmanipulated animal or vegetable manures, must be registered by the

manufacturer or the supplier on behalf of the manufacturer with the Montana Department of Agriculture (DOA) before distribution in Montana.

- B. Fertilizer Distribution License: A person may not distribute any type of fertilizer or soil amendment, except unmanipulated animal or vegetable manures or specialty fertilizer, until a license to distribute has been obtained from the DOA for each facility distributing into the state and for each handling facility in the state. It is unlawful to distribute fertilizers or soil amendments adulterated with metals in amounts that exceed the levels identified in DOA rules.

Before distributing any commercial fertilizer or soil amendment into the state, a person must be licensed as a supplier.

- C. Anhydrous Ammonia Facilities: DOA approval is required for the construction and operation of anhydrous ammonia facilities.

Statute: 80-10-201, 80-10-202, and 80-10-503, MCA

Rule: ARM 4.12.601, *et seq.* and 4.12.701, *et seq.*

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

2. **Application Requirements**

- A. All applications for fertilizer registration must include the name and address of the applicant; the brand, grade, and guaranteed analysis of the fertilizer; and other detailed information about each product as required by the DOA. Fertilizers or soil amendments that contain a waste or sewage sludge must be identified as such in the registration application. The application must also state the source of the waste and the level of metals in the final product. Registrations expire on December 31 of each year.
- B. The application for a fertilizer distribution license must be on forms approved by the DOA. Licenses expire on December 31 of each year.
- C. An application for an anhydrous ammonia facility must include written approval from the local governing body or a zoning permit issued by the county or town where the facility will be located. Storage tanks and associated equipment must meet applicable safety and design codes at the time of installation.

20 AGRICULTURE

Statute: 80-10-201, *et seq.*, MCA
80-10-501, *et seq.*, MCA (anhydrous ammonia)

Rule: ARM 4.12.601-4.12.604, 4.12.704, and 4.12.706-4.12.710

3. Fees

Applications for fertilizer registrations must be accompanied by a nonrefundable fee of \$20 for each fertilizer and soil amendment and a nonrefundable fee of \$35 for each specialty fertilizer. An additional \$10 fee is required for fertilizers and specialty fertilizers to fund the ground water protection responsibilities of the DOA.

New applicants for fertilizer distribution licenses, or those failing to renew by January 1, pay a nonrefundable \$75 fee. License renewals received before January 1 are \$50.

The DOA also assesses inspection fees and requires quarterly reports on the tonnage of fertilizer distributed, except for specialty fertilizers and unmanipulated animal and vegetable manures.

Statute: 80-10-103, 80-10-201, 80-10-202, 80-10-207, and 80-15-302, MCA

Rule: ARM 4.12.608

4. Additional Information

Commercial fertilizer and soil amendment containers must be labeled. The labels must be truthful and appropriate to the product and contain specific information required by the statutes and rules.

Statute: 80-10-204, MCA

Rule: ARM 4.12.604

GRAZING

1. Grazing Districts

Three or more livestock operators owning or controlling property in an area may create a state grazing district—a nonprofit cooperative organization regulated by the Montana Grass Conservation Commission and authorized to ensure the protection of range resources.

Membership in a district is limited to persons engaged in the livestock business, or those persons' agents, who own or lease forage-producing lands within or near the state district.

- 1) A permit is required from the state grazing district for a livestock owner or the person in control of the livestock to run the animals at large or under herd within the boundaries of a state district.
- 2) A person may obtain a permit (i.e., a grazing preference) by submitting an application to the district. Temporary permits may be issued to nonmembers on an annual basis.
- 3) Transfer of preferences are not allowed without the written consent of the owner of the property from which the transfer will be made. A transfer is not effective until approved by the Montana Grass Conservation Commission.
- 4) Prior to the transfer, a public hearing must be held before the Board of Directors of the district.
- 5) A person is not required to obtain a permit to graze livestock on land that the person owns or controls within a district if the stock being grazed are kept from running at large and from grazing on any other lands within the district.

Statute: 76-16-201, 76-16-302, 76-16-310, and 76-16-401, *et seq.*, MCA

Contact: STATE GRAZING DISTRICT

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Conservation and Resource Development Division
Montana Grass Conservation Commission

2. **State Leases**

The Department of Natural Resources and Conservation (DNRC) issues leases, through competitive bidding, for grazing on state lands.

Leasing Procedures

- 1) When the DNRC receives an application to lease state lands for grazing purposes, it must advertise for bids on the tract. The tract must be leased to the highest bidder unless the Board of Land Commissioners determines that the bid is not in the state's best interest. All bidding is by sealed bid mailed to the DNRC headquarters in Helena.

22 AGRICULTURE

- 2) Present lease holders have a preference right over others seeking to lease the same parcel. A preference right entitles the lease holder to meet the highest bid made by any applicant and to appeal the bid to the Board if they consider the bid excessive. Certain conditions regarding subleasing must be met for a lease holder to exercise their preference right and the preference is valid only if the lessee has not abused any conditions of the lease.
- 3) A person bidding for the lease of state lands must deposit a certified check, cashier's check or money order in an amount equal to 20 percent of the annual rental bid for grazing land and an amount equal to \$1 per acre for agricultural land. The rental rate for leasing state grazing lands is based on the appraised animal-unit-month carrying capacity of the land.
- 4) Lease terms are five or 10 years.

Statute: 77-6-101, *et seq.* and 77-6-201, *et seq.*, MCA

Rule: ARM 36.2.1003 and 36.25.102, *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Agriculture and Grazing Management Bureau

3. Federal Leases

The U.S Department of the Interior, Bureau of Land Management and the U.S. Forest Service issue grazing leases and grazing permits for federal land administered by those agencies.

Statute: Organic Administration Act
Federal Land Policy and Management Act
Public Rangelands Improvement Act
Taylor Grazing Act, as amended

Rule: 43 C.F.R. § 4100, 36 C.F.R. § 222

Contact: U.S. DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Resource Area or Field Office

U.S. DEPARTMENT OF AGRICULTURE
Forest Service
Forest Supervisor

NATURAL BEEF CATTLE CERTIFICATION

1. Types of Activities Regulated

Certification for natural beef cattle and natural grass-fed beef cattle is available through a cooperative program between the Montana Department of Agriculture and the Montana Department of Livestock. To qualify as Montana-certified natural beef cattle, the beef cattle must have been born and raised in Montana and finished following naturally raised protocols. To qualify as Montana-certified natural grass-fed beef cattle, the beef cattle must also have been finished on grass. Records of the birth of the beef cattle by month and health records for the beef cattle, including vaccine lot numbers, the vaccine manufacturer, and dates of vaccination must be kept.

Statute: 80-11-801, MCA

Rule: ARM 4.18.101, *et. seq.*

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Development Division

DEPARTMENT OF LIVESTOCK

2. Application Requirements

A producer who wishes to receive natural beef cattle certification must complete a Montana Natural Beef Program agreement, enroll the cattle in the program, and participate in an in-person evaluation. The certificate holder must also keep detailed records and renew the certificate annually.

3. Fees

The annual certification fee is \$100 and the inspection fee is \$2 per animal.

Rule: ARM 4.18.106

NOXIOUS WEED FREE FORAGE

1. Types of Activities Regulated

Certification of forage products as free of noxious weeds is available from the Montana Department of Agriculture (DOA). Forage products may be certified as free of Montana designated noxious weed seeds or may be certified as free of regional noxious weeds. Certified noxious weed seed free forage is required when horses or pack animals are used on public land in Montana. Additionally, local, state, and federal agencies and public utilities are required to use certified weed free mulches, bedding materials, and erosion control barriers.

Statute: 80-7-901, *et seq.*, MCA

Rule: ARM 4.5.301, *et. seq.*

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

2. Application Requirements

Applications should be made with the DOA agent in the county in which the person resides or in the county in which the person owns or leases land on which forage will be produced. Noxious weed seed free forage must be certified annually.

Rule: ARM 4.5.301, *et. seq.*

NURSERIES

1. Types of Activities Regulated

- A. Licensing: The Montana Department of Agriculture (DOA) requires licenses for firms, nurseries, plant dealers, or small plant vendors that sell or distribute nursery stock (plants or parts of plants) in the state. Licensing requirements vary according to the value of gross annual sales and the number of distribution locations. Certain firms, nurseries, plant dealers, or small plant vendors that are licensed as a nursery in another state and have less than \$1,000 in gross annual sales are exempt from the licensing requirement.
- B. Certification: The DOA must be notified if any nursery stock or material becomes infested or infected with plant pests. Nursery stock and growing sites may be inspected by the DOA and certified as disease free.

Applications for inspection and testing of registered stock for certification must be filed with the department by June 1.

Statute: 80-7-105, *et seq.* and 80-7-122, MCA

Rule: ARM 4.12.1405, *et seq.*

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

2. Fees

A. For a firm, nursery, plant dealer, or small plant vendor with gross annual sales of at least \$1,000 but less than \$5,000, the license fee is \$25; for sales of \$5,000 or more, the license fee is \$100.

B. Annual plant inspection certificates are \$50.

Statute: 80-7-106, MCA

Rule: ARM 4.12.1405, *et seq.*

3. Additional Information

The DOA may impose and administer quarantines to control injurious plant pests, plants capable of spreading plant pests, noxious weeds, and other exotic plants.

Statute: 80-7-402, *et seq.*, MCA (Montana Quarantine and Pest Management Act)

Rule: ARM 4.12.1409

ORGANIC CERTIFICATION

1. Types of Activities Regulated

Certification is required to label and sell products as organic in Montana.

Statute: 80-11-601, MCA

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

2. Application Requirements

A producer or handler applying for organic certification must submit a completed application and organic system plan forms, along with applicable fees, to the Montana Department of Agriculture (DOA). The applicant must also establish and maintain necessary records and documentation of purchased materials, production or handling activities and product sales and cooperate with an inspector to schedule an onsite inspection.

Once granted, certification continues in effect until surrendered by the certified operation or suspended or revoked by the DOA. To continue certification, operations must annually submit an application and other information in compliance with the National Organic Program, pay certification fees and allow an onsite inspection.

Rule: ARM 4.17.105, *et seq.*

3. Fees

Fees vary according to the size of the operation. A schedule of fees is available at ARM 4.17.106.

PESTICIDES

1. Types of Activities Regulated

Pesticide Registrations

- A. The manufacturer, formulator or distributor of a pesticide distributed, sold or transported in Montana must register each pesticide annually with the Montana Department of Agriculture (DOA).

Licenses

- B. Licenses are required for commercial, noncommercial, public utility and government *pesticide applicators* and the licenses must be renewed annually. The DOA routinely inspects pesticide applicators for compliance with pesticide labeling requirements and state and federal statutes and rules.

Employees of pesticide applicators under certain conditions of use are required to obtain a *pesticide operators* license. A wastewater discharge permit may be required for any person applying pesticides into or over state surface water (see WATER QUALITY PERMITTING, p. 206).

Special certification is required for the application of restricted-use pesticides. *Farm applicators* planning to use a restricted-use pesticide must obtain a special-use permit.

- C. *Pesticide dealers* must also be licensed annually. The department routinely inspects pesticide dealers for compliance with pesticide labeling and state and federal statutes.

Statute: 80-8-101, *et seq.*, MCA (Montana Pesticides Act)
80-15-101, *et seq.*, MCA (Montana Agricultural Chemical Ground Water Protection Act)

Rule: ARM 4.10.101, *et seq.*, ARM 4.11.101, *et seq.* and ARM 17.30.1341

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

D. Aircraft Registration

Pilots must register their aircraft with the Montana Department of Transportation, Aeronautics Division, and certify that they have met all Federal Aviation Administration requirements for aerial pesticide applicators.

Contact: DEPARTMENT OF TRANSPORTATION
Aeronautics Division

2. **Application Requirements**

Pesticide Registrations

- A. A person applying to register a pesticide must file a statement with the DOA with identifying information about the applicant or the person whose name will appear on the label. The statement must also include detailed information about the pesticide, including a copy of the pesticide label, the U.S. Environmental Protection Agency registration number if the pesticide is registered, and a statement of claims made for the pesticide, including the trade and chemical name and directions for use. The DOA may also require

a description of tests and the results upon which the claims are based. Federally-exempt Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) 25(b) minimal risk pesticides are also registered in Montana. The state must accept for registration all federally registered products. However, the state may restrict or prohibit the use or sale of a pesticide to prevent harm to individuals, property, plants, trees, animals or fish. Registrations expire on December 31.

Licenses

- B. Licensing requirements for *pesticide applicators* vary according to the scope and type of pesticide application, but generally include a completed application form, an examination, recordkeeping, a statement of financial responsibility, and the payment of fees. Licenses must be filed or renewed before pesticide application occurs in any calendar year

To obtain a license as a *pesticide operator*, a completed application form and an examination is required. Applicants must maintain their qualifications in subsequent licensing years by attending training courses.

Farm applicators using a restricted-use pesticide qualify for their first permit by either passing a graded written examination or attending a training course approved by the DOA and taking an ungraded written examination. They must also maintain their qualifications by periodically attending training courses. Farm applicators must file for a new special-use permit and attend an approved training program every five years.

- C. An applicant for a *dealer's license* must file annually with the DOA and pass an examination administered by the department. Dealers are also required to maintain their qualifications in subsequent licensing years by attending training courses.

Aircraft Registration

- D. Individuals applying for a *license for aerial application* of pesticides must certify on the application that they have met all the Federal Aviation Administration and the DOA requirements for aerial pesticide applicators.

Statute: 80-8-201, 80-8-203 through 80-8-209, 80-8-211, and 80-15-302, MCA

Rule: ARM 4.10.201-4.10.209, 4.10.401, 4.10.403-4.10.404, and 4.10.501-4.10.504

3. **Permitting Procedures**

A. Pesticide Registration

- 1) The Departments of Public Health and Human Services (DPHHS); Agriculture; and Fish, Wildlife and Parks (FWP) must review all applications for registration of an experimental-use permit or registration of a pesticide for special local needs. The departments utilize the same requirements and standards for reviewing registrations as established by the federal Insecticide, Fungicide, and Rodenticide Act.
- 2) The DPHHS and FWP must approve or disapprove applications within 10 days after receipt.
- 3) If two of the three departments are in agreement with the proposed registration, the DOA must issue the registration.

Statute: 80-8-201(8), MCA

B. Licenses

Persons applying for an applicator, operator or dealer license must complete a license application on forms provided by the DOA. If the application is not complete or the qualifications for the license are not met, the department will return the application along with a notice of the deficiencies and the procedure for correcting the deficiencies. Licenses will not be issued until the application, fees and all examination or requalification requirements are completed and approved.

4. **Fees**

Pesticide Registration

- A. The fee for each registered pesticide is \$90 annually plus an additional \$95 to fund the ground water protection responsibilities of the DOA. If the application is for emergency exemptions requested by the state, a special local-need registration or an experimental-use permit registration, the fee is \$90.

Licenses

- B. The annual fee for a commercial applicator's license is \$55 (\$45 plus a \$10 fee to fund the state's waste pesticide and disposal program). The late renewal fee is \$25.

The fee for commercial pesticide operators is \$25 each for the first two operators and \$10 for each additional operator.

The annual fee for a government applicator's license is \$50 for each of the first four employees and an additional \$10 fee to fund the state's waste pesticide and disposal program. For each additional employee applicator there is a \$5 fee, and an additional \$10 waste pesticide disposal program fee, with a fee cap of \$600 for an agency.

The fee for a farm applicator special-use permit is \$50 for a five year permit.

- C. The annual application fee for a commercial dealer's license is \$55 (\$45 plus a \$10 fee to fund the state's waste pesticide and disposal program) and \$25 for a late renewal. The annual fee for a government dealer's license is \$60.

Statute: 80-8-201, 80-8-203, 80-8-205, 80-8-207, 80-8-209, 80-8-213, and 80-15-302(1), MCA

Rule: ARM 4.10.206(4)

5. **Criteria for Registration of Pesticides**

If it does not appear to the DOA that the pesticide warrants the proposed claims for the pesticide or if the article and its labeling do not comply with the Montana Pesticides Act, the department must notify the applicant to allow them an opportunity to make the necessary corrections. If the applicant does not make the corrections, the DOA may refuse to register the pesticide. The department's decision may be appealed.

Statute: 80-8-201(6), MCA

6. **Disposal**

Empty containers must be safely disposed of according to label instructions. Most empty pesticide containers must be triple rinsed, punctured and recycled or disposed of in a landfill.

Participants in the DOA's voluntary pesticide disposal program are not charged for the first 200 pounds of acceptable pesticides. The fee is 50 cents per pound for amounts greater than 200 pounds. Information about pesticide collection events is available at <http://agr.mt.gov/pestfert/disposal.asp>.

Statute: 80-8-111, MCA

Rule: ARM 4.10.1801, *et seq.*

7. Public Notice

The owner or manager of a public building must post a notice at the entryway to a building or room where certain pesticides have been applied that tells the name of the pesticide and a number to call for more information.

Statute: 80-8-107, MCA

8. Pesticide General Permit

To protect the state's water quality, a pesticide general permit is required for a person or entity who applies pesticides into or over state surface water. To receive a permit, the owner or operator must submit a Notice of Intent (NOI) and a Supplement E form to the Montana Department of Environmental Quality (DEQ). The NOI is a legal notification by the owner or operator to the DEQ that they will comply with the terms of the pesticide general permit. A Section E supplement must be completed for each county to which pesticides will be applied. For general information on discharge permits, see WATER QUALITY PERMITTING, p. 206.

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Water Protection Bureau

Rule: ARM 17.30.201 and 17.30.1341

PLANT EXPORT

1. Types of Activities Regulated

The Montana Department of Agriculture (DOA) assists plant and plant product exporters in meeting the phytosanitary standards of importing states and countries by certifying that plants and plant products are free of pests. Applications for certification are available from the DOA or at the department website at <http://agr.mt.gov/licensing/forms/phytoapp.pdf>.

Authority: Memorandum of Understanding with the U.S. Department of Agriculture
Animal and Plant Health Inspection Service
Plant Protection and Quarantine

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

2. **Application Requirements**

Exporters should contact the DOA before a commodity is ready for shipping to determine what the phytosanitary requirements are for the intended destination. Field inspections during the growing season, laboratory tests, soil analysis, and the completion of other testing requirements may be necessary before export certifications can be completed.

3. **Fees**

Phytosanitary certificates are either \$23 or \$50, based on the value of the shipment.