

22 §1471-D. CERTIFICATION AND LICENSES

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1. Certification required; commercial applicators and spray contracting firms. Certification is required for commercial applicators and spray contracting firms as follows.

A. No commercial applicator may use or supervise the use of any pesticide within the State without prior certification from the board, provided that a competent person who is not certified may use such a pesticide under the direct supervision of a certified applicator; and [1983, c. 819, Pt. A, §42 (NEW).]

B. No spray contracting firm may use or supervise the use of any pesticide within the State without prior certification from the board. [1985, c. 122, §2 (AMD).]

[1985, c. 122, §2 (AMD) .]

2. Certification required, private applicators. No private applicator shall use or supervise the use of any limited or restricted use pesticide without prior certification from the board, provided, that a competent person who is not certified may use such a pesticide under the direct supervision of a certified applicator.

[1975, c. 397, §2 (NEW) .]

2-A. Certification required; government pesticide supervisor. No government pesticide supervisor may supervise the use of any pesticide without prior certification from the board, provided that the person who actually uses the pesticide must be certified.

[1981, c. 374, §3 (NEW) .]

2-B. Certification required; spotters and monitors. No person may:

A. Act as a spotter without prior certification from the board; or [1983, c. 819, Pt. A, §43 (NEW).]

B. Act as a monitor without prior certification from the board. [1983, c. 819, Pt. A, §43 (NEW).]

[1983, c. 819, Pt. A, §43 (NEW) .]

2-C. Exemptions or reduced licensing requirements for certain commercial or custom applications.

The board may by rule provide for exemptions from licensing requirements and for reduced licensing requirements for classes of commercial applicators of general-use pesticides applied by hand or nonpowered equipment if the board finds that applications by those classes do not pose a significant risk to health or the environment and the requirement of licensing does not serve a meaningful public purpose.

Notwithstanding Title 7, section 610, subsection 6, rules adopted pursuant to this section to provide exemptions from licensing or reduced licensing requirements are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2007, c. 245, §3 (NEW) .]

3. License required, pesticide dealers. No pesticide dealer shall:

A. Distribute any limited or restricted use pesticide without a distributor's license from the board; or [1975, c. 397, §2 (NEW).]

B. Distribute limited or restricted use pesticides to any person who is not licensed or certified by the board. [1975, c. 397, §2 (NEW).]

[1975, c. 397, §2 (NEW) .]

4. Application. Application for licenses or certification shall be accompanied by such a reasonable fee as the board may establish by regulation. The applicant shall provide such information regarding the applicant's qualifications and proposed operations and other relevant matters as required by the board. Commercial applicators and spray contracting firms shall be required by the board to provide proof of financial responsibility in custom application as to such amounts as the board may, by regulation, designate; private applicators may also be required to provide such proof. All applicants to the board for certification or licensing shall be required to comply with such standards of competency as are established by the board concerning adequate knowledge of pesticide distribution or use and the related dangers and necessary precautions; provided that, in the case of applicants for commercial certification and pesticide dealers' licenses, such compliance shall be demonstrated by written examination in addition to such other criteria, including performance testing, as the board may establish.

[1983, c. 819, Pt. A, §44 (AMD) .]

5. Issuance. No license or certification may be issued by the board, unless the board determines that the standards for licensing and certification have been met as to those categories for which the applicant has applied and qualified. In the case of the spotter and monitor, the board shall set minimal proficiency requirements with the understanding that the board may choose to change these standards from time to time. The enforcement personnel of the Board of Pesticides Control shall be certified to meet at least the minimal proficiency requirements required of spotters and monitors. If a license or certification is not issued as applied for, the board shall provide written notice to the applicant of the reasons therefor. The license or certificate may be issued upon such terms and conditions as the board deems necessary for the protection of the public health, safety and welfare, and for enforcement and administration of this chapter and the rules promulgated pursuant to this chapter.

[1983, c. 819, Pt. A, §45 (AMD) .]

6. Renewal. Licenses for commercial applicators, government pesticide supervisors, spotters, monitors, spray contracting firms, pesticide dealers and private applicators are valid for such period as prescribed by the board by rule. Application for renewal must be accompanied by such reasonable fee as the board may by rule require. The board may, by rule, require that such renewal application include reexamination or other procedures designed to assure a continuing level of competence to distribute, use or supervise the use of pesticides safely and properly.

If the board fails to renew a license upon application of the licensee or certificate holder, it shall afford the licensee or certificate holder an opportunity for a hearing in conformity with Title 5, chapter 375, subchapter IV.

[1997, c. 454, §8 (AMD) .]

7. Suspension.

A. If the board determines that there may be grounds for revocation of a license or certificate, it may temporarily suspend said license or certificate pending inquiry and opportunity for hearing, provided that such suspension shall not extend for a period longer than 45 days. [1975, c. 397, §2 (NEW).]

B. The board shall notify the licensee or certificate holder of the temporary suspension, indicating the basis therefor and informing the licensee or certificate holder of the right to request a public hearing.

[1983, c. 819, Pt. A, §47 (AMD).]

C. If the licensee or certificate holder fails to request a hearing within 20 days of the date of suspension, such right shall be deemed waived. If the licensee or certificate holder requests such a hearing, notice shall be given at least 20 days prior to the hearing to the licensee or certificate holder and to appropriate federal and state agencies. In addition, public notice shall be given by publication in a newspaper of general circulation in the State and such other publications as the board deems appropriate. [1983, c. 819, Pt. A, §48 (AMD).]

D. This subsection is not governed by the provisions of Title 4, chapter 5 or Title 5, chapter 375. [1999, c. 547, Pt. B, §39 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

[1999, c. 547, Pt. B, §39 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

8. Revocation. The District Court may suspend or revoke the certification or license of a licensee or certificate holder upon a finding that the applicant:

A. Is no longer qualified; [1975, c. 397, §2 (NEW).]

B. Has engaged in fraudulent business practices in the application or distribution of pesticides; [1975, c. 397, §2 (NEW).]

C. Used or supervised the use of pesticides applied in a careless, negligent or faulty manner or in a manner which is potentially harmful to the public health, safety or welfare or the environment; [1975, c. 397, §2 (NEW).]

D. Has stored, transported or otherwise distributed pesticides in a careless, faulty or negligent manner or in a manner which is potentially harmful to the environment or to the public health, safety or welfare; [1975, c. 397, §2 (NEW).]

E. Has violated the provisions of this chapter or the rules and regulations issued hereunder; [1975, c. 397, §2 (NEW).]

F. Has made a pesticide recommendation, use or application, or has supervised such use or application, inconsistent with the labelling or other restrictions imposed by the board; [1975, c. 397, §2 (NEW).]

G. Has made false or fraudulent records or reports required by the board under this chapter or under regulations pursuant thereto; [1981, c. 470, Pt. A, §67 (AMD).]

H. Has been subject to a criminal conviction under section 14 (b) of the amended FIFRA or a final order imposing a civil penalty under section 14 (a) of the amended FIFRA; or [1981, c. 470, Pt. A, §67 (AMD).]

I. Has had the license or certificate, which supplied the basis for the Maine license or certification pursuant to subsection 10, revoked or suspended by the appropriate federal or other state government authority. [1977, c. 694, §341 (NEW).]

[1983, c. 819, Pt. A, §49 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

9. State, federal and local government employees. Individuals who apply pesticides in connection with their duties as officials or employees of federal, state or local governments are subject to the provisions of this chapter concerning licenses and certification, but are exempt from the payment of any fee.

[1975, c. 397, §2 (NEW) .]

10. Nonresident licenses. The board may issue a license or certificate without examination to nonresidents who are licensed or certified by another state or the Federal Government substantially in accordance with the provisions of this chapter. Licenses or certificates issued pursuant to this subsection may

be suspended or revoked in the same manner and on the same grounds as other licenses or certificates issued pursuant to this chapter. Licenses and certificates issued pursuant to this subsection may be suspended or revoked pursuant to subsection 8, paragraph I.

[1977, c. 694, §342 (AMD) .]

11. Arborists. In the case of persons licensed under Title 7, chapter 404, subchapter II, the board may waive the application fee and may consider the arborist license as prima facie evidence of qualification to use pesticides in the categories of use provided by Title 7, chapter 404.

[1999, c. 84, §4 (AMD) .]

SECTION HISTORY

1975, c. 397, §2 (NEW). 1977, c. 20, §3 (AMD). 1977, c. 694, §§338-342 (AMD). 1981, c. 374, §§3-7 (AMD). 1981, c. 470, §A67 (AMD). 1983, c. 819, §§A42-A49 (AMD). 1985, c. 122, §2 (AMD). 1997, c. 454, §8 (AMD). 1999, c. 84, §4 (AMD). 1999, c. 547, §§B39,78 (AMD). 1999, c. 547, §B80 (AFF). 2007, c. 245, §3 (AMD).

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