

DEPARTMENT OF AGRICULTURE
Office of Consumer and Environmental Regulation
(New Administrative Regulation)

302 KAR 26:070. Non-certified applicator training and supervision.

RELATES TO: KRS Chapter 217B

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. KRS 217B.050 requires the department to promulgate administrative regulations pertaining to necessary to carry out the purpose and intent of this chapter, the administrative regulations may relate to the time, place, manner, and method of storage and application of pesticides and fertilizers. This administrative regulation establishes supervision, training, and recordkeeping requirements for private applicators using non-certified applicators to apply pesticides.

Section 1. Applicability. This administrative regulation applies to any private applicator who allows or relies on a non-certified applicator to use a general use pesticide under direct supervision. "Non-certified applicator" means any person who has not been certified by training or examination and uses pesticides under the direct supervision of a private applicator.

Section 2. General Requirements.

(1) Requirements for the supervising private applicator.

(a) The supervising private applicator shall have a practical knowledge of applicable requirements contained in this administrative regulation and any requirements on the product label and labeling, regarding the use of general use pesticides by non-certified applicators.

(b) The supervising private applicator shall be licensed in each category as set forth in 302 KAR 26:020 applicable to the supervised pesticide use.

(2) Requirements for the non-certified applicator. The supervising private applicator shall ensure that each non-certified applicator using a general use pesticide under his or her direct supervision meets all of the following requirements before using the pesticide:

(a) The non-certified applicator has been trained in accordance with Section 4 of this administrative regulation of this administrative regulation within the last twelve (12) months;

(b) The non-certified applicator has been instructed in the safe operation of any equipment he or she will use for mixing, loading, transferring, or applying pesticides; and

(c) The noncertified applicator is at least eighteen (18) years old, except that a noncertified applicator may be at least sixteen (16) years old if all of the following requirements are met:

1. The noncertified applicator is using the pesticide under the direct supervision of a private applicator who is an immediate family member;

2. The pesticide is not a fumigant, sodium cyanide, or sodium fluoroacetate; and

3. The noncertified applicator is not applying the pesticide aerially.

Section 3. Use-specific Conditions That Must Be Met in Order for a Non-certified Applicator to Use a Pesticide. The supervising private applicator shall ensure that all of the following requirements are met before allowing a non-certified applicator to use a pesticide under his or her direct supervision:

- (1) The supervising private applicator shall ensure that the non-certified applicator has access to the applicable product labeling at all times during its use.
- (2) Where the labeling of a pesticide product requires that personal protective equipment be worn for mixing, loading, application, or any other use activities, the supervising private applicator shall ensure that the non-certified applicator has clean, labeling-required personal protective equipment in proper operating condition and that the personal protective equipment is worn and used correctly for its intended purpose.
- (3) The supervising private applicator shall provide to each non-certified applicator, before use of a pesticide, instructions specific to the site and pesticide used. These instructions shall include labeling directions, precautions, and requirements applicable to the specific use and site, and how the characteristics of the use site (e.g., surface and ground water, endangered species, local population) and the conditions of application (e.g., equipment, method of application, formulation) might increase or decrease the risk of adverse effects. The supervising private applicator shall provide this information in a manner that the non-certified applicator can understand.
- (4) The supervising private applicator shall ensure that before each day of use, equipment used for mixing, loading, transferring, or applying pesticides is in proper operating condition as intended by the manufacturer, and can be used without risk of reasonably foreseeable adverse effects to the non-certified applicator, other persons, or the environment.
- (5) The supervising private applicator shall ensure that a means to immediately communicate with the supervising private applicator is available to each non-certified applicator using pesticides under his or her direct supervision.
- (6) The supervising private applicator shall be physically present at the site of the use being supervised when required by the product labeling.

Section 4. Training Program.

- (1) General training shall be presented to non-certified applicators either orally from written materials or audio-visually. The information shall be presented in a manner that the non-certified applicators can understand, such as through a translator. The person conducting the training shall be present during the entire training program and must respond to the non-certified applicators' questions.
- (2) The person who conducts the training shall be currently licensed by the department as a private applicator or in a category listed in 302 KAR 26:020.
- (3) The training materials shall include the information that non-certified applicators need in order to protect themselves, other people, and the environment before, during, and after making a pesticide application. The training materials shall include, at a minimum, the following:
 - (a) Potential hazards from toxicity and exposure that pesticides present to non-certified applicators and their families, including acute and chronic effects, delayed effects, and sensitization.
 - (b) Routes through which pesticides can enter the body.
 - (c) Signs and symptoms of common types of pesticide poisoning.
 - (d) Emergency first aid for pesticide injuries or poisonings.
 - (e) Routine and emergency decontamination procedures, including emergency eye flushing techniques. Non-certified applicators must be instructed that if pesticides are spilled or sprayed on the body, to immediately wash or to rinse off in the nearest clean water.
 - (f) How and when to obtain emergency medical care.
 - (g) After working with pesticides, wash hands before eating, drinking, using chewing gum or tobacco, or using the toilet.

- (h) Wash or shower with soap and water, shampoo hair and change into clean clothes as soon as possible after working with pesticides.
- (i) Potential hazards from pesticide residues on clothing.
- (j) Wash work clothes before wearing them again and wash them separately from other clothes.
- (k) Do not take pesticides or pesticide containers used at work to your home.
- (l) Potential hazards to children and pregnant women from pesticide exposure.
- (m) After working with pesticides, remove work boots or shoes before entering your home, and remove work clothes and wash or shower before physical contact with children or family members.
- (n) How to report suspected pesticide use violations to the appropriate state or tribal agency responsible for pesticide enforcement.
- (o) Format and meaning of information contained on pesticide labels and in labeling applicable to the safe use of the pesticide, how to identify when the labeling requires the certified applicator to be physically present during the use of the pesticide, and information on personal protective equipment.
- (p) Need for, and appropriate use and removal of, personal protective equipment.
- (q) How to recognize, prevent, and provide first aid treatment for heat-related illness.
- (r) Safety requirements for handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup.
- (s) Environmental concerns such as drift, runoff, and wildlife hazards.
- (t) General use pesticides may be used only by a licensed operator, a licensed applicator, a private applicator or by a non-certified applicator working under the direct supervision of a licensed operator or licensed applicator.
- (u) The supervising private applicator's responsibility to provide to each non-certified applicator instructions specific to the site and pesticide used. These instructions must include labeling directions, precautions, and requirements applicable to the specific use and site, and how the characteristics of the use site (e.g., surface and ground water, endangered species, local population, and risks) and the conditions of application (e.g., equipment, method of application, formulation, and risks) might increase or decrease the risk of adverse effects. The supervising private applicator must provide these instructions in a manner the non-certified applicator can understand.
- (v) The supervising private applicator's responsibility to ensure that each non-certified applicator has access to the applicable product labeling at all times during its use.
- (w) The supervising private applicator's responsibility to ensure that where the labeling of a pesticide product requires that personal protective equipment be worn for mixing, loading, application, or any other use activities, each non-certified applicator has clean, labeling-required personal protective equipment in proper operating condition and that the personal protective equipment is worn and used correctly for its intended purpose.
- (x) The supervising private applicator's responsibility to ensure that before each day of use equipment used for mixing, loading, transferring, or applying pesticides is in proper operating condition as intended by the manufacturer, and can be used without risk of reasonably foreseeable adverse effects to the non-certified applicator, other persons, or the environment.
- (y) The supervising private applicator's responsibility to ensure that a means to immediately communicate with the supervising private applicator is available to each non-certified applicator using pesticides under his or her direct supervision.

Section 5. Recordkeeping. The supervising private applicator must create or verify the existence of records documenting that a non-certified applicator has the qualifications required in Section 2(2) of this administrative regulation.

(1) If the non-certified applicator was trained in accordance with Section 2(2) of this administrative regulation, the record must contain all of the following information:

- (a) The non-certified applicator's printed name and signature;
- (b) The date the training requirement was met;
- (c) The name of the person who provided the training; and
- (d) The title and a description of the training provided.

(2) The supervising private applicator shall create or verify the existence of the record containing the information in subsection (1) of this section before allowing the non-certified applicator to use any pesticides under his or her direct supervision.

(3) The supervising private applicator shall maintain all required records documenting the information for three (3) years from the date the non-certified applicator used the pesticide.

Section 6. Exceptions. The requirements in Sections 1 through 5 of this administrative regulation do not apply to the following persons:

- (1) Persons conducting laboratory research involving pesticides.
- (2) Doctors of medicine and doctors of veterinary medicine applying pesticides to patients during the course of the ordinary practice of those professions.

DR. RYAN QUARLES, Commissioner

APPROVED BY AGENCY: June 13, 2022

FILED WITH LRC: June 14, 2022 at 10 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 23, 2022 at 11:00 a.m., at the Kentucky Department of Agriculture, 111 Corporate Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort, Kentucky 40601, phone (502) 330-6360, email clint.quarles@ky.gov.