

## **302 KAR 28:050. Pesticide certification and licensing.**

RELATES TO: KRS Chapter 217B, 40 C.F.R. 156, 170, 7 U.S.C. 136 et seq.

STATUTORY AUTHORITY: KRS 217B.050, 217B.060

NECESSITY, FUNCTION AND CONFORMITY: KRS 217B.050 requires the Department of Agriculture to promulgate administrative regulations to implement the provisions of KRS Chapter 217B. KRS 217B.060 authorizes the department to establish classifications of pesticide licenses. This administrative regulation establishes a system of certification for persons required to be licensed or certified under KRS Chapter 217B.

### **Section 1. Applicability.**

(1) A person shall not be licensed to sell or apply pesticides unless certified in a category consistent with the sale or application. A person shall not purchase restricted use pesticides unless he or she is licensed or certified in a category consistent with the purchase.

(2) A pesticide operator, pesticide applicator, noncommercial applicator, or private applicator shall not apply any pesticide unless he or she is certified in a category consistent with the application, as established in this administrative regulation, with the exception of a registered trainee acting under the direct on-the-job supervision of a certified person.

(3) The department may, after payment of all applicable fees, waive the certification requirement and issue a license to any person who holds a valid license in another state if the person is employed by a dealer registered in Kentucky and if the other state:

- (a) Has requirements substantially similar to that of Kentucky; and
- (b) Agrees to reciprocate with Kentucky.

### **Section 2. Certification.**

(1) Certification shall be obtained from the department as a pesticide operator, noncommercial applicator, pesticide applicator, or pesticide sales agent pursuant to Section 3 of this administrative regulation, in the categories of pesticide use or application as established in subsections (2) through (6) of this section.

(2) Category 3. Ornamental and lawn care.

(a) This category shall include persons applying pesticides or fertilizer to control insects, weeds, and diseases in residential and commercial lawns, and maintenance of ornamental trees, shrubs and flowers, including the control of pests that do not normally invade structures, such as bagworms, grubs, and moles.

(b) Certification in this category shall not qualify an applicator to make applications to sports turf or golf courses.

(3) Category 12. Pesticide sales agent. This category shall include any individual who sells or distributes restricted use pesticides or any individual who sells and makes recommendations for the use and application of pesticides to the final user.

(a) Category 12 certification as a pesticide sales agent under this administrative regulation shall meet the requirements of Category 12 certification under 302 KAR Chapters 27 and 29.

(b) A person taking orders or explaining service programs without naming or making recommendations for pesticide use shall be excluded from certification, if the person selling or distributing pesticides is licensed as a pesticide sales agent.

(4) Category 18. Golf course. This category shall include persons who apply pesticides or fertilizer to land on which turf and ornamental care is done for the purpose of preparing the land for use in the game of golf.

(5) Category 19. Interior Plantscapes. This category shall include persons using pesticides to control insects, weeds, and diseases in or on interior plantscapes, regardless of who owns

the plants.

(6) Category 20. Sports turf.

(a) This category shall include persons applying pesticides to control insects, weeds, and diseases to or on turf on which sports activities occur.

(b) Certification in this category shall not qualify an applicator to make applications to golf courses.

Section 3. General Requirements. To obtain certification, a person shall take and pass, with a minimum score of seventy (70) percent, a certification examination in the category or categories in which certification is requested.

(1) Competency in the use and handling of pesticides shall be determined and based upon standards established in Sections 4 and 5 of this administrative regulation.

(2) The examination and testing shall include the general standards applicable to all categories and the additional standards specifically identified for each category or subcategory in which a person desires to be certified.

(3) A person shall pay an initial certification examination fee of twenty-five (25) dollars.

(4) For a person testing in multiple categories, there shall be an additional examination fee of ten (10) dollars for each additional category.

(5) Examination fees shall be charged each time a person takes a certification examination and shall be charged regardless of the passing or failing of the examination.

(6)(a) Upon successfully passing an exam, a person will have ninety (90) days from the date of testing to activate the licenses and certification requested.

(b) After ninety (90) days have expired, a person shall have to retake and pass the examination before activation of a license and certification.

Section 4. General Standards of Competency. Testing shall be based on examples of problems and situations appropriate to the particular category or subcategory of the requested certification and may include the following areas of competency:

(1) Label and labeling comprehension, including:

(a) An understanding of instructions, warnings, terms, symbols, and other information commonly appearing on pesticide labeling;

(b) Classification of the product, general or restricted; and

(c) Necessity for use consistent with the labeling;

(2) Safety factors, including:

(a) Pesticide toxicity, hazard to man, and common exposure routes;

(b) Common types and causes of pesticide accidents;

(c) Precautions necessary to guard against injury to applicator and other individuals in or near treated areas;

(d) Symptoms of pesticide poisoning;

(e) First aid and other procedures to be followed if a pesticide accident occurs;

(f) Proper identification, storage, transport, handling, mixing procedures, and disposal methods for pesticides and used pesticide containers, including precautions to be taken to prevent children from having access to pesticide containers;

(g) Practical application of the Worker Protection Standards, 40 C.F.R. 156 and 170, FIFRA; and

(h) The proper selection and use of personal protective equipment for handling and application of pesticides;

(3) The potential environmental consequences of use and misuse of pesticides as can be influenced by factors such as:

- (a) Weather and other climatic conditions;
- (b) Types of terrain, soil, or other substrata;
- (c) Presence of fish, wildlife, and other nontarget organisms;
- (d) Drainage patterns;
- (e) Storage or use of pesticides and fertilizer including bulk fertilizer or pesticide; and
- (f) Other nonchemical controls, including sanitation;
- (4) Pest identification, including consideration of:
  - (a) Common features of pest organisms and characteristics of damage necessary to facilitate pest recognition; and
  - (b) Pest maturation and development as it may relate to the problem of identification and control;
- (5) Pesticides, including consideration of:
  - (a) Types of pesticides;
  - (b) Types of pesticide formulations;
  - (c) Compatibility, synergism, persistence, and animal and plant toxicity of the formulation;
  - (d) Hazards and residues associated with use;
  - (e) Factors that influence effectiveness or lead to problems such as resistance to pesticides;
 and
  - (f) Dilution procedures;
- (6) Equipment, including consideration of:
  - (a) Types of pesticide application equipment and advantages and limitations of each; and
  - (b) Uses, maintenance, and calibration of equipment;
- (7) Application techniques; factors including:
  - (a) Methods used to apply various formulations of pesticides, solutions, and gases together with a knowledge of which technique or application to use in a given situation;
  - (b) Relationship of discharge and placement of pesticides to proper use, unnecessary use, and misuse; and
  - (c) Prevention of drift and pesticide loss into the environment; and
- (8) Laws and administrative regulations. Knowledge of pertinent aspects of the Federal Environmental Pesticides Control Act, 7 U.S.C. 136, and KRS Chapter 217B.

#### Section 5. Specific Standards of Competency.

(1) In addition to meeting the requirements of Sections 3 and 4 of this administrative regulation, persons requesting certification for a specific category shall demonstrate competence relating to that category as established in subsections (2) through (6) of this section.

(2) Category 3. Ornamentals and lawn care. Persons requesting ornamental and lawn care certification shall demonstrate practical knowledge of pesticide problems associated with the production and maintenance of ornamental trees, shrubs, plantings, and lawns, including cognizance of potential phytotoxicity due to a wide variety of plant material, drift, and persistence beyond the intended period of pest control. Because of the frequent proximity of human habitations to application activities, applicators in this category shall demonstrate practical knowledge of application methods that shall minimize or prevent hazards to humans, pets, and other domestic animals.

(3) Category 12. Pesticide sales agent. Persons requesting certification in this category shall demonstrate practical knowledge of the different types of pesticides, pesticide labels and label comprehension including environmental hazards, rates of application, proper application techniques, storage, shipping, handling, and worker protection safety issues.

(4) Category 18. Golf courses. Persons requesting certification in this category shall demonstrate practical knowledge of the safe handling and proper application of pesticides and fertiliz-

ers; practical knowledge of fungi, weeds, insect infestation, disease control, and fertility; proper use and maintenance of personal protective equipment; toxicity of pesticides to human and nontarget organisms; proper cleaning, disposal and containment techniques; effects of control pesticides on ground water; conveying or handling equipment; environmental effects; factors that can lead to hazardous conditions; and the laws and administrative regulations that cover pesticide use.

(5) Category 19. Interior plantscapes. Persons requesting certification in this category shall demonstrate practical knowledge of the safe handling and proper application of pesticides; practical knowledge of fungi, weeds, insect infestation, and disease control; proper use and maintenance of personal protective equipment; toxicity of pesticides to human and nontarget organisms; proper cleaning and disposal techniques; effects of pesticides on conveying and handling equipment; environmental effects; factors that may lead to hazardous conditions; and the laws and administrative regulations that cover pesticide use.

(6) Category 20. Sports turf. Persons requesting certification in this category shall demonstrate practical knowledge of the safe handling and proper application of pesticides; practical knowledge of fungi, weeds, insect infestation, and disease control; proper use and maintenance of personal protective equipment; toxicity of pesticides to human and nontarget organisms; proper cleaning and disposal techniques; effects of pesticides on conveying or handling equipment; environmental effects; factors that may lead to hazardous conditions; and the laws and administrative regulations that cover pesticide use.

Section 6. Certification Maintenance. To maintain certification, each person certified under this administrative regulation shall in any three (3) year period, attend at least twelve (12) continuing education units of training for a single category approved by the department in the use and application of pesticides.

(1) The training shall consist of nine (9) continuing education units of training based on Section 4 of this administrative regulation, and three (3) continuing education units of training based on Section 5 of this administrative regulation.

(2) For each additional category in addition to the single category held by the person, an additional three (3) continuing education units based on Section 5 of this administrative regulation, shall be required.

(3) Nine (9) continuing education units of training based on Section 4 of this administrative regulation, shall be required to maintain certification regardless of how many additional categories a person may hold.

(4) Credit shall be given in full continuing education units only.

(5) All persons holding certification in any category on the effective date of this administrative regulation shall begin a new three (3) year training period beginning January 1 after the effective date of this administrative regulation.

Section 7. Credentials. If a person meets all the requirements to obtain a category-specific license under KRS Chapter 217B and this administrative regulation, the department shall issue a document signifying that he or she is licensed and certified in the category for which he qualifies.

(1) Inactive status. If an applicator or operator, for any reason, changes status and is no longer employed by a dealer but elects to maintain licensure, he or she shall do so by advising the department of the change and the reason for the change.

(a) The department shall then issue to that person a notification that his or her license shall be held in inactive status.

(b) The license holder shall be required to maintain certification and pay the annual renewal

fee.

(c) The licensee shall not be required to register as a dealer or be permitted to perform any type of regulated activity until the license is reactivated and properly assigned to a dealer.

(2) Employee license and certification. An employee of the Kentucky Department of Agriculture shall not obtain or maintain any pesticide license or certification other than a noncommercial license or private applicator certification during the term of his or her employment with the department unless required by the department in the performance of official duties. Any pesticide license other than a noncommercial license obtained by an employee shall be placed in inactive status for the duration of employment with the department unless required by the department in the performance of his official duties. (28 Ky.R. 741; Am. 1372; eff. 12-19-2001; 45 Ky.R. 2454, 2687; eff. 5-3-2019.)