

**Title 2—DEPARTMENT OF  
AGRICULTURE  
Division 70—Plant Industries  
Chapter 25—Pesticides**

**PROPOSED AMENDMENT**

**2 CSR 70-25.010 Definitions.** The department is amending sections (2), (3), (4), (7), (8), (9), (10), (11), (15), (16), (20), (21), and (22) and adding sections (6), (12), (13), (14), (17), (18), and (19) of the rule.

*PURPOSE: This rulemaking will update definitions to reflect regulation updates to 40 CFR PART 171-CERTIFICATION OF PESTICIDE APPLICATORS.*

(2) Agricultural commodity—any plant, **fungus, or algae**, or part **thereof**, animal or animal product produced or being produced by a person primarily for sale, consumption, propagation, or other use by man or animals. [(1)Producers of an agricultural commodity include farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, sod producers, or other comparable persons.(1)]

[(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 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.]*

**(3) Direct supervision or supervise the use of— a process by which:**

**(A) a noncertified applicator uses or determines the need for the use of a pesticide while acting under the control of a certified commercial applicator; or**

**(B) a noncertified RUP applicator uses a restricted use pesticide while acting under the control of a certified noncommercial applicator or certified public operator.**

**(C) The process requires, at a minimum, that—**

**1. The certified applicator must be certified in the category of use and is responsible for the actions of the noncertified applicator even though the certified applicator is not present during the process;**

**2. The certified applicator and noncertified applicator must work from the same physical location and be employed by the same entity;**

**3. While applying pesticides, the noncertified applicator 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:**

**A. The name and license number of the certified applicator;**

**B. The name and, if applicable, license number of the noncertified applicator; and**

**C. The name of the person requesting the pesticide application, the address or a brief description of the pesticide application location, and the application date;**

**4. The certified applicator must provide the noncertified applicator with a complete copy of the label and labeling for each pesticide to be used. The label and labeling must be in the possession of the noncertified applicator while using pesticides. The noncertified applicator shall follow all label and labeling directions;**

**5. When the label of a pesticide product requires that personal protective equipment be worn for mixing, loading, transferring, applying, or any other use activities, the certified applicator must ensure that the noncertified applicator has clean, label-required personal protective equipment in proper operating condition and that the personal protective equipment is worn and used correctly for its intended purpose;**

**6. Before each day of use, the certified applicator must ensure equipment used by the noncertified applicator for mixing, loading, transferring, or applying pesticides is in proper operating condition as intended by the manufacturer, and can be used without risk of reasonably foreseeable adverse effects on the applicator, other persons, or the environment;**

**7. The certified applicator shall be available by phone and, when needed, respond in person when the noncertified applicator is using pesticides; and**

**8. The certified applicator 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.**

**(6) Fumigant—a restricted use pesticide used in fumigation.**

**[(6)] (7) In the business of using pesticides— using, supervising the use of, determining the need for the use of, or supervising the determination of the need for the use of any pesticide[s] on the lands of another as a service to the public in exchange for a fee or compensation.**

[(7)] **(8) Label**—the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.

[(8)] **(9) 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)] **(10) Legal age**—eighteen (18) years[, *unless otherwise provide by law*]. **Individuals who are sixteen (16) or seventeen (17) years of age and an immediate family member of a certified private applicator are eligible to obtain certification as a certified provisional private applicator.**

[(10)] **(11) 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.

**(12) Mishap**—an event that adversely affects man or the environment and that is related to the use of or presence of a pesticide, whether the event was unexpected or intentional.

**(13) Noncertified applicator**—any applicator not holding a valid license as a certified applicator, including pesticide technician trainees, pesticide technicians, or noncertified RUP applicators.

**(14) Non-cropland**—any land on which agricultural crops have not been planted and will not be planted during the current growing year.

[(11)] **(15) Ornamentals**—trees, shrubs, and other plantings **intended primarily for aesthetic purposes** in and around habitations, [*generally, but not necessarily, located in urban and suburban areas,*]including residences, parks, streets, retail outlets, industrial **buildings**, and institutional buildings.

[(12)] **(16) 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.

**(17) Personal protective equipment**—devices and apparel that are worn to protect the body from contact with pesticides or pesticide residues, including, but not limited to, coveralls, chemical-resistant suits, chemical-resistant gloves, chemical-resistant footwear, respirators, chemical-resistant aprons, chemical-resistant headgear, and protective eyewear.

**(18) Physical location—principal structure where a certified applicator conducts business that involves the use of pesticides.**

**(19) Practical knowledge—the possession of pertinent facts and comprehension sufficient to properly perform functions associated with use of pesticides, including properly responding to reasonably foreseeable problems and situations.**

[(13)] **(20) 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] or the environment.

[(14)] **(21) Standards of competence**—the level of [*excellence in the art of pest control*] **knowledge needed for the safe and proper use of pesticides** to be demonstrated by the applicator or operator as a basis for certification or licensing.

[(15)] **(22) Structure**—any edifice or building in[-]cluding 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 a common carrier.

*AUTHORITY: section 281.025, RSMo 1986.\* Original rule filed May 12, 1976, effective Oct. 21, 1976. Amended: Filed Sept. 6, 1977, effective Dec. 11, 1977. Amended: Filed Aug. 14, 1989, effective Jan. 1, 1990.*

*\*Original authority: 281.025, RSMo 1974, amended 1977, 1988, 1993, 1995.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for 10:00 a.m, July 22, 2024, Missouri Department of Agriculture, Third Floor Boardroom, 1616 Missouri Boulevard, Jefferson City, MO, 65109.*