

Missouri Pesticide Use Act



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MISSOURI PESTICIDE USE ACT

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RULES AND REGULATIONS

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281.005. Preemption of all ordinances and rules of political subdivisions.

Sections 281.210 to 281.310 and sections 281.005 to 281.115 shall preempt all ordinances, rules and regulations of political subdivisions relating to the use of subjects covered by said sections.

281.010. Short title. – Sections 281.010 to 281.115 shall be known as the "Missouri Pesticide Use Act".

281.015. Director of agriculture to administer.

Sections 281.005 to 281.115 shall be administered by the director of the department of agriculture of the state of Missouri, hereafter referred to as the "director".

281.020. Definitions.

As used in sections 281.010 to 281.115, the following terms mean:

(1) "Animal", all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish;

(2) "Applicator, operator or technician":

(a) "Certified commercial applicator", any individual, whether or not he is a private applicator with respect to some uses, who is certified by the director as authorized to use, supervise the use of, or determine the need for the use of, any pesticide, whether classified for restricted use or for general use, while he is engaged in the business of using pesticides on the lands of another as a direct service to the public in exchange for a fee or compensation;

(b) "Certified noncommercial applicator", any individual, whether or not he is a private applicator with respect to some uses, who is certified by the director as authorized to use, or to supervise the use of, any pesticide which is classified for restricted use only on lands owned or rented by him or his employer;

(c) "Certified private applicator", any individual who is certified by the director as authorized to use, or to supervise the use of, any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or his employer or on the property of another person, if used without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person;

(d) "Certified public operator", any individual who is certified by the director as authorized to use, or to supervise the use of, any pesticide classified for restricted use in the performance of his duties as an official or employee of any agency of the state of Missouri or any political subdivision thereof, or any other governmental agency;

(e) "Private applicator", any person not holding a certified private applicator's license who shall be required to obtain a permit for the use of any restricted use pesticide for the purposes of producing any agricultural commodity on property owned or rented by him or his employer or on the property of another person, if used without compensation other than trading of personal services between producers of agricultural commodities, such permit shall authorize the one-time emergency purchase of a restricted use pesticide for the purpose of a one-time emergency use of that pesticide;

(f) "Pesticide technician", any individual working under the direct supervision of a commercial applicator certified in categories as specified by regulation, and who having met the competency requirements of this chapter, is authorized by the director to determine the need for the use of any pesticide as well as to the use of any pesticide;

(g) "Pesticide technician trainee", any individual working in the physical presence and under the direct supervision of a certified commercial applicator to gain the required on-the-job training in preparation for obtaining a pesticide technician's license;

(3) "Beneficial insects", those insects which, during their life cycle, are effective pollinators of plants, are parasites or predators of pests, or are otherwise beneficial;

(4) "Defoliant", any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission;

(5) "Desiccant", any substance or mixture of substances intended for artificially accelerating the drying of plant tissue;

(6) "Determining the need for the use of any pesticide", the act of inspecting land for the presence of pests for the purpose of contracting for their control or prevention through the use of pesticides in categories as specified by regulation;

(7) "Device", any instrument or contrivance, other than a firearm, which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life, other than man and other than bacteria, viruses, or other microorganisms on or in living man or other living animals, but not including equipment used for the application of pesticides when sold separately therefrom;

(8) "Environment" includes water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these;

(9) "Equipment" means any type of ground, water or aerial equipment or contrivance using motorized, mechanical or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating or stored on or in such land, but shall not include any pressurized hand-sized household apparatus used to apply any pesticide, or any equipment or contrivance of which the person who is applying the pesticide is the source of power or energy in making such pesticide application;

- (10) "Fungus", any nonchlorophyll-bearing thallophyte, that is, any nonchlorophyll-bearing plant of a lower order than mosses and liverworts, as, for example, rust, smut, mildew, mold, yeast, and bacteria, except those on or in living man or other living animals, and except those on or in processed food, beverages, or pharmaceuticals;
- (11) "Individual", any responsible, natural human being;
- (12) "Insect", any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six-legged, usually winged forms, as, for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as, for example, spiders, mites, ticks, centipedes, and wood lice;
- (13) "Land", all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances and machinery, appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation;
- (14) "Misuse of a pesticide", a use of any registered pesticide in a manner inconsistent with its labeling; provided, that the use of a lesser concentration than provided on the label shall not be considered the misuse of a pesticide when used strictly for agricultural purposes, and when requested in writing by the person on whose behalf a pesticide is used;
- (15) "Nematode", invertebrate animals of the phylum Nematelminthes and class Nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts; may also be called nemas or eelworms;
- (16) "Person", any individual, partnership, association, fiduciary, corporation, or any organized group of persons whether incorporated or not;
- (17) "Pest":
- (a) Any insect, snail, slug, rodent, nematode, fungus, weed; or
 - (b) Any other form of terrestrial or aquatic plant or animal life or virus, bacterium, or other microorganism, except viruses, bacteria, or other microorganisms on or in living man or other living animals, which is normally considered to be a pest;
- (18) "Pesticide":
- (a) Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; or
 - (b) Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant;
- (19) "Pesticide dealer", any individual who is engaged in the business of distributing, selling, offering for sale, or holding for sale at retail, or direct wholesale to the end user, any pesticide classified for restricted use;
- (20) "Plant regulator", any substance or mixture of substances, intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments. The term "plant regulator" does not include any of those nutrient mixtures or soil amendments which are commonly known as vitamin-hormone horticultural products, intended for improvement, maintenance, survival, health and propagation of plants, and which are not for pest destruction and are nontoxic, nonpoisonous in the undiluted package concentration;
- (21) "Private applicator permit", a written certificate, issued by the director or his authorized agent, authorizing the purchase, possession or use of certain restricted use pesticides by a private applicator. Such permit shall authorize the one-time emergency purchase of a restricted use pesticide for the purpose of a one-time emergency use of such pesticide;
- (22) "Restricted use pesticide", any pesticide when applied in accordance with its directions for use, warnings and cautions and for the uses for which it is registered, or for one or more of such uses, or in accordance with a widespread and commonly recognized practice, the director determines may cause, without additional regulatory restrictions, unreasonable adverse effects on the environment, including injury to the applicator;
- (23) "Sale", selling or offering for sale any pesticide;
- (24) "Snails" or "slugs" includes all harmful mollusks;
- (25) "Unreasonable adverse effects on the environment", any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide;
- (26) "Under the direct supervision of a certified applicator", when a pesticide is used by a competent person acting under the instructions and control of a certified applicator who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is used;
- (27) "Use", mixing, applying, storing or disposing of a pesticide;
- (28) "Weed", any plant which grows where not wanted; and
- (29) "Wildlife", all living things that are neither human, domesticated, or pests, including, but not limited to, mammals, protected birds, and aquatic life.

281.023. Director may enter into cooperative agreements with political subdivisions.

The director may enter into cooperative agreements with political subdivisions of this state regarding pesticide programs under sections 281.005 to 281.115 for the purpose of securing uniformity throughout the state. Nothing in sections 281.005 to 281.115 shall be construed to require the director to enter into any such agreement.

281.025. Director may issue regulations--notice, how given--list of restricted use pesticides, adoption of--public hearings, when—rulemaking procedure.

1. The director shall administer and enforce the provisions of sections 281.010 to 281.115 and shall have authority to issue regulations after a public hearing following due notice of not less than thirty days to all interested persons, in conformance with the provisions of chapter 536, RSMo, to carry out the provisions of sections 281.010 to 281.115. Where the director finds that such regulations are needed to carry out the purpose and intent of sections 281.010 to 281.115, such regulations may relate to, but need not be limited to, prescribing the time, place, manner, methods, materials, and amounts and concentrations, in connection with the use of the pesticide, and may restrict or prohibit use of pesticides in designated areas during specified periods of time and shall encompass all reasonable factors which the director deems necessary to prevent damage or injury. In issuing such regulations, the director may give consideration to pertinent research findings and recommendations of other agencies of this state, the federal government, or other reliable sources. The director may by regulation require that notice of a proposed application of a pesticide be given to landowners adjoining the property to be treated or in the immediate vicinity thereof, if he finds that such notice is necessary to carry out the purpose of sections 281.010 to 281.115. The director may, by regulation, provide for the one-time emergency purchase and one-time emergency use of a restricted use pesticide by a private applicator.
2. The pesticides on the list of restricted use pesticides, as determined by the federal agency having jurisdiction over the classification of pesticides, shall be so restricted in the state of Missouri. The director shall publish, at least annually, a list of pesticides which have restricted uses. Such publication shall be made available to the public upon request. If the director determines that a pesticide, when used in accordance with its directions for use, warnings and cautions, and for uses for which it is registered, may cause, without additional regulatory restrictions, unreasonable adverse effects on the environment, including injury to the applicator or other persons, the pesticide shall be used only by or under the direct supervision of a certified applicator, or a private applicator with a permit. Such pesticides may be subject to other restrictions as determined by the director, to include the time and conditions of possession and use.
3. No regulation, or any amendment or repeal thereof, provided for in sections 281.010 to 281.115 shall be adopted, except after public hearing giving an opportunity to the public to be heard, to be held after no less than thirty days' prior notice of the date, time, and place of hearing, to be given by regular mail to any person who has registered with the director for purposes of notice of such public hearings, in accordance with procedures prescribed by the director.
4. At any hearing, opportunity to be heard shall be afforded to any interested person upon written request received not later than twenty-four hours prior to the hearing, and may also be afforded to other persons. In addition, any interested person, whether or not heard, may submit within seven days subsequent to the hearing a written statement of views. The director may solicit the views in writing of persons who may be affected by, or interested in any proposed regulation. Any person heard or represented at the hearing, or making written request for notice, shall be given written notice of the action of the director with respect to the subject thereof.
5. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

281.030. Classification of licenses, how made--rulemaking powers--fees.

1. The director may, by regulation, classify certified applicator, operator or technician licenses to be issued under sections 281.010 to 281.115. Such classifications may include but not be limited to commercial applicators, noncommercial applicators, private applicators, public operators or pesticide technicians. Separate classifications may be specified as to ground, aerial, or manual methods used by any licensee to apply pesticides or to the use of pesticides for the control of pests.
2. The director may, by regulation, establish certification categories to be provided under each license classification. Each certification category shall be subject to separate testing procedures and requirements; provided, that no individual shall be required to pay an additional fee if he is certified in one or all of the certification categories provided under the license for which he has applied. The director may, by regulation, establish certification categories limited to the use of certain pesticides and issue a license therefore. Each certification category shall be subject to separate testing procedures covering only those pesticides for which the applicant seeks to be licensed.
3. The director may by regulation establish fees for identification documents.

281.035. Certified commercial applicator's license required when, annual fee--application for license, how made--examinations--records to be kept--incapacity of sole certified applicator, effect of.

1. No individual shall engage in the business of determining the need for the use of, supervising the use of, or using any pesticide, in categories as specified by regulation, on the lands of another at any time without a certified commercial applicator's license issued by the director. A certified commercial applicator shall not determine the need for the use of, supervise the use of or use any pesticide for any particular purpose unless he has demonstrated his competence to use pesticides for that purpose by being certified by the director in the proper certification category. The director shall require an annual fee of fifty dollars for each certified commercial applicator's license issued. No certified commercial applicator shall knowingly authorize, direct, or instruct any individual to engage in determining the need for the use of or using any pesticide on the land of another at any time unless such individual is a pesticide technician or pesticide technician trainee in such categories as specified by regulation or is working under the direct supervision of a certified commercial applicator so authorizing, directing or instructing, in which case the certified commercial applicator shall be liable for any use of a pesticide by an individual operating under his direct supervision. The certified commercial applicator or the

employer shall assure that the director is informed in writing within ten working days of the employment of any person as a pesticide technician or pesticide technician trainee.

2. Application for a certified commercial applicator's license shall be made in writing to the director on a designated form obtained from the director's office. Each application shall include such information as prescribed by the director by regulation.
3. The director shall not issue a certified commercial applicator's license until the applicant is certified by passing an examination provided by the director to demonstrate to the director his competence and knowledge of the proper use of pesticides under the classifications he had applied for, and his knowledge of the standards prescribed by regulations for the certification of commercial applicators.
4. The director may renew any certified commercial applicator's license under the classification for which such applicant is licensed, subject to reexamination for additional knowledge that may be required to use pesticides safely and properly either manually or with equipment the applicant has been licensed to operate.
5. If the director finds the applicant qualified to use pesticides in the classification for which application has been made, and if the applicant files evidence that the requirement for bonds or insurance has been met as required under section 281.065, the director shall issue a certified commercial applicator's license limited to the classifications for which he is qualified, which shall expire one year from date of issuance unless it has been revoked or suspended prior thereto by the director for cause; provided, such financial responsibility required under section 281.065 does not expire at an earlier date, in which case said license shall expire upon the expiration date of the financial responsibility. The director may limit the license of the applicant to the use of certain restricted use pesticides, or to certain areas, or to certain types of equipment if the applicant is only so qualified. If a license is not issued as applied for, the director shall inform the applicant in writing of the reasons therefore.
6. The director shall require each certified commercial applicator or his employer to maintain records with respect to applications of any pesticide. Such relevant information as the director may deem necessary may be specified by regulation. Such records shall be kept for a period of three years from the date of the application of the pesticide to which such records refer, and the director shall, upon request in writing, be furnished with a copy of such records by any certified commercial applicator or his employer.
7. A person or individual engaged in the business of using pesticides on the lands of another, who is deprived of his sole certified commercial applicator by reason of death, illness, incapacity or any absence which the director determines is unavoidable, is authorized to continue business operations without the services of a certified commercial applicator for a period of time deemed appropriate by the director, but not to exceed sixty days; except that, no restricted use pesticide shall be used, or caused to be used, by such person or individual. Any such person or individual shall immediately notify the director as to the absence of his sole certified commercial applicator.
8. Every certified commercial applicator shall display his license in a prominent place at the site, location or office from which he will operate as a certified commercial applicator; that place, location or office being at the address printed on the license.
9. Every certified commercial applicator who changes the address from which he will operate as a certified commercial applicator shall immediately notify the director. The director shall immediately issue a revised license upon which shall be printed the changed address. The director shall not collect a fee for the issuance of a revised license. The expiration date of the revised license shall be the same as the expiration date for the original license.

281.037. Certified noncommercial applicator's license, when required--application for certified noncommercial applicator's license, examination, fee--scope of license--records to be kept.

1. Any individual who is not certified pursuant to section 281.035, 281.040 or 281.045, or has not been issued a private applicator permit pursuant to subsection 5 of section 281.040 shall not use, or supervise the use of, any restricted use pesticide without a certified noncommercial applicator license. A certified noncommercial applicator shall not use, or supervise the use of, any restricted use pesticide for any purpose unless he has demonstrated his competence to use pesticides for that purpose by being certified by the director in the proper certification category.
2. Application for a certified noncommercial applicator license shall be made in writing to the director on a designated form obtained from the director's office. Each application shall include such information as prescribed by the director by regulation.
3. The director shall not issue a certified noncommercial applicator license until the applicant is certified by passing an examination provided by the director to demonstrate to the director his competence and knowledge of the proper use of pesticides under the classifications for which he has applied, and his knowledge of the standards prescribed by regulations for the certification of noncommercial applicators.
4. If the director finds the applicant qualified to use restricted use pesticides in the classification for which he has applied, the director shall issue a certified noncommercial applicator license limited to the applicator categories in which he is certified. The license shall expire one year from the date of issuance unless it has been revoked or suspended prior thereto by the director for cause. The director may limit the license of the applicant to the use of certain restricted use pesticides, or to certain areas, or to certain types of equipment if the applicant is only so qualified. If a license is not issued as applied for, the director shall inform the applicant in writing of the reasons therefore.
5. The director may renew any certified noncommercial applicator license under the classification for which the license is issued subject to reexamination for additional knowledge which may be required to apply pesticides safely and properly.
6. The director shall collect a fee of twenty-five dollars for each certified noncommercial applicator license issued.
7. Any certified noncommercial applicator may use, or supervise the use of, restricted use pesticides only to or on lands or structures owned, leased or rented by himself or his employer.

8. The director shall require the certified noncommercial applicator or his employer to maintain records with respect to applications of restricted use pesticides. Any relevant information which the director may deem necessary may be required by regulation. Such records shall be kept for a period of three years from the date of the application of the pesticide to which such records refer, and the director shall, upon request in writing, be furnished with a copy of such records by any certified noncommercial applicator or his employer.

9. Every certified noncommercial applicator shall display his license in a prominent place at the site, location or office from which he will operate as a certified noncommercial applicator; that place, location or office being at the address printed on the license.

10. Every certified noncommercial applicator who changes the address from which he will operate as a certified noncommercial applicator shall immediately notify the director. The director shall immediately issue a revised license upon which shall be printed the changed address. The director shall not collect a fee for the issuance of a revised license. The expiration date of the revised license shall be the same as the expiration date for the original license.

281.038. Determination of need for use of pesticide, who may make--pesticide technician's license, application, requirements, fee.

1. After July 1, 1990, no individual working under the direct supervision of a certified commercial applicator shall determine the need for the use of any pesticide nor use any pesticide in categories as specified by regulation, unless and until the individual has met the requirements of this chapter.

2. Application for a pesticide technician's license shall be made in writing to the director on a designated form obtained from the director's office. Each application shall include such information as prescribed by the director by regulation and shall be received by the director within forty-five days of employment of the pesticide technician or pesticide technician trainee.

3. The director shall not issue a pesticide technician's license until the individual has demonstrated his competence by completion of an approved training program to the satisfaction of the director.

4. The director may renew any pesticide technician's license under the classification for which that applicant is licensed subject to completion of an additional approved training program to the satisfaction of the director as prescribed by regulation.

5. The director shall collect a fee of twenty-five dollars for each pesticide technician license issued.

6. If the director finds the applicant qualified to use pesticides in the classification for which application has been made, the director shall issue a pesticide technician's license limited to the classifications for which he is qualified, which shall expire one year from date of issuance unless it has been revoked or suspended prior thereto by the director for cause. The director may limit the license of the applicant to the use of certain pesticides, or to certain areas, or to certain types of equipment if the applicant is only so qualified. If a license is not issued as applied for, the director shall inform the applicant in writing of the reasons for such denial of license.

281.040. Private applicator's license, qualifications for, duration, renewal--emergency use of restricted pesticides, when authorized.

1. No private applicator shall use any restricted use pesticide unless he first complies with the requirements determined pursuant to subsection 2 or 5 of this section, as necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons, for that specific pesticide use.

2. The private applicator shall qualify for a certified private applicator's license by either attending a course or completing an on-line course of instruction provided by the director on the use, handling, storage and application of restricted-use pesticides. The content of the instruction shall be determined and revised as necessary by the director. Upon completion of the course, the director shall issue a certified private applicator's license to the applicant. The director shall not collect a fee for the issuance of such license, but the University of Missouri Extension Service may collect a fee for the actual cost of the materials necessary to complete the course of instruction. However, no fee shall be assessed or collected from an individual completing an on-line course of instruction. Both the director of the department and of the University of Missouri extension service shall review such costs annually.

3. A certified private applicator's license shall expire five years from date of issuance and may then be renewed without charge or additional fee. Any certified private applicator holding a valid license may renew that license for the next five years without additional training unless the director determines that additional knowledge related to the use of agricultural pesticides makes additional training necessary.

4. If the director does not qualify the private applicator under this section he shall inform the applicant in writing of the reasons therefore.

5. The private applicator may apply to the director, or his designated agent, for a private applicator permit for the one-time emergency purchase and use of restricted use pesticides. When the private applicator has demonstrated his competence in the use of the pesticides to be purchased and used on a one-time emergency basis, he shall be issued a permit for the one-time emergency purchase and use of restricted use pesticides. The director or his designated agent shall not collect a fee for the issuance of such permit.

281.045. Certified operator license, when required--application, requirements, examination--maintenance of records—liability of governmental agencies.

1. All agencies of the state of Missouri and the political subdivisions thereof, and any other governmental agency shall be subject to the provisions of sections 281.010 to 281.115 and rules adopted thereunder concerning the use of restricted use pesticides.

2. Public operators for agencies listed in subsection 1 of this section shall not use, or supervise the use of, any restricted use pesticides on any land or structure without a certified public operator license issued by the director. The certified public operator shall not use or supervise the use of any restricted use pesticide for any purpose unless he has demonstrated his competence to use pesticides for that purpose by being certified by the director in the proper certification category. Any employee of any agency listed in subsection 1 of this section who is not licensed as a certified public operator may use restricted use pesticides only under the direct supervision of a certified public operator.

3. Application for a certified public operator license shall be made in writing to the director on a designated form obtained from the director's office. Each application shall include all information prescribed by the director by regulation.

4. The director shall not issue a certified public operator license until the applicant is certified by passing an examination provided by the director to demonstrate to the director his competence and knowledge of the proper use of pesticides under the classifications for which he has applied, ad his knowledge of the standards prescribed by regulations for the certification of public operators.

5. If the director finds the applicant qualified to use pesticides in the classification for which he has applied, the director shall issue a license, without a fee, to the certified public operator who has so qualified. The certified public operator license shall be valid only when the operator is acting as an operator using, or supervising the use of, restricted use pesticides in the course of his employment. A certified public operator license shall expire three years from the date of issuance unless it has been revoked or suspended prior thereto by the director for cause. The director may limit the license of the applicant to the use of certain restricted use pesticides, or to certain areas, or to certain types of equipment if the applicant is only so qualified. If a license is not issued as applied for, the director shall inform the applicant in writing of the reasons therefore.

6. The director may renew any certified public operator license under the classification for which that applicant is licensed, subject to reexamination for additional knowledge which may be required to use pesticides safely and properly either manually or with equipment the applicant has been licensed to operate.

7. The director shall require the certified public operator, or his employer, to maintain records with respect to applications of restricted use pesticides. Any relevant information which the director may deem necessary may be required by regulation. Such records shall be kept for a period of three years from the date of the application of the pesticide to which such records refer, and the director shall, upon request in writing, be furnished with a copy of such records by any certified public operator or his employer.

8. Agencies listed in subsection 1 of this section shall be subject to a legal action by any person damaged by any use of any pesticide, which may be brought in the county where the damage or any part thereof occurred.

9. Every certified public operator shall display his license in a prominent place at the site, location or office from which he will operate as a certified public operator, that place, location or office being at the address printed on the license.

10. Every certified public operator who changes the address from which he will operate as a certified public operator shall immediately notify the director. The director shall immediately issue a revised license upon which shall be printed the changed address. The director shall not collect a fee for the issuance of a revised license. The expiration date of the revised license shall be the same as the expiration date for the original license.

281.050. Pesticide dealer's license required, fee, qualifications--grounds for suspension or revocation--restricted use of pesticides, sale or transfer, to whom, exception—records to be kept--change of address, notice of.

1. No individual shall act in the capacity of a pesticide dealer or shall engage in the business of, advertise as, or assume to act as a pesticide dealer unless he has obtained a license from the director which shall expire one year from date of issuance. An individual shall be required to obtain a license for each location or outlet from which such pesticides are distributed, sold, held for sale, or offered for sale at retail or wholesale direct to the end user. Pesticide dealers may be designated by the director as agents of the state for the purpose of issuing permits for restricted use pesticides to private applicators.

2. Application for a pesticide dealer's license shall be made on a designated form obtained from the director's office. The director shall collect a fee of twenty-five dollars for the issuance of each license. The provisions of this section shall not apply to a pesticide applicator who sells pesticides only as an integral part of his pesticide application service when such pesticides are dispensed only through apparatuses used for such pesticide applications. The provisions of this section shall not apply to any federal, state, or county agency which provides pesticides for its own programs.

3. Each applicant shall satisfy the director as to his knowledge of the laws and regulations governing the use and sale of pesticides and his responsibility in carrying on the business of a pesticide dealer. Each licensed pesticide dealer shall be responsible for insuring that all of his employees and agents who sell or recommend restricted use pesticides have adequate knowledge of the laws and regulations governing the use and sale of such restricted use pesticides.

4. Each pesticide dealer shall be responsible for the acts of each person employed by him in the solicitation and sale of pesticides and all claims and recommendations for use of pesticides. The dealer's license shall be subject to denial, suspension, or revocation after a hearing for any violation of sections 281.010 to 281.115 whether committed by the dealer, or by the dealer's officer, agent or employee.

5. No pesticide dealer shall sell, give away or otherwise make available any restricted use pesticides to anyone but certified applicators or operators, or to private applicators who have met the requirements of subsection 5 of section 281.040, or to other pesticide dealers, except that pesticide dealers may allow the designated representative of such certified applicators, operators or private applicators to take possession of restricted use pesticides when those restricted use pesticides are purchased by and for use by or under the direct supervision of such certified applicator, operator or private applicator.

6. The director shall require the pesticide dealer, or his employer, to maintain books and records with respect to sales of restricted use pesticides. Such relevant information as the director may deem necessary may be specified by regulation. Such records shall be kept for a period of three years from the date of sale of the restricted use pesticide to which such records refer, and the director shall upon request in writing be furnished with a copy of such records by any licensed pesticide dealer or his employer.

7. Every licensed pesticide dealer who changes his address or place of business shall immediately notify the director.

281.055. Late renewal of license, penalty, reexamination, when--director to provide guideline book, fee for book.

1. If the application for renewal of any license, certification or permit provided for in this chapter is not filed prior to expiration date in any year, a penalty of twenty-five percent shall be assessed and added to the original fee and shall be paid by the applicant before the license, certification or permit shall be renewed; provided, that such penalty shall not apply if the applicant furnishes an affidavit certifying that he has not engaged in the business subsequent to the expiration of his license, certification or permit. Any person holding a current valid license, certification or permit may renew the license, certification or permit for the next year without taking another examination unless the director determines that additional knowledge related to classifications for which the applicant has applied makes a new examination necessary. However, if the license is not renewed within sixty days following the date of expiration then the licensee shall be required to satisfy all the requirements of licensure as if such person was never licensed.

2. The director may promulgate reasonable regulations requiring additional training and instruction on the part of any applicant for a license issued under sections 281.010 to 281.115.

3. The director shall have prepared for prospective licensee's use, a book of guidelines of factual necessary information related to the requirements of sections 281.010 to 281.115. A reasonable fee may be collected for said publication.

281.060. Revocation, suspension or modification of license, when--civil penalty, when, amount, enforcement of.

1. The director, after inquiry, and after opportunity for a hearing, may deny, suspend, revoke, or modify the provisions of any license, permit, or certification issued under sections 281.010 to 281.115, if he finds that the applicant or the holder of a license, permit, or certification has violated any provision of sections 281.010 to 281.115, or any regulation issued thereunder, or has been convicted or subject to a final order imposing a civil or criminal penalty pursuant to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, or has been convicted, or is the subject of prosecution, in another state or protectorate of the United States, or has had a pesticide applicator license, certificate or permit denied, suspended, revoked or modified by another state or protectorate of the United States, or the person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed.

2. If the director determines, after inquiry and opportunity for a hearing, that any individual is in violation of any provision of sections 281.010 to 281.115, or any regulations issued thereunder, the director shall have the authority to assess a civil penalty of not more than one thousand dollars for each violation, and in addition, may order that restitution be made to any person.

3. In the event that a person penalized or ordered to pay restitution under this section fails to pay the penalty or restitution, the director may apply to the circuit court of Cole County for, and the court is authorized to enter, an order enforcing the assessed penalty or restitution.

281.061. Inspection with consent of owner of premises--search warrant to issue, when--director may bring action to enjoin, when.

1. For the purpose of enforcing the provisions of sections 281.010 to 281.115, the director may, with permission from the owner or person in charge, enter upon a premises at reasonable times in order to inspect, investigate, observe, sample, and audit; provided that such right of entry, in the case of manufacturing and formulation establishments, be limited to those areas where pesticides are packaged, labeled and released for shipment.

2. If the director is denied access to any land where such access was sought for the purposes set forth in this section, he may apply to any court of competent jurisdiction for a search warrant authorizing access to that land for those purposes. The court may issue a search warrant for the purposes requested upon probable cause being shown.

3. The director may report any violation of the provisions of sections 281.010 to 281.115 to the prosecuting attorney of the county where the violation occurs. The prosecuting attorney may institute appropriate proceedings in a court of competent jurisdiction. If any prosecuting attorney refuses or fails to act on request of the director, the attorney general shall so act.

4. The director may bring an action to enjoin the violation or threatened violation of any provision of sections 281.010 to 281.115, or any rule promulgated thereunder, in the circuit court of the county in which the violation occurs or is about to occur. No court shall allow for recovery of damages for administrative action taken if the director acts in good faith. No bond shall be required of the director.

281.063. Director may subpoena witnesses and documents, when.

The director may subpoena witnesses and compel the production of books, documents and records anywhere in the state in any hearing affecting the authority or privilege granted by a license, certificate or permit issued under the provisions of sections 281.010 to 281.115.

281.065. Bond or insurance required--deductible clause accepted, when--new surety, when--liability, effect of chapter on.

1. The director shall not issue a certified commercial applicator's license until the applicant or the employer of the applicant has furnished evidence of financial responsibility with the director consisting either of a surety bond or a liability insurance policy or certification thereof, protecting persons who may suffer legal damages as a result of the operations of the applicant; except that, such surety bond or liability insurance policy need not apply to damages or injury to crops, plants or land being worked upon by the applicant. Following the receipt of the initial license, the certified commercial applicator shall not be required to furnish evidence of financial responsibility to the department for the purpose of license renewal unless upon request. Annual renewals for surety bonds or liability insurance shall be maintained at the business location from which the certified commercial applicator is licensed. Valid surety bonds or liability insurance certificates shall be available for inspection by the director or his or her designee at a reasonable time during regular business hours or, upon a request in writing, the director shall be furnished a copy of the surety bond or liability insurance certificate within ten working days of receipt of the request.

2. The amount of the surety bond or liability insurance required by this section shall be not less than fifty thousand dollars for each occurrence. Such surety bond or liability insurance shall be maintained at not less than that sum at all times during the licensed period. The director shall be notified by the surety or insurer within twenty days prior to any cancellation or reduction of the surety bond or liability insurance. If the surety bond or liability insurance policy which provides the financial responsibility for the certified commercial applicator is provided by the employer of the certified commercial applicator, the employer of the certified commercial applicator shall immediately notify the director upon the termination of the employment of the certified commercial applicator or when a condition exists under which the certified commercial applicator is no longer provided bond or insurance coverage by the employer. The certified commercial applicator shall then immediately execute a surety bond or an insurance policy to cover the financial responsibility requirements of this section and the certified commercial applicator or the applicator's employer shall maintain the surety bond or liability insurance certificate at the business location from which the certified commercial applicator is licensed. The director may accept a liability insurance policy or surety bond in the proper sum which has a deductible clause in an amount not exceeding one thousand dollars; except that, if the bond- or policyholder has not satisfied the requirement of the deductible amount in any prior legal claim, such deductible clause shall not be accepted by the director unless the bond- or policyholder executes and maintains a surety bond or liability insurance which shall satisfy the amount of the deductible as to all claims that may arise in his or her application of pesticides.

3. If the surety furnished becomes unsatisfactory, the bond-or policyholder shall, upon notice, immediately execute a new bond or insurance and if he fails to do so, the director shall cancel his license, or deny the license of an applicant, and give him notice of cancellation or denial, and it shall be unlawful thereafter for the applicant to engage in the business of using pesticides until the bond or insurance is brought into compliance with the requirements of subsection 1 of this section. If the bond- or policyholder does not execute a new bond or insurance policy within sixty days of expiration of such bond or policy, the licensee shall be required to satisfy all the requirements for licensure as if never before licensed.

4. Nothing in sections 281.010 to 281.115 shall be construed to relieve any person from liability for any damage to the person or lands of another caused by the use of pesticides even though such use conforms to the rules and regulations of the director.

281.070. Damage claims to be filed with director, when due--duties of director--failure to file, effect of--investigation or hearing, powers of director.

1. The director may investigate the use of any pesticide or claims of damages which result from the use of any pesticide.

2. Any person who claims to have been damaged as a result of a pesticide use and who requests an investigation of that damage by the director shall file with the director, on a form provided by the director, a written statement claiming that he has been damaged. Damage statements shall be filed within thirty days after the date the damage is alleged to have occurred, unless a growing crop is alleged to have been damaged. If a growing crop is alleged to have been damaged, the damage statement shall be filed at least two weeks prior to the time that twenty-five percent of that crop has been harvested. The director shall, upon receipt of the statement, notify the person alleged to have caused the damage and the owner or lessee of the land, or other person who may be charged with the responsibility of the damages claimed, and furnish copies of any statements which may be requested. The director shall inspect damages whenever possible and he shall make his inspection reports available to the person claiming damage and to the person who is alleged to have caused the damage. Where damage is alleged to have occurred, the claimant shall permit the director, the licensee and his representatives, such as the bondsman or insurer, to observe, within reasonable hours, the lands or nontarget organism alleged to have been damaged.

3. The filing of or the failure to file need not be alleged in any complaint which might be filed in a court of law, and the failure to file a damage claim shall not be considered any bar to the maintenance of any criminal or civil action. The failure to file such a report shall not be a violation of sections 281.010 to 281.115. However, if the person failing to file such report is the only one injured from such use or application of a pesticide by others, the director may, when in the public interest, refuse to hold a hearing for the denial, suspension or revocation of a license or permit issued under sections 281.010 to 281.115 until such report is filed.

4. The director may in the conduct of any investigation or hearing authorized or held by him:

- (1) Examine, or cause to be examined, under oath, any person;
- (2) Examine, or cause to be examined, books and records of the sale or use of any pesticide directly related to the investigation;
- (3) Hear such testimony and take such evidence as will assist him in the discharge of his duties under this chapter;
- (4) Administer or cause to be administered oath; and
- (5) Issue subpoenas to require the attendance of witnesses and the production of books and records directly related to the investigation.

281.075. Reciprocal licensing authorized, when--agent to be designated by nonresidents.

1. The director may issue a license or certification on a reciprocal basis with other states without examination to a nonresident who is licensed or certified in another state substantially in accordance with the provisions of sections 281.010 to 281.115; except that, financial responsibility must be filed pursuant to section 281.065. Fees collected shall be the same as for resident licenses or certification.

2. Any nonresident applying for any license under section 281.035, 281.037, 281.038 or 281.050 to operate in the state of Missouri shall designate in writing the secretary of state as the agent of such nonresident upon whom process may be served as provided by law; except that, any such nonresident who has designated a resident agent upon whom process may be served as provided by law shall not be required to designate the secretary of state as such agent. The secretary of state shall be allowed such fees therefore as provided by law for designating resident agents. The director shall be furnished with a copy of such designation of the secretary of state or of a resident agent, such copy to be certified by the secretary of state.

281.080. Exemptions.

The provisions of sections 281.010 to 281.115 relating to licenses and requirements for their issuance shall not apply to:

- (1) Veterinarians using pesticides on animals during the normal course of veterinary practice, as long as he is not regularly engaged in the business of using pesticides for hire amounting to a principal or regular occupation or does not publicly hold himself out as a pesticide applicator;
- (2) Doctors of medicine or doctors of osteopathy using or prescribing pesticides in the practice of medicine;
- (3) Government and private research personnel using pesticides under laboratory type conditions.

281.085. Pesticide containers, regulation of, handling of.

No person shall discard, transport, or store any pesticide or pesticide containers in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife, beneficial insects or to pollute any waterway. The director may promulgate rules and regulations governing the discarding and storing of such pesticide or pesticide containers. In determining these rules and regulations the director shall take into consideration any regulations issued by the Federal Environmental Protection Agency.

281.090. Stop orders, when--effect of.

When the director or his authorized agent has probable cause to believe a pesticide is being distributed or used in violation of any of the provisions of sections 281.010 to 281.115, or of any of the prescribed regulations under sections 281.010 to 281.115, he may issue and serve a written "stop sale, use or removal order" upon the owner or custodian of that pesticide. The pesticide shall not be sold, distributed, used or removed until the provisions of sections 281.010 to 281.115 have been complied with and the pesticide has been released in writing by the director or the violation has been otherwise disposed of as provided in sections 281.010 to 281.115 by a court of competent jurisdiction.

281.095. Appeals, how taken.

Any person aggrieved by any act of the director may appeal according to the provisions of chapter 536, RSMo.

281.100. Instructional courses, how conducted.

The director may, in cooperation with a land grant college or university or other public educational institutions, or a professional association or person representing the licensee's category of certification, publish information and conduct short courses of instruction in the areas of knowledge required for licensing or certification under the provisions of sections 281.010 to 281.115.

281.101. Unlawful acts.

1. It shall be unlawful for any individual to violate any provision of sections 281.010 to 281.115, or any regulation issued thereunder.
2. The following are determined to be unlawful acts:
 - (1) It shall be unlawful to recommend for use, to use, or to supervise the use of any pesticide in a manner inconsistent with its labeling required by labeling requirements of FIFRA, Missouri pesticide use act or Missouri pesticide registration act;
 - (2) It shall be unlawful for any individual to misuse any pesticide;
 - (3) It shall be unlawful to make any false or misleading statements during the course of an investigation into the sale, distribution, use or misuse of any pesticide;
 - (4) It shall be unlawful to make any false or misleading statement on any application, form or document submitted to the director concerning licensing pursuant to sections 281.010 to 281.115 or any regulations issued thereunder;
 - (5) It shall be unlawful to make any false, misleading or fraudulent statement or claim, through any media, which misrepresents the effects of any pesticide, the methods to be utilized in the application of any pesticide, or the qualifications of the person determining the need for the use of any pesticide or using any pesticide;
 - (6) It shall be unlawful to make any false or misleading statement specifying, or inferring that a person or his methods are recommended by any branch of government or that any pesticide work done will be inspected by any branch of government;
 - (7) It shall be unlawful to aid or abet any licensed or unlicensed individual in evading the provisions of sections 281.010 to 281.115 or any regulation issued thereunder, or to conspire with any licensed or unlicensed individual in evading the provisions of sections 281.010 to 281.115 or any regulation issued thereunder.

Other acts which are not specified, but which violate sections 281.010 to 281.115 or regulations issued thereunder, shall nevertheless be unlawful.

281.105. Penalty for violations.

Any individual, whether a holder or nonholder of a valid license issued pursuant to this chapter, convicted of violating any of the provisions of sections 281.010 to 281.115, or any regulation issued thereunder, shall be guilty of a misdemeanor. Such misdemeanor may be punishable by

imposition of a fine of not less than one hundred dollars and not more than five thousand dollars or by imprisonment in the county jail for not less than thirty days and not more than one year, or by both imposition of a fine and imprisonment.

281.110. Authorization to accept federal aid.

The director may cooperate, receive grants-in-aid, and enter into agreements with any agency of the federal government, of this state or its subdivisions, or with any agency of another state, in order:

- (1) To secure uniformity of regulations;
- (2) To cooperate in the enforcement of the federal pesticide control laws through the use of state or federal personnel and facilities and to implement cooperative enforcement programs;
- (3) To develop and administer state training programs for certification of applicators consistent with federal standards;
- (4) To contract with other agencies including federal agencies for the purpose of training certified applicators;
- (5) To contract for monitoring pesticides for the national plan;
- (6) To prepare and submit state plans to meet federal certification standards;
- (7) To regulate certified applicators; or
- (8) To contract with other agencies for the purpose of training pesticide dealers.

281.115. Director's rules, ratification of.

All rules and regulations promulgated by the director of agriculture under the terms of sections 281.010 to 281.115 shall stand ratified unless rescinded by the general assembly within first sixty days of each annual session.

281.120. Herbicides, use on crops not labeled for — definitions — civil penalties, when — complaint investigation — rulemaking authority.

1. As used in this section, the following terms shall mean:

- (1) "Department", the department of agriculture;
- (2) "Field", agricultural land, including any vegetation thereon, which is operated as part of a farm and which is separated from the rest of the farm by permanent boundaries including, but not limited to, fences, permanent waterways, woodlands, croplines not subject to change due to farming practices, and other similar features;
- (3) "Herbicide", any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any weed;
- (4) "Labeled", the same as "label and labeling" is defined under section 281.220.

2. If the department determines, after inquiry and opportunity for a hearing, that any person has knowingly used, as the term "use" is defined in section 281.020, a herbicide for a crop for which the herbicide was not labeled for use, which resulted in the herbicide drifting or coming into contact with another person's field, onto another person's personal property, onto another person's real property, or onto another person, which resulted in damage, the department shall have the authority to assess a civil penalty of not more than ten thousand dollars for each violation. If a person has violated the provisions of this subsection in two consecutive years or in two of the last three years, he or she shall be considered a chronic violator, and the department shall have the authority to assess a civil penalty of not more than twenty-five thousand dollars for each violation.

3. During an active complaint investigation, the department may subpoena witnesses and compel the production of records, including but not limited to books, documents, and certification records of any person relating to the person's application of any herbicide to any field. If a person refuses to submit such information, the department may assess a civil penalty of up to five thousand dollars.

4. Any person who is penalized under the provisions of this section shall be liable for any reasonable costs associated with the department's investigation and shall remit such costs to the department, not to exceed the department's actual investigative expenses.

5. Any penalty collected under this section shall be remitted to the school district in which the violation occurred. If a person penalized under this section fails to pay the penalty or comply with a lawful subpoena issued under subsection 3 of this section, the department may apply to the circuit court of Cole County for, and the court is authorized to enter, an order enforcing the assessed penalty.

6. The department, after inquiry and opportunity for a hearing, may deny, suspend, revoke, or modify the provisions of any license, permit, or certification issued under sections 281.010 to 281.115 if it finds that the applicant or holder of such license, permit, or certification has violated any provision of this section or any regulation issued hereunder.

7. The department may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2017, shall be invalid and void.

RULES PROMULGATED BY THE AUTHORITY OF THE MISSOURI PESTICIDE USE ACT

Chapter 281 RSMo 2 CSR 70-25.010 Definitions

- (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 and the label and labeling must be in the possession of 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.

2 CSR 70-25.020 To Whom Licenses Are Issued

(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).

2 CSR 70-25.030 Classification of Licenses

(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.

2 CSR 70-25.050 Review of Certification or License

(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.

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

(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).

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

- (1) Commercial applicators must use one (1) of the following methods for providing evidence of financial responsibility:
- (A) Insurance or bond forms provided by the director. These forms must be completed and signed by an insurance company representative or a bonding agent. Acceptable bonds must have power of attorney, or authority to bind surety, attached;
 - (B) Certificates of insurance provided by insurance companies. These forms must include the following information for the commercial pesticide business:
 - 1. Business name and business address;
 - 2. Policy number;
 - 3. Effective and expiration dates;
 - 4. Limits of liability; and
 - 5. Insurance company representative's signature; or
 - (C) Complete insurance policies which meet the requirements of section 281.065, RSMo.
- (2) Before the completion of an inspection, the commercial pesticide business establishment or certified commercial applicator must make available for inspection by the director a valid form of financial responsibility that has an effective date of coverage prior to or on the date of inspection and a future expiration date.
- (3) If a valid form of financial responsibility is not made available to the director for inspection before the completion of the inspection, the commercial pesticide business establishment will receive a Notice of Warning for being in violation of section 281.065, RSMo. All commercial use of pesticides, supervision of the use of pesticides, and determining the need for the use of pesticides by licensed certified applicators, licensed technicians, and noncertified applicators working from the commercial pesticide business establishment must immediately cease upon receipt of the Notice of Warning.
- (4) If the Jefferson City office of the Bureau of Pesticide Control does not receive an acceptable form of financial responsibility within sixty (60) days of the issuance of a Notice of Warning, the director will issue a Notice of Cancellation in accordance with section 281.065(3), RSMo, cancelling all certified commercial applicator licenses at the commercial pesticide business establishment.
- (5) Employers of certified commercial applicators must notify the director within ten (10) working days of the discontinued employment of a certified commercial applicator or when the company's liability insurance or surety bond no longer provides coverage for a certified commercial

applicator. Notification shall include: the employer's business name and address; the certified commercial applicator's name and license number; and the date of discontinued employment or discontinued liability coverage.

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

(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.

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

(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.

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

(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.

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

(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.

(5) Description of Commercial Applicator, Noncommercial Applicator and Public Operator Certification Categories.

(A) Category 1—Agricultural Pest Control.

1. Subcategory a—Agricultural Plant Pest Control. This category is provided for public operators, noncommercial applicators and commercial applicators who use or supervise the use of pesticides to agricultural commodities, including, but not limited to, tobacco, peanuts, cotton, corn, cereal grain, feed grains, soybeans, forages and forage crops, vegetables, small fruits, tree fruits and nuts, grassland and noncrop agricultural lands, greenhouse products, Christmas tree plantings, sod nurseries and plant nurseries and who apply pesticides for the conversion of forested areas to agricultural lands.

2. Subcategory b—Agricultural Animal Pest Control. This category is provided for public operators, noncommercial applicators and commercial applicators who use or supervise the use of pesticides to animals, including, but not limited to, cattle, swine, sheep, furbearing animals, horses, goats, poultry and other livestock and wild animals in captivity and to places on or in which animals are confined with the exception of aquatic harborages. This includes those agricultural animals used as work or draft animals and those used as pleasure animals.

(B) Category 2—Forest Pest Control. This category is provided for public operators, noncommercial applicators and commercial applicators who use or supervise the use of pesticides in forests, forest nurseries and forest seed producing areas for the purpose of the propagation and maintenance of those forests, forest nurseries and forest seed producing areas.

(C) Category 3—Ornamental and Turf Pest Control. This category is provided for public operators, noncommercial applicators and commercial applicators who use, supervise the use of or determine the need for the use of pesticides to control pests in the care and maintenance of ornamental trees, shrubs, flowers and turf.

(D) Category 4—Seed Treatment. This category is provided for public operators, noncommercial applicators and commercial applicators who use or supervise the use of pesticides to seeds.

(E) Category 5—Aquatic Pest Control. This category is provided for public operators, noncommercial applicators and commercial applicators who use or supervise the use of pesticides purposefully to standing or running water for the control of aquatic pests with the exception of health-related pests.

(F) Category 6—Right-of-Way Pest Control. This category is provided for public operators, noncommercial applicators and commercial applicators who use or supervise the use of pesticides in the maintenance of public roads, electric power lines, pipelines, railroad rights-of-way or similar areas.

(G) Category 7—Structural Pest Control. This category is provided for public operators, noncommercial applicators and commercial applicators who use or supervise the use of pesticides in, on or around any structure.

1. Subcategory a—General Structural Pest Control. This subcategory is provided for public operators, noncommercial applicators and commercial applicators who use, supervise the use of or determine the need for the use of pesticides for the control of general structural pests with the exception of wood-destroying organisms.

2. Subcategory b—Termite Pest Control. This subcategory is provided for public operators, noncommercial applicators and commercial applicators who use, supervise the use of or determine the need for the use of pesticides for the control of wood-destroying organisms, including, but not limited to, termites, carpenter ants and powder post beetles.

3. Subcategory c—Fumigation Pest Control. This subcategory is provided for public operators, noncommercial applicators and commercial applicators who use or supervise the use of fumigants for pest control. Certification in this category is not required for those applicators certified in the category of General Structural Pest Control who use calcium cyanide dust for limited rodent fumigation.

(H) Category 8—Public Health Pest Control. This category is provided for public operators, noncommercial applicators and commercial applicators who use or supervise the use of pesticides in public health programs for the management and control of pests having medical and public health importance.

(I) Category 9—Regulatory Pest Control. This category is provided for state or federal employees who use or supervise the use of pesticides in the control of regulated pests.

(J) Category 10—Demonstration and Research Pest Control. This category is provided for individuals who demonstrate to the public the proper use and techniques of application of restricted use pesticides or supervise the demonstration. It is also provided for individuals conducting field research with pesticides, and in doing so, use or supervise the use of restricted-use pesticides.

(K) Category 11—Wood Products Pest Control. This category is provided for public operators, noncommercial applicators and commercial applicators who use or supervise the use of pesticides to control or prevent wood-degrading organisms, including, but not limited to, insects and the fungi or bacteria causing surface molding, surface staining, sap staining, brown rot, white rot, dry rot and soft rot.

2 CSR 70-25.110 Standards of Competence for the Certification of Commercial Applicators, Noncommercial Applicators and Public Operators

(1) Commercial applicators, noncommercial applicators and public operators shall pass an examination to demonstrate competence in the use of pesticides based on the general standards of competence and shall pass an examination based on the specific standards of competence for at least one (1) of the certification categories listed in 2 CSR 70-25.100.

(2) General Standards of Competence for All Certification Categories.

(A) The applicant shall demonstrate a practical knowledge of the format and terminology of pesticide labels and labeling, and an understanding of instructions, warnings, terms, symbols and other information commonly appearing on pesticide labels. The applicant shall demonstrate a practical knowledge of the classification of pesticides as to general or restricted use and must understand the necessity for the use of a pesticide in a manner consistent with its labeling.

(B) The applicant shall demonstrate a practical knowledge of the factors of pesticide safety including pesticide toxicity, hazard to man, and common exposure routes. The applicator must demonstrate a practical knowledge of the types and causes of pesticide accidents, a practical knowledge of the precautions necessary to guard against injury to applicators and other individuals in or near treated areas; a practical knowledge of the need for, and the use of, protective clothing and equipment; a practical knowledge of symptoms of pesticide poisoning; and a practical knowledge of first aid and other procedures to be followed in case of pesticide accidents. The applicator shall demonstrate a practical knowledge of 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 pesticides and pesticide containers.

(C) The applicant shall demonstrate a practical knowledge of the environment, including potential environmental consequences of the use, and the misuse, of pesticides as may be influenced by such factors as weather and other climatic conditions; as may be influenced by types of terrain, soil and other substrate; as may be influenced by the presence of fish, wildlife and other nontarget organisms; and as may be influenced by drainage patterns.

(D) The applicant shall demonstrate a practical knowledge of pests and pest recognition, including the common features of pest organisms and the characteristics of pest damage as a means of pest recognition; and a practical knowledge of pest development, including the biology and habits of pests as may be relevant to problem identification in pest control.

(E) The applicant shall demonstrate a practical knowledge of pesticides, including types of pesticides, types of pesticide formulations, compatibility, synergism, persistence and the toxicity of various pesticides and pesticide formulations to animals and plants; a practical knowledge of the hazards and residues associated with pesticide use; a practical knowledge of factors which influence pesticide effectiveness or lead to such problems as resistance to pesticides; and a practical knowledge of dilution procedures.

(F) The applicant shall demonstrate a practical knowledge of pesticide equipment, including the types of equipment and the advantages and limitations of each type, and a practical knowledge of the use, maintenance and calibration of pesticide equipment.

(G) The applicant shall demonstrate a practical knowledge of pesticide application techniques, including methods and procedures used to apply various formulations of pesticide solutions and gases, together with a knowledge of which application technique to use in a given situation; a practical knowledge of the relationship of discharge and placement of a pesticide to the proper use of the pesticide as well as to the unnecessary use of the pesticides; and a practical knowledge of the prevention of pesticide drift and of pesticide loss into the environment.

(H) The applicant shall demonstrate a practical knowledge of the applicable state and federal laws and regulations.

(3) Specific Standards of Competence for Certification Categories.

(A) Category 1—Agricultural Pest Control.

1. Subcategory a—Agricultural Plant Pest Control. The applicant shall demonstrate a practical knowledge of the crops to which pesticides will be applied and a practical knowledge of the specific pests of those crops. A practical knowledge is required concerning potential soil and water problems, preharvested intervals, reentry intervals, phytotoxicity; and concerning the potential for environmental contamination, the potential for injury to nontarget plants and animals, and the potential for causing community problems resulting from the use of pesticides in agricultural areas.

2. Subcategory b—Agricultural Animal Pest Control. The applicant who applies pesticides directly to animals, or to the harborages of animals, must demonstrate a practical knowledge of these animals and their associated pests. A practical knowledge also is required concerning specific pesticide toxicity to animals and concerning the potential for illegal pesticide residues when these animals are to be used for human or animal food. The applicant also must demonstrate a practical knowledge of pesticide formulations and application techniques as they apply to animals of various ages and animals under various types of stress, and a practical knowledge concerning the extent of treatment of those animals.

(B) Category 2—Forest Pest Control. The applicant shall demonstrate a practical knowledge of the types of forest, forest nurseries and seed production and a practical knowledge of the pests involved. The applicant shall possess a practical knowledge of the cyclic occurrence of certain pests, and a practical knowledge of specific population dynamics as a basis for programming pesticide applications. Applicants shall demonstrate a practical knowledge regarding nontarget plants and animals and their vulnerability to pesticides. The applicator must demonstrate a practical knowledge of control methods which will minimize the possibility of secondary problems such as the unintended effects on wildlife and which will minimize problems of pollution. The applicator must demonstrate a practical knowledge of specialized equipment, especially as it relates to meteorological factors and adjacent land use.

(C) Category 3—Ornamental and Turf Pest Control. The applicant shall demonstrate a practical knowledge of pesticide problems associated with the production and maintenance of ornamental trees, shrubs, plantings and the production and maintenance of turf. The applicant shall demonstrate a practical knowledge concerning potential phytotoxicity (chemical burn of plant tissue) due to a wide variety of plant material involved. The applicant shall demonstrate a practical knowledge concerning pesticide drift and a practical knowledge concerning the persistence of pesticides beyond the intended period of pest control. Because of the frequent proximity of human habitations to application activities the applicant shall demonstrate a practical knowledge of application methods which will minimize or prevent hazards to humans, pets and other domestic animals.

(D) Category 4—Seed Treatment. The applicant shall demonstrate a practical knowledge of the types of seeds which require chemical protection against pests and a practical knowledge of factors such as seed coloration, pesticide carriers and surface active agents which influence pesticide binding and may affect germination. The applicant shall demonstrate a practical knowledge of the hazards associated with the handling, sorting and mixing of treated seed. The applicant shall demonstrate practical knowledge of the problems regarding the misuse of seed treated with pesticides, such as the introduction of treated seed into food and feed channels. The applicant shall demonstrate a practical knowledge concerning the proper disposal of unused treated seed.

(E) Category 5—Aquatic Pest Control. The applicant shall demonstrate a practical knowledge of the secondary effects which can be caused by improper application rates, incorrect formulations and the faulty application of those pesticides used in this category. The applicant shall demonstrate a practical knowledge of various water use situations and the potential for downstream adverse effects. The applicant shall demonstrate a practical knowledge of the potential adverse effects of pesticides on nontarget plants, fish, birds, beneficial insects and other organisms which may be present in aquatic environments. The applicant shall demonstrate a practical knowledge of the principles of limited area applications.

(F) Category 6—Right-of-Way Pest Control. The applicant shall demonstrate a practical knowledge concerning the wide variety of environments involved in right-of-way pest control. The applicant shall demonstrate a practical knowledge of problems of pesticide run off, pesticide drift and problems of excess foliage destruction. The applicant shall demonstrate a practical knowledge concerning the recognition of target pest organisms involved in right-of-way pest control. The applicant shall demonstrate a practical knowledge of herbicides and the need for containing these pesticides within the right-of-way area. The applicant shall demonstrate a practical knowledge concerning the impact of pesticides on adjacent areas and communities.

(G) Category 7—Structural Pest Control.

1. Subcategory a—General Structural Pest Control. The applicant shall demonstrate a practical knowledge of a wide variety of structural pests, including the life cycle and habits of these pests. The applicant shall demonstrate a practical knowledge concerning the types of formulations appropriate for the control of these pests. The applicant shall demonstrate a practical knowledge concerning the application of pesticides in a manner to avoid damage to the structure, contamination of food, contamination of the structure and surrounding area and exposure of people and pets. The applicant shall demonstrate a practical knowledge of the specific factors which may lead to a hazardous condition, including continuous exposure in the various situations encountered in this category. The applicant must also demonstrate practical knowledge of environmental conditions relating to outdoor applications of pesticides used in this category.

2. Subcategory b—Termite Pest Control. The applicant shall demonstrate a practical knowledge of termites, including their life cycle and habits and a practical knowledge of termite damage. The applicant shall demonstrate a practical knowledge of various associated wood-destroying organisms, including, but not limited to, powder post beetles, carpenter ants and other wood destroying insects. The applicant shall demonstrate a practical knowledge concerning undue exposure to humans, domestic pets and other nontarget organisms; as well as a practical knowledge concerning potential contamination of the environment and associated problems.

3. Subcategory c—Fumigation Pest Control. The applicant shall demonstrate a practical knowledge concerning a wide variety of pests associated with those structures subject to fumigation. The applicant shall demonstrate a practical knowledge regarding the use of the various fumigants, including application techniques, and the use of specialized safety equipment and specialized application techniques. The applicant shall demonstrate a practical knowledge concerning the use of fumigants in a manner to avoid contamination of food and surrounding areas and to prevent exposure of humans and pets. The applicant shall demonstrate a practical knowledge of the specific factors which may lead to a hazardous condition, including continuous exposure in the various situations encountered in this category. The applicant also must demonstrate practical knowledge of environmental conditions relating to outdoor applications of pesticides used in this category.

(H) Category 8—Public Health Pest Control. The applicant shall demonstrate a practical knowledge of vector-disease transmission as it relates to, and influences, pesticide application problems. The applicator shall demonstrate a practical knowledge concerning a wide variety of pests involved in public health pest control, including the life histories and habits of these pests. The applicant shall demonstrate a practical knowledge concerning a great variety of environments which range from streams to those conditions found in buildings. The applicant shall demonstrate a practical knowledge of the importance of, and employment of, such nonchemical control methods as sanitation, waste disposal and drainage.

(I) Category 9—Regulatory Pest Control. The applicant shall demonstrate a practical knowledge of regulated pests, applicable laws pertaining to pest quarantine and other forms of pest regulation and the potential impact on the environment of pesticides used in suppression and eradication programs. The applicant shall demonstrate a practical knowledge concerning factors influencing introduction, spread and population dynamics of relevant pests. The applicant shall demonstrate a practical knowledge which shall extend beyond that required by the immediate duties of the applicator since the services of the applicator frequently are required in other areas of the country where emergency measures are invoked to control regulated pests and where individual judgements must be made in new situations.

(J) Category 10—Demonstration and Research Pest Control. The applicant shall meet comprehensive standards reflecting a broad spectrum of pesticide uses. The applicant shall demonstrate a practical knowledge of problems, pest and population levels occurring in each demonstration or research situation required. The applicant shall demonstrate an understanding of pesticide-organism interactions and the importance of integrating pesticide use with other control methods. The applicant shall not only demonstrate competence in the category of Demonstration and Research Pest Control but also shall demonstrate the category competencies which apply to the area of expertise in which the applicant shall conduct demonstrations and research.

(K) Category 11—Wood Products Pest Control. The applicant shall demonstrate a practical knowledge of wood degradation and a general knowledge of pesticides used to prevent or control the degradation. The applicant shall demonstrate an understanding of the pesticides used to preserve wood including a knowledge of solution formulations, application techniques, hazards to man, domestic animals and the environment and the safe and proper means of container storage and disposal.

2 CSR 70-25.120 Contents of Records Maintained by Certified Commercial Applicators, Certified Noncommercial Applicators and Certified Public Operators

(1) Certified commercial applicators or their employers shall keep and maintain records for the use of any pesticide(s). These records shall be kept for three (3) years in a neat and legible condition.

(2) Certified noncommercial applicators and certified public operators or their employers shall keep and maintain records for the use of restricted use pesticides. These records shall be kept for a period of three (3) years in a neat and legible condition.

(3) These records shall be available for inspection by the director at a reasonable time during regular business hours or, upon request in writing, the director shall be furnished a copy of these records within ten (10) working days of receipt of request.

(4) These records shall contain the following for each application site:

(A) Name and license number of the certified applicator or operator;

(B) Name of the noncertified applicator or the name and license number of the pesticide technician using the pesticide(s), if applicable;

(C) Application date;

(D) Name and address of the person requesting the pesticide use;

(E) Address or brief description of the application site;

(F) Pest(s) controlled or prevented by the pesticide use;

(G) Complete trade (manufacturer's brand) name(s) from the label(s) of the pesticide(s) used;

(H) The United States EPA registration number(s) from the label(s) of the pesticide(s) used. In lieu of recording the United States EPA registration number(s) for each pesticide use, documentation shall be maintained which provides incontrovertible correlation between each pesticide use and the United States EPA registration number(s) of the pesticide(s) used;

(I) Reasonable estimate of the amount of pesticide(s) used and, if applicable, the actual rate of application expressed in reasonable and understandable terms; and

(J) A reasonable estimate of the time, air temperature, average wind speed and direction at the site of outdoor pesticide applications, excluding applications of pesticides in general structural pest control and termite pest control within ten feet (10') of a building.

2 CSR 70-25.130 Requirements for a Certified Private Applicator License

(1) A certified private applicator license will be issued to any private applicator who meets the following requirements:

(A) Applicants shall submit to the director a verification of training signed by the applicant and an authorized pesticide trainer; and

(B) The applicant shall have attended a private applicator training program provided by the director and presented by the University of Missouri Cooperative Extension Service or the applicant shall have demonstrated competence in the safe and proper use of pesticides by completing any other program of pesticide training approved by the director.

2 CSR 70-25.150 Course of Instruction and Standards of Competence for Certified Private Applicators

(1) Certified private applicators shall attend a course of instruction approved by the director as required by section 281.040, RSMo (1986). The course of instruction shall encompass the standards of competence as provided in section (2) of this rule. Private applicators also shall be instructed as to the general pest problems and general pest control practices associated with agricultural operations, proper storage, application, handling and disposal of pesticides and pesticide containers and the legal responsibilities of private applicators.

(2) Standards of Competence.

- (A) The recognition of common agricultural pests and the recognition of the damage caused by these pests;
 - (B) The reading and understanding of the label and labeling information, including the common name of the pesticide; the pest to be controlled; timing and methods of the application of the pesticide; safety precautions; pre-harvest intervals; reentry intervals and disposal procedures for pesticides and pesticide containers;
 - (C) The application of pesticides in accordance with label and labeling instructions and warnings, including the ability to prepare the proper concentration of the pesticides to be used under particular circumstances, taking into account factors such as the area to be covered, speed in which application equipment will be driven and the quantity to disperse in a given period of operation;
 - (D) The recognition of local environmental situations that must be considered during application to avoid contamination; and
 - (E) The recognition of poisoning symptoms and procedures to follow in case of a pesticide accident.
- (3) Attendance of an approved course of instruction by the private applicator shall be verified by the signature of the instructor and the signature of the private applicator on a verification document provided by the director. The document shall be forwarded to the Missouri Department of Agriculture as proof of attendance. Upon receipt of the document of verification of attendance, the director shall forward to the private applicator a certified private applicator license.

2 CSR 70-25.156 Responsibilities of Certified Commercial Applicators or Their Employers; Application Requirements, Qualifications and Stipulations for Pesticide Technician Trainees and Pesticide Technicians

(1) Responsibilities of Certified Commercial Applicators or Their Employers for Pesticide Technicians and Pesticide Technician Trainees.

(A) Prior to employment of pesticide technician trainees, certified commercial applicators or their employers must submit in writing, by regular mail, pesticide technician training programs to the director for approval. Training programs must be submitted for each category or subcategory in which pesticide technicians will use or determine the need for the use of pesticides and in accordance with guidelines provided by the director. Approved pesticide technician training programs shall be valid for one (1) year from the date of approval.

(B) In order to receive reapproval of pesticide technician training programs, certified commercial applicators or their employers shall submit written requests to the director by regular mail. Reapproval requests shall be in accordance with guidelines provided by the director.

(C) Certified commercial applicators or their employers shall notify the director in writing, by regular mail, within ten (10) working days of the employment and of the discontinued employment of an individual as a pesticide technician or pesticide technician trainee. Notification shall include the applicant's name, Social Security number, license number if applicable, business name and address and the dates of employment and discontinued employment.

(D) Certified commercial applicators or their employers must submit to the director a Notice of Training form provided by the director. This form shall contain the name and signature of the pesticide technician trainee, dates of training, title and approval code of the training program used, the name(s), signature(s) and license number(s) of the person(s) providing training.

(E) Certified commercial applicators or their employers shall keep and maintain records of required training for a period of three (3) years from the date training was completed. These records shall include the name and business address of the pesticide technician trainee, the name(s) and license number(s) of the person(s) providing training, the title(s) of and time spent on each standard of competence, the dates of training and signatures of the trainer(s) and the pesticide technician trainee.

(F) Certified commercial applicators or their employers shall keep and maintain a copy of the approved training course used for a period of three (3) years from the last date used.

(2) Application for a Pesticide Technician License.

(A) The director shall provide a pesticide technician license application form by regular mail upon written request. Forms may be requested from the Bureau of Pesticide Control, Missouri Department of Agriculture, P.O. Box 630, Jefferson City, MO 65102.

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

(C) The applicant shall attach to the application a clear, full-face, head-and-shoulder photograph of the applicant taken within twelve (12) months prior to the date of application. The photograph shall be at least two and one-half inches (2 1/2") square.

(D) The director shall keep all documents filed in support of an application until they are replaced, except that—

1. If a license is not issued within one (1) year of employment as a pesticide technician trainee, all documents pertaining to that application may be destroyed; or
2. If a license expires for more than one (1) year, all documents pertaining to that license may be destroyed.

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

1. Name, including any other names under which the applicant has been known;
2. Social Security number;
3. Date of birth;

4. Physical description;
5. Home address;
6. Business name and address from which pesticides will be used;
7. Categories in which the applicant requests a license;
8. A list of present and past employers for the three (3) years prior to application;
9. A list of three (3) references;
10. A list of all present and past pesticide licenses, permits, certifications or registrations;
11. An 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
12. An 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:
 - A. Offenses reasonably related to the qualifications, functions or duties of professions regulated under this chapter;
 - B. Offenses an essential element of which is fraud, dishonesty or an act of violence; or
 - C. Offenses involving moral turpitude.

(3) Qualification Requirements for a Pesticide Technician License.

(A) Applicants for a pesticide technician license shall successfully complete an approved program of verifiable training within one (1) year prior to issuance of a license. This training shall be a minimum of forty (40) hours in length, consisting of at least ten (10) hours of classroom-type training and at least thirty (30) hours of on-the-job, practical training. The on-the-job, practical training shall be in the physical presence and under the direct supervision of a commercial applicator certified in the category(ies) or subcategory(ies) in which the applicant is being trained. The training shall be specific to the following category(ies) or subcategory(ies), defined in 2 CSR 70-25.100, in which the applicant will use pesticides:

1. Category 3—Ornamental and Turf Pest Control;
2. Category 7—Structural Pest Control;
 - A. Subcategory a—General Structural Pest Control; and
 - B. Subcategory b—Termite Pest Control.

(B) Pesticide technician training programs must include the following information pertaining to the standards of competence for each category or subcategory of pest control in which the applicant will use pesticides. A pesticide technician training guideline shall be available from the director upon written request by regular mail.

1. Pest identification—identifying pests, their habits and habitats through an understanding of life cycles, basic pest biology, identification of conditions which are favorable to pest infestations and the pesticide(s) used for pest control;
2. Equipment—the proper use and maintenance of equipment, including proper application techniques and equipment calibration;
3. Pesticides—a basic knowledge of pesticides, including formulations, concentrations, mixing instructions, application rates, manufacturers' brand names, target areas, pests controlled and basic information about each pesticide used;
4. Alternative control methods—alternative methods to pest control, including sanitation, mechanical, cultural and biological means, the possible combinations of those means used in effective pest control and other alternatives to the application of pesticides;
5. Labels—comprehension of basic information found on pesticide labels, including the name and type of pesticide, ingredients, precautionary statements, directions for use, dilution, storage, disposal and any information required for the use of pesticides;
6. Pesticide hazards and safety—potential hazards to the applicator, environment or other individuals, including poisoning symptoms and prevention, first aid, use and maintenance of protective clothing and equipment and special use precautions;
7. Pesticide spills—information regarding the prevention, reporting and cleanup of pesticide spills; and
8. Pesticide laws—state and federal pesticide laws and regulations.

(C) Individuals continuously employed in the capacity of a pesticide technician for the one (1)-year period prior to the date of application for a pesticide technician license may be exempt from the on-the-job, practical training requirement. Evidence of continuous employment shall be submitted to the director in the form of a signed, notarized statement from each employer of the applicant. The statement(s) shall include the applicant's name and Social Security number, the business name(s), address(es) and telephone number(s) of the employer(s), the dates of employment and the category(ies) and subcategory(ies) in which the applicant used pesticides.

(4) Stipulations for a Pesticide Technician License.

- (A) Pesticide technicians shall not use their licenses as authority to represent more than one (1) business or employer.
- (B) Pesticide technicians shall not use their licenses to solicit business from the public, unless the solicitation is for the use or determination of the need for the use of pesticides under the direct supervision of a certified commercial applicator and in the category(ies) or subcategory(ies) in which the pesticide technician is licensed.
- (C) Pesticide technicians must display their license in a prominent place at the address printed on the license.
- (D) Additional training of pesticide technicians shall be required every three (3) years. Training shall pertain to maintaining competence and meeting the needs of changing technology in the safe and proper use of pesticides.
- (E) Persons shall not accrue more than forty-five (45) days of experience with the same employer as a pesticide technician trainee in any category or subcategory within a twelve (12)-month period.

2 CSR 70-25.160 Application for a Pesticide Dealer License

(1) The director shall provide a pesticide dealer license application form by regular mail upon written request. Forms may be requested from the Bureau of Pesticide Control, Missouri Department of Agriculture, P.O. Box 630, Jefferson City, MO 65102.

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

(3) The applicant shall attach to the application a clear, full-face, head and shoulder photograph of the applicant, taken within twelve (12) months prior to application. The photograph shall be at least two and one-half inches (2 1/2") square.

(4) The director shall keep all documents filed in support of an application until they 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 sold;

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

(H) List of three (3) references;

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

(J) 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

(K) 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 of which an essential element is fraud, dishonesty or an act of violence; and

3. Offenses involving moral turpitude.

2 CSR 70-25.170 Stipulations for a Pesticide Dealer License

(1) A pesticide dealer must display the license at all times in a prominent place at the outlet, from which s/he will sell restricted use pesticides, the address of which shall be printed on the license. In the case of pesticide dealers who sell restricted use pesticides by traveling on the road from place to place, the license shall be carried on the person of the licensee.

2 CSR 70-25.180 Contents of Records Maintained by Pesticide Dealers

(1) For three (3) years, pesticide dealers must keep and maintain records of sales and distribution of restricted use pesticides in a neat and legible condition.

(2) These records must be available for inspection by the director at reasonable times during regular business hours. Upon written request, the director shall be furnished a copy of records within ten (10) days of receipt of the request.

(3) Records shall contain the following information:

(A) Pesticide dealer's name and license number;

(B) The trade name, United States Environmental Protection Agency (EPA) registration number, the applicable state special local need (SLN) registration number(s), the amount of each restricted use pesticide made available at each transaction and the date of the transaction; and

(C) Information related to the individual receiving the restricted use pesticide. This shall include:

1. The name, address, license number, certification category(ies) and license expiration date of the certified applicator or operator to whom the restricted use pesticide was made available;

2. The name, address and permit number of the private applicator with a permit to whom the restricted use pesticide was made available;

3. If applicable, the name, address and verified relationship of the noncertified, designated representative to whom the restricted use pesticide was made available. The relationship between the certified applicator and noncertified, designated representative may be verified through one (1) of the following:

A. Actually seeing the certified applicator's or operator's original license and an original identification document of the noncertified designated representative; or

B. Actually seeing a photocopy of the certified applicator's or operator's license and a signed statement from the certified applicator or operator authorizing the noncertified designated representative to take possession of the restricted use pesticide; and

4. The name, address, license number and license expiration date of the pesticide dealer to whom the restricted use pesticide was made available.