

21—45.22 (206) License and certification standards for pesticide applicators. No person shall engage in the business of applying pesticides to the land or property of another at any time without being licensed and certified by the secretary. No person shall apply any restricted use pesticide without first complying with certification standards or unless the application is made under the direct supervision of a certified applicator as specified in this chapter.

45.22(1) *License for commercial, noncommercial and public applicators.* Before a license is issued, each commercial, noncommercial and public applicator shall demonstrate competence by qualifying for a commercial, noncommercial and public applicator's license by successfully completing the appropriate certification examinations administered by the secretary to demonstrate knowledge regarding the potential for pesticides contaminating groundwater aquifers and proper pesticide handling practices that will aid in preventing the contamination of groundwater aquifers, calibration, integrated pest management, recognition of common pests to be controlled, timing and methods of application, interpretation of label and labeling information, safety precautions and preharvest or reentry restrictions, specific procedures to be used in disposing of pesticides and containers, and related legal responsibility under the classifications for which such applicant is to be licensed.

a. Examination scores for individuals not completing certification requirements or paying the required fees shall be maintained on file as valid test scores for a maximum of one year following the date each examination was successfully completed.

b. Certification categories which are added to an individual's current certification shall expire on the same date the individual's current certification card expires.

45.22(2) *Certification of commercial, noncommercial and public applicators.*

a. Initial certification. To be initially certified as a commercial, noncommercial or public applicator, a person shall demonstrate a fundamental knowledge of the minimum state and federal standards of competency for commercial applicators by passing an examination administered by the department. The examination may cover subjects relating to the safe handling, application and storage of pesticides, the correct calibration of equipment used for the application of pesticides, and the effects of pesticides upon groundwater. The examination may also cover subjects related to the minimum standards of competency for commercial applicators outlined in 40 CFR 171.4(b) and (c) as revised July 1, 1992.

b. A person who employs noncommercial applicators shall apply for a noncommercial applicator's license; and all noncommercial applicators shall be certified by successfully completing the appropriate examinations for the type of restricted use pesticide applications being made and shall be required to pay the certification fee of \$75 for a three-year certification for each employee certified. Noncommercial applicators shall be subject to the \$25 annual license fee. The provisions of Iowa Code section 206.13 relating to licenses and requirements for their insurance shall not apply to a noncommercial applicator, providing that the noncommercial applicator:

(1) Is a full-time employee of a privately held entity.

(2) Shall not publicly claim to be a commercial pesticide applicator nor engage in the business of applying pesticides other than as an employee of a company on company property.

c. Separate examinations shall be taken and passed for each classification or category in which the commercial, noncommercial or public applicator intends to become certified, including the following: #1a—Agriculture Weed Control, #1b—Agriculture Insect Control, #1c—Agriculture Crop Disease Control, #1d—Fruit and Vegetable Pest Control, #1e—Animal Pest Control, #2—Forest Pest Control, #3ot—Ornamental and Turf Pest Control, #3t—Turf Pest Control, #3o—Ornamental Pest Control, #3g—Greenhouse Pest Control, #4—Seed Treatment, #5—Aquatic Pest Control, #6—Right-of-Way Pest Control, #7a—General and Household Pest Control, #7b—Termite Control, #7c—Fumigation, #7d—Community Insect Control, #7e—Wood Preservatives, #8—Public Health Pest Control, #9—Regulatory Pest Control, #10—Demonstration and Research Pest Control, and #11—Aerial Application.

d. Wood-destroying insect inspection. Persons conducting wood-destroying insect inspections for the purpose of issuing a wood-destroying insect report for real estate transactions, real estate refinance transactions, or for treatment for control or prevention of wood-destroying insect infestations shall have in effect a valid Iowa commercial pesticide applicator license and certification in category 7b—Termite Control.

45.22(3) *Certification of private applicators.*

a. Initial certification. To be initially certified as a private applicator, a person shall demonstrate a fundamental knowledge of the minimum state and federal standards of competency for private applicators by passing an examination administered by the department and submitting a \$15 certification fee. The examination shall cover subjects relating to the safe handling, application, and storage of pesticides, the correct calibration of equipment used for the application of pesticides, and the effects of pesticides upon groundwater. The examination shall also cover subjects related to the minimum standards of competency for private applicators outlined in 40 CFR 171.5 as revised July 1, 1992. A private applicator shall pay a certification fee of \$15 for a period not to exceed three years.

b. Renewal of private applicator certification. A private applicator's certification shall be renewed upon evidence that the applicator has paid the required certification fee and has successfully completed an instructional course consisting of either an examination or continuing instructional courses as prescribed by the department. A private applicator shall pass an examination each third year following initial certification or may elect to attend two hours of approved continuing instructional courses each year during the renewal period. A private applicator failing to complete the required two hours of approved instruction for each year during the renewal period following initial certification or recertification shall be required to pass an examination prior to recertification.

c. A private applicator who purchases or applies a grain fumigant which is classified as a restricted use pesticide shall pass an examination prescribed by the department for initial certification in the private fumigation category in addition to the examination required for initial private certification. Upon successfully completing the required private fumigation examination the private applicator's certification credentials shall be so designated. The fumigation category designation shall remain valid until the private applicator's certification expires. To renew the fumigation category certification a private applicator may elect to complete an instructional course consisting of either an examination or instructional course as prescribed by the department in addition to the examination or instruction required for private certification.

45.22(4) *Renewal of license classification and certification.*

a. Each commercial, noncommercial and public applicator's license classification shall expire annually on December 31 and shall be renewed upon payment of the required license fee provided that all of the applicant's personnel who apply pesticides are certified commercial, noncommercial or public applicators and are certified in the appropriate classifications covering their pesticide application activities.

b. Each commercial, noncommercial and public applicator's certification shall expire December 31 of the third year of the three-year certification and shall be renewed by the department upon receipt of evidence that the applicator has paid the required certification fee and has completed an instructional course consisting of either an examination or continuing instructional courses as prescribed by the department. A commercial, noncommercial or public applicator shall pass an examination each third year following initial certification or may elect to attend two hours of approved continuing instructional courses each year during the renewal period. A commercial, noncommercial or public applicator seeking recertification by attending continuing instructional courses shall attend courses approved for each certification category in which the person is seeking recertification. A two-hour continuing instructional course may be approved for more than one certification category. A commercial, noncommercial or public applicator failing to complete the required two hours of approved instruction for each year during the renewal period shall be required to pass an examination prior to recertification.

c. Any person who attempts to misrepresent anyone or attempts to use unauthorized assistance in passing any examination shall be denied the privilege of taking any examination for the period of one year.

d. The secretary may revise certification periods for pesticide applicators with certification fees adjusted to reflect an equivalent certification fee based on fees currently established in order to provide a more uniform distribution of pesticide applicator certification renewal dates.

45.22(5) *Certification renewal periods for commercial, noncommercial, public and private applicators.*

a. Renewal periods for commercial, noncommercial, and public applicators. The renewal period is the time within which the commercial, noncommercial, public and private applicators have to renew their certification by either completing the required certification examination or instructional courses and pay the required certification fee. Except as provided in paragraph 45.22(5) "c," the renewal period for commercial, noncommercial and public applicators shall begin on the date a person has completed the required certification examination or instructional courses and paid the required certification fee. The renewal period shall end on December 31 of the third calendar year of the certification cycle.

b. The renewal period for private applicators. The renewal period for a private applicator shall begin on the date a person has completed the required certification examination or instructional courses and paid the required certification fee. The renewal period shall end on April 15 of the calendar year following the certification expiration date.

c. The renewal period for a person completing initial certification requirements on October 1 or any time thereafter during a calendar year shall begin on January 1 of the following calendar year.

d. Except as provided in paragraphs "a," "b," and "c" of this subrule, continuing instruction credits from a previous year in a certification renewal period shall not be accepted nor shall credits accumulated be accepted for use in a future year in a certification renewal period.

45.22(6) *Report of licensee.*

a. A commercial, noncommercial or public applicator applying for recertification without retesting shall file a report on a form provided by the department certifying that the required continuing instructional courses have been completed.

b. The licensee shall maintain a file of the certificates of completion required under subrule 45.52(4) for each employee recertifying by attending continuing instruction courses. The file shall contain the certificates of completion for the period covering the previous certification period and current certification period for each employee receiving continuing instruction courses.

c. An employee who transfers to a new employer shall, upon request, be provided copies of the certificates of completion on file with the previous employer for filing with a new employer.

d. Files containing certificates of completion shall be open for inspection upon request by the department.

45.22(7) *Standards for supervision of noncertified applicators by certified private and commercial applicators.* Certified applicators whose activities indicate a supervisory role must demonstrate a practical knowledge of federal and state supervisory requirements, including labeling, regarding the application of restricted use pesticides by noncertified applicators.

The availability of the certified applicator must be directly related to the hazard of the situation. In many situations, where the certified applicator is not required to be physically present, "direct supervision" shall include verifiable instruction to the competent person, as follows: (a) detailed guidance for applying the pesticide properly; and (b) provisions for contacting the certified applicator in the event the certified applicator is needed. In other situations, and as required by the label, the actual physical presence of a certified applicator may be required when application is made by a noncertified applicator.

45.22(8) *License application—contents.* Each license application submitted pursuant to Iowa Code section 206.6 shall include a complete list of all employees who may apply pesticides. Any changes regarding the status of the employees named on the application or new employees shall be reported immediately to the pesticide section of the Iowa department of agriculture and land stewardship.

45.22(9) *Exemption from certification.* An employee of a public agency who applies pesticides classified for general use and which are in ready-to-use formulations shall be exempt from the certification requirements of Iowa Code chapter 206 provided that the application of pesticides is an incidental part of the person's duties.

45.22(10) *Pesticide use on private golf courses.* Employees of private golf courses who apply pesticides shall comply with the same requirements for employees applying pesticides for public golf courses including, but not limited to, certification and notification requirements.

45.22(11) *Oral certification examination.* A private applicator may request certification by oral examination in lieu of a written examination. A written request shall be submitted to the secretary or an authorized representative describing in detail the reasons an oral examination is requested in lieu of the written examination. Oral examinations will be administered by appointment only.

The oral examination shall cover the same certification standards as the written examination, and a minimum passing grade shall be 70 percent of the questions answered correctly.

As a prerequisite for an oral examination, the secretary may require the applicant to attend a private applicator training program sponsored by the Iowa State University cooperative extension service.

45.22(12) *Temporary exemption from certification.* A commercial, noncommercial, public or private applicator need not be certified to apply pesticides for a period of 21 days from the date of initial employment if the commercial, noncommercial, public or private applicator is under the direct supervision of a certified applicator. Except for subrules 45.22(13) to 45.22(15), “under the direct supervision of” means the application of a pesticide is made by a competent person acting under the instructions and control of a certified applicator who is physically present by being in sight or hearing distance of the supervised person.

45.22(13) *Temporary exemption for certification for agricultural applicators.* A commercial applicator who applies pesticides to agricultural land may elect to be exempt from the certification requirements for a commercial applicator for a period of 21 days from the date of initial employment if the applicator meets the requirements of a private applicator. A commercial applicator who applies pesticides to agricultural land and elects to take advantage of the exemption as provided for in Iowa Code section 206.5 shall work under the instructions and control of a certified commercial applicator. The supervising applicator is not required to be physically present but shall be immediately available if and when necessary.

45.22(14) *Employees of food processing and distribution establishments.* An employee of a food processing and distribution establishment is exempt from the certification requirements of Iowa Code section 206.5 provided the following conditions are met:

- a. The employer has at least one person holding a supervisory position that is a certified applicator.
- b. The employer provides a program approved by the department for training, testing and certification of personnel who apply, as an incidental part of their duties, any restricted use pesticide on property owned or rented by the employer.
- c. The exempt employee applies pesticides under the direct supervision of a certified applicator. “Under direct supervision” shall not require the physical presence of the supervising certified applicator, if the supervising applicator is immediately available if and when needed.

45.22(15) *Certified handler.*

a. *Certified handler.* Each person employed by a licensed commercial applicator, noncommercial applicator, public applicator, or pesticide dealer who handles pesticides in other than unopened containers for the purposes of preparing, mixing or loading pesticides for application by another person, repackaging bulk pesticides or disposing of pesticide-related wastes from these activities shall become certified by taking and passing an examination as prescribed by the secretary.

b. A certified handler shall demonstrate a fundamental knowledge of the potential for pesticides contaminating groundwater aquifers or surface waters and proper handling practices that will aid in preventing the contamination of groundwater aquifers or surface waters, adverse effects on the environment and any other personal or public hazards associated with the use of pesticides by passing a fundamental examination administered by the secretary covering interpretation of label and labeling information, mixing and application of pesticides in accordance with label instructions including proper concentration of pesticides to be used and local environmental situations that shall be considered during handling of pesticides to avoid contamination, specific procedures to be used in disposing of pesticides and containers, recognition of poisoning symptoms, procedures to follow in case of a pesticide accident,

safe handling of pesticides and the effects on groundwater and surface water, the proper use of personal safety equipment and related legal responsibilities.

c. A certified handler's certification shall expire December 31 of the third year of the three-year certification and shall be renewed by the secretary upon receipt of evidence that the applicator has passed a written examination similar and equal to that required to obtain initial certification and has paid the required certification fee. A 21-day grace period from the day of initial employment shall be allowed to meet the certification requirements.

d. A certified handler employed by a licensed applicator shall work under the direct supervision of a certified commercial, noncommercial or public applicator employed by the same firm or agency. "Under direct supervision" shall not require the physical presence of the supervising certified applicator in reference to agricultural crop pesticide applications, if the supervisor is available if and when needed.

e. A certified handler shall not act in the capacity of a supervisor of other certified handlers or certified applicators.

45.22(16) *Transition to recertification by instruction.* Recertification may be accomplished by successful completion of the required written examination every third year or completion of an approved two-hour instructional course each year of the renewal period.

a. *Private applicator recertification.* A private applicator may apply for recertification by providing evidence of completion of an approved two-hour instructional course for each year during the preceding three-year renewal period. A private applicator failing to meet the required annual two-hour instruction requirement for recertification during the three-year certification renewal period shall apply for recertification by providing evidence of satisfactorily completing an examination. Applications for recertification shall be submitted with a \$15 certification fee.

b. *Commercial, noncommercial, and public applicator recertification.* A commercial, noncommercial or public applicator may apply for recertification by providing evidence of completion of an approved two-hour instructional course in each of the three calendar years preceding the expiration date. Applications for recertification shall be submitted with the appropriate certification fee.

45.22(17) *Requirements for commercial aerial applicator and aerial applicator consultant.*

a. *Commercial aerial applicator license.* The licensed aerial applicator applying pesticides to agricultural land shall operate in Iowa in consultation with an aerial applicator consultant. The application form for a commercial aerial applicator license shall be provided by the pesticide bureau. The completed application form, together with supporting documentation, will verify compliance with Iowa Code chapter 206 and the rules of this chapter. An aerial applicator license may be issued when the applicant has provided the name and license number of the aerial applicator consultant and other required information on the application form, passed the required certification examinations, and paid the commercial applicator license and certification fees in compliance with Iowa Code sections 206.5 and 206.6.

b. *Aerial applicator consultant duties.* An aerial applicator consultant shall:

(1) Complete requirements for category #11 aerial applicator certification and either a commercial pesticide applicator license or pesticide dealer license.

(2) Register with the pesticide bureau on forms provided by the pesticide bureau.

(3) Meet with each aerial applicator under the consultant's consultation prior to application of pesticides and verify compliance with Iowa's pesticide rules, the requirements of the Federal Aviation Administration, and the requirements of the Iowa department of transportation using a checklist provided by the pesticide bureau. A copy of the completed checklist shall be maintained on file for three years with the aerial applicator consultant.

(4) Provide detailed aerial maps for the intended application location which clearly depict field boundaries, roads, dwellings, adjacent fields, water bodies, and other pertinent information, as well as county, township and section and latitude/longitude if available.

(5) Maintain daily communication with the aerial applicator when pesticide applications are performed with a minimum of one meeting in person each day to emphasize safe pesticide application and handling procedures.

(6) Maintain daily oversight of pesticide handlers who supply or mix pesticides for the aerial applicator under the consultant's consultation to ensure required personal protection equipment is utilized.

(7) Provide information to the aerial applicator regarding sensitive areas listed on the department's sensitive crop registry and arrange for proper protection of registered apiaries. The aerial applicator consultant shall identify nearby sensitive areas including the location of endangered species as identified by the U.S. Environmental Protection Agency (EPA) and listed on the pesticide bureau's Web site, water bodies in or adjoining the field of application, roads adjoining the field of application, and places adjoining the field of application which may be occupied by people, including farmworkers.

(8) Provide instructions for proper emergency response procedures for the aerial applicator and pesticide handlers in the case of a pesticide spill or accident. Require that while in the air all pilots have an electronic communication device capable of communicating with a consultant.

(9) Provide information immediately upon request to regulatory officials regarding the identification of a pesticide applied to an area of concern and the name and license number of the applicator working under the consultant's consultation.

(10) Notify the aerial applicator in person and in writing upon termination of consultation services. The aerial applicator shall notify the pesticide bureau when the aerial applicator begins working with a new aerial applicator consultant.

c. Procedures for aerial application. The aerial applicator consultant shall provide the licensed aerial applicator the following:

(1) Name and telephone number where the consultant may be reached during hours of operation.

(2) Name and address or location of the property where the pesticide will be applied including detailed maps of fields which clearly depict the field boundaries, roads, dwellings, adjacent fields, water bodies, and other pertinent information, as well as county, township and section and latitude/longitude if available.

(3) Name of the pesticide(s) to be applied and copies of each label along with instructions necessary to comply with Iowa's pesticide rules. The aerial applicator consultant shall verify that the aerial applicator has read and understands the label instructions.

(4) Maps of the intended location for each pesticide application reviewed and approved by the aerial applicator consultant. The aerial applicator consultant shall provide information to the aerial applicator regarding sensitive areas listed on the department's sensitive crop registry and shall arrange for proper safety precautions to protect registered apiaries.

(5) The identification of nearby sensitive areas including the location of endangered species as identified by EPA and listed on the pesticide bureau's Web site, water bodies in or adjoining the field of application, roads adjoining the field of application, and places adjoining the field of application which may be occupied by people, including farmworkers.

d. Responsibility. The aerial applicator is responsible for applying pesticides in compliance with label directions and Iowa's pesticide rules. The aerial applicator consultant supplying a pesticide for application by the aerial applicator is responsible for handling and mixing the pesticides according to label directions and Iowa's pesticide rules.

e. Aerial applicator certification and continuing instruction. An aerial applicator and aerial applicator consultant shall pass an examination for initial certification. An aerial applicator from a state with an approved reciprocal certification agreement will be eligible for reciprocal certification. Each certified aerial applicator and aerial applicator consultant shall participate in a program of continuing instruction which shall consist of either an examination or educational program approved by the department. The continuing instruction program shall include information regarding the safe application and handling of pesticides and responsible operation of aircraft spray equipment.

This rule is intended to implement Iowa Code sections 206.2, 206.4, 206.5, 206.7, and 206.31 and Iowa Code section 206.6 as amended by 2008 Iowa Acts, House File 2551.

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