302 KAR 28:020. General provisions.

RELATES TO: KRS Chapter 217B, 7 U.S.C. 136 et seq.
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 for recordkeeping, the storage and handling of pesticides, trainee supervision, and certification denial, suspension, modification, or revocation.

Section 1. Pesticide Sales Agents.
(1) A person who sells or distributes restricted use pesticides or sells and makes recommendations for the use or application of pesticides to the final user within the Commonwealth of Kentucky shall be licensed as a pesticide sales agent.
(2) A pesticide sales agent license shall not be issued unless the applicant holds a valid Category 12 certification as established in 302 KAR 28:050.
(3) 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 pesticide sales agent who is not employed by a dealer shall maintain the following records with respect to each sale of restricted use pesticides, with copies submitted monthly to the Department of Agriculture, Division of Pesticide Regulation, Frankfort, Kentucky 40601:
(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) Dealers. Each dealer or branch office, in the location where the pesticides are sold, 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.
(3) Noncommercial applicators, pesticide operators, and pesticide applicators. Unless regulated by KRS 217B.300 or 217B.320, all noncommercial applicators, pesticide operators, and pesticide applicators who apply pesticides shall maintain the following records:
(a) Name and address of person receiving services;
(b) Brand or product name of pesticide applied;
(c) Date of application;
(d) Purpose of application;
(e) Size of area treated;
(f) Crop, commodity, stored product, or type of area treated;
(g) Name and certification number of applicator;
(h) EPA registration number;
(i) Location of application;
(j) Total amount of each pesticide applied;
(k) If application made by a trainee, the names of the trainee and supervisor; and
(l) Any other record as required by the label.
(4) Retention.

(a) All persons required to maintain records under subsections (1) and (2) of this section shall retain the records for a period of at least two (2) years from the date of sale.

(b) All persons required to maintain records under subsection (3) 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 restricted use pesticide is made in the name of a person or business entity, then 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.

(5) Availability. Records required under this section shall be made available to the department upon request or for dealers and branch offices, as established in KRS 217B.105(7).

Section 3. Storage and Handling of Pesticides.

(1) Applicability. This administrative regulation shall apply to all persons who have occasion to store restricted use pesticides or persons who have occasion to store any pesticides for the purpose of redistribution or direct resale.

(2) Standards for storage of pesticides.

(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 airy or have a ventilation system installed to reduce concentrations of toxic fumes and to regulate temperatures and moisture. If a ventilation 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) Floor sweep compound of adsorptive clay, sand, sawdust, hydrated lime, or similar materials shall be kept on hand to absorb spills or leaks. The contaminated material shall be disposed of per label directions.

(e) Restricted use pesticides shall be located in designated and segregated areas apart from general use pesticides. These segregated areas may remain open if the entire storage area is locked while authorized personnel cannot control access to the area. Entrance to these segregated areas shall be plainly labeled on the outside with signs containing the words "pesticide storage area" and "danger" or "poison".

Section 4. Supervisory Requirements. A trainee who applies pesticides shall have direct on-the-job supervision as defined by KRS 217B.040(28).

Section 5. 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, 7 U.S.C. 136 et seq.

(28 Ky.R. 738; Am. 1370; eff. 12-19-2001; 45 Ky.R. 2450, 2885; eff. 5-3-2019.)