

FOOD AND AGRICULTURAL CODE
Division 6
Pest Control Operations

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CHAPTER 1 DEFINITIONS

11401. Unless the context otherwise requires, the definitions in this chapter govern the construction of this division.

11402. "License" means pest control business license, agricultural pest control adviser's license, or pest control dealer's license.

11403. "Pest control" means the use or application of any pesticide. It also means the use of any substance, method, or device to do any of the following:

- (a) Control pests.
- (b) Prevent, destroy, repel, mitigate, or correct any pest infestation or disorder of plants.
- (c) Inhibit, regulate, stimulate, or otherwise alter plant growth by direct application to plants.

11404. "Pesticide" is defined in Section 12753.

11405. "Registrant" means any person that registers pursuant to Section 11732 or 12031.

11407. "Pest control dealer" means any person, including any manufacturer, distributor, or retailer who engages in any of the following business activities:

- (a) Selling pesticides to users for an agricultural use.
- (b) Selling to users any method or device for the control of agricultural pests, such as biological agents, lures, or insect-trapping devices.
- (c) Soliciting sales of pesticides by making agricultural use recommendations through field representatives, or other agents.
- (d) Selling to a user a pesticide classified pursuant to Section 14004.5 as a restricted material that requires either a permit for possession and use or which may be used only by or under the direct supervision of a certified applicator.

11407.5. "Pest control dealer" does not include either of the following:

- (a) Any person licensed pursuant to Section 11701 to engage for hire in the business of agricultural pest control, as to pesticides recommended or sold by the licensee and applied by the licensee pursuant to the conditions of the license.
- (b) Any person licensed to engage in any activity that is defined as structural pest control pursuant to Chapter 14 (commencing with Section 8500) of Division 3 of the Business and Professions Code, as to pesticides recommended or sold by the licensee and applied by the licensee pursuant to the conditions of the license.

11408. "Agricultural use" means the use of any pesticide or method or device for the control of plant or animal pests, or any other pests, or the use of any pesticide for the regulation of plant growth or defoliation of plants. It excludes the sale or use of pesticides in properly labeled packages or containers that are intended for any of the following:

- (a) Home use.
- (b) Use in structural pest control.
- (c) Industrial or institutional use.
- (d) The control of an animal pest under the written prescription of a veterinarian.
- (e) Local districts or other public agencies that have entered into and operate under a cooperative agreement with the State Department of Health Services pursuant to Section 116180 of the Health and Safety Code, provided that any exemption under this subdivision is subject to the approval of the director as being required to carry out the purposes of this division.

11410. "Agricultural pest control adviser" means any person who offers a recommendation on any agricultural use, who holds himself or herself forth as an authority on any agricultural use, or who solicits services or sales for any agricultural use.

11411. "Recommendation" means the giving of any instruction or advice on any agricultural use as to any particular application on any particular piece of property. "Recommendation" does not include any summary that does not specify the use to be made for any designated pest, provided that such summary is not in conflict with any registered pesticide label or with the supplementary printed direction delivered therewith or with any rule or regulation of the director.

11454.2. (a) The Department of Pesticide Regulation shall consult with the Department of Food and Agriculture in any action relating to special local need registrations pursuant to Section 136v of Title 7 of the United States Code, emergency exemptions from registration pursuant to Section 136p of Title 7 of the United States Code, denial of new active ingredient registrations, suspension or cancellation of pesticide registrations or uses, or other measures adopted to mitigate unacceptable adverse pesticidal effects.

(b) Consultation pursuant to subdivision (a) shall be as specified in a memorandum of understanding between the Department of Food and Agriculture and the Department of Pesticide Regulation. Information to be provided by the Department of Food and Agriculture shall include, but not be limited to, (1) impacts on agriculture resulting from the proposed action, (2) benefits derived from the use of the pesticide, and (3) any recommended alternative action.

(c) Except for a suspension taken pursuant to Section 12826, the Department of Pesticide Regulation shall request in writing comments from the Department of Food and Agriculture regarding any proposed final decision to deny a new active ingredient registration or to suspend or cancel a pesticide registration. The Department of Pesticide Regulation shall specify in its request the period within which the Department of Food and Agriculture shall submit its comments in order for the Department of Pesticide Regulation to consider and to respond to them in the final written decision.

11472. The director shall keep a separate record of the classes and sources of income that is credited to, and disbursed from, the Department of Pesticide Regulation Fund.

11472.1. On or before October 31 of each year, the department shall publish a financial report regarding the preceding fiscal year and shall make this report available to the public. The report shall describe in detail the amount and source of funding of, and the costs to operate, each branch of the department. The department also shall include information in the report regarding the funding of major programs within those branches and other relevant information that may aid in evaluating the scope and impact of the activities of the department.

CHAPTER 2 GENERAL PROVISIONS

11501. The purposes of this division and Chapter 1 (commencing with Section 12501), Chapter 2 (commencing with Section 12751), Chapter 3 (commencing with Section 14001), and Chapter 3.5 (commencing with Section 14101) of Division 7 are as follows:

(a) To provide for the proper, safe, and efficient use of pesticides essential for production of food and fiber and for protection of the public health and safety.

(b) To protect the environment from environmentally harmful pesticides by prohibiting, regulating, or ensuring proper stewardship of those pesticides.

(c) To assure the agricultural and pest control workers of safe working conditions where pesticides are present.

(d) To permit agricultural pest control by competent and

responsible licensees and permittees under strict control of the director and commissioners.

(e) To assure consumers and users that pesticides are properly labeled and are appropriate for the use designated by the label and that state or local governmental dissemination of information on pesticidal uses of any registered pesticide product is consistent with the uses for which the product is registered.

(f) To encourage the development and implementation of pest management systems, stressing application of biological and cultural pest control techniques with selective pesticides when necessary to achieve acceptable levels of control with the least possible harm to nontarget organisms and the environment.

11501.1. (a) This division and Division 7 (commencing with Section 12501) are of statewide concern and occupy the whole field of regulation regarding the registration, sale, transportation, or use of pesticides to the exclusion of all local regulation. Except as otherwise specifically provided in this code, no ordinance or regulation of local government, including, but not limited to, an action by a local governmental agency or department, a county board of supervisors or a city council, or a local regulation adopted by the use of an initiative measure, may prohibit or in any way attempt to regulate any matter relating to the registration, sale, transportation, or use of pesticides, and any of these ordinances, laws, or regulations are void and of no force or effect.

(b) If the director determines that an ordinance or regulation, on its face or in its application, is preempted by subdivision (a), the director shall notify the promulgating entity that it is preempted by state law. If the entity does not repeal its ordinance or regulation, the director shall maintain an action for declaratory relief to have the ordinance or regulation declared void and of no force or effect, and shall also bring an action to enjoin enforcement of the ordinance or regulation.

(c) Neither this division nor Division 7 (commencing with Section 12501) is a limitation on the authority of a state agency or department to enforce or administer any law that the agency or department is authorized or required to enforce or administer.

(d) At the request of any state agency disseminating information on the pesticidal uses of any product, the director shall consult with, and provide technical assistance to, that agency to ensure that the dissemination is based on valid scientific information and consistent with state law.

11501.5. The director, and the commissioner of each county under the direction and supervision of the director, shall enforce this division and the regulations which are issued pursuant to it.

11502. The director shall adopt regulations which govern the conduct of the business of pest control.

11502.5. (a) The director may adopt regulations to establish the minimum requirements of education, continuing education, training, experience, and examination for applicants for any license or certificate, or renewal of any license or certificate, issued by the director pursuant to this division or Division 7 (commencing with Section 12500). The director shall not renew a license or certificate if the person who was issued the license or certificate

did not complete the required continuing education during the period of validity of the license or certificate, and the person must take and pass the examination to be again issued such a license or certificate.

(b) The director shall establish, by regulation, fees for the Department of Pesticide Regulation's licensing and certification programs as established pursuant to this division or Division 7 (commencing with Section 12500). These programs include, but are not limited to:

(1) License and certificate examination, application, and renewal.

(2) Approval of continuing education courses and continuing education course providers.

(3) Changes related to any license or certificate, including, but not limited to, name or address changes, license or certificate replacement costs, duplicate copy of a license or certificate, and changes in qualified person, bond, insurance, or registered officers.

(4) Penalties for late payment of licensing and certification fees.

(c) The fees established pursuant to this section may include administrative costs, including overhead costs.

(d) The regulations shall provide that the examination fee may be charged to applicants who request the director to reschedule an examination due to the applicant's failure to obtain a passing score or failure to appear for the scheduled examination, and for scheduling an examination to amend a license.

(e) The fees established pursuant to this section shall be set so that the total revenue collected each fiscal year is sufficient to support the expenditure levels for these programs contained in the annual Budget Act. If the director determines that the revenue collected during the preceding year was greater than, or less than, the expenditure levels for these programs set forth in the Budget Act, the director may further adjust the current fees to compensate for the overcollection or undercollection.

(f) Funds collected pursuant to this section shall be deposited in the Department of Pesticide Regulation Fund, and shall be available for expenditure by the department, upon appropriation, for the purposes of carrying out the programs established pursuant to this division or Division 7 (commencing with Section 12500).

(g) The regulations adopted pursuant to this section, or any amendment thereto, shall be adopted by the director in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations shall be considered by the Office of Administrative Law as an emergency, and necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding any other provision of law, the emergency regulations adopted pursuant to this section shall remain in effect until amended by the director.

11503. The commissioner of any county may adopt regulations applicable in his or her county which are supplemental to those of the director which govern the conduct of pest control operations and records and reports of those operations. The regulations may include provisions pertaining to any matter related to the accomplishment of the purposes of Section 11737. The provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall be followed insofar as practicable in the

adoption of the regulations by the commissioner. The regulations shall be filed with the director who shall compile them.

Each regulation of the commissioner shall be approved by the director before it becomes operative. The director, in his or her review of the commissioner's regulations, shall consider, but not be limited to considering, the necessity, authority, clarity, and consistency of the regulations, as these terms are defined in Section 11349 of the Government Code.

11503.5. The county agricultural commissioner may apply Section 11503 to the agricultural use of any pesticide for agricultural production within one-quarter mile of a school with respect to the timing, notification, and method of application. Any regulations adopted pursuant to this section shall become operative unless specifically disapproved in writing by the director within 30 calendar days of their submission by the commissioner.

11504. Prior to the adoption of regulations by a commissioner, a notice of intention to adopt regulations shall be published in the county, pursuant to Section 6061 of the Government Code, at least 10 days in advance of the time the regulations are to be adopted, amended, or repealed.

11505. The notice of intention which is referred to in Section 11504 shall contain a statement of the time, place, and nature of proceedings for the adoption of the regulations, and either the express terms or an informative summary of the proposed regulations.

11506. At least 10 days prior to the date set for the adoption, amendment, or repeal of the regulations, the commissioner shall mail a copy of the notice of intention to every person who has registered with the commissioner in the manner required by Article 2 (commencing with Section 11731), Chapter 4 of this division, and to any other interested person that has filed with the commissioner a request to receive a notice of such proceedings.

11507. On the date and at the time and place designated in the notice of intention, the commissioner shall afford any interested person or his duly authorized representative, or both, the opportunity to present statements, arguments, or contentions in writing, with or without opportunity to present them orally.

11508. The commissioner shall consider all relevant matter which is presented to him before he adopts any regulation.

11509. In any hearing which is conducted pursuant to Section 11507, the commissioner or his duly authorized representative shall have authority to administer oaths or affirmations, and may continue or postpone such hearing, from time to time, to such time and at such place as he shall determine.

11510. The regulations of the commissioner are subject to review and approval by the director as to reasonableness, and if approved they shall be filed with the director. The regulations shall become effective 30 days after they are approved by the director unless they are designated as emergency regulations.

11511. If, in the opinion of the commissioner, the public health, welfare, or safety requires that any regulation take effect immediately he shall designate it as an emergency regulation and specify in writing the facts which constitute the necessity. An emergency regulation shall become effective on the date it is approved by the director.

11512. Except as provided in Section 11512.5, the proceedings for all hearings conducted by the director pursuant to this division shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The director shall have all of the powers which are granted in that chapter.

11512.5. (a) The commissioner may refuse, suspend, or revoke a county registration or permit pursuant to Section 11735, 11924, 12035, or 14008. Before that action is taken, the party whose registration or permit request is to be refused, suspended, or revoked, the registered party, or the permittee shall be given a written notice of the proposed action, including the basis for the action, and shall have the right to request a hearing before the commissioner within 20 days after receiving notice of the proposed action. A notice of the proposed action that is sent by certified mail to the last known address of the person against whom the action is proposed shall be considered received even if delivery is refused or the notice is not accepted at that address. If a hearing is requested, notice of the time and place of the hearing shall be given at least 10 days before the date set for the hearing. At the hearing, the person shall be given an opportunity to present any evidence or argument on his or her own behalf. If a hearing is not requested in a timely manner, the commissioner may take the action proposed without a hearing. If the party whose registration or permit is refused, suspended, or revoked requested and appeared at a hearing, he or she may appeal to the director within 10 days of mailing or personal service of the commissioner's decision. The following procedure shall apply to the appeal:

(1) The appeal need not be formal, but it shall be in writing and signed by the appellant or his or her authorized agent and shall state the grounds for the appeal. The commissioner's decision shall be stayed pending the director's decision, except as provided in subdivision (b). The party whose registration or permit has been refused shall remain unregistered or unpermitted pending the outcome of the appeal.

(2) Any party may, at the time of filing the appeal or within 10 days thereafter, make written application to the director to present new evidence, stating the materiality of the evidence, and the reasons why the evidence was not introduced at the hearing before the commissioner. The evidence may be allowed in the discretion of the director. Thereafter, 10 days shall be given the parties to rebut the evidence and make written application to the director to present oral or written argument. An application to present written argument shall be granted, but the director shall have discretion to grant oral argument or to grant both oral and written argument. If an application to present oral argument is granted, written notice of the time and place for oral argument shall be given each party at least 10 days before the date set therefor. The time may be shortened by mutual agreement of the parties. If written argument is

granted, all parties shall be notified thereof and shall simultaneously file briefs within the time specified by the director.

(3) The director shall decide the appeal upon the evidence received at the hearing before the commissioner, oral or written argument, and new or additional evidence as the director may have admitted.

(4) On an appeal pursuant to this section, the director may sustain, reverse, or modify the decision of the commissioner. A copy of the director's decision shall be delivered or mailed to each party. This shall not be a limitation on the director's authority to institute proceedings against any state license or other indicant of permission issued pursuant to this division or pursuant to Division 7 (commencing with Section 12501).

(5) A review of a decision of the director may be sought by the appellant within 30 days of the date of the decision pursuant to Section 1094.5 of the Code of Civil Procedure.

(b) Notwithstanding any other provision of law, whenever the commissioner has reason to believe that continuance of a registration or permit specified in subdivision (a) endangers public health or safety or the environment, the commissioner, without prior notice, may immediately suspend the registration or permit. The commissioner shall inform the party registered or the permittee, in writing, of the suspension as soon as practical, specifying the reasons for the immediate suspension. When acting pursuant to this subdivision, the commissioner, within seven days of informing the permittee or registered person of the immediate suspension, shall issue a written notice of proposed action as specified in subdivision (a).

Subdivision (a) applies to the notice of proposed action, hearing, and appeal, except as otherwise provided in this subdivision. If a hearing is requested, it shall be held not later than seven days from the date the request for the hearing is received by the commissioner, unless the person requesting the hearing agrees to a later hearing date. The commissioner's decision shall be issued within 10 days after the conclusion of the hearing. If the party against whom action was taken requested and appeared at a hearing, he or she may appeal the commissioner's decision, issued following the hearing, to the director as provided in subdivision (a). The director may stay the commissioner's decision pending the director's decision.

11513. Any money which is derived under the provisions of Article 1 (commencing with Section 11701) of Chapter 4 and Article 1 (commencing with Section 11901) of Chapter 5 shall be paid into the State Treasury to the credit of the Department of Food and Agriculture Fund. Any money in the Department of Food and Agriculture Fund which is derived under the provisions of this division may be expended for the administration and enforcement of this division, notwithstanding any other provision of law which limits the expenditure of any such money to the specific purposes or to the administration or enforcement of each of these portions of this code separately.

11514. Whenever a decision of the director suspends for 30 days or less the license of a person licensed pursuant to Sections 11701 to 11709, inclusive, or Sections 11901 to 11913, inclusive, and such suspension becomes final, the licensee may, before the operative date of such suspension, petition the director for permission to make a

monetary payment in lieu of serving all, or a portion, of the suspension. Upon receipt of such petition, the director may stay the suspension while he makes such investigation as he deems desirable and may grant the petition if he is satisfied (a) that the public health, safety and welfare will not be impaired by permitting the licensee to operate during the period set for suspension; (b) the payment of the sum of money will achieve the desired disciplinary purpose; and (c) that it will be possible to determine with reasonable accuracy from the records of the licensee the services which would have been performed under the privilege of the license during the period in which the license would have been suspended.

As to a licensee engaged for hire in the business of pest control, the monetary payment stated in the petition shall be in a specific amount, which is estimated to be the equivalent of 20 percent of the gross receipts of the licensee for each day of the suspension and shall not be less than two hundred fifty dollars (\$250) nor more than two thousand five hundred dollars (\$2,500).

As to a licensee licensed with a pest control aircraft pilot's certificate, the monetary payment in the petition shall be in a specific amount, which is estimated to be the equivalent of 50 percent of the gross earnings of the licensee for all work performed by him under the privileges of the license for each day of the suspension and shall not be less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

When the decision provides that a portion of the suspension shall be stayed on probationary conditions, the petition shall not apply to the portion of the suspension which is so stayed, nor shall such portion be included in determining the 30-day limitation for eligibility of the petition.

If the petition is accepted, then upon payment by the licensee of the sum specified the director shall enter his order permanently staying all or a portion of the suspension in accordance with the petition.

All payments received pursuant to this section shall be credited to the Department of Agriculture Fund for use in the administration and enforcement of this division.

11517. Any person whose license or certificate issued pursuant to this division, Chapter 3.4 (commencing with Section 14090), or Chapter 3.6 (commencing with Section 14151) of Division 7 is revoked, or whose application for such a license or certificate is denied for reasons other than his or her failure to satisfy examination requirements, is ineligible for a period of three years from the effective date of the decision to deny or revoke the license or certificate to apply or reapply as an individual, a business, or officer, director, administrator, or owner with a 10 percent or greater interest in a business, whichever is applicable, for the same kind of license or certificate or another license or certificate issued by the department if the grounds for the revocation or denial are determined by the department to be directly relevant to the functions, duties, or responsibilities of that other license or certificate.

11518. A commissioner accepting payment for pest control registrations or services by credit card or other payment device may impose a charge for costs incurred in connection with that form of payment and shall use his or her best efforts to minimize those

costs. The terms "credit card" and "payment device" have the same meaning as defined in Section 6161 of the Government Code.

CHAPTER 3 EXEMPTIONS

11531. Except as provided in Chapter 6 (commencing with Section 12001), this division does not apply to any person while engaged in any of the following:

(a) Any activity that is defined as structural pest control and required to be licensed under Chapter 14 (commencing with Section 8500) of Division 3 of the Business and Professions Code.

(b) Preservative treatment of fabrics or structural materials.

(c) Household or industrial sanitation services.

(d) Seed treatment which is incidental to such person's regular business.

(e) Live capture and removal or exclusion of vertebrate pests, bees, or wasps without the use of pesticides. Vertebrate pests include, but are not limited to, bats, raccoons, skunks, and squirrels, but do not include mice, rats, or pigeons. This section does not exempt a person from the provisions of Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.

CHAPTER 4 PEST CONTROL

Article 1 Licenses and Permits

11701. It is unlawful for a person to advertise, solicit, or operate as a pest control business, unless the person has a valid pest control business license issued by the director.

11701.5. Every principal and branch office of a business licensed pursuant to Section 11701 shall have at least one person in a supervisory position who holds a qualified applicator license issued pursuant to Chapter 8 (commencing with Section 12201). The qualified applicator license shall include the categories of pest control activities supervised by that person who is employed by that business.

11702. Applicants for a pest control business license shall do all of the following:

(a) Submit information to the director covering the applicant's business and personal qualifications that the director requires.

(b) Designate in the application the qualified applicator who shall be responsible for the conduct of the principal office of the applicant and of each branch location.

(c) Satisfy the director of the responsibility of the applicant as to any of the following:

(1) Equipment and facilities.

(2) Financial ability to perform the work authorized by the license and to respond in damages for any illness, injury, or damage resulting from the work, which ability may be satisfied by insurance in a form satisfactory to the director insuring against liability for

personal injury and property damage in an amount prescribed by regulation of the director. The amount shall be related to the volume and type of pest control operations for which the applicant is licensed to perform.

(3) Personal responsibility to conduct the business.

The director shall establish by regulation the general classes of pest control operations in which the applicant may be qualified.

Licensing by the director shall not derogate from the authority of commissioners stated in Sections 11731 to 11741, inclusive.

11703. (a) Except as otherwise provided in Sections 11704 and 11707, the application shall be accompanied by a fee as prescribed by the director pursuant to Section 11502.5.

(b) If the applicant maintains any branch office in this state or outside this state and the applicant engages in the pest control business in this state from that branch office, the applicant shall pay an additional fee as prescribed by the director pursuant to Section 11502.5 for each of these branch offices.

11704. (a) A person who is regularly engaged in the business of maintenance gardening and who desires to engage in pest control for hire incidental to that business shall qualify for a pest control business license in the maintenance gardener category by passing the certified commercial applicators examination in both the laws and regulation and the landscape maintenance categories.

(b) The maintenance gardener category shall be limited to pest control in ornamental and turf plantings indoors, in commercial parks, or surrounding structures. A contract or verification that the pest control operation is incidental and that maintenance gardening is the primary purpose shall be immediately submitted to the commissioner or director upon request.

(c) An application for a license limited to the maintenance gardener category shall be accompanied by a fee as prescribed by the director pursuant to Section 11502.5.

11705. The director shall issue to each applicant that satisfies the requirements of this article a license which authorizes the applicant to perform the type or types of pest control activities specified in the license during the calendar year for which the license is issued, unless the license is sooner revoked or suspended.

11706. The license may be renewed annually upon application to the director, accompanied by the proper fee, on or before the first day of January of the calendar year for which the license is issued.

11707. To any fee which is not paid by the date of expiration, there shall be added a penalty as prescribed by the director pursuant to Section 11502.5.

11708. The director may refuse to grant any license and may revoke or suspend any license if the applicant or licensee:

(a) Does not have, or has not maintained at its principal office and at each branch location, a person who holds a qualified applicator license issued pursuant to Chapter 8 (commencing with Section 12201) to actively supervise all operations performed for each such location as prescribed by regulations of the director. This subdivision does not apply to businesses that are licensed only

in the maintenance gardener category.

(b) Does not have, or has not maintained, adequate safe equipment and facilities to perform the operations undertaken or to be undertaken.

(c) Does not have adequately trained personnel to perform the operations undertaken or to be undertaken.

(d) Violates or permits the violation of any provision of this division and Division 7 (commencing with Section 12501) pertaining to pesticides or of any regulations adopted pursuant thereto by the director or any commissioner or any industrial safety order relating to pesticides issued by the Department of Industrial Relations.

(e) Fails to maintain and report to the director or commissioner, as required, information concerning pest control performed or authorized to be performed by the license or the registration of the commissioner.

Any hearing to deny, suspend, or revoke a license shall be heard under the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. However, if the director finds on the basis of affidavits submitted to him or her by the enforcement personnel provided in Section 11501.5, or by injured parties, that the protection of the public welfare or safety requires immediate action, the director may, without hearing, temporarily suspend or condition the license of any pest control operator and shall forthwith schedule the matter for hearing. The director may terminate the suspension of, or any condition placed upon, a license upon correction of the defects of equipment, establishment of adequate safety practices, or any other corrective action as he or she deems satisfactory to assure compliance with the requirements of statutes and regulations. In that event, the matter may proceed to hearing as though the license had not been suspended or the conditions placed upon it.

11709. A person not regularly engaged in the business of pest control that operates only in the vicinity of his or her own property and for the accommodation of his or her neighbors is not required to pay the fee specified by Section 11703, but is required to procure a license. The person shall register with the commissioner as provided in Section 11732, and is subject to all other provisions of this division. The determination of the director that a person is engaged in the business of pest control beyond the vicinity of his or her own property or for the accommodation of others than his or her neighbors is final.

11710. A person that is regularly engaged in the business of tree surgery is not required to procure a license to remove diseased or infested tissues or apply disinfectants to wounds or cavities incidental to tree surgery. If such person desires to engage in any other pest control operation, he shall procure a license from the director, shall register with the commissioner as provided in Section 11732, and is subject to all other provisions of this division.

11711. Unless worker's compensation insurance is not required, no license may be issued or renewed under this chapter to any person who is an employer, as defined in Section 3300 of the Labor Code, unless the application is accompanied by identification and the number and expiration date of the worker's compensation insurance policy of the applicant or the applicant is a qualified self-insurer.

Article 2. Registration

11731. "Commissioner," as used in this article, includes the director in any county in which there is no commissioner.

11732. It is unlawful for any person to advertise, solicit, or operate as a pest control business in any county unless the person has registered with the commissioner for the current calendar year.

The registration shall be in the form prescribed by the commissioner and shall show all of the following information:

- (a) Name and address of the registrant.
- (b) Number and kind of units to be operated in the county.
- (c) Type of pests that are intended to be controlled.
- (d) Any other information as the commissioner may require.

11733. The registrant shall keep and maintain a record of each property treated that shows all the information required by the director or commissioner.

The registrant shall report the information to the commissioner or the director when and in the form as required.

11734. The board of supervisors of any county may establish reasonable fees for the registration required under Section 11732. Payment of the fee shall be due by the date designated by the commissioner. However, registration fees for pest control businesses licensed pursuant to Section 11704 shall be that amount necessary to cover the costs of registration, but shall not exceed twenty-five dollars (\$25) per year.

11735. A pest control operator registration may be refused, revoked, or suspended by the commissioner, if the commissioner makes any of the following findings:

- (a) That the equipment of the registrant or applicant is unsuitable.
- (b) That the operators employed by him are incompetent or unqualified.
- (c) That the registrant or the applicant has not complied with any provision of this division or of Division 7 (commencing with Section 12501) pertaining to pesticides, or with regulations adopted pursuant to the provisions, or with any lawful order of the commissioner.

11737. The commissioner or director may order any person or the agent or employee of any licensee or registrant or person, to cease operation of any equipment or facility which he finds unsuitable, or which he finds being operated in any of the following ways:

- (a) By an incompetent or unqualified person.
- (b) In violation of this division or Division 7 (commencing with Section 12501) relating to pesticides or any regulation issued thereunder or any regulation of the commissioner.
- (c) In a manner or under conditions which may interfere with proper control of the pest for which treatment is applied.
- (d) In a manner or under conditions which may cause injury, illness, or adverse effects to persons or animals, or cause damage to crops or property being treated, or to crops or property of others.

11737.5. It is unlawful for any person to violate any order of a commissioner or the director made pursuant to Section 11737. The commissioner or director may bring an action to enjoin the violation or the threatened violation of any order made pursuant to Section 11737 in the superior court in the county in which the order was issued or the violation has occurred or is threatened, and the court may enjoin such violation or threatened violation upon such showing and without further evidence of irreparable injury. The court may compel specific performance of any acts or course of conduct necessary to protect persons, animals, crops, or property.

11738. The regulations of the commissioner may provide for the qualification, by examination or otherwise of the following persons:

- (a) Registrants.
- (b) Persons in charge of the pest control operations of registrants within the county.
- (c) Persons employed by registrants to operate pest control equipment, other than aircraft, within the county.

11739. The regulations of the commissioner may provide that it is a ground for cancellation of registration to operate pest control equipment within the county unless either:

- (a) A person qualified pursuant to Section 11738 is in charge of the operations.
- (b) Each unit which is operated within the county is under personal direction of a person qualified pursuant to Section 11738.

11740. Any certificate of qualification which is issued pursuant to Section 11738 may be revoked or suspended, or its issuance or renewal refused, if the commissioner finds that the applicant or holder of the certificate is incompetent or has violated any provision of this division, or any regulation which is issued pursuant to it, or has not complied with any lawful order of the commissioner.

11741. Any person whose certificate has been revoked, suspended, or refused may appeal to the director within 10 days for a hearing.

Article 3. Report of Damage from Pesticides

11761. Any person that alleges any loss, nonperformance, or damage as a result of the use or application of any pesticide, or of any substance, method, or device for pesticidal purposes; or for the purpose of preventing, destroying, repelling, mitigating, or correcting any disorder of plants; or for the purpose of inhibiting, regulating, stimulating, or otherwise altering plant growth by direct application to plants or soil shall, within 30 days from the time that the occurrence of such loss, nonperformance, or damage became known to such person, file with the commissioner of the county in which the loss, nonperformance, or damage, or some part of the loss, nonperformance, or damage, is alleged to have occurred, a verified report of the loss, nonperformance, or damage.

11762. If a growing crop is alleged to have been damaged as a result of the activities which are described in Section 11761, the verified report of loss, nonperformance, or damage shall be filed prior to the time 50 percent of the crop is harvested, unless the loss, nonperformance, or damage is not known until after the crops are harvested.

11763. The verified report of loss, nonperformance, or damage shall set forth, so far as known to the claimant, all of the following:

- (a) Name and address of the claimant.
- (b) Type, kind and location of property which is allegedly injured or damaged.
- (c) Date the alleged loss, nonperformance, or damage occurred.
- (d) Name of pest control operator that is allegedly responsible.
- (e) Name of the owner or occupant of the property for whom the person or pest control operator was rendering labor or services.

11764. The filing of the verified report, or the failure to file it, need not be alleged in any complaint which may be filed. The failure to file the verified report of loss, nonperformance, or damage is not a bar to the maintenance of a civil action for the recovery of damages for the loss, nonperformance, or damage.

11765. The failure to file a verified report of loss is evidence that no loss, nonperformance, or damage occurred.

Article 4. Violations

11791. It is unlawful for any person subject to this division to do any of the following:

- (a) Make any false or fraudulent claim, or misrepresent the effects of material or method to be applied, apply any worthless or improper material, or otherwise engage in any unfair practices.
- (b) Operate in a faulty, careless, or negligent manner.
- (c) Refuse or neglect to comply with this division, or any regulation issued pursuant to this division, or any lawful order of the commissioner or the director.
- (d) Refuse or neglect to keep and maintain the records which are required by this division, or to make reports when and as required.

11792. It is also unlawful for any person that is subject to this division to do any of the following:

- (a) Make any false or fraudulent record or report.
- (b) Operate in any county without first having registered with the commissioner.
- (c) Operate equipment with incompetent or unqualified persons in charge of the equipment.
- (d) Use any fraud or misrepresentation in making application for a license or for renewal of a license.
- (e) Fail to comply with the provisions of Chapter 3 (commencing with Section 14001), Division 7 of this code.

Article 5. Penalties and Injunctive Relief

11891. Every person who violates this division, or any regulation issued pursuant to this division, is guilty of a misdemeanor and upon

conviction shall be punished by a fine of not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000), or by imprisonment of not less than 10 days nor more than six months, or by both that fine and imprisonment. Each violation constitutes a separate offense.

11892. In lieu of seeking prosecution of any violation of this division as a misdemeanor, and the penalty prescribed in Section 11891, the director may prosecute civilly pursuant to Sections 11893 and 11894 or the commissioner may levy civil penalties pursuant to Section 12999.5.

11893. Any person who violates this division, or any regulation issued pursuant to this division, is liable civilly in an amount not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000) for each violation. Any money recovered under this section shall be paid into the Department of Pesticide Regulation Fund for use by the department in administering and enforcing this division pursuant to Section 11513, and in administering Division 7 (commencing with Section 12501).

11894. Upon a complaint by the director, the Attorney General may bring an action for civil penalties in any court of competent jurisdiction in this state against any person violating any provision of this division, or any regulation issued pursuant to it. The Attorney General may bring an action for civil penalties on his own initiative if, after examining the complaint and the evidence, he or she believes a violation has occurred.

11895. An action brought pursuant to this article shall be commenced by the director, the Attorney General, the district attorney, the city prosecutor, or the city attorney, as the case may be, within two years of the occurrence of the violation. However, when an investigation is completed and submitted to the director, the action shall be commenced within one year of that submission.

11895.5. The commissioner or director may bring an action to enjoin the violation or the threatened violation of any order made pursuant to this division in the superior court in the county in which the order is issued or the violation occurs or is threatened, and the court may enjoin the violation or threatened violation upon that showing and without further evidence of irreparable injury. The court may compel specific performance of any acts or course of conduct necessary to protect persons, animals, crops, or property.

Article 6. Cease and Desist

11896. The director, upon a finding that the use, handling, delivery, or sale of a pesticide in violation of any provision of this division, or any regulation issued pursuant to it, is taking place, or appears imminent, and that activity if allowed to proceed will present an immediate hazard or cause irreparable damage, may issue an order to the persons responsible for such activity to cease and desist from further commission of the violation.

11897. The agricultural commissioner, upon a finding that the use, handling, delivery or sale of a pesticide in violation of any provision of this division, or any regulation issued pursuant to it, is taking place, or appears imminent, and that activity if allowed to proceed will present an immediate hazard or cause irreparable damage, may issue an order to the persons responsible for the activity to cease and desist from further commission of the violation.

Any person aggrieved by a cease and desist order issued by an agricultural commissioner may appeal the order to the director, who shall affirm, modify, or rescind the order. The order of the agricultural commissioner shall remain in force during the appeal to the director, and until the director's decision has been rendered.

CHAPTER 5 AIRCRAFT OPERATION REGULATION

Article 1. Generally

11901. It is unlawful for any person to operate any aircraft in pest control unless the pilot operating the aircraft holds a valid pest control aircraft pilot's certificate issued by the director and an appropriate and valid commercial pilot's certificate and a current appropriate medical certificate issued by the Federal Aviation Administration.

11902. Each certificate shall designate the pest control aircraft pilot's status as either a journeyman or an apprentice.

11903. A fee as prescribed by the director pursuant to Section 11502.5 shall accompany each application for an initial certificate.

11904. Every certificate shall expire on December 31 of the year for which it is issued. Certificates may be renewed before the expiration date by application to the director and upon payment of a fee as prescribed by the director pursuant to Section 11502.5. A penalty fee as prescribed by the director pursuant to Section 11502.5 shall be paid by an applicant who applies for renewal after the expiration date.

11905. Before an initial certificate is issued, the applicant for apprentice or the applicant for journeyman shall pass an examination to demonstrate to the director his ability to legally and safely conduct pest control operations and his knowledge of the nature and effect of materials which are used in pest control.

11906. A journeyman's certificate shall not be issued to any applicant, other than the holder of an apprentice certificate, unless such applicant has had in effect a journeyman's certificate issued by the director within the previous two calendar years.

11907. A journeyman's certificate shall not be issued until the applicant has served as an apprentice under a certificate issued pursuant to this chapter for one year and until the applicant presents to the director satisfactory documentary proof consisting of

a declaration or affidavit by the holder of a journeyman's certificate attesting to the applicant's performance, under the attesting journeyman's direct and personal supervision, of not less than 150 hours of operation of fixed-wing aircraft or 50 hours of operation of nonfixed-wing aircraft within the previous two calendar years in pest control activities, together with any other evidence as the director may require.

11908. Each applicant for an apprentice certificate shall satisfy the director, through documentary evidence or other suitable information, that the applicant shall conduct pest control activities only under the direct and personal supervision of a person that holds a journeyman's certificate.

11909. It is unlawful for the holder of an apprentice certificate to conduct pest control activities unless such activities are conducted under the direct and personal supervision of a person that holds a journeyman's certificate.

11910. The director may refuse to issue a certificate to any pest control aircraft pilot and may revoke or suspend the certificate of any such pilot, after a hearing, upon finding that the pilot is not qualified to conduct the pest control operations in accordance with the certificate, or that the pilot does not hold an appropriate and valid commercial pilot's certificate and a current appropriate medical certificate issued by the Federal Aviation Administration, or that the pilot has violated any provision of this division or Division 7 (commencing with Section 12501) pertaining to pesticides or any regulation adopted pursuant to these provisions or any regulation of an agricultural commissioner or any industrial safety order of the Department of Industrial Relations or has not complied with any order of the director or commissioner as authorized by Section 11737.

The director may, pending a hearing, suspend or condition the certificate of any pest control aircraft pilot when, upon an investigation that the director determines to be necessary and upon the receipt of affidavits by the enforcement personnel provided in Section 11501.5 or injured parties, the director finds that continuance of the certificate endangers public welfare or safety. The director may terminate the suspension or condition upon the taking of corrective action that the director determines to be satisfactory to assure qualification or compliance with the law or regulations. In that event, the matter may proceed to hearing as though that action had not been taken.

11911. Notwithstanding any other provision of this article, if the holder of a certificate is called to active duty as a member of the armed forces of the United States of America, the holder, upon the termination of such active duty, is entitled to renewal of such certificate in the same category, if he does all of the following:

- (a) Makes application to the director.
- (b) Pays the renewal fee required by the director.
- (c) Demonstrates to the director his ability to conduct pest control operations and his knowledge of the nature and effect of materials which are used in pest control.

Article 1.5. Registration

11920. It is unlawful for any person to act as a pest control aircraft pilot in any county without first registering with the appropriate county agricultural commissioner.

11921. Each pest control aircraft pilot shall register in person with the agricultural commissioner of the county where he intends to work or with the director if the county does not have an agricultural commissioner. Registration in any additional county may be made in person or by mail on prescribed forms which may be obtained and processed in the county where personal registration is made.

11922. Registration shall be renewed annually by all pest control aircraft pilots.

11923. County boards of supervisors may set fees for registration to cover the cost of registering pest control aircraft pilots but in no case shall such fee total more than ten dollars (\$10) per year for a pilot who registers in person in the county in which he intends to work, and five dollars (\$5) per year for a pilot already registered in another county and who is now registering in an additional county as provided in Section 11921.

11924. A pest control aircraft pilot registration may be refused, revoked, or suspended by the agricultural commissioner for the reasons indicated in Section 11910 for the refusal, revocation, or suspension of a pest control aircraft pilot certificate.

Article 2. Financial Responsibility

11931. As used in this article:

(a) "Judgment" means a final judgment of any court of competent jurisdiction in this or any other state, or of the United States, against a person as defendant upon a cause of action which arises out of any pest control operation.

(b) "Operator" means any person that is required to be licensed pursuant to this division who is authorized to apply any pest control material or substance by dusting, spraying, or any other manner whereby such material or substance is applied through the medium of aircraft.

(c) "Pest control operation" means the application of any pest control material or substance by an operator.

11932. For the purposes of this article:

(a) A judgment is satisfied when twenty-five thousand dollars (\$25,000) has been credited upon any judgment in excess of that amount which arises out of any one accident or occurrence.

(b) A deposit of bond or other obligation for the payment of which the full faith and credit of the United States or of this state is pledged is considered a deposit of money.

11933. The director shall suspend the license of any operator upon

receiving a copy of a judgment and a certificate of facts relative to such judgment, upon a form that is provided by the director, which indicate that the operator has not for a period of 30 days satisfied a final judgment rendered against him.

11934. The suspension shall remain in effect and no license shall be issued to the operator unless and until the judgment is satisfied, or the operator submits to the director proof of his financial ability to respond in damages pursuant to the judgment.

11935. Proof of such financial responsibility may be made by furnishing security in an amount not less than twenty-five thousand dollars (\$25,000). The security may consist of any of the following:

(a) A surety bond in favor of any person that may suffer damage by reason of any pest control operation by the operator which is executed by an admitted surety insurer.

(b) An insurance policy which insures the operator against liability for damages pursuant to the judgment.

11936. If the security which is required by Section 11934 is diminished in amount by reason of any recovery against it, the security shall be replenished so that it amounts to not less than twenty-five thousand dollars (\$25,000).

11937. Upon the expiration of 30 days after any judgment becomes final, which is not stayed or satisfied in any action which results in a judgment for damages, the clerk of a court shall forward to the director a certified copy of the judgment or a certified copy of the register of actions, and a certificate of facts relative to the judgment, on a form which is provided by the director.

11938. Any person whose license has been suspended, is about to be suspended, or becomes subject to suspension pursuant to this article, may relieve himself from the suspension by filing with the director an affidavit which states all of following:

(a) That at the time of the incident upon which the judgment was rendered he was insured.

(b) That the insurer is liable to pay the judgment.

(c) The reason, if known, why the insurance company has not paid the judgment.

11939. The person that files the affidavit pursuant to Section 11938 shall also file the original policy of insurance or a certified copy of the policy, if available, and such other documents as the director may require to show that the loss, injury, or damage for which the judgment was rendered, was covered by the policy of insurance.

11940. If the director is satisfied from the papers which are filed pursuant to Sections 11938 and 11939 that the insurer was authorized to issue the policy of insurance in this state at the time of issuing the policy and that the insurer is liable to pay the judgment, at least to the extent and for the amounts which are provided in this article, the director shall not suspend the license or, if the license has already been suspended, he shall reinstate it.

CHAPTER 6 AGRICULTURAL PEST CONTROL ADVISERS

Article 1. General Provisions

12001. No person shall act, or offer to act, as an agricultural pest control adviser without first having secured an agricultural pest control adviser license from the director. Officials of federal, state, and county departments of agriculture and the University of California personnel engaged in official duties relating to agricultural use are exempt from this section if any recommendation by any of these persons as to a specific application on a specific parcel is made in writing. Officials of districts formed pursuant to Chapter 4 (commencing with Section 5780) of Division 5 of the Public Resources Code are exempt from this section until July 1, 1995, if any recommendation by any of these persons as to a specific application on a specific parcel is in writing.

12002. No person shall act, or offer to act, as an agricultural pest control adviser in any county wherein he makes any recommendation for agricultural use without first registering with the county agricultural commissioner.

12003. Agricultural pest control advisers shall put all recommendations concerning any agricultural use in writing. One copy of each such written recommendation shall be signed and dated and shall be furnished to the operator of the property prior to the application. Where a pesticide use is recommended a copy shall also be furnished to the dealer and the applicator prior to the application.

Each written recommendation shall include, when applicable, the following:

- (a) The name and dosage of each pesticide to be used or description of method recommended.
- (b) The identity of each pest to be controlled.
- (c) The owner or operator, location of and acreage to be treated.
- (d) The commodity, crop, or site to be treated.
- (e) The suggested schedule, time, or conditions for the pesticide application or other control method.
- (f) A warning of the possibility of damages by the pesticide application that reasonably should have been known by the agricultural pest control adviser to exist.
- (g) The signature and address of the person making the recommendation, the date, and the name of the business such person represents.
- (h) Any other information the director may require.

12004. Agricultural pest control advisers and agricultural pest control operators shall retain one copy of each written recommendation for one year following the date of such recommendation. A copy of a recommendation shall be immediately furnished to the agricultural commissioner upon his request.

12005. The director may adopt such rules and regulations in order to carry out the provisions of this chapter as are reasonably necessary to effectuate the purposes of this division.

Article 2. Licensing

12021. An application for an agricultural pest control adviser license shall be in the form prescribed by the director. Each application shall state the name and address of the applicant specified on the application and any other information required by the director. The application shall be accompanied by a fee as prescribed by the director pursuant to Section 11502.5 to be paid into the State Treasury to the credit of the Department of Pesticide Regulation Fund. All licenses issued under this article shall expire on December 31 of the year for which they are issued. Licenses may be renewed annually by the date of expiration through application in the form prescribed by the director and upon payment of a fee as prescribed by the director pursuant to Section 11502.5. A penalty as prescribed by the director pursuant to Section 11502.5 shall be assessed against any applicant who applies for a renewal of the license after the expiration date.

12022. Applicants for licensing shall elect to be examined for certification in one or more of the following categories:

- (a) Control of insects, mites, and other invertebrates.
- (b) Control of plant pathogens.
- (c) Control of nematodes.
- (d) Control of vertebrate pests.
- (e) Control of weeds.
- (f) Defoliation.
- (g) Plant growth regulation.

The examination shall be prepared and administered by the director.

12023. An agricultural pest control adviser license may be refused or may be revoked or suspended by the director as necessary to carry out the purposes of this division. Cause for refusal, revocation, or suspension shall include, but shall not be limited to the following:

- (a) Failure to put a recommendation in writing.
- (b) The making of false or fraudulent statements in any written recommendation.
- (c) Failure or refusal to comply with any provision of this chapter, or any other regulation adopted by the agricultural commissioner.
- (d) Failure or refusal to comply with any provisions of this division or of Division 7 (commencing with Section 12501) relating to pesticides or regulation of the department adopted pursuant to such provisions.
- (e) Failure to qualify by examination in at least one of the categories in Section 12022.
- (f) Unprofessional conduct, as defined in Section 12023.5.

12023.5. In addition to any other provision of this code, unprofessional conduct shall constitute a basis for refusal,

revocation, or suspension of an agricultural pest control license. "Unprofessional conduct" means either of the following:

(a) Repeated acts of recommending the clearly excessive use of a pesticide or any method or device for the control of plant, animal, or other pests.

(b) Repeated acts of recommending the use of an ineffective pesticide or any ineffective method or device for the control of plant, animal, or any other pests.

12024. The director by regulation shall establish the minimum requirement for pest control adviser by education, experience, and examination to carry out the purposes of this division.

Article 3. Registration

12031. Each agricultural pest control adviser who makes any recommendation for agricultural use shall register in person with the agricultural commissioner in the county listed in the adviser's address on the license issued pursuant to Article 2 (commencing with Section 12021) or with the director if the county does not have an agricultural commissioner. If the address of the adviser on the state license is not within this state, the registration shall be in the county of occupational choice. Registration in any additional county shall be made by mail or in person, at the discretion of the commissioner of the additional county. The additional registration by mail shall be made on prescribed forms which may be obtained and processed in the county listed in the address of the adviser on the state license or the county of occupational choice, as the case may be.

12033. Registration shall be renewed annually by all agricultural pest control advisers.

12034. County boards of supervisors may set fees for registration to cover the cost of registering pest control advisers, but in no case shall the fee total more than ten dollars (\$10) per year for a pest control adviser to register in person in the county listed in the adviser's address on the license issued pursuant to Article 2 (commencing with Section 12021) or the county of occupational choice, as the case may be, and five dollars (\$5) per year for an adviser to register in an additional county as provided in Section 12031.

12035. A pest control adviser registration may be refused, revoked, or suspended by the agricultural commissioner. Cause for such refusal, revocation, or suspension may be for the same reasons prescribed in Section 12023 for the refusal, revocation, or suspension for a pest control adviser license.

Article 4. Agricultural Pest Control Advisory Committee

12041. The Agricultural Pest Control Advisory Committee, which was established by Chapter 1276 of the Statutes of 1971, is hereby abolished.

12042. There is in the department an Agricultural Pest Control Advisory Committee, appointed by the secretary or director, consisting of the following members:

- (a) One member representing agricultural pest control advisers.
- (b) One member representing agricultural pest control businesses.

- (c) One member representing pest control maintenance gardeners.
- (d) One member representing pest control aircraft pilots.
- (e) One member representing pesticide dealers.
- (f) One member representing commercial applicator certificate holders.
- (g) One member representing registrants, as defined in Section 12755.
- (h) One member representing the California Agricultural Commissioners and Sealers Association.
- (i) One member representing the University of California, Division of Agriculture and Natural Resources, who is nominated by the board of regents and who specializes in pest management.
- (j) One member representing the Board of Trustees of the California State University system.
- (k) One member representing the Board of Governors of the California Community College system.
- (l) One member representing producers, as defined in Section 56110.
- (m) One member representing the general public.

12043. The public member shall be appointed to the committee by the director from nominees recommended by the committee. The public member shall represent the interests of the general public in all matters coming before the committee and shall have the same voting and other rights and immunities as other members of the committee.

12044. It is hereby declared, as a matter of legislative determination, that members appointed to the Agricultural Pest Control Advisory Committee pursuant to this article are intended to represent and further the interest of a particular agricultural industry concerned, and that this representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to the committee, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

12045. Except as provided in Section 12046, the term of office of the members of the committee is three years. Vacancies shall be filled for the unexpired term.

12046. Initial appointments to the committee shall be made as follows:

- (a) Representatives for the public, the California Community College system, the State University system, and the pest control maintenance gardeners shall be appointed for one year.
- (b) Representatives for pest control aircraft pilots, commercial applicator certificate holders, pesticide dealers, registrants as defined in Section 12755, and the California Agricultural Commissioners and Sealers Association shall be appointed for two

years.

(c) Representatives for agricultural pest control advisers, agricultural pest control businesses, the University of California Extension Service, and producers shall be appointed for three years.

12047. The committee shall be advisory to the director in all matters concerning the licensing, certification, and regulation of persons and firms licensed or certified pursuant to this division, and shall meet on the call of the director.

Article 5. Violations

12051. It is unlawful for any person to act or offer to act as an agricultural pest control adviser without first having secured an agricultural pest control adviser's license from the director in accordance with this chapter.

12052. It is unlawful for any person to act or offer to act as an agricultural pest control adviser in any county wherein the adviser makes any recommendation for agricultural use without first registering with the county agricultural commissioner of that county.

12053. It is unlawful to violate any provision of this chapter or any rule or regulation issued thereunder.

12054. It shall be unlawful for any pest control adviser to make recommendations in a category for which he is not certified.

CHAPTER 7 PEST CONTROL DEALER

Article 1. General Provisions

12101. No person shall act in the capacity of a pest control dealer or shall engage or offer to engage in the business of, advertise as, or assume to act as a pest control dealer unless he or she is licensed as a pest control dealer pursuant to this chapter.

12101.5. Each pest control dealer required to be licensed pursuant to Section 12101 shall have and maintain, at the principal office, and at each branch location, a designated agent qualified to actively supervise all operations conducted at that location. The designated agent shall be a person who holds a pest control dealer designated agent license, an agricultural pest control adviser license, a pest control aircraft pilot certificate, or a qualified applicator license issued pursuant to Chapter 8 (commencing with Section 12201).

12102. The provisions of Section 12101 shall not apply to any federal, state, or county agency which provides pesticide materials for agricultural use.

12103. An application for a license shall be in the form prescribed by the director. Each application shall state the name and address of the applicant specified on the application and any other

information required by the director. The application shall be accompanied by a fee as prescribed by the director pursuant to Section 11502.5 to be paid into the State Treasury to the credit of the Department of Pesticide Regulation Fund. All licenses issued under this article shall expire on December 31 of the year for which they are issued.

To the amount of the license fee shall be added an additional fee, in an amount prescribed by the director pursuant to Section 11502.5, for each branch salesyard, store, or sales location that is owned and operated by the applicant in this state or in other states when doing business from that out-of-state location regarding pesticides to be sold or delivered into or within this state.

12104. The license for a pest control dealer may be renewed annually upon application in the form prescribed by the director, accompanied by a fee as prescribed by the director pursuant to Section 11502.5, for each license and for each branch salesyard, store, or sales location that does business in the state, or that does business in this state from an out-of-state location as specified in Section 12103, by the date of expiration. These fees shall be paid into the State Treasury to the credit of the Department of Pesticide Regulation Fund.

12105. A penalty as prescribed by the director pursuant to Section 11502.5 shall be added to any fee that is not paid by the date of expiration.

12106. Each applicant shall satisfy the director as to his or her knowledge of the laws and regulations governing the use and sale of pesticides, and his or her responsibility in carrying on the business of a pest control dealer.

12107. The director shall issue to each applicant that satisfies the requirements of this article a license which entitles the applicant to conduct the business described in the application for the calendar year for which the license is issued, unless the license is sooner revoked or suspended.

12108. Every licensed pest control dealer who changes his or her address or place of business shall immediately notify the director.

12110. Each dealer shall be responsible for the acts of each person employed by him in the solicitation and sale of pesticides and all claims and recommendations for use of pesticides. The dealer's license shall be subject to disciplinary action for any violation of this chapter whether committed by the dealer, or by any officer, agent or employee.

12111. The director may adopt such rules and regulations as are reasonably necessary to effectuate the purposes of this chapter.

12113. The director may, after a hearing, refuse, revoke, or suspend a pest control dealer license for violation of the provisions of this division or Division 7 (commencing with Section 12501) relating to pesticides or the rules and regulations adopted pursuant to those provisions. The hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division

3 of Title 2 of the Government Code.

12114. (a) Each licensed pest control dealer, and each person who is required to be licensed as a pest control dealer pursuant to Section 12101, shall maintain at his or her principal place of business the records of its purchases, sales, and distributions of pesticides into or within this state, including those of its branch locations, for four years. Each dealer shall also maintain the pesticide broker license number of any pesticide broker from whom the dealer purchased pesticides registered by the director and labeled for agricultural use. The records shall be available for audit by the director.

(b) Each licensed pest control dealer, and each person who is required to be licensed as a pest control dealer pursuant to Section 12101, shall report quarterly to the director the total dollars of sales and total pounds or gallons sold into or within this state of each pesticide labeled for agricultural use, for all sales subject to Sections 12841 and 12841.1. The quarterly report shall be in the form prescribed by the director and shall include information from the dealer's licensed branch locations, if any, and any other information specified on the form or required by the director. The report shall include a certification, under penalty of perjury, that the information contained in the report is true and correct. The report shall accompany payment of assessments required by Sections 12841 and 12841.1.

12115. Any licensed pest control dealer, or any person who is required to be licensed as a pest control dealer pursuant to Section 12101, who purchases pesticide products that are registered by the director pursuant to Chapter 2 (commencing with Section 12751) of Division 7 and labeled for agricultural use from a person other than a registrant or a licensed pest control dealer, shall report in writing the name, address, telephone number, and pesticide broker license number issued by the director, if any, of those persons to the director annually, by December 1 each year.

12116. It is unlawful for a licensed pest control dealer to purchase for sale in this state a pesticide that is labeled for agricultural use except from a registrant, a pest control dealer licensed pursuant to Section 12107, or a pesticide broker licensed pursuant to Section 12402.

Article 2. Violations

12121. It is unlawful for any person who is subject to this chapter to do any of the following:

(a) Fail to demonstrate to the director qualifications to act in the capacity of a pest control dealer.

(b) Fail to notify the director of any transfer or change of address.

(c) Fail to comply with the provisions of this division or Division 7 (commencing with Section 12501) relating to pesticides or the rules and regulations adopted pursuant to those provisions.

(d) Make false or fraudulent statements, or misrepresent or fail to disclose any material fact in making application for a license or

renewal of license.

(e) Make any false or misleading statements or promises of a character likely to influence, induce, or deceive, or publish, or cause to be published, or distributed or displayed any false or misleading literature or advertisement, concerning any pesticide or method of pest control.

CHAPTER 8 QUALIFIED APPLICATOR LICENSE

12201. An application for a qualified applicator license shall be in a form prescribed by the director. Each application shall state the name and address of the applicant specified on the application and any other information required by the director. The application shall be accompanied by a fee as prescribed by the director pursuant to Section 11502.5.

12201.1. It is unlawful for any person to act in a supervisory capacity or position for a pest control business, except a business licensed only in the maintenance gardener category pursuant to Section 11705, unless the person has a qualified applicator license.

12202. (a) All licenses issued pursuant to this chapter expire on December 31 of the year for which they are issued. Licenses may be renewed annually by the date of expiration through application in a form prescribed by the director and upon payment of a fee as prescribed by the director pursuant to Section 11502.5.

(b) A penalty as prescribed by the director pursuant to Section 11502.5 shall be assessed against any applicant who applies for renewal after the expiration date.

12203. (a) Applicants shall be examined on the requirements of laws and regulations concerning pesticide use and shall elect to be examined for licensing in one or more of the following categories:

- (1) Residential, industrial, and institutional pest control.
- (2) Landscape maintenance pest control.
- (3) Right-of-way pest control.
- (4) Agricultural pest control.
- (5) Forest pest control.
- (6) Aquatic pest control.
- (7) Regulatory pest control.
- (8) Seed treatment.
- (9) Agricultural pest control-animal.
- (10) Demonstration and research.
- (11) Health-related pest control.

(b) In addition to being licensed in one or more of the categories in subdivision (a), an applicant for licensing may elect to be trained in the handling, control, and techniques of removal of Africanized honey bees.

(c) The director may develop a training program that covers the handling, control, and techniques of removal of Africanized honey bees or may approve a training program developed by the Pest Control Operators of California or any other equivalent training program, subject to the following requirements:

(1) A certificate of training shall be presented by the training provider to the applicant upon completion of the approved training

program.

(2) Providers of approved Africanized honey bee training shall submit to the director a listing of those persons who have completed the training, including, but not limited to, the following information:

(A) The full name of each person who has completed the training.

(B) The license or certificate number of each person who has completed the training, if the person trained is licensed by the Department of Pesticide Regulation.

(3) The providers of approved Africanized honey bee training shall maintain a record for three years of the individuals who have completed the training.

12203.1. The director may designate subcategories within the categories listed in Section 12203 as the director determines to be necessary.

12204. The director shall issue to each applicant who satisfies the requirements of this chapter a qualified applicator license.

12205. A qualified applicator license may be refused, revoked, or suspended by the director, after a hearing, for any of the following:

(a) Failure to comply with this division or Division 7 (commencing with Section 12501) or regulations adopted pursuant to these divisions.

(b) Making any false or fraudulent record or report.

(c) Failure to ensure that the responsibilities of the pest control business specified in regulations are carried out.

(d) Failure to supervise operations, activities, and employees of the pest control business in a manner that ensures compliance with this division and Division 7 (commencing with Section 12501) pertaining to pesticides.

12206. Notwithstanding Section 12205, if the director finds on the basis of affidavits submitted to the director by the enforcement personnel specified in Section 11501.5, or by injured parties, that continuance of the license endangers public welfare or safety, the director may, pending a hearing, suspend or place conditions on the license of any qualified applicator. The director may terminate the suspension of, or any condition placed upon, a license upon the taking of corrective action by the qualified applicator that the director determines satisfactory to assure compliance with statutes and regulations. In that event, the matter may proceed to hearing as though the license had not been suspended or the conditions placed upon it.

CHAPTER 9 PESTICIDE DEALER DESIGNATED AGENT

12251. No person shall act as a designated agent of a pest control dealer who is licensed pursuant to Chapter 7 (commencing with Section 12101), unless that person is licensed as a pest control dealer designated agent pursuant to this article.

12252. (a) An application for a pest control dealer designated

agent license shall be in the form prescribed by the director. Each application shall state the name and address of the applicant specified on the application and any other information required by the director. The application shall be accompanied by a fee as prescribed by the director pursuant to Section 11502.5.

(b) All licenses issued pursuant to this article shall expire on December 31 of the year for which they are issued.

(c) Licenses may be renewed annually upon application in the form prescribed by the director and upon payment of a fee as prescribed by the director pursuant to Section 11502.5. A penalty as prescribed by the director pursuant to Section 11502.5 shall be added to any license renewal fee that is not paid by the date of expiration of the previously issued license.

12253. Before initial license is issued, the applicant shall pass an examination to demonstrate to the director the applicant's knowledge of the laws and regulations governing the use and sale of pesticides and the responsibility in carrying on the business of a pest control dealer.

12254. The director shall issue to each applicant who satisfies the requirements of this chapter a pest control dealer designated agent license.

12255. Every licensed pest control dealer designated agent who changes his or her address shall immediately notify the director of the new address.

12256. The director may adopt rules and regulations that are reasonably necessary to effectuate this chapter.

12257. The director may, after a hearing, refuse, revoke, or suspend a pest control dealer designated agent license for violation of this chapter or Division 7 (commencing with Section 12501). The hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code.

12258. It is unlawful for any person who is subject to this chapter to do any of the following:

(a) Fail to notify the director of any change of address.

(b) Fail to comply with the provisions of this division or Division 7 (commencing with Section 12501) relating to pesticides or the rules and regulations adopted pursuant to those provisions.

(c) Make false or fraudulent statements, or misrepresent or fail to disclose any material fact in making an application for a license or renewal of a license.

(d) Make any false or misleading statements in any written record or report relating to pesticides or involving the pest control dealer business where that person is, or was, employed.

(e) Fail to supervise employees actively in the use and sale of pesticides and exercise responsibility in carrying on the business of a pest control dealer.

CHAPTER 10 PESTICIDE BROKERS

12400. It is unlawful for any person, other than the registrant or pest control dealer licensed pursuant to Section 12107, to sell, offer to sell, or distribute into this state, or bring into the state for sale, any pesticide products that have been registered by the director unless the person is licensed by the director as a pesticide broker.

12401. An application for a pesticide broker license, or renewal of a license, shall be in the form prescribed by the director. Each application for a license, or license renewal, shall state the name and address of the applicant, and any other information specified on the application or required by the director.

12402. The director shall issue to each applicant that satisfies the requirements of this chapter a pesticide broker license that shall be valid for one year from the date of issuance, unless the license is revoked or suspended in the interim.

12403. All licenses issued pursuant to this chapter may be renewed annually upon application to the director.

12405. Each licensed pesticide broker that changes the address of its place of business, or that of a branch location, shall immediately provide the director written notification of the change.

12406. (a) Each licensed pesticide broker, or person who is required to be licensed as a pesticide broker pursuant to Section 12400, shall maintain at its principal place of business the records of its purchases subject to mill assessments, sales, and distributions of pesticides into or within this state, including those of its branch locations, for four years. These records shall include copies of invoices showing payment of the mill assessment. The records shall be available for audit by the director.

(b) Each licensed pesticide broker, or person who is required to be licensed as a pesticide broker pursuant to Section 12400, shall report quarterly to the director the total dollars of sales and total pounds or gallons sold into or within this state of each pesticide sold and subject to Sections 12841 and 12841.1. The quarterly report shall be in the form prescribed by the director and shall include information from the broker's licensed branch locations, if any, and any other information specified on the form or required by the director. The report shall include a certification, under penalty of perjury, that the information contained in the report is true and correct. The report shall accompany payment of assessments required by Sections 12841 and 12841.1.

(c) Pesticide retailers shall maintain records that show the names and contact information of their suppliers of pesticide in the current year. These records shall be available for audit by the director.

12407. It is unlawful for any person required to be licensed as a pesticide broker pursuant to this chapter to make any false or fraudulent statements or misrepresent or fail to disclose any material fact in making application for a license or renewal of a license or in any reports submitted to the director, or to make any false or misleading statements concerning any products specified in Section 12847 that the person sells or distributes.

12408. The director, after a hearing, may refuse, revoke, or suspend a pesticide broker license for any violation of this division or Division 7 (commencing with Section 12500) or any regulations adopted pursuant to this division.