

NOTICE OF PUBLIC RULEMAKING HEARING

FOR AMENDMENTS TO

“Rules and Regulations Pertaining to the Administration and Enforcement of the Pesticide Applicators’ Act” 8 CCR 1203-2

Notice is hereby given pursuant to § 24-4-103 C.R.S. that the Department of Agriculture will hold a public rulemaking hearing:

DATE: November 30, 2021
TIME: 10:30 am
LOCATION: This hearing will be held via [Zoom](#)
CALL INFORMATION: 1-253-215-8782
MEETING ID: 817 3316 6360
PASSCODE: 476981

In order to maintain a proper hearing record you are encouraged to pre-register by completing this [Google form](#). If you do not have access to Google you may send your name and telephone number to Jenifer.Gurr@state.co.us
Pre-registration is not required to participate in the hearing.

The purpose of these proposed revisions are to incorporate new federal certification and training requirements pursuant to 40 C.F.R. Part 171 and to clarify existing Rule requirements.

The statutory authority for these rules §§ 35-10-118(2)(a), (b), (c), (d), (3)(a), (4), (5) and (9) C.R.S.

Any interested party may file written comment with the Commissioner’s office prior to the hearing, or present at the aforementioned hearing written data, views or arguments. Emailed comments should be sent to the hearing officer at Jenifer.Gurr@state.co.us. A copy of the proposed rule is available on the Department of Agriculture’s website at www.colorado.gov/ag or may be obtained by calling 303-869-9004. The proposed rule shall be available for public inspection at the Colorado Department of Agriculture at 305 Interlocken Parkway, Broomfield, Colorado during regular business hours.



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DEPARTMENT OF AGRICULTURE

Plant Industry Division

RULES AND REGULATIONS PERTAINING TO THE ADMINISTRATION AND ENFORCEMENT OF THE PESTICIDE APPLICATORS' ACT

8 CCR 1203-2

Part 1. Construction of Terms, Definitions and Incorporations by Reference.

- 1.01. As used in these Rules, the singular includes the plural, the masculine gender includes the feminine and neuter, and vice versa. All terms used in these Rules shall have the meaning set forth for such terms in the Act.
- 1.02. As used in these Rules, unless the context otherwise requires:
 - (a) "abut" means to join; to be contiguous, as where no other land, road, or street intervenes; "abut" includes two property sites that would otherwise be considered abutting, but for the fact that such sites are separated by an alley. As used herein, "alley" means a passage way within a block set apart for public use, vehicular travel, and local convenience to provide a secondary means of access to the rear or side of abutting lots or buildings.
 - (b) "category" shall include any sub-category thereof.
 - (c) "contiguous dwelling unit" means a dwelling unit that is contiguous with another dwelling unit, both of which units are owned, managed, leased, or subleased by the same landlord.
 - (d) "dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by a tenant.
 - (e) "engaged in the business of applying pesticides for hire" means: the evaluation of pest problems; the recommendation of pest controls and evaluation of results; the mixing, loading or application of pesticides; and/or the soliciting, advertising, offering or contracting to do any of the above, in return for money or anything of value, including goods or services. Notwithstanding anything to the contrary in the foregoing, the rendering of consultation services by an individual in evaluating pest problems, recommending pest controls and/or evaluating results, shall not be deemed to constitute the application of pesticides for hire, if said individual is not affiliated with, or soliciting business for, any person or business entity which performs the mixing, loading or application of pesticides.
 - (f) "in the possession of" means in the physical possession of the applicator or in a location at the site of the application, such as a service vehicle, that is readily accessible to the applicator.
 - (g) "fumigant" means any substance which by itself or in combination with other substances emits or liberates a gas or gases, fumes or vapors, and which gas or gases, fumes or vapors when liberated and used will destroy vermin, rodents, insects, and other pests, but are usually lethal, poisonous, noxious, or dangerous to human life.

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- (h) “landlord” means the owner, manager, lessor, or sublessor of a residential premises.
- (i) “pasture” means land which is managed primarily for the production of forage for domestic livestock. Pasture typically receives intensive renovation and/or cultural treatments, such as tillage, fertilization, mowing, irrigation and weed control.
- (j) “proof of medical justification” means a statement signed by a physician licensed to practice medicine in Colorado pursuant to Article ~~24036~~ of 1title 12, C.R.S. which states

I certify that the individual named above is a patient of mine and should be placed on the list of pesticide sensitive individuals. This individual has a documented sensitivity to certain pesticides and should not be exposed to them because of the reason(s) described below:
- (k) “property damage” includes, but is not limited to, injury to domestic animals, livestock and economically important insects.
- (l) “ready to use pesticide” means, any pesticide that requires no mixing or loading of a pesticide into a service container or other application device; such as but not limited to: aerosols and pre-mixed formulations in the original container.
- (m) “structure” means any building, regardless of its design or the type of material used in its construction, whether public or private, vacant or occupied, the foundation thereof, and the adjacent outside areas, and shall also include but shall not be limited to warehouses, trucks, boxcars, boats, airplanes, other vehicles, or the contents thereof, and fumigation vaults.
- (n) “tenant” means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others.
- (o) “use” means any and all aspects of the handling of pesticides from the time a pesticide container is opened until disposal of the pesticide container, including without limitation, the mixing, loading, application, spill control, and disposal of a pesticide or its container.
- (p) “to use any pesticide in a manner inconsistent with labeling directions or requirements” includes, but is not limited to, for termiticides only, the use of a termiticide at any concentration less than that stated on the labeling.
- (q) “agricultural commodity” means any plant, or part thereof, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by man or animals.
- (r) “device” means any device for which licensure as a commercial applicator is required pursuant to § 35-10-118(9.5). C.R.S. For purposes of these Rules, use of a pesticide includes the use of any such device by a commercial applicator.

- 1.03. Material incorporated by reference does not include any later amendments or editions of the incorporated material. Copies of material incorporated by reference in these Rules is available for public inspection during regular business hours. This incorporated material may be obtained at a reasonable charge or examined by contacting the Pesticide Section Chief, Department of Agriculture, 305 Interlocken Parkway, Broomfield, CO 80021. Further, the incorporated material may be examined at no cost on the Internet at:

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14 CFR Part 137 (2017): <https://www.ecfr.gov/cgi-bin/text-idx?SID=78202a2b282637d0353bef1963d3eb97&mc=true&node=pt14.3.137&rgn=div5>

7 CFR Part 110 (2017): <https://www.ecfr.gov/cgi-bin/text-idx?SID=341d0f40e8a82f23d37560d37f1d3795&mc=true&node=pt7.3.110&rgn=div5>

40 CFR § 156.10(h) (2017): https://www.ecfr.gov/cgi-bin/text-idx?SID=0bf63629a0295f907ad146fa19191798&mc=true&node=se40.26.156_110&rgn=div8

29 CFR § 1910.1200 (2017): https://www.ecfr.gov/cgi-bin/text-idx?SID=86491cb903d67e9bba95d83941202d06&mc=true&node=se29.6.1910_11200&rgn=div8

40 C.F.R., PART 172 (2017): <HTTPS://WWW.ECFR.GOV/CGI-BIN/TEXTIDX?SID=6AC65677C44BBA253A0D63B16ED45E72&MC=TRUE&NODE=PT40.26.172&RGN=DIV5>

40 C.F.R., PART 180 (2017: <HTTPS://WWW.ECFR.GOV/CGI-BIN/TEXTIDX?SID=0EEE3CBC0A72651B5B0BF97FD64ABD54&MC=TRUE&NODE=PT40.26.180&RGN=DIV5>

40 C.F.R., 152.25 (2017): [#SE40.26.152_125">HTTPS://WWW.ECFR.GOV/CGI-BIN/TEXTIDX?SID=0EEE3CBC0A72651B5B0BF97FD64ABD54&MC=TRUE&NODE=PT40.26.152&RGN=DIV5 #SE40.26.152_125](HTTPS://WWW.ECFR.GOV/CGI-BIN/TEXTIDX?SID=0EEE3CBC0A72651B5B0BF97FD64ABD54&MC=TRUE&NODE=PT40.26.152&RGN=DIV5)

[40 C.F.R. §§ 171.103\(C\) , 171.103\(D\), 171.105\(A\), AND 171.201\(D\) \(2017\): https://ecfr.io/Title-40/pt40.26.171#se40.26.171_1103](https://ecfr.io/Title-40/pt40.26.171#se40.26.171_1103)

Part 2. The Licensing System.

Subpart A Commercial Applicators

- 2.01. A person engaged in the business of applying pesticides must be licensed as a commercial applicator under the Act. To be licensed or to renew a license as a commercial applicator, any designated qualified supervisor(s) must be licensed in good standing in the category for which a commercial applicator's license is sought.
- 2.02. A person not engaged in the business of applying pesticides is not required to be licensed as a commercial applicator under the Act. For example, a person who evaluates and/or recommends pest controls while not engaging in the business of applying pesticides or working for a person who engages in the business of applying pesticides is not required to be licensed under the Act.
- 2.03. Each applicant for a license shall submit a signed, complete, accurate, and legible application, on a form provided by the Commissioner, which shall include, at a minimum: the name and address of the business, the name under which the business will operate (the doing business as name), the name of the person who is the primary contact, the address and telephone number of the location where the applicator records are to be kept, the name and identification numbers of all qualified supervisors employed or designated by the business, and any other information required on the form.
- 2.04. In addition to the application form ~~described above~~approved by the Commissioner, each applicant for a license or applicant for renewal of a license, shall submit the license fee set by the Commissioner. If the license fee does not accompany the application, the application for license or renewal of a license may be denied.

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2.05. Each person applying as a corporation or other entity, shall submit a certificate of good standing from the Secretary of State.

~~2.05.5. Each individual or sole proprietorship that applies for a license must provide all information and documents required by the Commissioner to verify lawful presence in the United States pursuant to Section 24-76.5-103, C.R.S. Failure to provide all such information and documents in the manner specified by the Commissioner shall be grounds for denial of an application for a license or renewal of an existing license.~~

2.06. Each applicant shall submit to the Commissioner the name under which the business will operate. If the licensee operates under more than one name, each such name shall be listed with the Commissioner.

2.07. Beginning with license year 1994, the annual license fee for commercial applicators shall be \$350.00.

2.08. Each applicant for renewal of a license shall annually submit a signed, complete, accurate, and legible application on a form provided by the Commissioner, which shall include, at a minimum: the name and address of the business, the name of the person who is the primary contact, the address and telephone number of the location where the applicator records are to be kept, the name and identification numbers of all qualified supervisors employed by the business, and any other information required on the form.

2.09. Each applicant for a license shall providefile evidence of liability insurance ~~on forms provided by to~~ the Commissioner.

2.10. Each applicant for renewal of a license in all categories, shall have on file at the time of submission of an application for renewal of a license evidence of liability insurance which is in force at the time of application.

2.11. Each commercial applicator shall have on file with the Commissioner evidence of liability insurance ~~on forms provided by the Commissioner~~ at the time any pesticide application is performed.

2.12. Adequate Supervision:

(a) A licensee must have at least one qualified supervisor for every fifteen (15) technicians, of which no more than eight (8) may be unlicensed technicians. For purposes of the provision, the term "unlicensed technician" means a technician who does not have a certified operator license

(b) A responsible qualified supervisor must be available while any technician under their supervision is using a pesticide. For purposes of this provision, the term "available" means able to communicate verbally with the technician and the Department and to respond appropriately to any emergency.

(c) A qualified supervisor may act in a supervisory capacity for one or more commercial applicator businesses at any given time, but only for the licensure category(ies) the qualified supervisor holds.

(d) A qualified supervisor may supervise one or more technicians employed by multiple commercial applicator businesses, so long as the aggregate number of technicians supervised from among those commercial applicator businesses does not exceed 15 technicians at any one point.

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- 2.13. A commercial applicator who conducts ~~such~~ business at two or more business locations shall obtain a license for each location at which it employs one or more permanent employees engaged in the application of pesticides for hire. For purposes of this paragraph, “business locations” means any physical location at or through which the functional operations of business regularly occur, including, but not limited to, financial transactions, arrangement of contracts, or assignment of work, and excluding buildings or locations used solely for storage of equipment or supplies or telephone answering services.
- 2.14. A commercial applicator may not apply pesticides aerially without an endorsement on its license by the Commissioner permitting such applications. In order to obtain such endorsement, the applicant or licensee shall present evidence that at least one pilot employed or to be employed by said applicant, currently holds a commercial agricultural aircraft operator certificate issued by the Federal Aviation Administration, U.S. Department of Transportation, pursuant to 14 CFR, ~~Part~~ Part 137 (2017) (as incorporated herein by reference). If the employment of said pilot or pilots is terminated for any reason, the ~~l~~licensee shall immediately cease aerial application of pesticides unless and until it is in compliance with this Rule.
- 2.15. A business not engaged in the business of applying pesticides for hire, and not licensed under the Act, may solicit and enter into a written contract which incidentally requires one or more pesticide applications only in accordance with the provisions of this ~~Part 2.15~~Section. Examples of such contracts, but not by way of limitation, are maintenance and paving contracts. If such business hires a licensed commercial applicator to perform the pesticide application as a subcontractor, then the primary contractor need not itself be licensed under the Act. If the primary contractor does not hire a licensed commercial applicator to perform such applications, then the primary contractor must obtain a license prior to entering into the primary contract. Entry into any such contract that does not have an express written statement that the contractor will subcontract with a licensed commercial applicator to perform the pesticide application(s) called for in the contract, shall constitute a violation of § 35-10-117(1)(c), C.R.S. Failure to include such a statement in any solicitations, whether oral or written, to enter into such a contract shall constitute a separate violation of § 35-10-117(1)(c), C.R.S.
- 2.16. A commercial applicator not licensed in a category (“contractor”) may solicit and enter into a written contract with a customer to perform pesticide applications in said category only if the contractor subcontracts with a commercial applicator licensed in said category (“subcontractor”) to perform the pesticide application in that category. In this case, the subcontractor shall be responsible for all aspects of the application. If the contractor hires the subcontractor to perform the pesticide application, then the contractor need not itself be licensed in the category. If the contractor does not hire a subcontractor to perform such applications, then the contractor must obtain a license in said category prior to entering into any contract with a customer for any pesticide application in said category. Entry into any such contract that does not have an express written statement that the contractor will subcontract with a subcontractor licensed to perform the pesticide application(s) called for in the contract, shall constitute a violation of § 35-10-117(1)(c), C.R.S. Failure to include such a statement in any solicitation, whether oral or written, to enter into such a contract shall constitute a separate violation of § 35-10-117(1)(c), C.R.S.
- 2.17. A commercial applicator licensed in a category (“contractor”) may enter into a contract with a customer to perform pesticide applications in said category. The contractor may subcontract with another commercial applicator licensed in the same category (“subcontractor”) to perform the pesticide application under the primary contract. In this case, both the contractor and subcontractor shall be responsible for all aspects of the application. For example and not by way of limitation: both applicators are required to keep records of the application; both applicators are responsible for any notification required under the act or these Rules; and both applicators are responsible for the proper application of any pesticides.

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Subpart B Registered Limited Commercial Applicators and Registered Public Applicators

- 2.18. Any person who in the course of conducting a business only in or on property owned or leased by the person or the person's employer ("limited commercial applicator") is engaged in applying restricted use pesticides, and any agency of the state, any county, city and county, or municipality, or any other local governmental entity or political subdivision ("public applicator") which applies restricted use pesticides shall register with the Commissioner.
- 2.19. An entity which does not apply restricted use pesticides but otherwise qualifies as a limited commercial applicator or a public applicator may register with the Commissioner.
- 2.20. A limited commercial applicator or public applicator which exclusively applies general use pesticides is not required to register with the Commissioner unless they have so designated in accordance with Part§ 2.19.
- 2.21. Any limited commercial applicator or public applicator registered pursuant to the Act and these Rules shall be governed by the Act and these Rules for all pesticide applications including those involving general use pesticides.
- 2.22. The limited commercial applicator or public applicator shall designate on its application one or more individuals, who are or will be employed by it in the capacity of qualified supervisor, to take the examination for each category and subcategory for which the registration is sought.
- 2.23. To be registered as a limited commercial applicator or public applicator, the designated qualified supervisor must be licensed in good standing and must meet all qualifications including, but not limited to, the experience and/or educational qualifications set forth in these Rules for each of the categories in which he or she will take the examination. For purposes of this ~~Part 2.23~~Section, the term "good standing" includes but is not limited to, the fact that the qualified supervisor's license has not expired pursuant to § 35-10-116 (1), C.R.S.
- 2.24. Each applicant for a registration shall submit a signed, complete, accurate, and legible application, on a form provided by the Commissioner, which shall include, at a minimum: the name and address of the applicant, the name of the person who is the primary contact, the address and telephone number of the location where the applicator records are to be kept, the name and identification numbers of all qualified supervisors employed by the applicant, and any other information required on the form.
- 2.25. In addition to the application form ~~described above~~approved by the Commissioner, each applicant for registration, shall submit the registration fee set by the Commissioner. If the registration fee does not accompany the application, the application for registration may be denied.
- 2.26. Each person applying as a corporation or other entity, shall submit a certificate of good standing from the Secretary of State.
- 2.27. The registration required pursuant to the Act shall expire on December 31 of the same year the registration is granted.
- 2.28. A registered limited commercial applicator or a registered public applicator may not apply pesticides aeriually without an endorsement on its registration by the Commissioner permitting such applications. In order to obtain such endorsement, the limited commercial applicator or a public applicator shall present evidence that at least one pilot employed or to be employed by said limited commercial applicator or a public applicator, currently holds a commercial agricultural aircraft operator certificate issued by the Federal Aviation Administration, U.S. Department of Transportation, pursuant to 14 CFR, Part 137 (2017) (as incorporated herein by reference). If the

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employment of said pilot or pilots is terminated for any reason, the limited commercial applicator or a public applicator shall immediately cease aerial application of pesticides unless and until it is in compliance with this Rule.

- 2.29. A limited commercial entity or a public entity may designate separate sections, divisions, agencies, or their equivalent to be registered.
- 2.30. Adequate Supervision:
- a) A registered limited commercial applicator or a registered public applicator must have at least one qualified supervisor for every fifteen (15) technicians, of which no more than eight (8) may be unlicensed technicians. For purposes of the provision, the term “unlicensed technician” means a technician who does not have a certified operator license.
 - b) A responsible qualified supervisor must be available while any technician under their supervision is using a pesticide. For purposes of this provision, the term “available” means able to communicate verbally with the technician and the Department and to respond appropriately to any emergency.
 - ~~(c) A qualified supervisor may act in a supervisory capacity for one or more commercial applicator businesses at any given time, but only for the licensure category(ies) the qualified supervisor holds.~~
 - ~~(d) A qualified supervisor may supervise one or more technicians employed by multiple commercial applicator businesses, so long as the aggregate number of technicians supervised from among those commercial applicator businesses does not exceed 15 technicians at any one point.~~
- 2.31. If before the expiration of a registration, a registered limited commercial applicator or registered public applicator wants to withdraw registration, said applicator may withdraw from registration. Notice of withdrawal must be in writing and is not effective until 10 days from receipt by the Commissioner. If before the original expiration of a registration the applicator wants to be registered, the applicator must submit a new application and submit a new registration fee.

Subpart C Qualified supervisors and certified operators

- 2.32. A person working for a person who is or should be licensed as a commercial applicator, registered limited commercial applicator, or registered public applicator and who without supervision, evaluates pest problems, or recommends pest controls using pesticides, or uses any pesticide, or sells application services, or supervises others in any of these functions must be licensed as a qualified supervisor.
- 2.33. A person who applies any restricted use pesticide without the on site supervision of a qualified supervisor must be licensed as a certified operator.
- 2.34. Each qualified supervisor and certified operator applying for a license or the renewal of a license ~~must be 18 years of age and shall submit complete and file with the Commissioner~~ must be 18 years of age and shall submit complete and file with the Commissioner an application on a form provided by the Commissioner, prior to the date of expiration of any current license ~~on a form furnished by the Commissioner, and~~ which contains, at a minimum, the following: the applicant's identification number, if any, his or her name, the name, address, telephone number, date of birth, and license or registration number of his or her employer, if any, and any other information required on the form.

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- 2.35. The Commissioner may require verification of any fact, including but not limited to, any experience or education claimed on any application, and may investigate the truthfulness and accuracy of any and all information submitted by an applicant.
- 2.36. Upon a showing of exceptional circumstances by an applicant, the Commissioner may waive part of the experience requirements specified in these Rules. The Commissioner may accept, with sufficient verification, valid relevant field experience obtained in this state or any other state.
- 2.37. Each applicant for license as a qualified supervisor or certified operator, shall take and pass a general examination and any examinations required for the category for which the applicant has applied.
- 2.38. ~~Each individual who applies for a license must provide all information and documents required by the Commissioner to verify lawful presence in the United States pursuant to Section 24-76.5-103, C.R.S. Failure to provide all such information and documents in the manner specified by the Commissioner shall be grounds for denial of an application for a license or renewal of an existing license. Repealed~~
- 2.39. Except as provided in Part§ 2.45 of these Rules, each applicant for a license as a qualified supervisor or certified operator shall pay a fee to be determined by the Commissioner. Said fee must be paid separately from any other fee, including but not limited to, any fee for examination as a qualified supervisor or certified operator or any fee for licensure as a commercial applicator.
- 2.40. The qualified supervisor(s) employed by a licensee shall be responsible for the complete supervision of all pest control recommendations, soliciting, mixing, loading, and application of pesticides for the licensee in the licensure category(ies) the Qualified Supervisor(s) hold(s).
- 2.41. The anniversary date of a qualified supervisor's license or certified operator's license shall be the birth date of the licensee.
- 2.42. Both qualified supervisors and certified operators will be licensed by category and must take and pass both a general exam and a category specific exam.
- 2.43. In order for a licensed qualified supervisor or licensed certified operator to become licensed in additional categories, the applicant must take and pass the examination in the new category.
- 2.44. If a qualified supervisor possesses all of the qualifications for licensure as a qualified supervisor in an additional category for which such person is not licensed, except for the required experience, such person shall be licensed as a certified operator in such additional category without payment of the application fee for the certified operator's license.
- 2.45. If a licensed qualified supervisor or licensed certified operator applies for licensure in an additional category, said qualified supervisor or certified operator shall not be required to pay an additional application fee for licensure in a new category. The applicant shall be required to pay an examination fee.
- 2.46. Any category added after the qualified supervisor or certified operator is originally licensed or renewed shall expire on the date of expiration of the original license.
- 2.47. In order to qualify for renewal of a license, any licensed qualified supervisor or licensed certified operator must either take and pass the general exam and any category specific exams for his category or complete any continuing education required pursuant to ~~p~~Part 4 of these Rules. Any renewal of a license shall be determined on a category basis. Any license that is not renewed on

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or before the expiration date of the license may be reinstated within one hundred eighty days after the expiration date upon:

- (a) Application and payment of a reinstatement fee as determined by the Commissioner; and
 - (b) Proof that all renewal requirements have been satisfied as of the expiration date of the license.
- 2.48. An individual certified or licensed by another jurisdiction as a commercial pesticide applicator may obtain a certified operator license in Colorado without passing any examination, but only for the unexpired term of the certification or license issued by such other jurisdiction. Application for such licensure shall require proof of current certification or licensure in good standing in the other jurisdiction and payment of an application fee pursuant to Part§ 2.39. Any application for licensure pursuant to this ~~Part 2.48~~Section may be denied for any reason other than passage of any exam. If issued, said license shall expire on the expiration date of the certification or license issued by the other jurisdiction. Upon the expiration of the license issued pursuant to this ~~Part 2.48~~Section, the individual may renew the certification or license issued by the other jurisdiction and re-apply to become a certified operator in Colorado as permitted by this ~~Part~~§ 2.48, or apply for a license in Colorado and satisfy all requirements therefore, including, but not limited to, taking and passing each examination applicable to such licensure.

Subpart D Private Applicators

- 2.49. Any person who uses or supervises the use of a restricted use pesticide for purposes of producing any agricultural commodity on property owned or leased by the applicator or the applicator's employer or, if the pesticide is applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person must be a licensed private applicator. The holder of a private applicator license is only authorized to use restricted pesticides for the purpose of producing an agricultural commodity as defined in Part 1, Rule 1.02(m).
- 2.50. Each applicant for a private applicator license or renewal of a license must be 18 years of age and shall submit an application on a form provided by the Commissioner, prior to the date of expiration of any current license, shall complete and file with the Commissioner an application on a form furnished by the Commissioner, and which contains, at a minimum, the following: the applicant's identification number, if any, his or her name, address, telephone number, date of birth, photocopy of their identification, and any other information required on the form. ~~Licenses issued by the Environmental Protection Agency prior to January 1, 2007 cannot be renewed.~~
- 2.51. The Commissioner may require verification of any fact, including but not limited to, type of agricultural commodity production claimed on any application, and may investigate the truthfulness and accuracy of any and all information submitted by an applicant.
- 2.52. Each applicant for a private applicator license shall take and pass an examination.
- 2.53. Each applicant for a private applicator license shall pay a fee to be determined by the Commissioner. Said fee must be paid separately from any other fee, including but not limited to, any fee for examination as a private applicator.
- 2.54. A licensed private applicator shall be responsible for the supervision of any unlicensed person working under his or her direction, who mixes, loads, or applies a restricted use pesticide, for purposes of producing any agricultural commodity on property owned or leased by the applicator or the applicator's employer. For the purposes of this ~~Part 2.54~~Section, supervision of any unlicensed person working "under his or her direction" shall mean work performed by an

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individual acting under the instruction and control of a licensed private applicator, even if the licensed private applicator is not physically present at the work site at the time the work is performed.

- 2.55. The anniversary date of a private applicator license shall be the birth date of the licensee.
- 2.56. In order for a licensed private applicator to become licensed as a qualified supervisor or certified operator, the applicant must take and pass both a general exam and a category specific exam and meet any requirements outlined in Part 2, Subpart C₁ of these Rules.
- 2.57. If a licensed private applicator applies for licensure as a qualified supervisor or certified operator, the private applicator shall be required to pay an additional examination fee and application fee for licensure.
- 2.58. In order to qualify for renewal of a license, a licensed private applicator must either take and pass the private applicator exam or complete any continuing education required pursuant to Part 4 of these Rules. A license that is not renewed on or before the expiration date of the license may be reinstated within one hundred eighty days after the expiration date upon:
- (a) Application and payment of a reinstatement fee as determined by the Commissioner; and
 - (b) Proof that all renewal requirements have been satisfied as of the expiration date of the license.
- 2.59. An individual certified or licensed by another jurisdiction outside Colorado as a private applicator may obtain a Colorado private applicator license without passing any examination, but only for the unexpired term of the certification or license issued by such other jurisdiction. Application for such licensure shall require proof of current certification or licensure in good standing in the other jurisdiction and payment of an application fee pursuant to Part§ 2.53. Said license shall expire on the expiration date of the certification or license issued by the other jurisdiction. Upon the expiration of the license issued pursuant to this Part 2.59~~Section~~, the individual may renew the certification or license issued by the other jurisdiction and re-apply to become a private applicator in Colorado as permitted by this Part§ 2.59, or apply for a license in Colorado and satisfy all requirements therefore, including, but not limited to, taking and passing an examination applicable to such licensure.
- 2.60. Private pesticide applicator licensure classification: Category 401, Private Pesticide Applicator Pest Control, is for the application of restricted use pesticides for the purpose of producing any agricultural commodity on property owned or leased by the applicator or the applicator's employer or, when the pesticide is applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

Subpart E Licensure Actions, Suspension, Denial, Revocation

- 2.61. Any of the following actions shall constitute grounds for the suspension, restriction, refusal to renew, denial, or revocation of a license or certification, whether alone or in conjunction with violations of any provision of the act or of any other provision of these Rules:
- (a) The application of pesticides in a negligent or willful manner which creates, either by pesticide residue or by direct damage, a hazard to property, which shall include without limitation, crops, ornamental plants, and animals (including economically important insects).

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- (b) The application of pesticides in a negligent or willful manner which endangers human health.
- (c) The creation of a situation from improper handling of pesticides, including spillage, leakage, vapors or disposal, which constitutes a hazard to the health, welfare or safety of any person, the general public, any animal or animals (including economically important insects), any crops, any ornamental plants, or the environment.

Part 3. Examination.

- 3.01. The Commissioner, or his or her designated administrator, shall administer a general examination and/or an examination in each category established by these Rules. Each examination must meet all core standards for all categories in accordance with 40 C.F.R. §§ 171.103(c), 171.103(d), and 171.105(a). Each examination is for the purpose of licensing as a qualified supervisor, certified operator, or private applicator. An individual may take such examinations for the purpose of obtaining a license.
- 3.02. Each applicant for examination shall file an application for examination on a form provided by the Commissioner and shall pay a fee to be determined by the Commissioner. Said fee must be paid separately from any other fee, including but not limited to, any fee for application for licensure as a qualified supervisor, certified operator, or private applicator or any fee for licensure as a commercial applicator.
- 3.03. Each applicant shall be required to obtain the grade designated as passing on each ~~s~~Section of the examination (s) under which he or she wishes to qualify. All examinations shall be graded uniformly.
- 3.04. Each applicant for examination shall complete an identification form, provided by the Commissioner, for the Commissioner's use in identifying persons who take the examinations. The information on the identification form shall consist of that which is reasonably necessary or appropriate for ensuring the integrity of the examination process, such as the physical description of the applicant.
- 3.05. Examinations shall be graded without reference to the application or personal identification forms which have been completed by the applicant.
- 3.06. The Commissioner shall keep an applicant's test results on file for a period of one year from the date of examination. Such results may be used by an applicant for licensing during that period of time. If an applicant fails to complete the licensing process within one year of the examination date, he or she shall be required to take new examinations in all applicable categories in which he or she wishes to be licensed.
- 3.07. The Commissioner may furnish, for a fee, study guides for the use of persons preparing for the examinations given under the Act. The fees for this material shall be sufficient to cover the cost of printing and postage.
- 3.08. Examination security provisions:
 - (a) No applicant or licensee testing in any qualified supervisor or certified operator licensure category shall use any outside information not provided by the Commissioner or his designee while taking a closed book examination, remove any examination question or answer sheets from the room where the examination is given, nor shall any applicant or licensee cause any examination question or answer to be disseminated to any person not employed by the Commissioner by any means whatsoever.

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- (b) No applicant or licensee testing for a private applicator license, or person proctoring a private applicator test session, shall cause any examination question or answer to be disseminated to any person not employed by the Commissioner by any means whatsoever. No person other than the applicant or licensee may complete the private applicator examination form.

Part 4. Continuing Education Requirements.

Subpart A General Continuing Education Requirements for Qualified Supervisor and Certified Operator

- 4.01. In order to renew a license without examination, each qualified supervisor and each certified operator must obtain the following credits prior to the expiration of his license:
 - (a) 2 credits in the subject area of applicable state, federal, and local laws and regulations;
 - (b) 1 credit in the subject area of pesticides and their families;
 - (c) 1 credit in the subject area of applicator safety;
 - (d) 1 credit in the subject area of public safety;
 - (e) 1 credit in the subject area of environmental protection;
 - (f) 1 credit in the subject area of use of pesticides; ~~and~~
 - (g) 1 credit for each licensed category in the subject area of pest management except for those categories described in Part 4.01(h)subsection (h) of this § 4.2 below; ~~and~~
 - (h) 2 credits for each of the following licensed categories: residential/commercial pest control, turf pest control and ornamental pest control.

- 4.02. In order for a qualified supervisor or a certified operator attending a course to receive relicensing or continuing education credit:
 - (a) the course must be approved in advance by the Commissioner;
 - (b) ~~requests~~ for approval must be in submitted by the course sponsor to the Commissioner on writing a form provided by the Commissioner;
 - ~~(c) requests for approval must be submitted by the sponsors;~~
 - ~~(ce)~~ requests for approval must be submitted no less than thirty~~fifteen~~ days prior to the course; and
 - ~~(de)~~ requests for approval ~~must~~shall include: ~~the proposed agenda, the identity of all speakers at pertinent course(s) and a synopsis of the topics to be addressed in each course for which credit is being requested.~~
 - (1) The proposed agenda, with the length of time for each session and a synopsis of the topics to be addressed in each course for which credit is being requested;

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- (2) The identity of all speakers for each pertinent course. Upon request, the course sponsor must provide the Commissioner with speaker credentials confirming licensure or expertise in the subject matter for which the speaker will provide training. The Commissioner may deny approval of a speaker if the credentials or experience does not relate to the subject matter the speaker will teach; and
 - (3) An explanation of the process the course sponsor will use to confirm the identity of each course attendee.
 - (e) Core category recertification sessions, as indicated in Subparts C – H of this Part 4, must be no less than 30 minutes in length. Pest Management recertification sessions, as indicated in Subpart I of this Part 4, must be no less than 60 minutes in length. Multiple sessions may be grouped sequentially to meet the minimum time requirements if the course sponsor can show attendance can be tracked across grouped sessions.
 - (f) Attendance at approved recertification courses must be open to any person holding a Colorado pesticide applicator license, subject to space limitations.
- 4.03. If the Commissioner receives a request for continuing education approval at least sixty days prior to the course date, the Commissioner will notify applicators of the approval for continuing education credits. The Commissioner will not provide notification of such approval if the request for its approval was received less than sixty days prior to the course.
- 4.04. The list of those attending each approved course shall be sent by the sponsor to the Commissioner no later than 7 days after the conclusion of the course. The sponsor must provide each licensed attendee confirmation of attendance of the course no more than 7 days after the conclusion of the course. It is the ~~attendee's individual's~~ responsibility to confirm that his or her name appears on the attendance list for each course or session attended. The course sponsor must provide attendance confirmation to the Commissioner in writing or electronically, using a form provided by the Commissioner or in a format preapproved by the Commissioner~~when he or she attends an approved course.~~
- 4.05. A course will be approved for continuing education credit if, in the opinion of the Commissioner, it covers at least one topic from the following subject areas adequately to justify the approval for credit. (Subject areas and subtopics are listed in Subpart C - I of this Section.) Failure to meet any required recertification submission provision in this Part 4 may be grounds for course denial or future course denial.

Subpart B General Continuing Education Requirements For Private Applicators

- 4.06. In order to renew a license without examination, each private applicator must obtain the following credits prior to the expiration of his or her license:
- (a) 2 credits in the subject area of applicable state, federal and local laws and regulations;
 - (b) 1 credit in the subject area of pesticides and their families;
 - (c) 1 credit in the subject area of applicator safety;
 - (d) 1 credit in the subject area of public safety;
 - (e) 1 credit in the subject area of environmental protection; and
 - (f) 1 credit in the subject area of use of pesticides.

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- 4.07. In order for a private applicator attending a course to receive relicensing or continuing education credit:
- (a) the course must be approved in advance by the Commissioner;
 - (b) requests for approval must be submitted by the course sponsor to the Commissioner on a writing a form provided by the Commissioner;
 - (c) ~~requests for approval must be submitted by the sponsors;~~
 - (~~cd~~) requests for approval must be submitted no less than ~~thirty~~fifteen days prior to the course; and
 - (~~de~~) requests for approval ~~must~~shall include: ~~the proposed agenda, the identity of all speakers at pertinent course(s) and a synopsis of the topics to be addressed in each course for which credit is being requested.~~
 - (1) The proposed agenda, with the length of time for each session and a synopsis of the topics to be addressed in each course for which credit is being requested;
 - (2) The identity of all speakers for each pertinent course. Upon request, the course sponsor must provide the Commissioner with speaker credentials confirming licensure or expertise in the subject matter for which the speaker will provide training. The Commissioner may deny approval of a speaker if the credentials or experience do not relate to the subject matter the speaker will teach; and
 - (3) An explanation of the process the course sponsor will use to confirm the identity of each course attendee.
 - (e) Core category recertification sessions, as indicated in Subparts C – H of this Part 4, must be no less than 30 minutes in length. Multiple sessions may be grouped sequentially to meet the minimum time requirements if the course sponsor can show attendance can be tracked across grouped sessions.
 - (f) Attendance at approved recertification courses must be open to any person holding a Colorado pesticide applicator license, subject to space limitations.
- 4.08. If the Commissioner receives a request for continuing education approval at least sixty days prior to the course date, the Commissioner will notify applicators of the approval for continuing education credits. The Commissioner will not provide notification of such course approval if the request for its approval was received less than sixty days prior to the course.
- 4.09. The list of those attending each approved course shall be sent by the sponsor to the Commissioner no later than 7 days after the conclusion of the course. The sponsor must provide each licensed attendee confirmation of attendance of the course no more than 7 days after the conclusion of the course. It is the attendee's individual's responsibility to confirm that his or her name appears on the attendance list for each course or session attended. The course sponsor must provide attendance confirmation to the Commissioner in writing or electronically, using a form provided by the Commissioner or in a format preapproved by the Commissioner when he or she attends an approved course.
- 4.10. A course will be approved for continuing education credit if, in the opinion of the Commissioner, it covers at least one topic from the following subject areas adequately to justify the approval for credit. (Subject areas and subtopics are listed in Subparts C – H of this Section.) Failure to meet

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any required recertification submission provision in this Part 4 may be grounds for course denial or future course denial.

Subpart C Applicable State, Federal, and Local Laws and Regulations

- 4.11. State, federal and local regulations dealing with: pesticides, application, disposal, notification, transportation, registration, uses, licensing, worker protection, endangered species, storage, residues and tolerances, emergency planning and right to know, advertising, record keeping, business practices, insurance, training standards, supervision, agricultural chemicals and groundwater, or consumer protection.
- 4.12. Compliance problems/actions, analysis of most frequent violations, and discussions of specific problems and actions.

Subpart D Pesticides and Their Families

- 4.13. Pesticide label and labeling including: label requirements, label terminology, and effect of failure to comply with label requirements.
- 4.14. Pesticides in general including: families and types, mode of action, and other properties.
- 4.15. Formulation of pesticides: types, properties, advantages, limitations, toxicity, dilution, mixing, and uses.
- 4.16. Semiochemicals for pest detection and control.
- 4.17. Adjuvants and additives.
- 4.18. Specific pesticide characteristics and concepts including: compatibility, synergism, persistence, environmental fate, resistance, mode of action (contact, systemic, etc.), mobility, leachability, potential for biological concentration and/or accumulation, volatility, solubility, inert ingredients and/or carriers, and phytotoxicity.
- 4.19. National trends on pesticide problems.

Subpart E Applicator Safety

- 4.20. Safe use of pesticides by the applicator including: label requirements, transportation, mixing, loading, disposal, equipment cleanup, spill management, storage, application, and precautions to prevent exposure and injury.
- 4.21. Applicator protection including selection, care, and maintenance of protective clothing and safety equipment.
- 4.22. Human health effects including: acute and chronic toxicity, hazard determination, routes of exposure, symptoms of pesticide poisoning, and allergies.
- 4.23. First aid and emergency actions for pesticide exposure and use related injuries.
- 4.24. Reference sources pertinent to applicator safety including: Material Safety Data Sheet(s) (MSDS), telephone hotlines, emergency procedures, and label requirements.
- 4.25. Major label revisions and national trends and updates relevant to applicator safety.

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- 4.26. Responsibilities of qualified supervisors, certified operators, technicians and other employees.

Subpart F Public Safety

- 4.27. Safe use of pesticides by the applicator including: label requirements, transportation, mixing, loading, disposal, equipment cleanup, spill management, storage, application, and precautions to prevent exposure and injury.
- 4.28. Human health effects including: acute and chronic toxicity, hazard determination, routes of exposure, symptoms of pesticide poisoning, and allergies.
- 4.29. Reference sources pertinent to public safety including: Material Safety Data Sheet (s) (MSDS), telephone hotlines, emergency procedures, and label requirements.
- 4.30. Major label revisions and national trends and updates relevant to public safety.
- 4.31. Responsibilities of qualified supervisors, certified operators, technicians and other employees.
- 4.32. Public education about pesticides and pesticide application, public relations, communication and trouble shooting.
- 4.33. Pesticide sensitivities, allergies, and phobias including chemophobia and entomophobia.

Subpart G Environmental protection

- 4.34. Precautions to protect the environment and minimize the effects of pest management on it, including: identification of meteorological and climatic factors affecting application (drift, runoff, etc.); identification of terrain, soil, substrata influence on possible surface and ground water contamination; recognition of sensitive areas and organisms that could be affected by application, drift and runoff such as endangered species, wildlife, ornamentals, beneficial insects, humans, and domestic animals; identification of methods of spill prevention, control, and cleanup; observation of preharvest intervals; timing of applications for specific pest controls; and pesticide storage and transportation.
- 4.35. Major label revisions and national trends and updates relevant to environmental protection.
- 4.36. Responsibilities of qualified supervisors, certified operators, technicians and other employees.

Subpart H Use

- 4.37. Mixing and loading including: proper mixing and loading techniques, label requirements, closed systems, adjuvants for drift control and other purposes, measuring, pH of water and other factors to consider, procedures for spill prevention, control and clean up, site location and construction, prevention of contamination, and security.
- 4.38. Application including: proper application techniques, techniques to control off target movement, new application techniques, procedures for spill prevention, control and clean up, label requirements.
- 4.39. Equipment including: calibration, selection of correct equipment for the job, maintenance and care, clean up, new equipment.

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- 4.40. Storage and disposal including: bulk storage, label requirements, site requirements such as ventilation, containment, procedures for spill prevention, control and clean up, disposal of containers, rinsate, excess material, security, fire prevention, posting, temperature, product separation to prevent cross contamination.
- 4.41. Responsibilities of qualified supervisors, certified operators, technicians and other employees.
- 4.42. Major label revisions and national trends and updates relevant to pesticide use.
- 4.43. Practical demonstration of use methods and techniques.

Subpart I Pest Management

- 4.44. Identification and biology including: principles of host and pest identification and recognition of such organisms, principles of site/habitat identification, damage and/or symptoms caused by pests, recognition of beneficial organisms, understanding host, pest and beneficial life cycles and susceptible stages, and evaluate environmental conditions and ecology on host and pest biology.
- 4.45. Pest management criteria including: determining economic or aesthetic threshold levels, consideration of environmental impact of control methods, selection of control method, post-treatment evaluation, ability to integrate various pest management methods, comparative effectiveness of management methods and techniques, sampling and survey techniques, host and pest resistance, effects of control methods on host and off target organisms, timing of control alternatives, and pest management history.
- 4.46. Chemical control methods and practices including: select material, formulation, and/or equipment, determine dosage of selected control, selection of proper pesticides and adjuvants for a particular job, and timing of pesticide application.
- 4.47. Alternative control methods and practices including: mechanical, biological, cultural, and physical methods, and timing of control methods.
- 4.48. References for decision making for pest management.
- 4.49. Major label revisions, evolution of pest management, and national trends and updates relevant to pest management.

Part 5. Technician Training.

Subpart A General

- 5.01. Definitions. For purposes of this ~~P~~part 5 unless the context otherwise requires:
 - (a) “Applicator technician” means a technician whose job includes the use of pesticides;
 - (b) “Experienced technician” means a technician who has been trained and has the following minimum experience within the past 3 years: for applicator technicians doing structural applications, 6 months of experience including time in training, for applicator technicians doing agricultural, turf, ornamental or turf and ornamental applications, 1 season of experience including time in training, and for sales technicians, 1 season of sales experience;

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- (1) “New hire experienced technician” means any technician who has met the experience requirements, outlined in ~~Part~~Rule 5.01(b)~~-of this Part 5~~, within the last 3 years, but is a new employee of a commercial applicator, registered limited commercial applicator, or registered public applicator.
- (2) “On-going experienced applicator technician” means an individual who has met the definition of an experienced technician and continues to work for the same commercial applicator, registered limited commercial applicator, or registered public applicator.
- (c) “Sales technician” means a technician whose sole job is selling application services; and
- (d) “Selling application services” means the sale of a pesticide application. Selling application services does not include the sale of an evaluation service, inspection service, or recommendation service. To qualify as a sale of an application service, the seller must make an evaluation of pest problems or a recommendation of pest controls using pesticides. A seller does not make an evaluation of pest problems or a recommendation of pest controls using pesticides if the seller answers questions from a customer using an answer sheet prepared by a licensed qualified supervisor.
- (e) “Flagger technician” means an individual employed and compensated by the applicator who designates, with a flag or any other identification, the alignment of a pesticide application during the application of pesticides at that site.

5.02. Scope of ~~P~~Part 5.

- (a) A person will not be considered a technician for purposes of these Rules if said person uses, sells, or recommends a general use pesticide while under the on site supervision of a qualified supervisor.
- (b) A person who evaluates any pest problem while under the on site supervision of a qualified supervisor will not be considered a technician.
- (c) Use or sales of Restricted Use pesticide by a technician:
 - (1) A person must be a trained technician or must be training to be a technician if said person uses, a restricted use pesticide while under the on site supervision of a qualified supervisor.
 - (2) A person must be training to be a technician to sell or recommend a restricted use pesticide while under the on site supervision of a qualified supervisor.
 - (3) A person must be a trained technician to sell or recommend a restricted use pesticide while under the supervision of a qualified supervisor.
- (d) A person must be a technician or must be training to be a technician if said person uses, sells, or recommends a general use pesticide while on the job with a certified operator or experienced technician.
- (e) A person may not use, sell, or recommend, general use pesticides unaccompanied by a qualified supervisor, certified operator, or experienced technician without completing the training required by these Rules.

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- (f) For the purposes of determining if a person is experienced and/or trained, upon a showing of exceptional circumstances by a commercial applicator, the Commissioner may waive all or part of the experience and training requirements specified in these Rules. The Commissioner may accept, with sufficient verification, valid relevant field experience and training obtained from sources other than the commercial applicator in this state or any other state so long as safety is not compromised and the person has the necessary pertinent application skills,
- (g) The amount of time given to each topic covered by these Rules is discretionary with the trainer. However, the technician's training must be relevant to each technician's job duties.
- (h) Each commercial, registered limited commercial, or registered public applicator licensed or registered in any category shall record the training provided to each technician on a form or forms provided by the Commissioner. Any such form(s) must be completed in full in order to comply with this Part 5.02(h)~~maintain a form established by the Commissioner for each technician trained by said commercial applicator.~~
- (i) Each commercial, registered limited commercial, or registered public applicator licensed or registered in any category may give a written examination to trained technicians to determine the comprehension of subjects covered by the training. However, said examination shall not in any manner substitute for any of the training required by these Rules.
- (j) This Part 5 shall not apply to limited commercial applicator and public applicators not registered with the Department pursuant to Section 35-10-109, C.R.S., which are regulated by Part 16 of these Rules.
- ~~(k) All technician training conducted under this Part 5 and its Subparts must conform with all noncertified applicator training requirements in 40 C.F.R. § 171.201(d) (2017) (as incorporated herein by reference).~~
- ~~(l) A commercial, registered limited or registered public applicator must obtain training records to verify that any new-hire experienced technician has met all the training requirements in this Part 5. These records must be maintained as part of the technician's training record in accordance with Part 5.02(m) below.~~
- ~~(m) Each commercial, registered limited commercial, or registered public applicator must maintain the training record(s) as follows:~~
 - ~~(1) The original training record reflecting all required classroom and on-the-job training hours, in accordance with Part 5 and its subparts for the category being trained in, must be maintained for the entirety of the technician's employment and for three years after the technician's separation from the employer;~~
 - ~~(2) The on-going training record reflecting all required training hours and topics, in accordance with Part 5 and its subparts for the category being trained in, must be maintained for a minimum of three years from the date training was conducted.~~
 - ~~(3) A copy of all training records must be provided to the applicator technician upon request and must be provided to the Commissioner upon request.~~

Subpart B Agricultural

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- 5.03. Except as otherwise expressly provided in these Rules, each applicator technician and flagger technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in any agricultural category shall have at a minimum 36 hours of training:
- (a) At least 12 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety; and
 - (b) At least 24 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of agricultural pesticide application experience within the last 2 years. No more than 16 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety.
- 5.04. Except as otherwise expressly provided in these Rules, each sales technician working for a commercial applicator licensed in any agricultural category shall have at a minimum 36 hours of training:
- (a) At least 12 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, pesticides and their families, pest management, pesticide label and labeling, host and pest identification, and public safety;
 - (b) At least 16 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of agricultural pesticide application experience within the last 2 years. No more than 8 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, pesticides and their families, pest management, pesticide label and labeling, host and pest identification, and public safety; and
 - (c) The remaining 8 hours shall be divided between classroom-instructional training and on the job training as the need is determined by the qualified supervisor.
- 5.05. Except as otherwise expressly provided in these Rules, each on-going experienced applicator technician, flagger technician, and sales technician continuing to work for the same commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in any agricultural category shall have, during each year of employment after the first season of experience, at a minimum, the following on-going training: 4 hours of training conducted by a licensed qualified supervisor or licensed certified operator which licensed certified operator has at least 1 season of agricultural pesticide application experience within the last 2 years. The qualified supervisor shall determine from those topics enumerated in § 5.03 the training required. Said training may be either classroom-instructional or on the job training as determined by the qualified supervisor.
- 5.06. Except as otherwise expressly provided in these Rules, each new hire experienced technician and flagger technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in any agricultural category shall have at a minimum 16 hours of training:

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- (a) At least 4 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
- (b) At least 8 hours of which shall be on the job training conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of agricultural pesticide application experience within the last 2 years. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
- (c) The remaining 4 hours shall be divided between classroom-instructional training and on the job training as the need is determined by the qualified supervisor; and
- (d) Experienced sales technicians are not required to complete training in use, equipment and calibration nor applicator safety.

Subpart C Turf

- 5.07. Each applicator technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the turf category shall have at a minimum 36 hours of training:
- (a) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, applicator safety, pesticide label and labeling, and public safety;
 - (b) At least 4 hours of which shall be classroom-instructional training covering: pest management and host and pest identification; and
 - (c) At least 24 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of turf pesticide application experience within the last 2 years. No more than 16 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety.
- 5.08. Each sales technician working for a commercial applicator licensed in the turf category shall have at a minimum 40 hours of training:
- (a) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, pesticides and their families, pesticide label and labeling, and public safety;
 - (b) At least 8 hours of which shall be classroom-instructional training covering: pest management and host and pest identification; and
 - (c) At least 24 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of turf pesticide application

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experience within the last 2 years. No more than 16 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, pesticides and their families, pest management, pesticide label and labeling, host and pest identification, and public safety.

- 5.09. Each technician who acts as both a sales technician and an applicator technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the turf category shall have at a minimum 48 hours of training:
- (a) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, applicator safety, pesticide label and labeling, and public safety;
 - (b) At least 16 hours of which shall be classroom-instructional training covering: pest management and host and pest identification; and
 - (c) At least 24 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed qualified supervisor or licensed certified operator has at least 1 season of turf pesticide application experience within the last 2 years. No more than 16 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety.
- 5.10. Each on-going experienced applicator technician and sales technician continuing to work for the same commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the turf category shall have, during each year of employment after the first season of experience, at a minimum, the following on-going training: 4 hours of training conducted by a licensed qualified supervisor or licensed certified operator which licensed certified operator has at least 1 year of turf pesticide application experience within the last 2 years. The qualified supervisor shall determine from those topics enumerated in Part§ 5.09 the training required. Said training may be either classroom-instructional or on the job training as determined by the qualified supervisor.
- 5.11. Each new hire experienced technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the turf category shall have at a minimum 16 hours of training:
- (a) At least 4 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (b) At least 8 hours of which shall be on the job training conducted by a licensed qualified supervisor or a licensed certified operator which licensed qualified supervisor or licensed certified operator has at least 1 season of turf pesticide application experience within the last 2 years which training shall cover: use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (c) The remaining 4 hours shall be divided between classroom and the job site as the need is determined by the qualified supervisor; and

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- (d) Experienced sales technicians are not required to complete training in use, equipment and calibration nor applicator safety.

Subpart D Ornamental

5.12. Each applicator technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the ornamental category shall have at a minimum 40 hours of training:

- (a) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, applicator safety, pesticide label and labeling, and public safety;
- (b) At least 8 hours of which shall be classroom-instructional training covering: pest management and host and pest identification; and
- (c) At least 24 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of ornamental pesticide application experience within the last 2 years. No more than 16 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety.

5.13. Each sales technician working for a commercial applicator licensed in the ornamental category shall have at a minimum 48 hours of training:

- (a) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, pesticides and their families, pesticide label and labeling, and public safety;
- (b) At least 16 hours of which shall be classroom-instructional training covering: pest management and host and pest identification; and
- (c) At least 24 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of ornamental pesticide application experience within the last 2 years. No more than 16 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, pesticides and their families, pest management, pesticide label and labeling, host and pest identification, and public safety.

5.14. Each technician who acts as both a sales technician and as an applicator technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the ornamental category shall have at a minimum 56 hours of training:

- (a) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, applicator safety, pesticide label and labeling, and public safety;

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- (b) At least 24 hours of which shall be classroom-instructional training covering: pest management and host and pest identification; and
 - (c) At least 24 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of ornamental pesticide application experience within the last 2 years. No more than 16 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety.
- 5.15. Each on-going experienced applicator technician and sales technician continuing to work for the same commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the ornamental category shall have, during each year of employment after the first season of experience, at a minimum, the following on-going training: 4 hours of training conducted by a licensed qualified supervisor or licensed certified operator which licensed certified operator has at least 1 year of ornamental pesticide application experience within the last 2 years. The qualified supervisor shall determine from those topics enumerated in Part§ 5.14 the training required. Said training may be either classroom-instructional or on the job training as determined by the qualified supervisor.
- 5.16. Each new hire experienced technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the ornamental category shall have at a minimum 16 hours of training:
- (a) At least 4 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (b) At least 8 hours of which shall be on the job training conducted by a licensed qualified supervisor or a licensed certified operator which licensed qualified supervisor or licensed certified operator has at least 1 season of ornamental pesticide application experience within the last 2 years. Said training shall cover: use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (c) The remaining 4 hours shall be divided between classroom and the job site as the need is determined by the qualified supervisor; and
 - (d) Experienced sales technicians are not required to complete training in use, equipment and calibration nor applicator safety.

Subpart E Turf and Ornamental

- 5.17. Each applicator technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in both the turf category and the ornamental category shall have at a minimum 60 hours of training:
- (a) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, applicator safety, pesticide label and labeling, and public safety;

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- (b) At least 12 hours of which shall be classroom-instructional training covering: pest management and host and pest identification; and
 - (c) At least 40 hours of which shall be on the job training. At least 16 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of turf and ornamental pesticide application experience within the last 2 years. No more than 24 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety.
- 5.18. Each sales technician working for a commercial applicator licensed in both the turf category and the ornamental category shall have at a minimum 64 hours of training:
- (a) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, pesticides and their families, pesticide label and labeling, and public safety;
 - (b) At least 24 hours of which shall be classroom-instructional training covering: pest management and host and pest identification; and
 - (c) At least 32 hours of which shall be on the job training, at least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed qualified supervisor or licensed certified operator has at least 1 season of turf and ornamental pesticide application experience within the last 2 years. No more than 24 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover environmental precautions, pesticides and their families, pest management, pesticide label and labeling, host and pest identification, and public safety.
- 5.19. Each technician who acts as both a sales technician and as an applicator technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in both the turf category and the ornamental category shall have at a minimum 80 hours of training:
- (a) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, applicator safety, pesticide label and labeling, and public safety;
 - (b) At least 32 hours of which shall be classroom-instructional training covering: pest management and host and pest identification; and
 - (c) At least 40 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of turf and ornamental pesticide application experience within the last 2 years. No more than 32 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety.

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- 5.20. Each on-going experienced applicator technician and sales technician continuing to work for the same commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in both the turf category and the ornamental category shall have, during each year of employment after the first season of experience, at a minimum, the following on-going training: 4 hours of training conducted by a licensed qualified supervisor or licensed certified operator which licensed certified operator has at least 1 year of turf and ornamental pesticide application experience within the last 2 years. The qualified supervisor shall determine from those topics enumerated in Part § 5.19 the training required. Said training may be either classroom-instructional or on the job training as determined by the qualified supervisor.
- 5.21. Each new hire experienced technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in both the turf category and the ornamental category shall have at a minimum 16 hours of training:
- (a) At least 4 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (b) At least 8 hours of which shall be on the job training conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of turf and ornamental pesticide application experience within the last 2 years. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (c) The remaining 4 hours shall be divided between classroom and the job site as the need is determined by the qualified supervisor; and
 - (d) Experienced sales technicians are not required to complete training in use, equipment and calibration nor applicator safety.

Subpart F Structural

- 5.22. Each applicator technician and sales technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the structural categories of wood destroying organism pest control, fumigation, or residential/commercial pest control shall have at a minimum 160 hours of training:
- (a) At least 32 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (b) At least 120 hours of which shall be on the job training. At least 60 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 year of structural pesticide application experience within the last 2 years. No more than 60 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, applicator safety, pesticide label and labeling, host and pest identification, and public safety;

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- (c) The remaining 8 hours shall be divided between classroom-instructional training and on the job training as the need is determined by the qualified supervisor; and
 - (d) Successfully complete a written examination prepared and given by the commercial applicator showing overall comprehension of the subject matter of the training.
- 5.23. Each on-going experienced applicator technician and sales technician continuing to work for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the structural categories of wood destroying organism pest control, fumigation, or residential/commercial pest control shall have during each year of employment after the first season of experience, at a minimum, the following on-going training:
- (a) 2 hours per month of training which training shall over a period of 6 months include at least 3 hours of classroom-instructional training. 9 hours shall be divided between classroom-instructional training and on the job training as the need is determined by the qualified supervisor. Said classroom-instructional training and on the job training shall be conducted by either a licensed qualified supervisor or licensed certified operator which licensed certified operator has at least 1 year of structural pesticide application experience within the last 2 years. Said training shall cover those areas enumerated in Part§ 5.22; and
 - (b) Successfully complete a written examination prepared and given by the commercial applicator showing overall comprehension of the subject matter of the training.
- 5.24. Each new hire experienced technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the structural categories of wood destroying organism pest control, fumigation, or residential/commercial pest control shall have at a minimum 32 hours of training:
- (a) At least 16 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety; and
 - (b) At least 16 hours of which shall be the job training conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 year of structural pesticide application experience within the last 2 years which training shall cover: use, equipment and calibration, applicator safety, pesticide label and labeling, host and pest identification, and public safety.
 - (c) Experienced sales technicians are not required to complete training in use, equipment and calibration nor applicator safety.
- 5.25. Each applicator technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the structural categories of outdoor vertebrate pest control, stored commodities treatment, Post-Harvest Potato Pest Control, wood preservation and wood products treatment, or interior plant pest control shall have at a minimum 36 hours of training:
- (a) At least 12 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety; and

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- (b) At least 24 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of structural pesticide application experience within the last 2 years. No more than 16 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety.
- 5.26. Each sales technician working for a commercial applicator licensed in the structural categories of outdoor vertebrate pest control, stored commodities treatment, Post-Harvest Potato Pest Control, wood preservation and wood products treatment, or interior plant pest control shall have at a minimum 36 hours of training:
- (a) At least 12 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, pesticides and their families, pest management, pesticide label and labeling, host and pest identification, and public safety;
 - (b) At least 16 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of structural pesticide application experience within the last 2 years. No more than 8 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, pesticides and their families, pest management, pesticide label and labeling, host and pest identification, and public safety; and
 - (c) The remaining 8 hours shall be divided between classroom-instructional training and on the job training as the need is determined by the qualified supervisor.
- 5.27. Each on-going experienced applicator technician and sales technician continuing to work for the same commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the structural categories of outdoor vertebrate pest control, stored commodities treatment, Post-Harvest Potato Pest Control, wood preservation and wood products treatment, or interior plant pest control shall have, during each year of employment after the first season of experience, at a minimum, the following on-going training: 4 hours of training conducted by a licensed qualified supervisor or licensed certified operator which licensed certified operator has at least 1 season of structural pesticide application experience within the last 2 years. The qualified supervisor shall determine from those topics enumerated in Part§ 5.25 the training required. Said training may be either classroom-instructional or on the job training as determined by the qualified supervisor.
- 5.28. Each new hire experienced technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the structural categories of outdoor vertebrate pest control, stored commodities treatment, Post-Harvest Potato Pest Control, wood preservation and wood products treatment, or interior plant pest control shall have at a minimum 16 hours of training:
- (a) At least 4 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;

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- (b) At least 8 hours of which shall be on the job training conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of structural pesticide application experience within the last 2 years. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
- (c) The remaining 4 hours shall be divided between classroom-instructional training and on the job training as the need is determined by the qualified supervisor; and
- (d) Experienced sales technicians are not required to complete training in use, equipment and calibration nor applicator safety.

Part 6. Records.

Subpart A Recordkeeping Requirements for Commercial, Registered Limited Commercial and Registered Public Applicators

- 6.01. Licensed commercial applicators, shall maintain accurate and legible office records of each application of pesticides made for hire. Commercial applicators using devices shall maintain records in accordance with Part 15.07 of these Rules.
- 6.02. Registered limited commercial and registered public applicators shall maintain accurate and legible office records of each application of pesticides.
- 6.03. Except for device applications as provided in Part 6.01, such records shall include all of the following information:
 - (a) Name and address of person for whom application was made.
 - (b) Location where application was made, if different from ~~Part number~~ 6.03(a). The location of a field should be fully described. In the case of roadside weed control applications, the record should include the county or state road number and the portion of roadside treated, described by reference to mileage markers or prominent geological features such as road intersections, river or creek crossings, or the like.
 - (c) Target pest. This means the specific pest for which the application was made. A general term is acceptable only if the pesticide label specifically refers to that exact term (such as "broadleaf weeds").
 - (d) Site, crop, commodity or structure treated.
 - (e) Specific pesticide applied. This shall be accomplished by recording the EPA registration number of the pesticide product. The brand name of the pesticide product and the name and address of its manufacturer may also be included in this record.
 - (f) Dilution rate. This is the amount of formulated product or active material per unit of volume of carrier specified as such. In the case of a product applied out of the container without mixing, the entry should be "no dilution", "aerosol", or "RTU" (ready to use), as applicable.
 - (g) Application rate. This is the total gallons or pounds of the final tank mix applied per unit of area or volume. In the case of "crack and crevice" structural treatment, the entry should indicate "crack and crevice". The entry for a livestock application should indicate "dip" or

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“spray”, as appropriate. In the case of an application of a pesticide labeled “spray until wet,” “spray to runoff,” or the like, the entry should indicate the nature of the application in language consistent with the label directions.

- (h) Carrier, if other than water.
 - (i) Date and time of application. The record shall indicate the time, within at least one-half hour accuracy, when the application was started or stopped. Each applicator's records shall be kept consistently and clearly, in such a manner as to allow ready determination as to whether a noted time indicates the beginning or end of the application. An entry merely stating “A.M.” or “P.M.” is not sufficient to comply with this Rule.
 - (j) Name and license number of the person who made or supervised the application (i.e., technician, certified operator, qualified supervisor). If a restricted use pesticide application is performed by an applicator technician, the record of application shall include the names of both the technician and the responsible on-site qualified supervisor.
 - (k) Endangered Species Protection Bulletin for the county and month in which the application was made for any pesticide product used, when required by the label. If there is not an active Endangered Species Bulletin use limitation for the county and month in which the application was made, no Endangered Species Protection Bulletin is required to be maintained in the applicator's records. For purposes of complying with this Partsubsection 6.03(k), a single Endangered Species Bulletin record may be applied to multiple applications that are subject to that Bulletin.
- 6.04. Any applicator performing wood destroying insect control, for the control of termites, shall keep, in addition to record keeping requirements outlined in PartSection 6.03 above, the following information:
- (a) For all commercial pre-construction treatments, the licensee must maintain records of square footage treated per application site, flow rate of the application equipment, and the start and stop time for the treatment. If a physical barrier is used, the square footage of the physical barrier shall be recorded and a diagram describing the installation shall be provided.
 - (b) Each post construction termite liquid and bait treatment record shall include:
 - (1) A diagram, blueprint, or building plat and a description of the structure or structures to be treated, including the following:
 - (~~ia~~) Approximate measurements as accurately as practical;
 - (~~ib~~) Areas of known current termite activity;
 - (~~iie~~) Areas of known previous termite activity;
 - (~~ivd~~) Areas of known conditions conducive to termite activity;
 - (~~ve~~) Areas to be treated and by what means, (i.e.: slab injection, trenching).
 - (2) A copy of the signed customer contract and any warranty information provided to the customer, including any job specific exclusions, limitations or amendments.

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- (3) An original or legible copy of the original label for any pesticide used.
- (4) The signature of approval on the proposed treatment diagram by a qualified supervisor licensed in the wood destroying organism category who is employed by or associated with the applicator making the proposal.
- (5) For termite baiting programs:
 - (i) The number and locations of baiting and monitoring stations to be installed;
 - (ii) All service inspections of termite bait stations must be kept as part of that customer's service record and service frequency must be performed as recommended by the manufacturer's label requirements.

Subpart B Recordkeeping Requirements for Private Applicators

- 6.05. Licensed private applicators shall maintain accurate and legible records of each restricted use pesticide application in accordance with all regulations of the United States Department of Agriculture's federal pesticide recordkeeping requirements set forth in the Code of Federal Regulations, at 7 C.F.R., Part 110 (2017) (as incorporated herein by reference), ~~incorporated herein by reference (later amendments not included)~~. Pursuant to §35-10-111 of the Act, such records shall be retained for a period of two years from the date of the pesticide application.

Part 7. Business Practices, Equipment Identification, Notices.

7.01. Equipment identification.

- (a) For the purposes of subparagraphs (b) and (c) below, the term "company business name" includes any name or trademark registered with the Colorado Secretary of State, any doing business as name as submitted in the licensee's application, and any company logo that clearly communicates the licensee's business name.

(b) Commercial applicator equipment identification:

- (1) All motor vehicles, trailers, and mobile application equipment while used by or on behalf of any licensee for applying or carrying pesticides shall be identified by displaying thereon, in letters not less than two inches high, the company business name and, in letters not less than one inch high, the city and state of said licensee's place of business. Such lettering on a licensee's equipment shall be clearly legible, and shall not be rendered difficult to read or illegible by means of paint fading, scuffing, wear and tear, damage, or any other cause. Any motor vehicle so identified shall be identified on both sides of the vehicle. This Part 7.01(b)(1) Rule shall not apply to aircraft, small capacity sprayers with less than a ten-gallon capacity, and application equipment mounted on vehicles marked in accordance with these Rules.
- (2) Vehicles with a spray tank holding more than a ten-gallon capacity that due to the size or design of the vehicle do not provide sufficient surface area to comply with the identification requirements outlined in Part 7.01(b)(1) shall be identified by displaying thereon, in letters not less than one inch high, the company business name of said licensee. Such lettering on a licensee's equipment shall be clearly legible, and shall not be rendered difficult to read or illegible by means of paint

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fading, scuffing, wear and tear, damage, or any other cause. Any motor vehicle so identified shall, at a minimum, be identified on one side of the vehicle.

~~(cb)~~ Public applicator equipment identification:

- (1) Any public applicator registered with the Department shall identify all motor vehicles, trailers, and mobile application equipment while used by or on behalf of such registrant for applying or carrying pesticides by displaying, in letters not less than two inches high, the city or state name, or a logo identifying the registered public entity they represent. Such lettering on a registrant's equipment shall be positioned and maintained so as to be clearly legible, and shall not be rendered difficult to read or illegible by means of paint fading, scuffing, wear and tear, damage, or any other cause. Any motor vehicle so identified shall be identified on both sides of the vehicle. This ~~Part 7.01(c)(1)Rule~~ shall not apply to aircraft, small capacity sprayers with less than a ten-gallon capacity, and application equipment mounted on vehicles marked in accordance with these Rules.
- (2) Vehicles with a spray tank holding more than a ten-gallon capacity that due to the size or design of the vehicle do not provide sufficient surface area to comply with the identification requirements outlined in ~~Part 7.01(cb)(1)~~ shall be identified by displaying thereon, in letters not less than one inch high, the city or state name, or logo, identifying which public entity they represent. Such lettering on a registrant's equipment shall be clearly legible, and shall not be rendered difficult to read or illegible by means of paint fading, scuffing, wear and tear, damage, or any other cause. Any motor vehicle so identified shall, at a minimum, be identified on one side of the vehicle.

- 7.02. All licensees must inform the Commissioner, in writing, of any change in their address or telephone number.
- 7.03. Each qualified supervisor or certified operator must notify the Commissioner in writing when he or she begins employment with a commercial, registered limited commercial, or registered public applicator, terminates employment, or when he or she changes branches, divisions, satellite offices or employers. Such notification shall be within 15 days of said employment, termination, or change.
- 7.04. Each commercial, registered limited commercial, and registered public applicator must notify the Commissioner in writing when a qualified supervisor in its employ terminates employment, or changes branches, divisions or satellite offices, or when adding a qualified supervisor to its staff. Such notification shall be within 15 days of said termination, change, or addition.
- 7.05. The original product container with labeling or a copy of the pesticide label and any associated labeling for the intended use, for each product in use shall be in the possession of the commercial, registered limited commercial, or registered public applicator employee at the site of application whenever a pesticide application is performed. This ~~Part 7.05Rule~~ shall not apply to aerial applicators, private applicators, or Endangered Species Protection bulletins referenced on the label.

Part 8. Agricultural Applicators.

- 8.01. The agricultural classification includes the following categories:
 - (a) Category 101: Agricultural Insect Control: the application of pesticides to agricultural plants, including applications performed on pastures, croplands and non-crop agricultural

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lands, to control invertebrate pests, including insects, mites, slugs, snails, and nematodes.

- (b) Category 102: Agricultural Plant Disease Control: the application of pesticides to agricultural plants, including applications performed on pastures, croplands and non-crop agricultural lands, to control plant diseases.
- (c) Category 103: Agricultural Weed Control: the application of pesticides to agricultural lands, including pastures, croplands and non-crop agricultural lands, to control weeds.
- (d) Category 104: Seed Treatment: the application of pesticides to seeds.
- (e) Category 105: Livestock Pest Control: the application of pesticides to livestock.
- (f) Category 106: Forest Pest Control: the application of pesticides in forests, forest nurseries, forest seed producing areas managed for the production of timber and other forest products or maintained as wood vegetation for such indirect benefits as protection of catchment areas or public recreation, including windbreaks and downed timber. For applications in forested areas within fifty (50) feet of a residential or commercial structure, an applicator must also hold the ornamental pest control category in accordance with Part 9 of these Rules and comply with all of the posting and notification requirements in Section 35-10-112, C.R.S., of the Pesticide Applicators' Act. This additional certification in the ornamental pest control category shall not apply to aerial applicators or ground applications made by federal, state, or local governments on property they own. This category does not apply to pesticide applications made to control vertebrate pests.
- (g) Category 107: Rangeland Pest Control: the application of pesticides to land which is not managed for turf, pasture or forest on which the vegetation is predominantly native plant species or introduced species managed as native species such as grasses, grass-like plants, forbs or shrubs. Rangelands include but are not limited to natural grasslands, shrublands, deserts, tundras, and meadows. For applications performed in rangeland areas within fifty (50) feet of a residential or commercial structure, an applicator must also hold the turf pest control category in accordance with Part 9 of these Rules and comply with all of the posting and notification requirements in Section 35-10-112, C.R.S., of the Pesticide Applicators' Act. This additional certification in the turf pest control category shall not apply to aerial applicators or ground applications made by federal, state, or local governments on property they own. This category does not apply to pesticide applications made to control vertebrate pests.
- (h) Category 108: Aquatic Pest Control: the application of pesticides to standing or running water when made to control weeds, amphibians, fish and other pests in water, except for pesticide applications which are included in the "Public Health" category, at PartRule 8.01(j).
- (1) Category 113: Metam sodium for root control in sewers: the application of metam sodium in sewers to control roots. For purposes of this sub-category, "sewer" shall mean any artificial conduit for the transmission of wastewater to a wastewater treatment plant.
- (i) Category 109: Industrial and Right-of-Way Weed Control: the application of pesticides to maintain roads, sidewalks, trails, paths, utility lines, railways, parking lots, drilling rigs, substations, open irrigation and drainage structures or similar areas and adjacent land within right of ways associated with such areas for the purpose of establishing or maintaining definable cover or bare ground.

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- (j) Category 110: Public Health Pest Control: the application of pesticides for control of disease vectors, except vertebrates.
 - (k) Category 111: Research and Demonstration: the application of pesticides in the course of conducting field research or demonstration. No license or certification will be issued in this category unless the applicant also obtains licensing or certification, in the specific category listed in these Rules, which is appropriate to the research activity.
- 8.02. Applicants for licensing as a qualified supervisor in the agricultural pest control categories, except the metam sodium for root control in sewers sub-category, must have the following field experience or equivalents. Such field experience must have been obtained within the five years immediately preceding the date of the applicant's application for licensing.
- (a) Said applicant shall have obtained a minimum of eight months field experience in agricultural pest control.
 - (b) If said applicant has earned college or university credit in agricultural pest control or related fields, such credit may be combined with field experience in agricultural pest control in order to qualify for licensing as a qualified supervisor, as follows:
 - (1) Two years college credit and two months field experience in agricultural pest control; or
 - (2) One year college credit and five months field experience.
- 8.03. Commercial applicators classified in the agricultural categories shall provide the following notices of pesticide applications.
- (a) Prior to each application, the customer shall be informed of: (1) the pesticide(s) to be applied, (2) the site of application, (3) applicable re-entry intervals, (4) applicable grazing intervals, (5) applicable pre-harvest interval, and (6) any precautionary statements contained on the applicable pesticide label(s). This notice may be oral.
 - (b) After the application, the applicator shall promptly furnish the customer with a written notice which states: (1) the pesticide(s) applied; (2) the amount of each pesticide applied; (3) the date of application; (4) the site of application; (5) applicable re-entry intervals; (6) applicable grazing intervals; (7) applicable crop rotation intervals; and (8) any precautionary statements contained on the pesticide label(s).
 - (c) An applicator may furnish the information specified in ~~PartsSections~~ 8.03. (a)(3) through (6), and/or ~~Parts~~ 8.03. (b)(5) through (8) above, by giving the customer a copy of the applicable pesticide label(s).
 - (d) In the event that a commercial applicator classified in the agricultural categories performs an application at a site which is occupied by someone other than the applicator's customer, the applicator shall be responsible for giving the notices required by ~~PartsSections~~ 8.03(a) and (b) above to the person(s) who are occupying the site, as well as to the customer: This ~~PartSection~~ 8.03(d) does not apply to applications to crops or to large-scale pest control programs.
 - (e) Notices in this ~~PartRule~~ 8.03 may be provided electronically when the following conditions have been met.

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- (1) Commercial applicators must obtain a written request from each customer and occupant confirming their request to obtain any notice required by ~~thesethis~~ Rules electronically.
- (2) A commercial applicator must maintain a record of the written request(s) for electronic notices from each customer and occupant.
- (3) A commercial applicator that does not have a record of the written request(s) for electronic notices on file at the time of an application must provide a notice as outlined in ~~Part~~ 8.03(a) - (d) ~~of this Rule 8.03~~.

~~(f) Commercial, registered limited commercial, or registered public applicators must comply with all applicable signage requirements for aquatic applications in Part 13 below.~~

8.04 An applicant for licensing in the sub-category of metam sodium for root control in sewers shall satisfy each of the following requirements:

- (a) In addition to any other required examination, an applicant must take and pass the specific examination for this sub-category, but not the examination for the aquatic pest control category.
- (b) An applicant for licensing as a qualified supervisor in this sub-category must have the following field experience or equivalents. Such field experience must have been obtained within the five years immediately preceding the date of the applicant's application for licensing.
 - (1) An applicant shall have obtained a minimum of 40 hours of field experience in the application of pesticides in sewers, including, but not limited to, metam sodium for root control in sewers; or
 - (2) If an applicant has a Level 2 or 3 wastewater collection certification issued by the Colorado Water Distribution and Wastewater Collection Systems Council, or a Class A, B, or C wastewater treatment plant operator certification issued by the Colorado Department of Public Health and Environment pursuant to Title 25, Article 9 of the Colorado Revised Statutes, the applicant shall have obtained a minimum of 20 hours of field experience in the application of pesticides in sewers, including, but not limited to, metam sodium for root control in sewers.
- (c) Each applicator technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in this sub-category shall have at a minimum 32 hours of training:
 - (1) At least 8 of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety; and
 - (2) At least 24 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator, which licensed certified operator has at least 20 hours of experience in the application of pesticides in sewers, including, but not limited to, metam sodium for root control in sewers, within the last 2 years. No more than 16 hours of said on the job training may be conducted by an experienced technician

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trained by the applicator. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety.

- (d) Each sales technician working for a commercial applicator licensed in this sub-category shall have at a minimum 32 hours of training:
 - (1) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, pesticides and their families, pest management, pesticide label and labeling, host and pest identification, and public safety;
 - (2) At least 16 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator, which licensed certified operator has at least 20 hours of experience in the application of pesticides in sewers, including, but not limited to, metam sodium for root control in sewers, within the last 2 years. No more than 8 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, pesticides and their families, pest management, pesticide label and labeling, host and pest identification, and public safety; and
 - (3) The remaining 8 hours shall be divided between classroom-instructional training and on the job training as the need is determined by the qualified supervisor.
- (e) Each applicator technician or sales technician continuing to work for the same commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in this sub-category shall have after the first season of experience, at a minimum, the following on-going training: 4 hours of training conducted by a licensed qualified supervisor or licensed certified operator, which licensed certified operator has at least 20 hours of experience in the application of pesticides in sewers, including, but not limited to, metam sodium for root control in sewers, within the last 2 years. The qualified supervisor shall determine from those topics enumerated above in ~~Part~~sub-sections 8.04-(c) (1) and (2) the training required. Said training may be either classroom-instructional or on the job training as determined by the qualified supervisor.
- (f) Each new hire experienced technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in this sub-category shall have at a minimum 16 hours of training:
 - (1) At least 4 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (2) At least 8 hours of which shall be on the job training conducted by a licensed qualified supervisor or a licensed certified operator, which licensed certified operator has at least 20 hours of experience in the application of pesticides in sewers, including, but not limited to, metam sodium for root control in sewers, within the last 2 years. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management,

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applicator safety, pesticide label and labeling, host and pest identification, and public safety;

- (3) The remaining 4 hours shall be divided between classroom-instructional training and on the job training as the need is determined by the qualified supervisor; and
- (4) Experienced sales technicians are not required to complete training in use, equipment and calibration, nor applicator safety.

Part 9. Ornamental Applicators.

9.01. The ornamental classification includes the following categories:

- (a) Category 206: Turf Pest Control: the application of pesticides to: (1) managed turf to control invertebrate pests, including insects, mites, slugs, snails, and nematodes, or to control plant diseases or weeds; or (2) ornamental beds to control weeds; ~~(3) xeriscaped or similar areas covered in mulch or other media to control weeds; or (4) sidewalks, driveways, paved areas other than parking lots or bare ground located on private or public property and that are not located in the zoned right-of-way to control weeds.~~
 - ~~(1) Managed turf or ornamental beds located in a zoned right-of-way may be treated under this Category 206 or Category 109, as defined under Part 8.01(i).~~
 - ~~(2) When making applications to managed turf or ornamental beds in right-of-way areas, all notification requirements applicable to Category 206 apply.~~
 - ~~(3) Managed turf for this Part 9 is defined as ground cover that is watered, mowed, seeded, or regularly maintained for defined ground cover.~~
- (b) Category 207: Ornamental Pest Control: the application of pesticides to ornamental trees, shrubs, beds, flowers and other ornamental plants, except turf or indoor ornamental plants, to control invertebrate pests, including insects, mites, slugs, snails and nematodes, or to control plant diseases.

9.02. Applicants for licensing as a qualified supervisor in the turf category, described in ~~Part~~§ 9.01 (a) must have the following experience or equivalents. Such field experience must have been obtained within the two years immediately preceding the date of the applicant's application for licensing. Experience in the application of pesticides gained by the applicant in the maintenance of his own home shall not constitute experience which will satisfy experience requirements imposed by these Rules.

- (a) Said applicant shall have obtained at least four months of field experience in turf pest control.
- (b) If said applicant has earned college or university credit in turf pest control or related fields, such credit may be combined with field experience in order to qualify for licensing, as follows:
 - (1) Two years college credit and one month field experience; or
 - (2) One year college credit and two and one-half months field experience.

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- 9.03. Applicants for licensing as a qualified supervisor in the ornamental category described in Part§ 9.01(b) must have the following field experience or equivalents. Such field experience must have been obtained within the five years immediately preceding the date of the applicant's application for licensing. Experience in the application of pesticides gained by the applicant in the maintenance of his own home shall not constitute experience which will satisfy experience requirements imposed by these Rules.
- (a) Said applicant shall have obtained at least eight months field experience in ornamental pest control, gained within not less than two calendar years.
 - (b) If said applicant has earned college or university credit in ornamental pest control or related fields, such credit may be combined with field experience in order to qualify for licensing as a qualified supervisor, as follows:
 - (1) Two years college credit and four months field experience; or
 - (2) One year college credit and six months field experience in ornamental pest control.
- 9.04. Commercial applicators classified in the ornamental category shall provide the following notices of pesticide application:
- (a) Except as provided below, at the time any pesticide is applied, the commercial applicator shall leave for each customer, or for an individual at each location where an application was made if different from the customer's address, a printed or legibly written statement disclosing the fact that a pesticide has been applied, naming the pesticide or pesticides applied, the date of application, and containing such precautionary statements appearing on the pesticide's label as are necessary or appropriate to avoid endangering the health of persons or animals, or to avoid an unreasonable risk of harm to property.
 - (b) When any pesticide is applied at a commercial property site where an owner of the site or an agent of an owner of the site is not present at the site, the commercial applicator shall, promptly after the application, furnish the customer with a written statement that states: (1) the pesticide(s) applied; (2) the date of application; and (3) such precautionary statements appearing on the pesticide's label as are necessary or appropriate to avoid endangering the health of persons or animals, or to avoid an unreasonable risk of harm to property. This precautionary information may be furnished by giving the customer a copy of the label(s) of any pesticide applied.
 - (c) When any pesticide is applied at a multi-unit dwelling site where an owner of the site or an agent of an owner of the site is not present at the site, the commercial applicator shall, promptly after the application, furnish the customer with a written statement containing the information required in Partsubsection 9.04 (b) above and shall post notice-of-application signs containing the information required by § 35-10-112(2)(d), C.R.S.
 - (d) Notices in this PartRule 9.04 may be provided electronically when the following conditions have been met.
 - (1) Commercial applicators must obtain a written request from each customer or an individual at each location where an application was made if different from the customer's address, confirming their request to obtain any notice required by ~~these~~this Rules electronically.

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- (2) A commercial applicator must maintain a record of the written request(s) for electronic notices from each customer or an individual at each location where an application was made if different from the customer's address.
- (3) A commercial applicator that does not have a record of the written request(s) for electronic notices on file at the time of an application must provide a written notice as outlined in Part~~the 9.04~~(a) through (c)~~-of this Rule 9.04~~.
- (4) Electronic notices are not sufficient to meet the requirement in this Part~~Rule~~ 9.04(c) for posting a written notice-of-application sign at any multiunit dwelling site when common areas have been treated and the owner of the site or agent of the owner of the site is not present at the site.

(e) Commercial, registered limited commercial, or registered public applicators must comply with all applicable signage requirements in Parts 12 and 13 below.

Part 10. Structural Applicators.

10.01. The structural pest control classification includes the following categories.

- (a) Category 301: Wood Destroying Organism Pest Control: the application of pesticides to control termites, carpenter ants, powder post beetles, fungi, and/or other wood destroying organisms in structures and/or adjacent outside areas.
- (b) Category 302: Outdoor Vertebrate Pest Control: the application of pesticides intended for preventing, destroying, repelling or mitigating any reptile, bird, feral dogs and cats, moles, voles, bats, wild carnivores, rabbits, skunks, amphibian pests not in water and any other vertebrate pest, except rats and mice.
- (c) Category 303: Fumigation: the application of a fumigant to one or more rooms in a structure or to the entire structure at a desired concentration and for a length of time necessary for the control of rodents and/or insect pests, including the application of a fumigant to a localized space or harborage within a structure for local insect and/or rodent control.
- (d) Category 304: Residential/Commercial Pest Control: the application of pesticides or bait stations intended for use for preventing, destroying, repelling or mitigating structural pests, including without limitation insects and rodents. However, this category does not include the application of fumigants or actions taken to control wood destroying organisms, outdoor vertebrates, or grain storage pests.
- (e) Category 305: Stored Commodities Treatment: the application of pesticides for the treatment of pests in raw grain stored in facilities which are not used for animal or human habitation; the application of plant growth regulators to agricultural commodities stored in facilities which are not used for animal or human habitation; and the application of pesticides to commodity processing equipment or commodity storage facilities (not including offices or other structures). This category does not cover applications made to control pests in potato storage facilities covered by category 308.
- (f) Category 306: Wood Preservation and Wood Products Treatment: the application of pesticides to prevent, destroy, repel or mitigate pests in wood or wood products which are, or are capable of being, incorporated into a structure, not including downed timber prior to bark removal or sawing.

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- (g) Category 307: Interior Plant Pest Control: the application of pesticides to house plants and other indoor ornamental plants kept or located within structures occupied by humans, including, but not limited to houses, apartments, offices, shopping malls, other places of business and other dwelling places, to control invertebrate pests that adversely affect such plants, including insects, mites, slugs, snails and nematodes; and to control plant diseases.
 - (h) Category 308: Post-Harvest Potato Pest Control: the application of pesticides for the treatment of pests in raw potatoes stored in facilities which are not used for animal or human habitation; the application of plant growth regulators to potatoes stored in facilities which are not used for animal or human habitation; and the application of pesticides to potato processing equipment or potato storage facilities (not including offices or other structures).
 - (1) Applicators holding a valid Category 305, Stored Commodities Treatment, as of January 1, 2016, will be awarded the category 308 license with no further examination. The category 308 licensure category will be valid until the expiration date of the applicator's current license. If the applicator's license expires prior to January 1, 2017, license category 308 will also be awarded when such license is renewed, so long as all category 305 continuing education credit requirements have been met prior to the expiration of the license.
 - (2) On or after January 1, 2016, any applicator wishing to obtain the Category 308 category must take and pass the Stored Potato Treatment category examination and pay any necessary fees.
 - (3) Applicators wishing to renew the category 308 license after December 31, 2016, will need to obtain one (1) continuing education category credit in the Post-Harvest Potato Pest Control category prior to the expiration of their current license.
- 10.02. An applicant for licensing as a qualified supervisor in the structural pest control categories of wood destroying organisms, residential/commercial pest control, and fumigation must have the following field experience or equivalents. Such field experience must have been obtained during the five years immediately preceding the date of the applicant's application for licensing. Experience using pesticides gained while the applicant was maintaining his own home, or performing janitorial or maintenance duties for another in a residential, industrial or commercial location will not satisfy experience requirements imposed by these regulations.
- (a) Said applicant must have obtained at least twenty-four months field experience in structural pest control. In addition, an applicant for licensing as a qualified supervisor in the structural pest control category of wood destroying organisms must have obtained, within the two years immediately preceding the date of the applicant's application for licensing, at least 100 hours of verifiable field experience in termite control. A minimum of 30 of said 100 hours must consist of verifiable "hands-on" field experience covering drill and inject and other post-treat methods and applications. Any or all of the 100 hours may be obtained in courses approved by the Commissioner.
 - (b) If said applicant has earned college or university credit in structural pest control or related fields, such credit may be combined with field experience in related categories of structural pest control in order to qualify for licensing as a qualified supervisor, as follows:
 - (1) Four years college credit and four months field experience; or

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- (2) Three years college credit and nine months field experience; or
 - (3) Two years college credit and fourteen months field experience; or
 - (4) One year college credit and nineteen months field experience.
- 10.03. An applicant for licensing as a qualified supervisor in the structural pest control categories of outdoor vertebrates, wood preservation and wood products treatment, stored commodities treatment, Post-Harvest Potato Pest Control, or interior plant pest control must have the following field experience or equivalents. Such field experience must have been obtained within the five years immediately preceding the date of the applicant's application for licensing:
 - (a) Said applicant must have obtained at least eight months field experience in the related categories of structural pest control.
 - (b) If said applicant has earned college or university credit in the related categories of structural pest control, such credit may be combined with field experience in related categories of structural pest control in order to qualify for licensing as a qualified supervisor, as follows:
 - (1) Two years college credit and two months field experience; or
 - (2) One year college credit and five months field experience.
- 10.04. At the time of a pesticide application, a commercial applicator licensed in any structural pest control category shall leave for each customer, a printed or legibly written notice stating the name of each pesticide applied, the date applied, and such precautionary statements from the label of the pesticide or device as are necessary or appropriate to avoid endangering human or animal health, or to avoid creating an unreasonable risk of damage to property.
- 10.05. In the event that the customer is not the occupant, at the time of a pesticide application a commercial applicator licensed in any structural pest control category shall leave for the occupant, a printed or legibly written notice stating the name of each pesticide applied, the date applied, and such precautionary statements from the label of the pesticide or device as are necessary or appropriate to avoid endangering human or animal health, or to avoid creating an unreasonable risk of damage to property.
- 10.06. Notices in Rule 10.04 and 10.05 may be provided electronically when the following conditions have been met.
 - (a) Commercial applicators must obtain a written request from the customer or the occupant, as required, confirming their request to obtain any notice required by this Rule electronically.
 - (b) A commercial applicator must maintain a record of the written request(s) for electronic notices from each customer or occupant.
 - (c) A commercial applicator that does not have a record of the written request(s) for electronic notices on file at the time of an application must provide a written notice as outlined in Rules 10.04 and 10.05.
- 10.07. When making pesticide applications within a multiunit dwelling site and the owner of the site or agent of the owner of the site is not present at the site, a commercial applicator must post a written notice at the primary entrance(s) to interior common area(s) that has been treated. The

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notice shall state the name of each pesticide applied, the date applied, and such precautionary statements from the label of the pesticide or device as are necessary or appropriate to avoid endangering human or animal health, or to avoid creating an unreasonable risk of damage to property. Electronic notices may not be used to meet this requirement.

10.08. Bed Bug Reporting Requirements in accordance with C.R.S. 38-12-1003 and 1004:

- (a) A commercial applicator, qualified supervisor, or certified operator inspecting a tenant's dwelling unit or any dwelling unit contiguous to a tenant's dwelling unit in single-family or multi-unit dwellings, in accordance with C.R.S. 38-12-1003, must provide a report of all bed bug activity that the commercial applicator, qualified supervisor, or certified operator identifies within the dwelling or any contiguous dwelling unit at the time of inspection, to the landlord within twenty-four hours of the inspection. Including:
 - (1) Units affected by bed bug activity; and
 - (2) Remediation recommendations.
- (b) A commercial applicator, qualified supervisor, or certified operator inspecting a tenant's dwelling unit or any dwelling unit contiguous to a tenant's dwelling unit in single-family or multi-unit dwellings, in accordance with C.R.S. 38-12-1004, shall advise the tenant that any furniture, clothing, equipment, or personal property identified as having bed bug activity should not be removed from the dwelling unit until a pest control agent retained by the landlord determines that any bed bug treatment determined to be necessary has been completed.
- (c) A commercial applicator, qualified supervisor, or certified operator providing any report in accordance with C.R.S. 38-12-1003 shall retain a copy of any such report required in Section 10.08 (a) for three years.

Part 11. Storage.

Subpart A Storage Requirements for Commercial, Registered Limited Commercial, Registered Public Applicators

- 11.01. All commercial, registered limited commercial, or registered public applicators shall store pesticide concentrates and dilute mixtures using methods which are reasonably calculated to prevent the contamination of other products by means of volatilization, leakage, breakage or other causes, and which are reasonably calculated to avoid the creation of an unreasonable risk of harm to persons, property, domestic or wild animals, or the environment.
- 11.02. Pesticide storage areas shall be kept clean and orderly, and pesticide containers shall be positioned so that they are not exposed to unreasonable risk of damage to the containers or their labels.
- 11.03. Indoor pesticide storage areas shall be secured from access by unauthorized persons, including the general public, and locked when the building is unoccupied by an applicator or his employees.
- 11.04. Outdoor pesticide storage areas shall be fenced or walled, and locked. Pesticides and pesticide containers shall be covered or otherwise protected from the elements, in a manner which is reasonably calculated to minimize the risk of damage to labels, and to avoid the creation of an unreasonable risk of harm to persons, property or domestic or wild animals.

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- 11.05. Pesticide storage areas shall be marked with a sign or signs, in letters at least one inch high, warning that pesticides are stored within and communicating the highest toxicity category any person may be exposed to within the storage area (i.e.: Danger, Danger skull and crossbones, Warning, Caution), such as: "Danger, Pesticide Storage, Authorized Personnel Only." Signage must also provide emergency contact information, in letters at least one half inch high and must state: "In case of emergency, contact: (name) at (telephone number)." Compliance with this Rule 11.05 is not necessary for any person who has marked their pesticide storage areas with signs that comply with local fire department requirements. Applicators must obtain written confirmation from the local fire department if no sign(s) is required and maintain this record for inspection by the department.
- 11.06. Each commercial, registered limited commercial, or registered public applicator storing pesticides shall inform the local fire department of the location of the pesticide storage, and shall provide the fire department with safety data sheets for all pesticides held at the location.
- 11.07. Each commercial, registered limited commercial, or registered public applicator who stores pesticides shall have available, at each storage location, in good working order, one or more fire extinguishers rated for chemical fires, and materials for use in cleaning up pesticide spills.
- 11.08. A service container that is not at all times in the immediate custody or control of a qualified supervisor, certified operator, or technician shall have prominently displayed thereon the following information from the label affixed to the pesticide's original container: the common name of each active ingredient, if there is such a common name, or the chemical name of each active ingredient; the EPA Registration Number; each and every human hazard signal word shown on the label, and the name of the commercial, registered limited commercial, or registered public applicator. For purposes of this Section 11.08, "service container" shall mean any container holding pesticide, whether in a concentrated or diluted form, other than the pesticide's original container, that is of a size and capacity that permits it to be carried or moved by only one individual, unaided by any tool or apparatus; and "human hazard signal word" shall mean those human hazard signal words required by the U.S. Environmental Protection Agency in its rules and regulations at 40 C.F.R. § 156.10(h) (2017) (as incorporated herein by reference), to be shown on the front panel of the label affixed to the pesticide's original container. Compliance with this Rule is not necessary if the service container is marked in compliance with the rules and regulations of the occupational safety and health administration, U.S. Department of Labor at 29 C.F.R. § 1910.1200 and appendices A through E, inclusive, thereto (2017) (as incorporated herein by reference), applicable to hazard communication for chemicals.

Subpart B Storage Requirements for Licensed Private Applicators

- 11.09. All licensed private applicators shall store pesticide concentrates and dilute mixtures using methods which are reasonably calculated to prevent the creation of an unreasonable risk of harm to persons, property, domestic or wild animals, or the environment.
- 11.10. Pesticide containers shall be stored so that they are not exposed to unreasonable risk of damage to the containers or their labels.
- 11.11. Pesticides and pesticide containers, stored in outdoor pesticide storage areas, shall be covered or otherwise protected from the elements, in a manner which is reasonably calculated to minimize the risk of damage to labels, and to avoid the creation of an unreasonable risk of harm to persons, property or domestic or wild animals.

Part 12. Registry of Pesticide-Sensitive Persons.

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- 12.01. Persons who apply to be placed on the pesticide-sensitive registry, which registry is hereby established, shall complete and submit an application for said registry. Said application shall be on a form provided by the Commissioner. The application shall include a statement of proof of medical justification by a physician licensed in the state of Colorado.
- 12.02. Persons who apply to be placed on the registry or who apply for renewal of their registration, shall list those addresses which abut their residence.
- 12.03. Each registration shall expire on November 1 of each year.
- 12.04. Each person shall report to the Commissioner, on a form provided by the Commissioner, any change to the information provided in such person's application or in such reports previously submitted, within fifteen days of such change.
- 12.05. Each person shall make an application to renew his registration on or before the first working day of November for the year of renewal. Said application shall be on a form provided by the Commissioner. The renewal application form shall include a statement of proof of medical justification by a physician licensed in the state of Colorado, which must be submitted every two years.

Subpart A Ornamental Notification

- 12.06. A commercial, registered limited commercial, or registered public applicator shall take reasonable actions to give notice of the date and approximate time of each and every turf or ornamental pesticide application, prior to the application, to any person who resides on property which abuts the property to be treated and whose name is on the published registry. Notification of each pesticide application to such an abutting property, including the address or location of the property to be treated, must be communicated to the pesticide sensitive person. An applicator may meet this requirement by making not less than two attempts to notify any owner or tenant who is on the registry. Such attempts shall be made as early as practicable but not later than twenty-four hours before the application.
- 12.07. Notice may be by any method, including telephone, mail or personal notification. If attempts at notification by the applicator fail, and a pesticide application is necessary, the commercial, registered limited commercial, or registered public applicator shall attempt to notify the resident in person immediately prior to the application. Notice of the application and attempts at notification shall be placed on the door of the person requesting notification if all notification attempts fail.

Subpart B Structural Notification

- 12.08. A commercial, registered limited commercial, or registered public applicator shall take reasonable actions to give notice of the date and approximate time of any wood-destroying, residential/commercial, or interior plant pest control pesticide application, made to multi-unit dwellings, prior to the application, to any person who resides in the multi-unit dwelling to be treated and whose name is on the published registry unless otherwise noted in 12.10 of this Section.
- 12.09. An applicator may meet the notification requirement by making not less than two attempts to notify any owner or tenant who is on the registry. Such attempts shall be made as early as practicable but not later than twenty-four hours before the application. Notice may be by any method, including telephone, mail or personal notification. If attempts at notification by the applicator fail, and a pesticide application is necessary, the commercial, registered limited commercial or registered public applicator shall attempt to notify the resident in person

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immediately prior to the application. Notice of the application and attempts at notification shall be placed on the door of the person requesting notification if all notification attempts fail.

- 12.10. The following circumstances do not require notification, as outlined in 12.08 of this Section, by structural applicators:
- a) Emergency structural applications needed to ensure the safety or welfare of the general public, where it is not reasonably possible to comply with the notification requirements outlined in §12.08.
 - (1) Applications specified in this Section, 12.10(a), require the applicator to attempt to notify any owner or tenant who is on the registry immediately prior to the application.
 - (2) Upon completion of the pesticide application, the applicator shall leave for each person on the registry, a printed or legibly written notice stating the name of each pesticide applied, the date and time the application was made, placement of the treatment, and such precautionary statements from the label of the pesticide that are necessary or appropriate to avoid endangering the pesticide sensitive person's health.
 - (3) The notification requirement in this Section (a) is in addition to the requirements for the notice of application outlined in Sections 10.04 and 10.05 of these Rules.
 - b) The use of rodenticide baits or insecticide baits that are in any of the following formulations: gel baits, solid baits, granular, or self-contained bait stations that prevent contact with the insecticide or rodenticide. Applications shall only be applied to common areas, in a manner where no physical contact can be made with the pesticide, or units, other than the pesticide sensitive person's individual dwelling unit. Compliance with the notice of application requirements in Sections 10.04 and 10.05 of these Rules are still required.

Part 13. Notification of Pesticide Applications.

- 13.01. Any commercial, registered limited commercial, or registered public applicator making a pesticide application in any turf or ornamental category shall post, at the time of application, at least one sign as specified in § 35-10-112(c), C.R.S., notifying the public of the application.
- 13.02. The bottom of each notice-of-application sign must project at least 18 inches above the ground and the top of the sign shall be no higher than 48 inches above the ground. This provision does not apply to notice of application signs required to be posted at golf course clubhouses, set forth in Part 13.04.
- 13.03. The sign must be posted on a lawn or yard at the property boundary between two feet and five feet from the sidewalk; if there is no sidewalk, between two and five feet from the road; or, if there is no road, between two and five feet from the property boundary. When landscaping or other conditions would make a sign inconspicuous or illegible if the sign were posted within the distances specified in this paragraph, the sign shall be posted in a similar manner such that it is conspicuous and easily legible to any adult or child entering or passing the property on foot.
- 13.04. For greenbelts, parks, golf courses, athletic fields, playgrounds, common property of multi-unit residential and commercial properties, or other similar recreational or common property, the signs must be posted immediately adjacent to areas within the property where pesticides have been applied in a manner that is conspicuous and easily legible to any adult or child entering the

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treated area(s). For applications on a golf course, the applicator shall post a sign at the clubhouse and at the first tee and the tenth tee notifying the public of the application. Notification signs at golf course clubhouses must be placed in a manner that is conspicuous and easily legible to any adult or child entering the treated area(s).

- 13.05. Any commercial, registered limited commercial, or registered public applicator making an aquatic pesticide application in any body of water with any legal public access shall post a sign notifying the public of the application at each place of legal public access.

Part 14. Invoice Statement.

- 14.01. Each commercial applicator shall include the following statement in at least 10 point legible type on the front, either at the top or bottom, of each customer invoice.

Commercial applicators are licensed by the Colorado Department of Agriculture.

- 14.02. This requirement may be met by any means other than handwriting or hand-printing including without limitation, printing, printed sticker, stamping, or typewriting.

Part 15. Enforcement.

- 15.01 The phrase “substantial danger or harm to public health and safety, to property, or to the environment” as used in § 35-10-121(2.5), C.R.S. means the existence of a condition which could reasonably be expected to cause, or the actual occurrence of:

- (a) physical illness, injury, or death to one or more individuals;
- (b) damage to property, either real or personal; or
- (c) any adverse impact on land, air or water resources that is appreciable and not immediately repairable.

- 15.02 Any person who uses any pesticide classified for restricted use must be licensed as a qualified supervisor, certified operator, or private applicator in accordance with the Act and these Rules, except:

- (a) any technician not licensed as a certified operator who is applying restricted use pesticides under the on-site supervision of a qualified supervisor or mixing and loading restricted use pesticides under the supervision of a qualified supervisor, and;
- (b) any person working under the supervision of a licensed private applicator for the purposes of raising an agriculture commodity.

(c) Any non-certified technician or person working under the supervision of a licensed private applicator must be at least 18 years old, except that a non-certified applicator must be at least 16 years old if all of the following requirements are met:

(1) The non-certified applicator is using the restricted use pesticide under the direct supervision of a private applicator who is an immediate family member.

(2) The restricted use pesticide is not a fumigant, sodium cyanide, or sodium fluoroacetate.

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(3) The non-certified applicator is not applying the restricted use pesticide aerially.

- 15.03 Any person who supervises the use of any pesticide classified for restricted use must be licensed as a qualified supervisor or private applicator in accordance with the Act and these Rules.
- 15.04 A qualified supervisor, certified operator or private applicator shall not use or supervise the use of a restricted use pesticide in any category of licensure the person does not hold.
- 15.05 Any person who operates any device for hire that produces a pesticide as defined in § 35-10-103(10) C.R.S., must be licensed as a commercial applicator and be licensed as or employ or contract with a qualified supervisor in the appropriate licensure category. It is a violation of these Rules for a commercial applicator to use any such device in a manner inconsistent with labeling directions or these Rules, or in an unsafe or negligent manner.
- (a) No such device may be used to treat any pest within a structure, unless otherwise allowed pursuant to Part 15.05(c) ~~below of this subsection~~;
 - (b) Such devices may only be used to control burrowing rodents, unless otherwise allowed pursuant to Part 15.05(c) ~~below of this subsection~~;
 - (c) The Commissioner may approve the use of such device in sites or to control pests other than those listed in Part 15.06(a) if he determines that such use will not pose a risk to the public health or safety. Such use shall be subject to additional requirements or restrictions the Commissioner deems necessary.
- 15.06 Any commercial applicator using a device for hire that produces carbon monoxide for the control of burrowing rodents must abide by the following application requirements and restrictions in addition to any device labeling directions:
- (a) This Part 15.06 applies to commercial applications of carbon monoxide by means of a device to burrow openings of the following rodent species that are located within the specified distances from enclosed structures that are occupied or may be occupied by humans or animals.
 - (1) Pocket gopher: within 150 feet of such structures;
 - (2) Prairie dog: within 100 feet of such structures;
 - (3) Ground squirrel: within 20 feet of such structures;
 - (4) Rat: within 20 feet of such structures;
 - (5) Vole: within 11 feet of such structures;
 - (6) Field mice: within 8 feet of such structures;
 - (7) Any burrowing rodent species not listed in this Part 15.06(a): within 150 feet of such a structure.
 - (b) Any commercial applicator using a device to make applications of carbon monoxide to control burrowing rodents within the distances specified in Part 15.06(a) ~~of this Section~~ must abide by the following application requirements and restrictions:

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- (1) All persons or animals occupying any enclosed structure within the distances specified for the type of rodent burrow being treated in Part ~~15.06(a)-of this Section~~ must be evacuated from the structure during the application.
- (2) If any existing carbon monoxide detectors installed in the structure activate during a burrowing rodent application, all applications within the distances specified for the type of rodent burrow being treated in Part ~~15.06(a)-of this Section~~ from the structure must cease immediately.
- (3) Following any application listed in Part ~~15.06(a)-of this Section~~, applicators must enter and monitor the structure at least one hour after the application has concluded to verify that carbon monoxide levels have not risen above 9 ppm.
- (4) Monitoring must be done with a carbon monoxide monitor that can detect carbon monoxide levels as low as 9 ppm. All structures must, through monitoring for carbon monoxide levels by the applicator, be verified to have carbon monoxide levels no higher than 9 ppm prior to any re-entry by the occupant.
- (5) Upon any detection of carbon monoxide above 9 ppm, either from detection equipment installed in a structure or from the applicator's own monitoring equipment, all applications within the distances from the structure specified for the type of rodent burrow being treated in Part ~~15.06(a)-of this Section~~ must cease immediately and the following actions must be performed:
 - (~~ia~~) The applicator must open all exterior doors of the structure and begin aerating the structure immediately.
 - (~~iib~~) After one hour of aeration, the applicator must enter the structure and verify that carbon monoxide levels have fallen to 9 ppm or less throughout the structure and remain at 9 ppm or less for one hour. If at any time during the monitoring process the applicator's monitoring equipment detects carbon monoxide levels over 25 ppm, the applicator must leave the structure immediately, continue to aerate the structure, and repeat the monitoring process every hour until carbon monoxide levels fall and remain at 9 ppm or less throughout the structure for one hour.
 - (~~iiie~~) Any detection of carbon monoxide above 9 ppm must be recorded in the applicator's records, including: (1) the time the detection occurred; (2) the level detected if known; (3) the time that levels were confirmed to have fallen to 9 ppm or less throughout the structure and; (4) the name of the applicator that performed the monitoring.
- (6) In addition to the written notice required by Parts 10.04 and 10.05 of these Rules, applicators shall provide written precautionary information about carbon monoxide poisoning to the occupant or owner, including the following statement:

"Should you or a family member experience any symptoms associated with carbon monoxide poisoning within 24 hours of this treatment, such as headache, dizziness, weakness, nausea, vomiting, chest pain, or confusion, remove the person from the area where the onset of symptoms occurred and call 911 or seek medical attention."

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- 15.07 Commercial applicators shall maintain accurate and legible office records of all carbon monoxide device applications made for hire. Such records shall include all of the following information:
- (a) Name and address of the person for whom the application was made.
 - (b) Location where carbon monoxide application was made, if different from Part 15.07(a)~~of this Section~~. The location of a field application should be fully described. In the case of roadside carbon monoxide applications, the record should include the county or state road number and the portion of roadside to which burrowing rodent treatments were applied, described by reference to mileage markers or prominent features such as road intersections, river or creek crossings.
 - (c) Specific rodent pest for which the carbon monoxide device application was made.
 - (d) Location of rodent burrow(s) to which carbon monoxide was applied.
 - (1a) Areas treated within the distances specified in Part 15.06(a) must be recorded by specifying the number of burrow openings treated and the location of each in relation to the structure (e.g.: One prairie dog burrow opening 90 feet West of the residence).
 - (2b) Applications made further than the distances specified in Part 15.06(a) may be recorded with a description of where the applications occurred on the property (e.g.: 10 acres located in the Northeast corner of property).
 - (3e) An applicator may map the area(s) treated to meet this requirement; each application location made to a rodent burrow within the distances specified in Part 15.06 must be noted individually on the map.
 - (e) Records shall indicate that the specific pesticide applied is carbon monoxide.
 - (f) Date and time of application. The record shall indicate the time when the application was started and completed, in hour and minutes, with accuracy within 15 minutes.
 - (g) Name of the person(s) who made the application (i.e., technician, certified operator, qualified supervisor).
 - (h) If any detections of carbon monoxide occur, the information required in Part 15.06 (b)(5)(iii) of this Section.

Part 16. Non-registered Limited Commercial Applicator and non-registered Public Applicator training requirements

- 16.01. This Part 16 applies to all limited commercial applicators and public applicators, as defined in Sections 35-10-103 (8) and (12), C.R.S., that are not registered with the Department pursuant to Section 35-10-109, C.R.S.
- 16.02. Any owner or designee of a non-registered limited commercial applicator and any employee of a non-registered public applicator must be trained prior to:
- (a) The use of any general use pesticide that requires mixing or loading of a pesticide into a separate service container or application device.

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- (b) The use of any ready-to-use general use pesticide on the property of schools, children's day care facilities, hospitals and health care facilities required to obtain a license from the Colorado Department of public Health and Environment pursuant to Section 25-3-101, C.R.S., and in children's playground areas.

16.03 Training is not required for the following uses of general use pesticides:

- (a) The use of any anti-microbial pesticides such as those intended to disinfect, sanitize, reduce or mitigate growth or development of microbiological organisms.
- (b) The use of use of any ready-to-use general use pesticide in areas other than those specified in Rule 16.02(b).

16.04. Non-registered limited commercial applicator owners or their designee and all non-registered public applicator employees, before making any pesticide applications as specified in Rule 16.02, must obtain training in all of the following subjects; laws and regulations, pesticides and their families, applicator safety, public safety, environmental protection and the use of pesticides. Persons that are required to be trained may meet these training requirements by:

- (a) holding a current qualified Supervisor, Certified Operator or Private Applicator license in any licensure category; or
- (b) Taking and passing the qualified Supervisor or Certified Operator General Core examination or the private applicator examination within the last five years prior to the application of a pesticide; or
- (c) Doing one of the following;
 - (1) Taking and passing the Department's on-line pesticide training course; or
 - (2) attending any continuing education courses that cover the required subjects and are approved by the Commissioner; or
 - (3) completing any other training that covers all of the above subjects and is approved by the Commissioner.

16.05. Training must be completed, at a minimum, within 3 years prior to the date of any application.

16.06. Training records for each person making applications must be maintained for a period of 3 years by the limited commercial applicator or public applicator.

Part 17. The Use of Pesticides in the Production of Cannabis

17.01. Definition and Construction of Terms for purpose of this Part 17, as used in these Rules unless the context otherwise requires:

- (a) "Cannabis" means a plant of the genus Cannabis and any part of the plant.
- (b) "Human consumption" means the consumption of cannabis by a person through oral ingestion, absorption through the skin, inhalation through smoking, vaporization or other means.

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- (c) "Tolerance" means a level of pesticide residue in or on food that the Environmental Protection Agency has determined with reasonable certainty will not pose a hazard to public health when used in accordance with label directions.
- 17.02. Pesticide Use on Cannabis: These Rules establish the criteria under which certain pesticides may be legally used on cannabis in the State of Colorado. To assist cannabis growers, the Department will publish a list of pesticides that it has determined meet these criteria. As of the effective date of these Rules, there are currently no pesticides that are specifically labeled or have pesticide residue tolerances established for use on cannabis by the federal government or the State of Colorado. The Colorado Department of Agriculture does not recommend the use of any pesticide not specifically tested, labeled and assigned a tolerance for use on cannabis because the health effects on consumers are unknown.
- 17.03. Any pesticide used in the cultivation of cannabis must be registered with the Colorado Department of Agriculture, except for purposes of research and demonstration conducted in accordance with 40 CFR Part 172 (2017) (as incorporated herein by reference). Notwithstanding any other requirements in this Part 17, a pesticide on the list published pursuant to part 17.02 that was registered at the time of purchase, but was not renewed with the Department in the subsequent registration year, may be used within that subsequent registration year until gone, unless the Department has determined that use is prohibited in accordance with Part 17.05.
- 17.04. Any pesticide registered with the Colorado Department of Agriculture may be used in accordance with its label or labeling directions for the cultivation of cannabis in the State of Colorado under the following conditions, provided that:
- (a) For products registered by the Environmental Protection Agency under Section 3 of the Federal Insecticide, Fungicide, Rodenticide Act, no person may use a pesticide product in the cultivation of cannabis unless:
- (1) All active ingredients of the pesticide product are exempt from the requirements of a tolerance, as established under 40 C.F.R. Part 180, Subparts D and E (2017) (as incorporated herein by reference);
 - (2) The pesticide product label allows use on the intended site of application. The term "site" for purposes of this ~~Part 17.04~~Rule includes any location or crop to which the application is made;
 - (3) The pesticide product label expressly allows use on crops or plants intended for human consumption; and
 - (4) The active ingredients of the pesticide product are allowed for use on tobacco by the Environmental Protection Agency.
- (b) Notwithstanding Part 17.04(a)(3) the Commissioner has the authority to permit the use of a pesticide product, whose label~~that~~ does not expressly allow use on crops intended for human consumption if:
- (1) The active and inert ingredients are exempt under 40 C.F.R. Part 180, Subparts D and E (2017) (as incorporated herein by reference);
 - (2) The pesticide product label allows use on the intended site of application; and
 - (3) The active ingredients of the pesticide product are allowed for use on tobacco.

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- (c) ~~If t~~he pesticide product label specifically allows use on cannabis, such use is permitted.
- (d) For 25(b) minimum risk pesticide products as defined in 40 CFR ~~§~~ 152.25(f) (2017) (as incorporated herein by reference), no person may use a minimum risk pesticide product in the cultivation of cannabis unless the pesticide product label allows use on the intended site of application and allows use on crops or plants intended for human consumption.
- (e) For pesticide products with a Colorado Special Local Need registration, issued under Section 24(c) of the Federal Insecticide, Fungicide and Rodenticide Act, no person may use such a product in the cultivation of cannabis unless the Colorado Special Local Need label allows use on cannabis.

17.05. The Commissioner may prohibit the use of any pesticide product for the cultivation of cannabis if the Commissioner determines that such use poses a significant threat to public health and safety or the environment.

Part 18. Statements of Basis, Specific Statutory Authority & Purpose

18.21. Adopted December 8, 2021 – Effective January 30, 2022

Statutory Authority

The amendments to these Rules are proposed for adoption by the Commissioner of the Colorado Department of Agriculture (“Department”) pursuant to the Commissioner’s authority under the Pesticide Applicators’ Act (the “Act”), §§ 35-10-118(2)(a), (b), (c), (d), (3)(a), (4), (5) and (9) C.R.S.

Purpose

The purpose of these Rules is to incorporate new federal certification and training requirements pursuant to 40 C.F.R. Part 171 and to clarify existing Rule requirements. Specifically, the revisions to the Rules:

1. Update Part 1.02(j) to reflect that Article 36 of Title 12, C.R.S., was renumbered in 2019 and now exists at Article 240;
2. Amend Part 1.03 to incorporate by reference additional provisions from the Code of Federal Regulations;
3. Repeal Parts 2.05.5 and 2.38 consistent with Senate Bill 21-077 (Remove Lawful Presence Verification Credentialing);
4. Amend Parts 2.09 and 2.11 to clarify how applicants provide insurance information to the Department;
5. Create Parts 2.12(c) and (d) and 2.30(c) and (d) to clarify the meaning of adequate supervision by qualified supervisors;
6. Amend Part 2.34 and 2.50 to clarify qualified supervisor/certified operator and private applicator application requirements, respectively, including information on the age and date of birth of the applicant;
7. Amend Part 2.40 to clarify that qualified supervisors may only provide supervision in the licensure category or categories that he or she holds;

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8. Amend Part 3.01 to adopt certification standards that meet or exceed federal standards for commercial and private applicators;
9. Amend Parts 4.01, 4.02, 4.04, 4.07 and 4.09 to clarify and update the process for submission of continuing education courses to the Department in a manner that meets federal recertification requirements in 40 C.F.R. § 171.107(b)(2)(iii);
10. Amend Parts 4.05 and 4.10 to clarify the requirements for approval or denial of continuing education courses;
11. Amend Part 5.02(h) to clarify that all training records must be recorded on forms provided by the Department and that those forms must be completed in full in order for a commercial, registered limited commercial, or registered public applicator to comply with the Department's Rules;
12. Create Part 5.02(k) to comport certification and training requirements for technicians with new federal requirements at 40 C.F.R. § 171.201(d);
13. Create Part 5.02(l) requiring licensed or registered applicators to obtain training records for certain new technicians when those new technicians are hired and to maintain those records consistent with the Rules;
14. Create Part 5.02(m) establishing record retention and record sharing requirements, as well as identifying the records to which those requirements apply;
15. Amend Part 6.03(j) to include the license number as information that must be included on application records;
16. Create Part 7.01(a) to define the term "company business name" as that term appears in Parts 7.01(b) and (c);
17. Create Parts 8.03(f) and 9.04(e) to cross-reference notification and signage requirements appearing in Parts 12 and 13 of the Rules;
18. Amend Part 9.01(a) to clarify sites of application allowed under Category 206, Turf Pest Control;
19. Update Part 13.01 to cross-reference statutory requirements for notification at § 35-10-112(c), C.R.S.;
20. Update Part 13.02 to clarify that signage height requirements do not apply to notices required to be placed in a golf course clubhouses;
21. Update Part 13.04 to clarify notice requirements for gold course clubhouses;
22. Create Part 15.02(c) to adopt private applicator supervision standards that meet or exceed federal standards;
23. Amend Part 17.03 to clarify when existing stocks of certain pesticide products may be used after the product becomes unregistered;
24. Amend Part 17.04 to clarify that no person may use pesticide products on Cannabis if those pesticide products do not meet the conditions specified in Rule; and
25. Correct non-substantive typographical, formatting, and grammatical errors throughout the Rules.

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Factual and Policy Issues

The factual and policy issues encountered when developing these Rules include:

1. Article 36 of Title 12, C.R.S., was renumbered in 2019 and now exists at Article 240. Part 1.02(j) was updated to reflect the correct statutory provision
2. When an agency incorporates material by reference in its Rules, it must comply with § 24-4-103(12.5)(a), C.R.S. Various edits to these Rules reflect those requirements.
3. On May 27, 2021, Governor Jared Polis signed Senate Bill 21-077 into law. SB21-077 repealed requirements at § 24-34-107, C.R.S., that required individuals applying for licenses with the Department to provide evidence of lawful presence in the United States. As a result, the Department is repealing Parts 2.05.5 and 2.38 concerning the requirement to establish lawful presence as a condition of licensure.
4. Parts 2.09 and 2.11 concern requirements that applicants for licensure provide proof of insurance on a form provided by the Commissioner. However, over the past decade, insurance providers have expressed concern over the language in the Department's form. This causes delay in processing applications. The Department is aware that the information it requests is often covered by industry forms, such as the ACORD form. Therefore, the Department is revising Parts 2.09 and 2.11 to provide flexibility to applicants and to allow the Department to accept standard forms, including the ACORD form, issued by insurance carriers.
5. Part 2.12 of the Rules, concerning adequate supervision of technicians by a qualified supervisor, was last reviewed in 2008. Since then, the pesticide applicator industry has evolved, such that a qualified supervisor is often employed by more than one commercial applicator business. This has caused confusion in the industry concerning the number of technicians that can be supervised by one qualified supervisor, especially when that qualified supervisor is linked to multiple commercial applicator businesses. The new Parts 2.12(c) and (d) clarify and confirm that a qualified supervisor may supervise one or more technicians employed by multiple commercial applicator businesses, so long as the aggregate number of technicians supervised never exceeds 15 at any one time.
6. On January 4, 2017, the U.S. Environmental Protection Agency published revised certification standards for pesticide applicators (82 Fed. Reg. 952), which standards became effective on March 6, 2017. To comply with these new federal standards, the Department must promulgate and revise its rules pertaining to certification and training of pesticide applicators consistent with the revised State Certification Plan submitted to EPA on March 6, 2020. Therefore, the Department is revising Parts 2.34 and 2.50 of the Rules to reflect requirements in 40 C.F.R. §§ 171.103(a)(1) and 171.105(g), specifically adopting a minimum age requirement for commercial and private applicator certification of at least 18 years old.
7. Over the past few years, there has been some confusion surrounding the types of activity that a qualified supervisor may supervise. Therefore, the Department is revising Part 2.40 to make clear that a qualified supervisor is only responsible for (and can only provide) supervision in the specific categories of licensure that he or she holds.
8. As described above, EPA revised its federal standards for the certification and training of licensed pesticide applicators in 2017. States must adopt certification standards that meet or exceed these federal standards. Therefore, the Department is amending Part 3.01 to require compliance with federal certification standards set forth in 40 C.F.R. §§ 171.103 and 105 for commercial and private applicators.

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9. Colorado must also meet federal continuing education requirements at 40 C.F.R. §§ 171.107(b)(2)(i) – (iii) when approving, verifying the content of, and confirming an applicator’s attendance at continuing education courses (each a “CEC”). EPA updated these requirements in 2017, and the Department is updating Parts 4.02, 4.04, 4.05, 4.07, 4.09, and 4.10 accordingly. The Department is also providing clarification on the timing and process for a course sponsor to seek approval for CECs. Specifically:
 - a. Revisions to Parts 4.02(b) and 4.07(b) clarify that requests for approval must be submitted on a form provided by the Commissioner;
 - b. Revisions to Parts 4.02(c) and 4.07(c) increase the number of days required to submit CECs to the Department for approval, allowing the Department sufficient time to review and respond to the increasing number and complexity of CEC approval requests that it receives;
 - c. Revisions to Part 4.02(d) and 4.07(d) provide clarity on what information must be provided to the Department to ensure that the content and quality of each proposed session complies with the Rules;
 - d. A new Part 4.02(e) and Part 4.07(e) confirm the session length(s) required to comply with the Rules;
 - e. A new Part 4.02(f) and Part 4.07(f) require that, subject to space availability, all courses must be open to all Colorado licensees in order to ensure equitable CEC opportunities for all Colorado licensees;
 - f. Revisions to Part 4.04 and Part 4.09 describe the method by which a course sponsor must provide attendance confirmation to each attendee and the manner in which course sponsors verify course attendance for each attendee with the Commissioner; and
 - g. Revisions to Part 4.05 and 4.10 clarify when the Department may deny a CEC request.
10. As described above, EPA updated its standards in 2017 for training of applicators and for documenting that training, requiring that commercial applicators maintain, provide upon request, and verify training documentation for noncertified applicators and their qualifications. As such, consistent with 40 CFR §§ 171.201(d) and 171.303(b)(7)(vi), the Department is adding the following Parts to the Rules:
 - a. Part 5.02(h) to require that training be documented on a form provided by the Commissioner;
 - b. Part 5.02(k), which requires that all noncertified applicator training meets all provisions set forth in 40 C.F.R. § 171.201(d), which specifies subject matter that must be covered;
 - c. Part 5.02(l), which requires that an employer must obtain training records for a new hire experienced technician to ensure that the new hire experienced technician has met all of the training requirements established in the Rules; and
 - d. Part 5.02(m), which defines the records that make up a technician’s training record, sets training record retention periods, and establishes a requirement that records be made available to the technician or the Commissioner upon request.
11. EPA also establishes recordkeeping requirements for commercial, registered limited commercial, and registered public applicators. In 2017, EPA updated the relevant standards at 40 C.F.R. §

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- 171.303(b)(7)(vi)(l). Therefore, the Department is updating Part 6.03(j) accordingly, now requiring that commercial applicators record the name and certification number of those making or supervising pesticide applications.
12. Recently, the Department learned that commercial applicators and private applicators interpreted the term “company business name” in multiple ways when complying with Part 7.01 (Equipment Identification), sometimes including names or visual representations on equipment that differed from the name provided to the Department originally. Because the term “company business name” is not defined in Part 7.01, ambiguity exists with respect to whether the vehicle identification must be the company’s legal name, a trade name, a company logo, etc. Therefore, the Department is adding Part 7.01(a) to define the term “company business name” to include any name or trade name or trademark registered with the Colorado Secretary of State, any doing business as name as submitted in the licensee’s application, and any company logo that clearly communicates the licensee’s business name.
 13. The Department’s Rules include requirements for notifying persons of pesticide applications in Part 12 and for posting specific signage with information on the pesticide application in Part 13. Because notification requirements are also referenced in Articles 8 and 9, and to ensure that the other notification and signage requirements in Rule are not overlooked, the Department is adding Parts 8.03(f) and 9.04(e) to cross-reference notification and signage requirements in Parts 12 and 13.
 14. In 2010, the Department revised Part 8.01(i) concerning Category 109 to specify permitted sites of application within the Industrial and Right-of-Way Weed Control category. These sites included sidewalks, trails, paths, parking lots, and certain paved areas. This created confusion in the regulated community concerning whether Category 109 also covered areas that were abutted by or surrounded by turf because turf is covered under Category 206. Therefore, the Department is revising Part 9.01(a), Turf Pest Control, to provide additional clarity on what sites of application are allowed under Category 206 as compared with Category 109. Specifically, the Department is expanding Category 206 to allow application on certain managed turf, ornamental beds, xeriscaped areas, and sidewalks, driveways, etc. not located in a zoned right-of-way (which would fall under Category 109).
 15. Part 13, Notification of Pesticide Applications, outlines specific flagging requirements for turf and ornamental applications. To provide additional clarification, the Department is proposing an amendment to Part 13.01 to add a reference to notification flags specified in statute.
 16. Part 13, Notification of Pesticide Applications, outlines specific flagging requirements for turf and ornamental applications. Part 13.02 generally describes the required height of signs, but separate requirements exist for golf course clubhouses. To address this confusion, the Department is amending Part 13.02 to clarify that the height requirements do not apply when posting in golf course clubhouses and amending Part 13.04 to clarify signs posted at golf course clubhouses must be placed in a manner that is conspicuous and easily legible to those entering treated areas.
 17. In 2017, EPA revised its requirements at 40 C.F.R. §§ 171.201(2)(iii)(A)(B) and (C) related to the supervision of restricted use pesticide applications made by private applicators who are 16 years of age. Accordingly, the Department has created Part 15.02(c) to identify under what circumstances a 16-year-old noncertified applicator may apply a restricted-use pesticide.
 18. On March 30, 2016, the Department adopted Rules to outline the criteria for which pesticides were allowed for use in Cannabis cultivation. Part 17.03 requires that only registered pesticides be allowed for use in the cultivation of cannabis. However, Part 17.03 does not account for existing stocks policies at the state and federal level that allow for the limited use of existing

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stocks after a product becomes unregistered (absent a finding that the product poses a significant threat to public health and safety or the environment, in which case existing stocks cannot be used). Therefore, the Department is amending Part 17.03 to allow for the use during the subsequent registration year of an unregistered pesticide product that appeared on the Department's list of pesticides allowed for use on Cannabis at the time of purchase, but was not re-registered with the Department for the subsequent registration year. This change will allow end users to use any remaining unregistered pesticide product, but only during the registration year following the manufacturer's failure to renew the registration. This limited ability to use remaining stocks of an unregistered product does not extend to products that the Department has determined pose a significant threat to public health and safety or the environment.

19. The Department is also amending Part 17.04 to clarify that certain uses of pesticide products on cannabis are considered unlawful acts. Specifically, the Department is clarifying that it is unlawful for a person to use a registered pesticide in the production of cannabis when that product does not meet the criteria set forth in Rule – namely, the pesticide must meet all requirements of Part 17.04(a)(1) – (4), Part 17.04(b)(1) – (3), Part 17.04(d), or Part 17.04(e).