

**Department of Agriculture
Notice of Hearing on Proposed
Administrative Regulations**

A public hearing will be conducted at 10:00 a.m. Wednesday, December 2, 2009, in the 4th floor training room of the Kansas Department of Agriculture, 109 S.W. 9th, Topeka, to consider the adoption of proposed regulations.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to the Secretary of Agriculture, 109 S.W. 9th, 4th Floor, Topeka, 66612, or by e-mail at leslie.garner@kda.ks.gov. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes. These regulations are proposed for adoption on a permanent basis. A summary of the proposed regulations and their economic impact follows:

- K.A.R. 4-13-2 adds subcategories as well as categories in which the business will operate to the information to be provided on the business license application per statutory change.
- K.A.R. 4-13-3 corrects the names of commercial applicator subcategories, *e.g.*, changing “1b” to “1B”.
- K.A.R. 4-13-9 and K.A.R. 4-13-20 extend the fee sunsets to 2015.
- K.A.R. 4-13-14, K.A.R. 4-13-16, and K.A.R. 4-13-18 clarify existing requirements.
- K.A.R. 4-13-17 changes the deadline for each certified commercial applicators to report a change of mailing address from the tenth day of the following month to within 30 days of the change. This allows a more uniform time period for changes to be reported. In addition, it clarifies existing requirements.
- K.A.R. 4-13-21, K.A.R. 4-13-24, and K.A.R. 4-13-33 clarify existing requirements and extend fee sunsets to 2015.
- K.A.R. 4-13-22 is revoked.
- K.A.R. 4-13-23 changes the commercial applicator examination fee and structure to align with statutory change and extends the fee sunset to 2015.
- K.A.R. 4-13-30 requires identity verification via government issued identification card for each restricted-use pesticide sale or conveyance. In addition, it clarifies existing requirements.
- K.A.R. 4-13-62 adds pesticide dealers to the civil penalty section as a result of statutory change. In addition, it clarifies existing requirements.

Economic Impact Statement:

The economic impact of the restructuring of commercial certification examination fees is expected to be neutral. The amendments have no anticipated economic impact on dealers or customers. Potential civil penalties imposed on dealers under these regulations will likely be less than those previously assessed against dealers by the U.S. Environmental Protection Agency. The restructuring of the commercial certification examination fee is expected to have no economic impact on examinees, unless the examinee is retaking due to a failed examination, or is sitting for several examinations for multiple categories/subcategories.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and impact statements in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Leslie Garner at (785) 296-4623 or fax (785) 368-6668. Handicapped parking is located at the southwest corner of 9th and Kansas Ave., and the north entrance to the building is accessible to individuals with disabilities.

Copies of the regulations and their economic impact statements may be obtained by contacting the Department of Agriculture, Leslie Garner, 109 SW 9th St., 4th Floor, Topeka, KS 66612 or (785) 296-4623 or by accessing the department's Web site at <http://www.ksda.gov>. Comments may also be made through our website under the proposed regulation.

Joshua Svaty
Acting Secretary of Agriculture

**KANSAS DEPARTMENT OF AGRICULTURE
IMPACT STATEMENT**

Proposed Change to Pesticide Regulations

**K.A.R. 4-13-2, 4-13-3, 4-13-9, 4-13-14, 4-13-16, 4-13-17, 4-13-18, 4-13-20, 4-13-21, 4-13-22,
4-13-23, 4-13-24, 4-13-30, 4-13-33, and 4-13-62**

I. Summary of Proposed Regulation, Including Its Purpose.

K.A.R. 4-13-2 adds subcategories as well as categories in which the business will operate to the information to be provided on the business license application per statutory change.

K.A.R. 4-13-3 corrects the names of commercial applicator subcategories, *e.g.*, changing “1b” to “1B”.

K.A.R. 4-13-9 and K.A.R. 4-13-20 extend the fee sunsets to 2015.

K.A.R. 4-13-14, K.A.R. 4-13-16, and K.A.R. 4-13-18 clarify existing requirements.

K.A.R. 4-13-17 changes the deadline for each certified commercial applicators to report a change of mailing address from the tenth day of the following month to within 30 days of the change. This allows a more uniform time period for changes to be reported. In addition, it clarifies existing requirements.

K.A.R. 4-13-21, K.A.R. 4-13-24, and K.A.R. 4-13-33 clarify existing requirements and extend fee sunsets to 2015.

K.A.R. 4-13-22 is revoked.

K.A.R. 4-13-23 changes the commercial applicator examination fee and structure to align with statutory change and extends the fee sunset to 2015.

K.A.R. 4-13-30 requires identity verification via government issued identification card for each restricted-use pesticide sale or conveyance. In addition, it clarifies existing requirements.

K.A.R. 4-13-62 adds pesticide dealers to the civil penalty section as a result of statutory change. In addition, it clarifies existing requirements.

II. Reason Or Reasons The Proposed Regulation Is Required, Including Whether Or Not The Regulation Is Mandated By Federal Law.

The substantive changes in K.A.R. 4-13-23 and K.A.R. 4-13-62 are necessary due to Kansas statutory changes. The accurate identification reflected in K.A.R. 4-13-30 is necessary under both state and federal law.

The modifications of the fee sunsets are necessary due to Kansas statutory changes.

The clarification changes are not mandated by state or federal law and do not make substantive changes. They are being made as a practical matter to reduce confusion or ambiguity.

III. Anticipated Economic Impact Upon The Kansas Department Of Agriculture.

The restructuring of the commercial certification examination fee is expected to have little or no impact on KDA revenues since the per exam fee of \$45 was determined through an analysis targeting a neutral impact on revenue.

IV. Anticipated Financial Impact Upon Other Governmental Agencies And Upon Private Business Or Individuals.

The requirement to verify the identity via government issued identification card for restricted-use pesticide purchase or conveyance should have no impact on dealers or customers. Dealers should already be confirming customer identification by some means and most, if not all, customers have some form of government issued identification.

Implementing civil penalties for pesticide dealers on first glance would appear to have a negative impact on the business. However, by KDA imposing civil penalties rather than referring such cases to the U.S. Environmental Protection Agency, the dealer is faced with much lower civil penalty amounts and the collected monies go into the Kansas general fund.

The restructuring of the commercial certification examination fee is expected to have no impact on most examinees. There will be increased costs, probably less than \$100, to those sitting for several examinations, whether due to a need for multiple categories/subcategories or due to an inability to pass an exam without multiple attempts.

V. Less Costly or Intrusive Methods That Were Considered, But Rejected, And The Reason For Rejection.

No other methods were considered since these changes reflect statutory changes

VI. Environmental Impact

There would be no environmental impact as a result of these changes.

K.A.R. 4-13-2. Pesticide business license application. Each application for issuance or renewal of a business license shall provide the following information in addition to that required by K.S.A. 2-2440 (b) (1) through (3), and amendments thereto: (a) The home address and birth date of each owner, officer, representative, and any resident agent;

(b) the name of any other state in which the applicant holds or has held a pesticide business license within the last five years and a list of any such license that has been denied, modified, revoked, suspended, or surrendered;

(c) for each business location serving Kansas, the business name and street address of the business and the name of the certified applicator or other person responsible for pesticide business activity at that location. "Business location" shall include all locations where records of application are maintained, where application equipment and pesticide materials are stored, and from which customers are served;

(d) the name of each certified commercial applicator serving the applicant, for each business location;

(e) the name, home address, ~~social security number, and birth date, and driver's license number~~ of each non-certified employee who applies pesticides for the applicant. If the applicant's non-certified employee does not have a driver's license, then the number assigned to any federal or state government-issued identification card shall be provided for that employee;

(f) the categories and subcategories in which the applicant business will operate;

(g) the signature and title of the applicant or authorized representative; and

(h) the date of submission of the application. (Authorized by and implementing K.S.A. 2008 Supp. 2-2440, as amended by ~~L. 2002, Ch. 181, Sec. 3~~ L. 2009, Ch. 128, §11, and K.S.A. 2-2467a; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978; amended July 18, 2003; amended P-_____.)

K.A.R. 4-13-3. Categories and subcategories of qualification for the licensing of pesticide

businesses and certification of commercial applicators. (a) The categories and subcategories of qualification for licensing of pesticide businesses and certification of commercial applicators shall include the following:

(1) Category 1: agricultural pest control. This category shall include any commercial application of pesticide in the production of agricultural plants or animals.

(A) Subcategory ~~1A~~ 1A: agricultural plant pest control. This subcategory shall include any commercial application of pesticide on grasslands and noncrop agricultural lands, and in the production of agricultural crops, including tobacco, peanuts, cotton, feed grains, soybeans and forage, vegetables, small fruits, tree fruits, and nuts.

(B) Subcategory ~~1B~~ 1B: agricultural animal pest control. This subcategory shall include any commercial application of pesticide to places on, or in which, animals are confined and on animals, including beef cattle, dairy cattle, swine, sheep, horses, goats, poultry, and livestock. This subcategory shall include any doctor of veterinary medicine who applies pesticides for hire, engages in the large-scale use of pesticides, or is publicly held out as a pesticide applicator.

(C) Subcategory ~~1C~~ 1C: wildlife damage control. This subcategory shall include any commercial application of pesticide for the management and control of wildlife in rangeland and agricultural areas. Wildlife shall mean nondomesticated vertebrate species that hinder agricultural and rangeland production.

(D) Subcategory ~~1D~~ 1D: stump treatment. This subcategory shall be limited to the commercial application of pesticide for the treatment of cut stumps to control resprouting in pastures, rangeland, or lands held in conservation reserve. Nothing in this subcategory shall prohibit stump treatment by pesticide businesses and commercial applicators in other categories and subcategories that include pesticide application to cut stumps.

(2) Category 2: forest pest control. This category shall include any commercial

application of pesticide in forests, forest nurseries, and forest seed-producing areas.

(3) Category 3: ornamental and turf pest control. This category shall include any commercial application of pesticide in the maintenance of ornamental trees, shrubs, flowers, and turf.

(A) Subcategory ~~3a~~ 3A: ornamental pest control. This subcategory shall include any commercial application of pesticide to control pests in the maintenance and production of ornamental trees, shrubs, and flowers. This subcategory shall not include those pests included in subcategory ~~3e~~ 3C.

(B) Subcategory ~~3b~~ 3B: turf pest control. This subcategory shall include any commercial application of pesticide to control pests in the maintenance and production of turf.

(C) Subcategory ~~3e~~ 3C: interior landscape pest control. This subcategory shall include any commercial application of pesticide to control pests in the production and maintenance of houseplants and other indoor ornamental plants kept or located within structures occupied by humans, including houses, apartments, offices, shopping malls, and other places of business and dwelling places.

(4) Category 4: seed treatment. This category shall include any commercial application of pesticide on seeds.

(5) Category 5: aquatic pest control. This category shall include any commercial application of pesticide to standing or running water. Applicators engaged in public health pest control and health-related pest control activities shall be excluded.

Subcategory ~~5s~~ 5S: sewer root control. This subcategory shall be limited to any commercial application of pesticide for the control of roots in sewer lines and septic systems.

(6) Category 6: right-of-way pest control. This category shall include any commercial application of pesticide to control vegetation in the maintenance of public roads, electric power lines, pipelines, railway rights-of-way, industrial sites, parking lots, or other similar areas.

(A) This category shall include the types of commercial pesticide application specified in subcategory ~~7e~~ 7C.

(B) This category shall not include those types of commercial pesticide application specified in paragraph (a)(9).

(7) Category 7: industrial, institutional, structural, and health-related pest control.

(A) This category shall include any commercial application of pesticide for the protection of stored, processed, or manufactured products. This category shall also include any commercial application of pesticide in, on, or around the following:

(i) Food handling establishments, human dwellings, institutions including schools and hospitals, and any other similar structures and the areas immediately adjacent to those structures; and

(ii) industrial establishments including warehouses, grain elevators, food processing plants, and any other related structures and adjacent areas.

(B) Subcategory ~~7a~~ 7A: wood-destroying pest control. This subcategory shall include any commercial application of pesticide in the control of termites, powder post beetles, wood borers, wood rot fungus, and any other wood-destroying pest.

(C) Subcategory ~~7b~~ 7B: stored products pest control. This subcategory shall include any commercial application of pesticide for the control of pests in stored grain and food products.

(D) Subcategory ~~7e~~ 7C: industrial weed control. This subcategory shall include any commercial application of pesticide for the control of pest weeds.

(E) Subcategory ~~7d~~ 7D: health-related pest control. This subcategory shall include any commercial application of pesticide in health programs for the management and control of terrestrial and aquatic pests having medical or public health significance.

(F) Subcategory ~~7e~~ 7E: structural pest control. This subcategory shall include any commercial application of pesticide in a structure for the control of any pest not covered in

subcategories ~~7a~~ 7A and ~~7b~~ 7B.

(G) Subcategory ~~7f~~ 7F: wood preservation and wood products treatment. This subcategory shall include any commercial application of pesticide made to extend the life of wooden poles, posts, crossties, and other wood products to preserve or protect them from damage by insects, fungi, marine organisms, weather deterioration, or other wood-destroying agents.

(8) Category 8: public health pest control. This category shall apply to qualification for commercial certification of employees of government agencies, including state, federal, and other governmental agencies, who apply or supervise the application of a restricted-use pesticide for the management and control of terrestrial and aquatic pests having medical or public health significance.

(9) Category 9: regulatory pest control. This category shall apply to qualification for commercial certification of employees of government agencies, including state, federal, and other governmental agencies, who apply or supervise the application of a restricted-use pesticide in the control of federally regulated and state-regulated pests.

(A) Subcategory ~~9a~~ 9A: noxious weed control. This subcategory shall include qualification for commercial certification of employees of state, federal, and other governmental agencies who use or supervise the use of a restricted-use pesticide in the control of weed pests regulated under the Kansas noxious weed law.

(B) Subcategory ~~9b~~ 9B: regulated pest control. This subcategory shall include qualification for commercial certification of employees of state, federal, and other governmental agencies who use or supervise the use of a restricted-use pesticide in the control of federally regulated or state-regulated pests not covered in subcategory ~~9a~~ 9A.

(10)(A) Category 10: demonstration and research pest control. This category shall include the following:

(i) Those persons who demonstrate to the public the proper techniques for application

and use of restricted-use pesticides or who supervise such a demonstration. These persons shall include extension specialists, county agents, commercial representatives who demonstrate pesticide products, and persons who demonstrate, in public programs, methods of pesticide use;

(ii) those persons who use or supervise the use of restricted-use pesticides in conducting field research that involves the use of pesticides. These persons shall include state, federal, and commercial employees and other persons who conduct field research regarding or utilizing restricted-use pesticides; and

(iii) qualified laboratory personnel using restricted-use pesticides while engaged in pesticide research in areas where environmental factors beyond the control of laboratory personnel, including wind, rain, and similar factors, can affect the safe use of the pesticide or can cause the pesticide to have an adverse impact on the environment.

(B) The persons listed in paragraphs (a)(10)(A)(ii) and (iii) shall not be considered exempt from certification under the provisions of K.S.A. 2-2441a(d) and amendments thereto.

(b) Each pesticide business shall be licensed in all categories in which the pesticide business makes commercial pesticide applications and shall employ one or more persons who maintain commercial certification in each subcategory in which the pesticide business makes commercial pesticide applications.

(c) Each state, federal, and other governmental agency shall be registered in all categories and subcategories in which the agency makes commercial pesticide applications. (Authorized by K.S.A. ~~2006~~ 2008 Supp. 2-2440, as amended by L. 2009, Ch. 128, §11, and K.S.A. 2-2467a; implementing K.S.A. ~~2006~~ 2008 Supp. 2-2444a and K.S.A. 2-2467a; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978; amended Feb 29, 2008; amended P-
_____.)

K.A.R. 4-13-9. Report of address, name, or personnel change by business. (a) Each

pesticide business licensee shall provide the secretary with written notification of any modification or change to the initial application regarding the business address or business name and of any change in service personnel involved in the application of pesticides. Each notification shall be provided within 30 days of the modification or change made by the pesticide business licensee. Notification shall be required for the following:

- (1) Hiring or terminating, or both, any employees involved in the application of pesticides;
- (2) making any change in certification or technician status, or both; and
- (3) making any change in the manager, operator, authorized representative, or resident agent.

(b) The pesticide business licensee shall submit with each such report the required \$15.00 fee for each previously unreported uncertified individual employed to apply pesticides for a total of more than 10 days or for a period of five or more consecutive days during any 30-day period. This report shall provide the full name, home address, social security number, and birth date of each certified and uncertified applicator of pesticides listed in the report. The \$15.00 fee shall revert to \$10.00 on and after July 1, ~~2010~~ 2015, unless this date is modified by statute.

(Authorized by K.S.A. 2-2467a; implementing K.S.A. ~~2006~~ 2008 Supp. 2-2440, as amended by L. 2009, Ch. 128, §11; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978; amended, T-88-46, Nov. 10, 1987; amended May 1, 1988; amended, T-4-6-27-02, July 1, 2002; amended Oct. 25, 2002; amended Feb 29, 2008; amended P-_____.)

K.A.R. 4-13-14. Private applicator examination. Initial examinations for certified private applicators shall be taken in the presence of a representative of the Kansas ~~State Board~~ department of agriculture or the Kansas state university extension service. ~~The~~ Each applicant for this certification ~~is~~ shall be required to answer at least 75% of the questions correctly to pass the

examination.

Examinations for private applicator certification shall test the applicant's knowledge in those subject areas ~~set out~~ specified in K.S.A. 2-2445, and amendments thereto, involving pest control practices associated with the applicant's agricultural operation and the applicant's legal responsibility as a certified applicator of restricted pesticides. ~~The~~ Each applicant ~~will~~ shall be tested to determine the applicant's ability to meet the following requirements:

(1) (a) Recognize common pests to be controlled and damage caused by them;

(2) (b) read and understand the label and labeling information, including the common name of the pesticide ~~he applies;~~ applied, pest or pests to be controlled; timing and methods of application; safety precautions; any ~~pre-harvest re-entry~~ preharvest reentry restrictions; and any specific disposal procedures;

(3) (c) apply pesticides in accordance with label instructions and warnings, including the ability to prepare the proper concentration of pesticide to be used under particular circumstances taking into account such factors as area to be covered, speed at which application equipment will be driven, and the quantity dispersed in a given period of operation;

(4) (d) recognize local environmental situations that must be considered during application to avoid contamination;

(5) (e) recognize poisoning symptoms and procedures to follow in case of a pesticide accident; and

(6) (f) understand federal and state supervisory requirements, including labeling, ~~which~~ that must be met by a certified private applicator in supervising the non-certified application of restricted pesticides. ~~This includes~~ These supervisory requirements shall include verifiable instruction of the applicator, availability during application, and any added restrictions ~~which~~ that may be imposed for specific pesticides through labeling. ~~Such~~ These restrictions may include the required physical presence of the supervising applicator during the application. (Authorized by

K.S.A. ~~1977 Supp. 2-2467a, as amended by L. 1987, Ch. 12, § 5;~~ implementing K.S.A. 2008 Supp. 2-2445a, as amended by L. 1987, Ch. 13, § 1 L. 2009, Ch. 128, §18; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978; amended May 1, 1988; amended P-_____.)

K.A.R. 4-13-16. Supervision of uncertified applicators. (a) An uncertified commercial applicator of any pesticide and an uncertified private applicator of restricted-use pesticides shall be considered to be under the supervision of a certified applicator ~~when~~ if the certified applicator has provided the uncertified applicator with ~~detailed~~ instructions in the handling and application of the pesticide being used.

(b) The certified applicator shall be available to the uncertified applicator by telephone, ~~2-way~~ two-way radio, or other comparable means of communication ~~during the times when~~ the ~~restricted use~~ pesticide is being applied.

(c) The certified applicator shall be physically present ~~when such~~ if that person's presence is required by the pesticide label.

(d) The certified applicator shall verify that the ~~above~~ requirements of this regulation were met when requested to do so by the secretary or the secretary's authorized representative.

(e) ~~Additionally, any~~ An uncertified applicator of ~~restricted use~~ pesticides, including registered pest control technicians, shall be considered to be under the supervision of a certified commercial applicator only if both individuals are stationed at and work from the same business address. (Authorized by K.S.A. ~~2-2467a, as amended by L. 1987, Ch. 12 § 5;~~ implementing K.S.A. 2008 Supp. 2-2441a, as amended by L. 2009, Ch. 128, §16; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978; amended, T-88-46, Nov. 10, 1987; amended May 1, 1988; amended P-_____.)

K.A.R. 4-13-17. Report of address change by certified applicators. Any ~~Each~~ certified commercial applicator shall notify the secretary of any change in ~~his or her~~ that applicator's mailing address ~~by the tenth day of the month following the month during which such~~ within 30 days of the change occurred. (Authorized by and implementing K.S.A. 1977-Supp. 2-2467a; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978; amended P-_____.)

K.A.R. 4-13-18. Disposal of pesticides and containers. Any amount of unused pesticide and ~~any~~ each empty pesticide container shall be stored in the same manner as the pesticide involved until ~~such~~ the unused pesticide or empty container is disposed of in a manner consistent with technology current at the time of disposal. Questions regarding the latest technology ~~should~~ shall be ~~directed~~ submitted to any of the following: (a) The Kansas ~~State Board~~ department of agriculture;

(b) Kansas state university; extension service;

(c) Kansas department of health and environment; or

(d) the United States environmental protection agency. (Authorized by and implementing K.S.A. 1977-Supp. 2-2467a; effective, E-78-26, Sept. 7, 1977; effective May 1, 1978; amended P-_____.)

K.A.R. 4-13-20. Pesticide business license, renewal, and uncertified employee fees. The application fee for a pesticide business license or for the renewal of a pesticide business license shall be \$140.00 for each category in which the applicant applies for a pesticide business license or renewal of that license. An additional fee of \$15.00 for each uncertified individual employed by the applicant to apply pesticides shall also be paid. This regulation shall apply to all pesticide business licenses, or renewals of these licenses, that will be effective through June 30, ~~2010~~ 2015, regardless of when the application is received by the agency.

The \$140.00 pesticide business license fee shall revert to \$112.00 on and after July 1, ~~2010~~ 2015, unless this date is modified by statute. The \$15.00 uncertified employee fee shall revert to \$10.00 on and after July 1, ~~2010~~ 2015, unless this date is modified by statute.

(Authorized by K.S.A. ~~2006~~ 2008 Supp. 2-2440, as amended by L. 2009, Ch. 128, §11, and K.S.A. 2-2467a; implementing K.S.A. ~~2006~~ 2008 Supp. 2-2440, as amended by L. 2009, Ch. 128, §11; effective, T-83-36, Nov. 10, 1982; effective May 1, 1983; amended, T-88-46, Nov. 10, 1987; amended May 1, 1988; amended, T-4-6-27-02, July 1, 2002; amended Oct. 25, 2002; amended Feb. 29, 2008; amended P-_____.)

K.A.R. 4-13-21. Government agency registration and renewal fees. The application fee for a government agency registration shall be \$50.00. This regulation shall apply to all government agency registrations, or renewals of these registrations, effective through June 30, ~~2010~~ 2015, regardless of when the agency receives the application ~~is received by the agency~~. The \$50.00 government agency registration fee shall revert to \$35.00 on and after July 1, ~~2010~~ 2015, unless this date is modified by statute. (Authorized by K.S.A. ~~2006~~ 2008 Supp. 2-2440, as amended by L. 2009, Ch. 128, §11, and K.S.A. 2-2467a; implementing K.S.A. ~~2006~~ 2008 Supp. 2-2440, as amended by L. 2009, Ch. 128, §11; effective, T-83-36, Nov. 10, 1982; effective May 1, 1983; amended, T-4-6-27-02, July 1, 2002; amended Oct. 25, 2002; amended Feb. 29, 2008; amended P-_____.)

K.A.R. 4-13-22. (Authorized by K.S.A. 2006 Supp. 2-2441a and K.S.A. 2-2467a; implementing K.S.A. 2006 Supp. 2-2441a; effective, T-83-36, Nov. 10, 1982; effective May 1, 1983; amended, T-4-6-27-02, July 1, 2002; amended Oct. 25, 2002; amended Feb. 29, 2008; revoked P-_____.)

K.A.R. 4-13-23. Examination fees. The examination fee for a commercial applicator's certificate shall be ~~\$35.00~~ \$45.00 through June 30, ~~2010~~ 2015, for each ~~category in which the applicant is to be examined~~ examination. The same fee shall apply if the applicant seeks reexamination. The ~~\$35.00~~ \$45.00 examination fee shall revert to ~~\$25.00~~ \$35.00 on and after July 1, ~~2010~~ 2015, unless this date is modified by statute. (Authorized by K.S.A. ~~2006~~ 2008 Supp. 2-2443a, as amended by L. 2009, Ch. 128, §17, and K.S.A. 2-2467a; implementing K.S.A. ~~2006~~ 2008 Supp. 2-2443a, as amended by L. 2009, Ch. 128, §17; effective, T-83-36, Nov. 10, 1982; effective May 1, 1983; amended, T-4-6-27-02, July 1, 2002; amended Oct. 25, 2002; amended Feb. 29, 2008; amended P-_____.)

K.A.R. 4-13-24. Certified private applicator's certificate fee. The certified private applicator's certificate fee shall be \$25.00. This regulation shall apply to certified private ~~applicator's~~ applicator certificates that will be effective through June 30, ~~2010~~ 2015, regardless of when the department receives the application is received by the agency. The \$25.00 certified private applicator's certificate fee shall revert to \$10.00 on and after July 1, ~~2010~~ 2015, unless this date is modified by statute. (Authorized by K.S.A. ~~2006~~ 2008 Supp. 2-2445a, as amended by L. 2009, Ch. 128, §18, and K.S.A. 2-2467a; implementing K.S.A. ~~2006~~ 2008 Supp. 2-2445a, as amended by L. 2009, Ch. 128, §18; effective, T-83-36, Nov. 10, 1982; effective May 1, 1983; amended, T-4-6-27-02, July 1, 2002; amended Oct. 25, 2002; amended Feb. 29, 2008; amended P-_____.)

K.A.R. 4-13-30. Dealer recordkeeping requirements. (a) Each pesticide dealer shall maintain records ~~regarding sales of all~~ restricted-use pesticide products sold or otherwise conveyed. These records shall be made available during reasonable business hours to the secretary or the secretary's authorized representative for purposes of inspection and copying. Each record

required by this regulation shall be kept for ~~a minimum of~~ at least two years after the date of the sale or conveyance.

(b) The records specified in subsection (a) shall contain the following information:

(1) The name ~~and address of the residence or principal place of business~~ of each person to whom the restricted-use pesticide product has been sold or conveyed, as verified by the person's presentation of a federal or state government-issued identification card;

(2) the address of either the residence or principal place of business of each person to whom the restricted-use pesticide product has been sold or conveyed;

(3) the name and address of either the residence or principal place of business of the individual to whom the restricted-use pesticide product has been delivered or ~~made available~~ conveyed, if different from the purchaser;

~~(3)~~(4) the certification number of the applicator's certificate;

~~(4)~~(5) the name of the state issuing the certificate;

~~(5)~~(6) the expiration date of the certificate;

~~(6)~~(7) if the applicator is a certified commercial applicator of pesticides, then, if applicable, the categories and subcategories, ~~if applicable~~, in which the applicator is certified;

~~(7)~~(8) the registered name of the restricted-use pesticide product, ~~its~~ the EPA registration number of the restricted-use pesticide product, and, if applicable, the state "special local need" state registration number, ~~if any~~ of the restricted-use pesticide product;

~~(8)~~(9) the quantity of the restricted-use pesticide product sold or conveyed; and

~~(9)~~(10) the date of the transaction.

(c) If the pesticide dealer makes a restricted-use pesticide product available to an uncertified person for use by a certified applicator, then the following ~~additional~~ records shall be kept in addition to those required in subsection (a):

(1) The name ~~and address of the residence or principal place of business~~ of the

uncertified person to whom the restricted-use pesticide product has been made available; ~~and, as~~
verified by the uncertified person's presentation of a federal or state government-issued
identification card;

(2) the address of either the residence or principal place of business of the uncertified
person to whom the restricted-use pesticide product has been made available;

~~(3) the name and address of the residence or principal place of business of the certified~~
applicator who will use the restricted-use pesticide product; and

(4) the address of either the residence or principal place of business of the certified
applicator who will use the restricted-use pesticide product.

(d) Each pesticide dealer shall submit an annual report for each restricted-use pesticide
product that the dealer has sold or otherwise conveyed. The report shall include the following:

(1) The registered name of the restricted-use pesticide product, ~~its~~ the EPA registration
number of the restricted-use pesticide product, and, if applicable, the state "special local need"
state registration number, if any of the restricted-use pesticide product; and

(2) the quantity ~~sold~~ of the restricted-use pesticide product sold or otherwise conveyed.
(Authorized by and implementing K.S.A. 2-2467a; ~~implementing~~ K.S.A. 1985 Supp. 2-2469;
effective, T-86-27, Aug. 19, 1985; effective May 1, 1986; amended May 1, 1987; amended P-
_____.)

K.A.R. 4-13-33. Pest control technician registration and renewal fees. The application fee
for a pest control technician registration or for the renewal of a pest control technician
registration shall be \$40.00. Each fee paid by the applicant pursuant to K.A.R. 4-13-9 shall be
applied toward payment of the fee required by this regulation. This regulation shall apply to all
pest control technician registrations, or renewals of these registrations, that will be effective
through June 30, ~~2010~~ 2015, regardless of when the department receives the application is

~~received by the agency.~~ The \$40.00 pest control technician registration fee shall revert to \$25.00 on and after July 1, ~~2010~~2015, unless this date is modified by statute. (Authorized by K.S.A. ~~2006~~ 2008 Supp. 2-2440b, as amended by L. 2009, Ch. 128, §13, and K.S.A. 2-2467a; implementing K.S.A. ~~2006~~ 2008 Supp. 2-2440b, as amended by L. 2009, Ch. 128, §13; effective, T-88-46, Nov. 10, 1987; amended May 1, 1988; amended, T-4-6-27-02, July 1, 2002; amended Oct. 25, 2002; amended Feb. 29, 2008; amended P-_____.)

K.A.R. 4-13-62. Amount of ~~proposed~~ civil penalty. (a) A separate civil penalty shall be assessed for each violation of the pesticide law ~~which~~ that results from each independent act or failure to act by any pesticide business licensee or pesticide dealer, or any agent or employee ~~thereof~~ of a pesticide business licensee or pesticide dealer. In determining whether a given violation is independent of and substantially distinguishable from any other violation for the purpose of assessing separate civil penalties, consideration shall be given to whether each violation requires an element of proof not required by another violation. ~~Where~~ If several violations require the same elements of proof and are not distinguishable, the assessment of separate civil penalties shall be within the discretion of the secretary or the secretary's authorized representative.

(b) The amount ~~proposed for~~ of each civil penalty shall be within the following ranges ~~listed below:~~

(1) For each violation of K.S.A. 2-2453(a) or (b) and amendments thereto, the ~~proposed~~ civil penalty shall be not less than \$100 ~~nor~~ and not more than \$5,000.

(2) For each violation of K.S.A. 2-2454(b) ~~or 2-2454~~, (m), (o), (r), (s), or (t) and amendments thereto, the ~~proposed~~ civil penalty shall be not less than \$100 ~~nor~~ and not more than \$5,000.

(3) For each violation of K.S.A. 2-2454, and amendments thereto, not covered in ~~subsection (2) above~~ paragraph (b)(2), the ~~proposed~~ civil penalty shall be not less than \$100 ~~nor~~ and not more than \$1,000.

(4) For each violation of K.S.A. 2-2453(c), and amendments thereto, not already covered in ~~subsections~~ paragraph (b) (1), (2), or (3) above, the ~~proposed~~ civil penalty shall be not less than \$100 ~~nor~~ and not more than \$1,000.

(c) For each subsequent occurrence of a violation for which a civil penalty has been assessed within a three-year period, the civil penalty assessed for the subsequent violation shall be the maximum amount for the category listed. (Authorized by K.S.A. 2-2467a; implementing K.S.A. 2-2440e, as amended by L. 2009, Ch. 128, §15; effective Jan. 1, 1989; amended Jan. 25, 1993; amended P-_____.)