

Rules of Department of Agriculture

Division 70—Plant Industries

Chapter 25—Pesticides

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**Title 2—DEPARTMENT OF
AGRICULTURE
Division 70—Plant Industries
Chapter 25—Pesticides**

2 CSR 70-25.010 Definitions

PURPOSE: This rule defines certain terms in Chapter 281, RSMo (1986) and defines terms in these rules.

- (1) Act—the Missouri Pesticide Use Act.
- (2) Agricultural commodity—any plant or part, animal or animal product produced or being produced by a person primarily for sale, consumption, propagation or other use by man or animals. (Producers of an agricultural commodity include farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, sod producers or other comparable persons.)
- (3) Direct supervision or directly supervised by—process by which a competent, noncertified applicator or pesticide technician uses or determines the need for the use of a pesticide while acting under control of a certified applicator, operator or private applicator with a permit. The certified applicator, operator or private applicator with a permit is responsible for the actions of the noncertified applicator or pesticide technician while using or determining the need for the use of a pesticide(s) even though the certified applicator, operator or private applicator with a permit is not present during the use of pesticides. This requires, at a minimum, that—
- (A) Certified applicators, operators or private applicators with a permit and noncertified applicators or pesticide technicians work from the same physical location;
- (B) While applying pesticides, noncertified applicators or pesticide technicians shall have in their possession either a work order, job ticket, invoice or similar document for that pesticide application. Each document shall include, at a minimum:
1. Name and license or permit number of the certified applicator, operator or private applicator with a permit providing direct supervision;
 2. Name of the noncertified applicator or name and license number of the pesticide technician being directly supervised; and
 3. Name of the person requesting the pesticide use and the address or brief description of the pesticide(s) use location and the use date.
- (C) The certified applicator providing direct supervision must provide the noncertified applicator or pesticide technician with a

complete copy of the label and labeling for each pesticide used by the noncertified applicator or pesticide technician while using pesticides. The noncertified applicator or pesticide technician shall be required to follow all label and labeling directions;

(D) Certified applicators, operators or private applicators with a permit shall be available and, when needed, respond by phone, radio or in person when noncertified applicators or pesticide technicians use pesticides; and

(E) Certified applicators, operators or private applicators with a permit shall be at the pesticide use site when required by the pesticide label.

(4) End user of a pesticide—that individual who uses or supervises the use of a pesticide.

(5) Forest—a concentration of trees and related vegetation in nonurban areas sparsely inhabited by and infrequently used by humans and characterized by natural terrain and drainage patterns.

(6) In the business of using pesticides—using, supervising the use of pesticides on the lands of another as a service to the public in exchange for a fee or compensation.

(7) Label—the written, printed or graphic matter on or attached to, the pesticide or device or any of its containers or wrappers.

(8) Labeling—all labels and other written, printed or graphic matter accompanying the pesticide or device at any time or to which reference is made on the label or in literature accompanying the pesticide or device. Official publications of the Environmental Protection Agency, the United States Departments of Agriculture, Interior, and Health, Education and Welfare, state experiment stations, state agricultural colleges and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides are not to be considered labeling.

(9) Legal age—eighteen (18) years, unless otherwise provided by law.

(10) Limited rodent fumigation—the use of calcium cyanide dust for rodent control, in accordance with the label or labeling, by applicators certified in the category of General Structural Pest Control, at a distance greater than ten feet (10') from any building or dwelling for the control of rodents associated with, or likely to be associated with, the building or dwelling.

(11) Ornamentals—trees, shrubs and other plantings in and around habitations generally, but not necessarily, located in urban and suburban areas, including residences, parks, streets, retail outlets, industrial and institutional buildings.

(12) Outlet—that site, location, place, vehicle or personage (in the case of an individual who travels from place to place in the business of selling restricted use pesticides) at, or in which, or by whom, restricted use pesticides are sold at retail or otherwise made available to the end user. An outlet shall not necessarily be a site, location, place or vehicle where restricted use pesticides are merely stored or where the purchaser takes physical possession of the restricted use pesticide after it has been purchased.

(13) Regulated pest—a specific organism determined by state or federal law to be a pest requiring regulatory restrictions, regulations or control procedures in order to protect the host, man and the environment.

(14) Standards of competence—the level of excellence in the art of pest control to be demonstrated by the applicator or operator as a basis for certification.

(15) Structure—any edifice or building including the contents, any patio or terrace attached and the land on which situated, plus any portion of land within the given proprietorship or any adjacent proprietorships which might constitute a potential harborage for pests which could affect the edifice or building or its contents, any portion of land upon which work has begun for the erection of an edifice or building, any wharf, dock, ship, boat, railroad siding or refuse area, and any vehicle used as common carrier.

*Auth: section 281.025, RSMo (1986).
Original rule filed May 12, 1976, effective
Oct. 21, 1976. Amended: Filed Sept. 6,
1977, effective Dec. 11, 1977. Amended:
Filed Aug. 14, 1989, effective Jan. 1, 1990.*

2 CSR 70-25.020 To Whom Licenses Are Issued

PURPOSE: This rule explains who shall be licensed under Chapter 281, RSMo (1986). The reason for this rule is to clarify that in all cases an individual rather than the business entity will be licensed. Chapter 281, RSMo requires all holding licenses to have proven competence through examination or training



courses. Only an individual is capable of meeting these requirements.

(1) Licenses issued under the Missouri Pesticide Use Act (the Act) are issued to the individual and not to business entities. Licenses issued under the Act are valid anywhere in Missouri, provided that the licensee notifies the director in writing within ten (10) days of any change of name, business name, address or any other information affecting licenses issued under sections 281.010—281.115, RSMo (Supp. 1988).

(2) No license shall be issued to any individual not of legal age.

(3) Nonresident licenses shall be issued in accordance with the provisions for resident licenses, except as provided for in section 281.075, RSMo (1986).

Auth: section 281.030, RSMo (Supp. 1988). Original rule filed May 12, 1976, effective Oct. 21, 1976. Amended: Filed Aug. 14, 1989, Jan. 1, 1990.

2 CSR 70-25.030 Classification of Licenses

PURPOSE: This rule classifies licenses that will be issued under the authority of Chapter 281, RSMo (1986). The reason for this rule is to clarify the type of licenses needed by persons whose occupations require them using or selling certain pesticides.

(1) Pesticide Applicator or Operator Licenses.

(A) Certified Commercial Applicator License. Certified commercial applicator licenses shall be obtained by individuals who use, supervise the use of or determine the need for the use of any pesticide on the lands of another as a service to the public in exchange for a fee or compensation.

(B) Certified Noncommercial Applicator License. A certified noncommercial applicator license shall be obtained by those individuals, whether or not they are private applicators with respect to some uses, who use or supervise the use of restricted use pesticides only on lands owned or rented by them or their employers.

(C) Certified Private Applicator License. A certified private applicator license shall be obtained by those individuals who use or supervise the use of restricted use pesticides as a private applicator as defined in section 281.020(2)c., RSMo (Supp. 1988).

(D) Certified Public Operator License. A certified public operator license shall be obtained by individuals who use or supervise the use of restricted use pesticide as employees of federal, state, county or local governmental agencies. A public operator license is valid only when the licensee is functioning as an employee of the agency.

(2) Pesticide Technician License. Individuals under direct supervision of certified commercial applicators, using or determining the need for the use of pesticides in the category of ornamental and turf pest control, the subcategory of general structural pest control or the subcategory termite pest control shall obtain a pesticide technician license. The certified commercial applicator must be certified in the same pest control category(ies).

(3) Pesticide Dealer License. A pesticide dealer license shall be obtained by those individuals who sell at retail, or otherwise make available to the end user, any restricted use pesticide.

Auth: section 281.030, RSMo (Supp. 1988). Original rule filed May 12, 1976, effective Oct. 21, 1976. Amended: Filed Sept. 6, 1977, effective Dec. 11, 1977. Amended: Filed Aug. 14, 1989, effective Jan. 1, 1990.

2 CSR 70-25.050 Review of Certification or License

PURPOSE: This rule provides for review of licenses by the director as provided for in section 281.110, RSMo (1986). The reason for this rule is to allow the director to determine whether or not denial or revocation procedures should be invoked on an individual whose license has been denied or revoked or who has been convicted in criminal or civil action in another state or by the federal government for misuse of pesticides. This rule is needed to keep unscrupulous pesticide applicators and dealers from continuing business by seeking harborage in another state.

(1) The director may investigate the need for hearings to deny, suspend, revoke or modify a license, certification or permit. These investigations may extend to license qualifications and possible violations of the Missouri Pesticide Use Act.

(2) Additional training or reexamination of certified commercial applicators, certified noncommercial applicators and certified public operators shall be required within three

(3) years from initial certification and within each subsequent three (3)-year period. Additional training shall pertain to maintaining competence and meeting the needs of changing technology in the safe and proper use of pesticides.

(3) Additional training of certified private applicators shall be required within five (5) years from initial certification and within each subsequent five (5)-year period. This training shall pertain to maintaining competence and meeting the needs of changing technology in the safe and proper use of agricultural pesticides.

Auth: section 281.110, RSMo (1986). Original rule filed May 12, 1976, effective Oct. 21, 1976. Amended: Filed Sept. 6, 1977, effective Dec. 11, 1977. Amended: Filed Aug. 14, 1989, effective Jan. 1, 1990.

2 CSR 70-25.060 Application for a Certified Commercial Applicator License, a Certified Noncommercial Applicator License or a Certified Public Operator License

PURPOSE: This rule determines what personal and professional information will be required of an applicant for a commercial applicator's license. This rule is necessary to provide the information needed by the state to administer an effective regulatory program as required by Chapter 281, RSMo (1986) and still protect the privacy of the individual applicant.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) A form for making application for a certified commercial applicator license, a certified noncommercial applicator license or a certified public operator license will be furnished by regular mail upon written request to: Bureau of Pesticide Control, Missouri Department of Agriculture, P.O. Box 630, Jefferson City, MO 65102.

(2) Applications shall be either typed or clearly printed in ink.

(3) A clear full-face, head and shoulder photograph of the applicant, taken within the preceding twelve (12) months of the date of application, and not less than two and one-half inches (2 1/2") square, shall be attached to the application.

(4) The director shall keep all documents filed in support of an application until such time as the documents are replaced, except that—

(A) If a license is not issued within one (1) year of passing required examinations, all documents pertaining to that application may be destroyed; or

(B) If a license expires for more than one (1) year, all documents pertaining to that license may be destroyed.

(5) The applicant shall furnish the director with the following:

(A) Name, including any other names under which the applicant has been known:

(B) Social Security number;

(C) Date of birth;

(D) Physical description;

(E) Home address;

(F) Business name and address from which pesticides will be used;

(G) Categories in which the applicant requests a license;

(H) List of present and past employers for the three (3) years prior to application;

(I) List of three (3) references;

(J) List of all present and past pesticide licenses, permits, certifications or registrations;

(K) Explanation of any violation of the statutes of any state or protectorate of the United States, or of the federal government which resulted in the denial, suspension, revocation or modification of a pesticide license, permit, certification or registration, or issuance of a civil penalty; and

(L) Explanation of any criminal prosecution, whether or not sentence was imposed, in which the applicant was found guilty, entered a plea of guilty or *nolo contendere*, or is subject to criminal prosecution under the laws of any state or of the United States, for the following:

1. Offenses reasonably related to the qualifications, functions or duties of professions regulated under this chapter;

2. Offenses an essential element of which is fraud, dishonesty or an act of violence; and

3. Offenses involving moral turpitude.

(6) Any applicant who willfully makes a false statement in an application may be subject to the provisions of section 281.060, RSMo (1986).

Auth: section 281.035, RSMo (Cum. Supp. 1989). Original rule filed May 12, 1976, effective Oct. 21, 1976. Amended: Filed Sept. 6, 1977, effective Dec. 11, 1977.

Amended: Filed Aug. 14, 1989, effective Jan. 1, 1990.

2 CSR 70-25.065 Acceptable Insurance and Bond Forms for Commercial Applicators

PURPOSE: This rule identifies those insurance and bond forms which are acceptable to the Missouri Department of Agriculture as evidence of financial responsibility protecting persons who may suffer legal damages as a result of the operations of a commercial pesticide applicator.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) Commercial applicators must use one (1) of the following methods for providing evidence of financial responsibility:

(A) Acceptable insurance or bond forms will be provided by the Bureau of Pesticide Control, Missouri Department of Agriculture, P.O. Box 630, Jefferson City, MO 65102. These forms must be completed and signed by an insurance company representative or a bonding agent. Acceptable certificates of insurance must affirm that the insured's policy meets the requirements of section 281.065, RSMo (1986). Acceptable bonds must have power of attorney, or authority to bind surety, attached;

(B) Certificates of insurance provided by insurance companies shall include:

1. Applicator's name, business name and business address;

2. Policy number

3. Effective and expiration dates;

4. Limits of liability;

5. Insurance company representative's signatures; and

6. A signed statement from the insurance representative affirming that the insured's policy meets requirements of section 281.065, RSMo (Supp. 1988); or

(C) Complete insurance policies which meet the requirements of section 281.065, RSMo (1986).

(2) Only bond forms provided by the director are acceptable.

Auth: section 281.065, RSMo (Cum. Supp. 1989). Original rule filed July 8, 1977, effective Oct. 14, 1977. Amended: Filed Aug. 14, 1989, effective Jan. 1, 1990.

2 CSR 70-25.070 Requirements for Certified Commercial Applicators or Public Operators in Structural Pest Control

PURPOSE: This rule sets forth the qualifications required for those persons who wish to be certified as commercial applicators or public operators in the category of structural pest control. This category is described in 2 CSR 70-25.100(5)(G). The rule sets forth training and experience requirements for those individuals to be certified in this category.

(1) Applicants for certified commercial applicator licenses or public operator licenses in structural pest control shall meet at least one (1) of the following:

(A) Applicants shall have a minimum of an Associate of Arts (AA) degree or its equivalent in agriculture, biology, chemistry or entomology from an accredited college or university. Evidence of this education shall be in the form of a copy of the degree or transcript;

(B) Applicants shall have at least one (1) year of experience in accordance with the Missouri Pesticides Use Act (the Act). This experience shall be—

1. Gained within the three (3) years prior to the date of application;

2. As an applicator in the subcategory of structural pest control which relates to the area of expertise in which the applicant will use pesticides; and

3. Evidenced in a notarized statement containing the name, address and telephone number of the employer from whom the applicant received the experience and dates of employment; or

(C) Applicants shall have a combination of education and experience as follows:

1. Successful completion of an approved correspondence course in pest control within three (3) years prior to application for licensure or addition of categories to an existing license;

2. At least six (6) months experience in accordance with the Act within the three (3) years prior to the date of application, as an applicator in the subcategory of structural pest control which relates to the area of expertise in which the applicant will use pesticides; and

3. Evidence of the approved correspondence course and experience shall include:

A. A copy of the certificate from the approved correspondence course; and

B. A notarized statement containing the name, address and telephone number of the employer from whom the applicant received the experience and dates of employment.

Auth: section 281.025, RSMo (Cum. Supp. 1989). Original rule filed May 12, 1976, effective Oct. 21, 1976. Amended: Filed July 8, 1977, effective Oct. 14, 1977. Amended: Filed Aug. 14, 1989, effective Jan. 1, 1990.

2 CSR 70-25.080 Stipulations for a Certified Commercial Applicator License, a Certified Noncommercial Applicator License or a Certified Public Operator License

PURPOSE: This rule sets stipulations on certified commercial applicators, certified noncommercial applicators and certified public operators.

(1) No certified commercial applicator, certified noncommercial applicator or certified public operator shall use his/her license as authority to represent more than one (1) business or employer for the purpose of using, supervising the use of or determining the need for the use of pesticides.

(2) No certified public operator or certified noncommercial applicator shall use his/her license to solicit business from the public.

(3) Certified commercial applicators, certified noncommercial applicators and certified public operators must display their licenses at all times in a prominent place at the address which shall be printed on the license.

Auth: section 281.025, RSMo (Cum. Supp. 1989). Original rule filed May 12, 1976, effective Oct. 21, 1976. Amended: Filed Sept. 6, 1977, effective Dec. 11, 1977. Amended: Filed Aug. 14, 1989, effective Jan. 1, 1990.

2 CSR 70-25.090 Examinations for Certified Commercial Applicators, Certified Noncommercial Applicators and Certified Public Operators

PURPOSE: This rule sets forth the type of examination to be taken (written, oral or practical); provides for hardship cases; provides that the director may determine the specific content of the examination; provides for rules of conduct during examinations; and provides for examination.

(1) Applicants for a certified commercial applicator license, a certified noncommercial applicator or a certified public operator license shall take a written examination based on the standards of competence provided in 2 CSR 70-25.110. When recommended by the director, the applicant shall take a written and oral examination and conduct a practical demonstration of competence.

(2) Examinations shall cover material judged by the director to be pertinent to the request contained in the application.

(3) Any applicant who gives or receives unauthorized assistance during an examination shall be dismissed from the examination and his/her markings or results shall be voided. Any such person shall be required to make reapplication for a license.

(4) Only persons authorized by the director may be in the examination room during the examination. The director may require identification for all applicants.

(5) Any applicant who fails to attain a passing score of seventy percent (70%) on any examination may request in writing, by regular mail, to retake the examination. The director will then inform the applicant, in writing, by regular mail, of the time and place the applicant may retake the examination. Upon failing the examination three (3) times, or failing to take the examination as scheduled three (3) times, the applicant shall reapply for a license.

(6) All examinations taken to satisfy requirements of the Missouri Pesticide Use Act shall be retained by the department for at least one (1) year from the date they were completed. Individuals who do not apply for a license during that one (1)-year period must be reexamined before their license application will be accepted.

Auth: section 281.035, RSMo (Cum. Supp. 1989). Original rule filed May 12, 1976, effective Oct. 21, 1976. Amended: Filed Sept. 6, 1977, effective Dec. 11, 1977. Amended: Filed Aug. 14, 1989, effective Jan. 1, 1990.

2 CSR 70-25.100 Certification Categories for Certified Commercial Applicators, Certified Noncommercial Applicators and Certified Public Operators

PURPOSE: This rule is necessary in order to provide categories for the certification of applicators and operators due to the wide diversity of areas of knowledge

which has evolved within the pest control industry. These categories are necessary in that no individual should be expected to demonstrate a practical knowledge of all facets of the pest control industry, nor is this demonstration necessary. This rule contains information regarding the number of categories in which applicators or operators may be certified, a special stipulation regarding the category of demonstration pest control, the necessity of certification by examination and a description of the activities of those individuals required to be certified in the various categories.

(1) To qualify for a certified commercial applicator license, a certified noncommercial applicator license or a certified public operator license, applicators of pesticides shall be certified in one (1) or more of the following pesticide applicator categories: Category 1—Agricultural Pest Control, Subcategory a—Agricultural Plant Pest Control, Subcategory b—Agricultural Animal Pest Control; Category 2—Forest Pest Control; Category 3—Ornamental and Turf Pest Control; Category 4—Seed Treatment; Category 5—Aquatic Pest Control; Category 6—Right-of-Way Pest Control; Category 7—Structural Pest Control, Subcategory a—General Structural Pest Control, Subcategory b—Termite Pest Control, Subcategory c—Fumigation Pest Control; Category 8—Public Health Pest Control; Category 9—Regulatory Pest Control; Category 10—Demonstration and Research Pest Control; and Category 11—Wood Products Pest Control.

(2) Commercial applicators, noncommercial applicators and public operators must be certified in at least one (1) of the categories provided in section (1) and may be certified in any number of or any combination of those categories.

(3) Those individuals who wish to obtain a certified commercial applicator license, a certified noncommercial applicator license or a certified public operator license as authority to conduct demonstrations involving pesticides and devices must be certified in Category 10—Demonstration and Research Pest Control. In addition, those individuals must be certified in the category, or those categories, which relate to the areas of expertise in which they wish to conduct these demonstrations.

(4) Commercial applicators, noncommercial applicators and public operators shall be certified in the respective categories only after they have passed an examination based on the standards of competence as provided in 2 CSR 70-25.110.