

PESTICIDE CONTROL CODE

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CHAPTER 30

PESTICIDE CONTROL CODE

Authority

N.J.S.A. 13:1D-1 et seq. and 13:F-1 et seq. specifically 13:1F-4.

Source and Effective Date

R.1992 d.509, effective November 24, 1992.
See: 24 N.J.R. 2776(a), 24 N.J.R. 4526(b).

Executive Order No. 66(1978) Expiration Date

Chapter 30, Pesticide Control Code, expires on November 24, 1997.

Chapter Historical Note

Rules on "Pesticides Control" were originally filed and became effective on January 18, 1974 as R.1974 d.11. See: 5 N.J.R. 300(a), 6 N.J.R. 59(a).

1976 Revisions: On October 1, 1976, rules concerning the "Certification of Pesticide Applicators" became effective as R.1976 d.295. See: 8 N.J.R. 220(c), 8 N.J.R. 460(c).

1982 Revisions: On August 2, 1982 the repeal of the existing text of N.J.A.C. 7:30 and the adoption of a new pesticides control program were proposed. See: 14 N.J.R. 787(a). On November 17, 1982 N.J.A.C. 7:30-1, 2, 4 and 8 were adopted and became effective on December 6, 1982 as R.1982 d.435. See: 14 N.J.R. 1385(a).

1983 Revisions: On February 17, 1983 N.J.A.C. 7:30-7 was adopted and became effective on March 7, 1983. See: 15 N.J.R. 333(b). Finally on May 9, 1983 N.J.A.C. 7:30-3, 5, 6 and 7 were adopted and became effective on June 6, 1983. See: 15 N.J.R. 915(a).

1984 Revisions: Amendments became effective February 21, 1987 as R.1987 d.39. See: 15 N.J.R. 2017(b), 16 N.J.R. 368(a).

1985 Revisions: Amendments became effective November 5, 1985 as R.1985 d.557. See: 17 N.J.R. 242(b), 17 N.J.R. 2609(b). (The operative date for N.J.A.C. 7:30-9.10 is January 3, 1985 and the operative date for N.J.A.C. 7:30-9.4(f)7 is February 2, 1986.)

1987 Revisions: Amendments became effective July 20, 1987 as R.1987 d.309. See: 19 N.J.R. 492(a), 19 N.J.R. 1925(a).

1988 Revisions: This chapter was readopted pursuant to Executive Order No. 66(1978) effective December 4, 1987 as R.1988 d.9. See: 19 N.J.R. 1611(a), 20 N.J.R. 75(a). Substantive amendments to the chapter became effective November 21, 1988 as R.1988 d.538. See: 20 N.J.R. 579(a), 20 N.J.R. 2865(a). Chapter 30 was readopted pursuant to Executive Order No. 66(1978) as R.1992 d.509, effective November 24, 1992. See: Source and Effective Date.

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SUBCHAPTER 1. PESTICIDE PRODUCT REGISTRATION AND GENERAL REQUIREMENTS

7:30-1.1 Scope

(a) Unless otherwise provided by rule or statute, the following shall constitute the rule of the Office of Pesticide Control and shall govern the manufacturing, labeling, registration, and classification of pesticides, the registration of pesticide dealers and pesticide dealer businesses, the registration of applicators of pesticides, and the distribution, use, application, storage, handling, transportation, and disposal of pesticides in the State of New Jersey.

(b) Any fee under this chapter that is subject to N.J.A.C. 7:1L shall be payable in installments in accordance with N.J.A.C. 7:1L.

Petition for Rulemaking.
See: 25 N.J.R. 4675(e), 26 N.J.R. 261(a).
Amended by R.1995 d.205, effective April 17, 1995.
See: 26 N.J.R. 3922(a), 27 N.J.R. 1576(b).

Case Notes

Department of Environmental Protection inspector's warrantless entry and inspection of complainant's business premises and records were appropriate; defendant (inspector) not guilty of criminal trespass. State v. Santiago, 218 N.J.Super. 427, 527 A.2d 963 (Law Div.1986).

7:30-1.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Acceptable release rate" means a measured release rate not to exceed 4.0 micrograms per square centimeter per day at steady state conditions as determined in accordance with the U.S. Environmental Protection Agency (EPA) testing procedure outlined in the EPA data call-in notice of July 29, 1986, on tributyltin (TBT) in antifoulant paints under the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 136.

i. Any consenting inhabitant may withdraw consent by notifying, in writing, the party which requested the consent. Consent may be withdrawn following the application season or at any time for a pesticide misapplication involving the consenting inhabitant's property under this chapter. Upon such notification, the previous consent shall be invalidated. Copies of all consent agreements shall be maintained by the aerial pesticide applicator and/or applicator business and made immediately available, upon request, to the Department.

(t) No person shall be exempt from any of the provisions of this section except under these conditions:

1. During an emergency proclaimed by the Commissioner, specific aerial applicators may be exempted from all, or from specific regulations as deemed necessary by the Department to handle the emergency situation.

2. Any State, Federal, or public agency or aerial applicator under contractual agreement with such an agency when conducting a pest control operation shall be exempted from (l) through (n) and (g) through (s) above.

3. The provisions of (s) above shall not apply to any private residence that is occupied by the person contracting to have the spray performed and which is located on a property which includes the target site.

Amended by R.1985 d.557, effective November 4, 1985.
See: 17 N.J.R. 242(b), 17 N.J.R. 2609(b).

Originally "Containers and container labeling".

Amended by R.1988 d.538, effective November 21, 1988.

See: 20 N.J.R. 579(a), 20 N.J.R. 2865(a).

Subsection(s) added "pesticide" and "applicator". Deleted text in (s)4i "Provisions of this . . ."; added (t)3.

7:30-10.6 Pesticide contamination cleanup

(a) In situations involving misapplication of a pesticide(s) with resultant citation of application section(s) of N.J.A.C. 7:30-10, and where the Department determines an imminent hazard or significant risk of harm, injury or damage to persons or the environment would result, or in the case of a reportable pesticide spill, the Department may order the person responsible for the misapplication or spill to return to the site location and conduct a cleanup to reduce or remove the pesticide to a level acceptable by the Department. The cleanup procedure is to be in accordance with the methods approved by the Department and subject to follow-up sampling by the responsible person to verify the efficacy of the cleanup.

(b) The person held responsible for the cleanup shall notify the Department when the cleanup has been completed and, upon request, provide to the Department copies of the analytical results of all samples collected to verify the efficacy of the cleanup.

(c) For purposes of interpretation of (a) above, the basis for issuance of a cleanup order by the Department may include, but not be limited to:

1. Any application and/or spill or a persistent pesticide to a non-target site, as determined by review of the product's Federal registered label or other use restrictions adopted under the authority of N.J.A.C. 7:30-10.2(a); or

2. Any application of a pesticide to a non-target site where evaluation of the pesticide use pattern in conjunction with properties of the pesticide in addition to persistence, are deemed by the Department to present a significant risk of harm, injury or damage.

Amended by R.1985 d.557, effective November 4, 1985.

See: 17 N.J.R. 242(b), 17 N.J.R. 2609(b).

Originally "Pesticide use and/or application".

7:30-10.7 Assessment of fees for sample analysis

(a) In any situation involving a suspected misapplication or spill of a pesticide, where the sample(s) routinely collected during the initial inspection and sampling date define a violation of the Act or rules promulgated thereunder and show the need for collection of additional samples to define the extent of the contamination as required by the Department to fully evaluate the procedures necessary to remedy said violation, a fee for all sampling may be assessed against the person responsible for the violative application or spill, such fee to reflect the actual cost incurred by the Department for the analyses of the sample(s).

(b) A manufacturer of pesticide products shall be responsible for sample analysis fees when analysis of products collected at the manufacturer's facility indicate the samples are violative as misformulations.

(c) Fees for pesticide sample analysis of formulations are as follows:

1. Liquids, except detergents:	\$300.00 per sample.
2. Powders:	\$340.00 per sample.
3. Aerosols, baits, traps, and detergents:	\$400.00 per sample.
4. User dilution:	\$500.00 per sample.

(d) Fees for pesticide sample analysis of residues are as follows, reflecting a cost per analyte. Each additional analyte increases the applicable fee by 10 percent.

1. Swab:	\$125.00 per sample.
2. Air (puf):	\$150.00 per sample.
3. Air (chromosorb):	\$100.00 per sample.
4. Water:	\$150.00 per sample.
5. Soil and other solids:	\$225.00 per sample.
6. Biological tissue:	\$250.00 per sample.

(e) The fee for a pesticide scan shall be \$250.00 per group.

(f) Any sample requiring extra preparatory work or special analysis shall be charged \$100.00 per hour for the preparatory work or special analysis in addition to the fees specified in (c), (d) or (e) above.

Amended by R.1985 d.557, effective November 4, 1985.

See: 17 N.J.R. 242(b), 17 N.J.R. 2609(b).

Originally "Disposal".

Amended by R.1988 d.538, effective November 21, 1988.

See: 20 N.J.R. 579(a), 20 N.J.R. 2865(a).

Added (b)-(f).

7:30-10.8 Submission of data on pesticide use

(a) The Department may require the annual submission from any person registered to apply pesticides in New Jersey of information specifying the type and amount of pesticide applied by that person within a time interval as determined by the Department. The information shall be submitted on forms supplied by the Department and contain the following information:

1. The product name and EPA registration number of all pesticides applied within the time period specified;
2. The total quantity of each pesticide applied within such time period;
3. The site(s) of application; and
4. The method of application (aerial or ground).

(b) Additional information relating to the use of a specific pesticide or type of pesticide may be requested by the Department, at any time, when deemed necessary to evaluate a significant risk of harm, injury or damage to persons or the environment.

Amended by R.1985 d.557, effective November 4, 1985.

See: 17 N.J.R. 242(b), 17 N.J.R. 2609(b).

Originally "Notification: community or areawide applications".

Amended by R.1988 d.538, effective November 21, 1988.

See: 20 N.J.R. 579(a), 20 N.J.R. 2865(a).

Repealed old 10.8 "Accidental pesticide misapplication and spills" which was originally "Pesticide application and safety equipment" and recodified 10.9 to 10.8.

SUBCHAPTER 11. EMERGENCY CONTAINMENT AND DISPOSAL OF PESTICIDES

Subchapter Historical Note

N.J.A.C. 7:1-2, Emergency Containment and Disposal of Pesticides, was recodified to Subchapter 11 by R.1990 d.457, effective September 17, 1990.

7:30-11.1 Pesticides in water

(a) Whenever any fire, explosion, casualty, or any other unexpected event or circumstance results in upset or spillage of any pesticide or results in the placement or location of any pesticide such that it might move, flow, seep or in any way emanate from such location into the air, into any adjacent property, into any drain or sewer, into any source of potable water, into any ground water or into any of the waters of this State, then such pesticide shall immediately be contained, covered, or removed or such other steps taken in accordance with this regulation, as may be necessary to stop or prevent any such movement, flow seepage or emanation.

(b) The responsibility for the measures required by this section shall be jointly and severally upon:

1. The owner of the premises upon which such pesticide is located;
2. The person responsible for the presence of the pesticide on the premises; and
3. Any person responsible for the upset, spill, or circumstances resulting in such placement or location of the pesticide described in this paragraph.

(c) Each of the persons designated in (b)1, 2 and 3 above shall be responsible for the immediate notification of the Department of Environmental Protection upon the occurrence of a pesticide accident as described herein.

7:30-11.2 Disposal of pesticides

No person shall discard, burn, bury, or in any other way dispose of any pesticide except in accordance with a plan for such disposal approved in writing by the Department of Environmental Protection.

R.1971, d.142, effective August 25, 1971.

See: 3 N.J.R. 176.

7:30-11.3 Plan of disposal

(a) Before any person disposes of any pesticides, he shall first submit to the Department of Environmental Protection a written plan giving said Department reasons to be assured:

1. That such disposal will not result in the contamination of the air or of any surface waters, ground waters, potable waters or any other waters of this State.
2. That such disposal will not result in the incineration or placement in any landfill, dump or refuse disposal area of any pesticide, except as may be approved in writing by said Department; and
3. That such disposal will not endanger the public health, safety or welfare.

R.1971 d.143, effective August 25, 1971.

See: 3 N.J.R. 176.

7:30-11.4 Disposal defined

The term "disposal" as used herein shall not be construed to refer to the ordinary application of pesticides for the purposes for which they are intended.

SUBCHAPTER 12. AGRICULTURAL WORKER PROTECTION

Authority

N.J.S.A. 13:1D-1 et seq. and 13:1F-1 et seq., particularly 13:1F-4.