

302 KAR 29:020. General provisions for structural pest control.

RELATES TO: KRS Chapter 217B, 7 U.S.C. 136l, 49 U.S.C. 51

STATUTORY AUTHORITY: KRS 217B.050

NECESSITY, FUNCTION AND CONFORMITY: KRS 217B.050 requires the Department of Agriculture to promulgate administrative regulations to implement the provisions of KRS Chapter 217B. This administrative regulation establishes requirements related to structural pest control, including recordkeeping, the storage and handling of restricted use pesticides, trainee supervision, and certification denial, suspension, modification, or revocation.

Section 1. Pesticide Sales Agents. There shall be two (2) classifications of pesticide sales agent licenses: resident pesticide sales agent and remote pesticide sales agent. (1) An individual located within the Commonwealth of Kentucky who sells or distributes restricted use pesticides or sells and makes recommendations for the use or application of pesticides to the final user shall be licensed as a resident pesticide sales agent.

(2) An individual located outside the Commonwealth of Kentucky who sells or distributes restricted use pesticides for delivery within the Commonwealth of Kentucky or sells and makes recommendations for the use or application of pesticides to the final user accepting delivery within the Commonwealth of Kentucky shall be licensed as a remote pesticide sales agent.

(3) An individual located outside the Commonwealth of Kentucky and employed by a dealer registered in Kentucky may be licensed as a resident pesticide sales agent.

(4) A resident pesticide sales agent license or remote pesticide sales agent license shall not be issued unless the applicant holds a valid Category 12 certification as provided in 302 KAR 28:050.

(5) An employee or agent of a manufacturer who sells pesticides solely to a dealer for redistribution or resale shall be exempt from licensure under this administrative regulation.

Section 2. Recordkeeping Requirements. (1) Pesticide sales agents. A remote pesticide sales agent shall provide the agent's license number to the purchaser at the commencement of the transaction and upon delivery of the pesticides, and shall have and maintain a system to ensure that restricted-use pesticides are delivered only to properly certified individuals. A resident pesticide sales agent or remote pesticide sales agent who is not employed by a dealer shall maintain the following records with respect to each sale of restricted use pesticides:

- (a) Brand, amount, and type of restricted use pesticide sold;
- (b) Buyer's name and address;
- (c) Certification number of the purchaser; and
- (d) Intended use: target pest or resale.

(2) Commercial and noncommercial structural applicators. Each commercial and noncommercial structural applicator who applies pesticides or any termiticides shall maintain the following records:

- (a) Date of application;
 - (b) Name and address of person receiving services and location of performance of services;
 - (c) Beginning and ending time of an application, if made in a school;
 - (d) The target pests to be treated;
 - (e) Brand or product name of pesticides applied;
 - (f) A description of the use of the area where the pesticide application is made;
 - (g) Estimated amount of each pesticide applied; and
 - (h) Name of applicator.
- (3) Retention.

(a) Each person required to maintain records under subsection (1) of this section shall retain the records for a period of at least two (2) years from the date of the sale and shall submit copies monthly to the Department of Agriculture, Division of Pesticide Regulation, Frankfort, Kentucky 40601.

(b) Each person required to maintain records under subsection (2) of this section shall retain the records for a period of at least three (3) years from the date of use or application.

(c) Maintenance of duplicate records shall not be required.

(d) If a use or application of a pesticide is made in the name of a person or business entity, maintenance of only one (1) set of records for each job or use shall be required by that person or business entity, even though one (1) or more persons may have used or applied pesticides.

(4) Availability. Records required under this section shall be made available to the department upon request.

Section 3. Storage and Handling of Pesticides. (1) Applicability. This administrative regulation shall apply to all persons holding a Category 7(a), Category 7(b), Category 8, or Category 12 license who have occasion to store pesticides.

(2) Standards for storage:

(a) Sites for the storage of pesticides shall be of sufficient size to store all stocks in designated areas;

(b) Storage sites shall be cool, dry, and well ventilated or have an exhaust system installed to reduce concentrations of toxic fumes and to regulate temperatures and moisture. If an exhaust system is installed to reduce fumes, heat, or moisture, the ventilation exhaust shall not connect with offices or other areas frequented by people;

(c) Storage sites shall be adequately lighted so that labels and label information can be easily read;

(d) 1. Floor sweep compound of adsorptive clay, sand, sawdust, hydrated lime, or similar materials shall be kept on hand to absorb spills or leaks.

2. The contaminated material shall be disposed of per label directions; and

(e) Restricted-use pesticides shall be located in designated and segregated areas apart from general use pesticides.

1. Segregated areas may remain open if the entire storage area is locked while authorized personnel cannot control access to the area.

2. Entrance to segregated areas shall be plainly labeled on the outside with signs containing the words:

a. "Pesticide storage area"; and

b. "Danger" or "poison."

(3) Standards for transportation of pesticides. All pesticides transported on or in vehicles owned or operated by commercial structural applicators shall be transported consistent with 49 U.S.C. 51.

Section 4. Denial, Suspension, or Revocation of Pesticide Certification. The department shall review for possible denial, suspension, or revocation, the license or certification of any person if the licensee or certified person has been convicted or is subject to a final order imposing a civil or criminal penalty pursuant to Section 14 of the Federal Insecticide, Fungicide, and Rodenticide Act of 1972, as amended, 7 U.S.C. 136l.

Section 5. Pesticide Application by Structural Commercial and Noncommercial Applicators. Any person governed by this administrative regulation shall be certified in Category 7(a), Structural Pest Control, pursuant to 302 KAR 29:060, before making application of pesticides to a

structure, except new employees being trained pursuant to KRS 217B.560. (28 Ky.R. 746; 1376; eff. 12-19-2001; 39 Ky.R. 556; 968; eff. 12-7-2012; 42 Ky.R. 1330; eff. 2-5-2016; 45 Ky.R. 150, 655; eff. 9-28-2018.)