

PUBLIC HEARING

before

SENATE ENERGY AND ENVIRONMENT COMMITTEE

on

SENATE BILL 1342

(Extends the Department of Environmental Protection's responsibility and authority by expanding the "Pesticide Control Act of 1971" to promote the safe use of chemical pesticides)

SUPPLEMENTAL APPENDIX
PART I

Held:
September 24, 1984
Room 114
State House Annex
Trenton, New Jersey

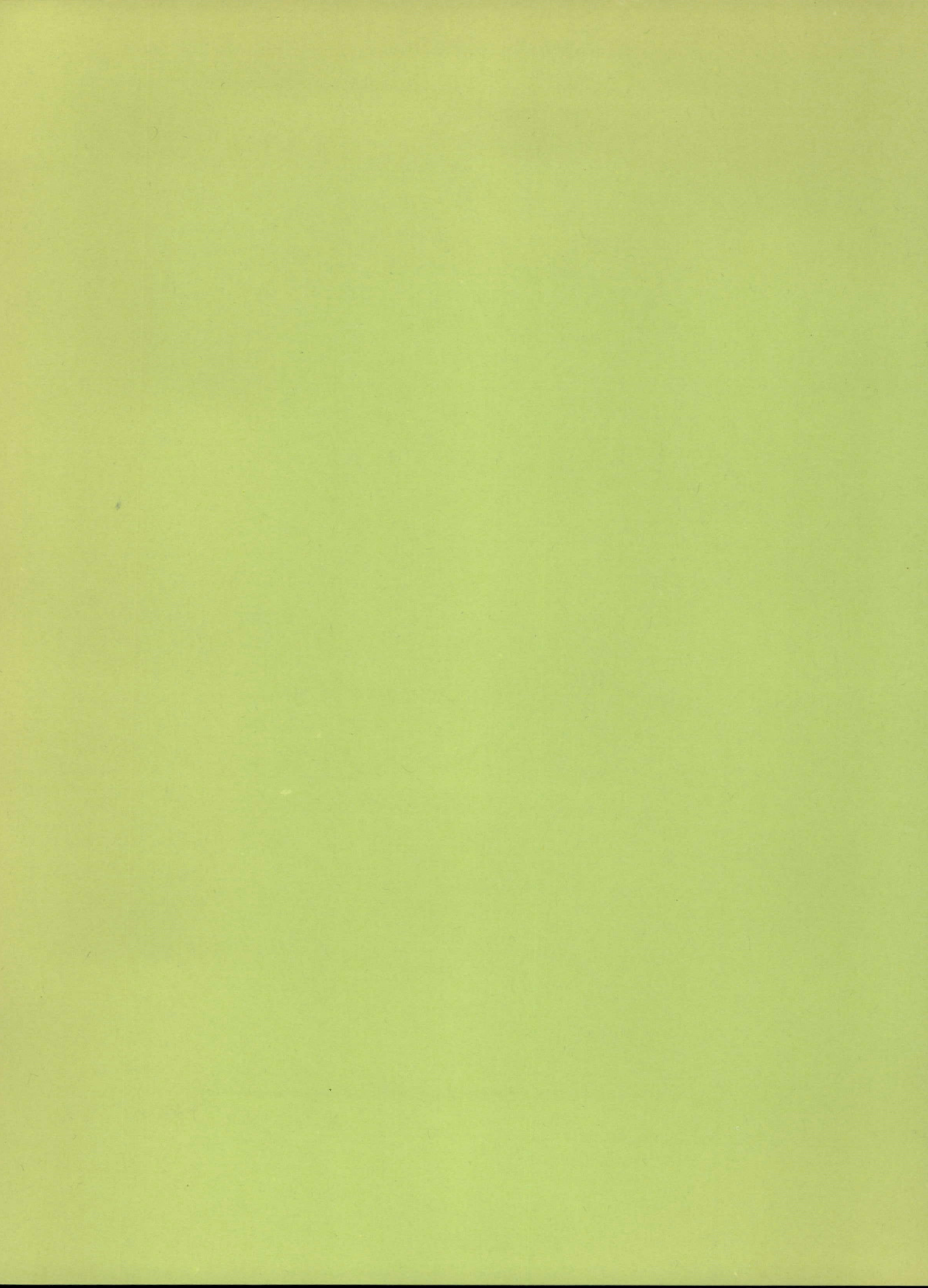
MEMBERS OF COMMITTEE PRESENT:

Senator Daniel J. Dalton, Chairman
Catherine A. Costa, Vice Chairwoman
Paul Contillo

ALSO PRESENT:

Mark T. Connelly, Research Associate
Office of Legislative Services
Aide, Senate Energy and Environment Committee

New Jersey State Library



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PART I**

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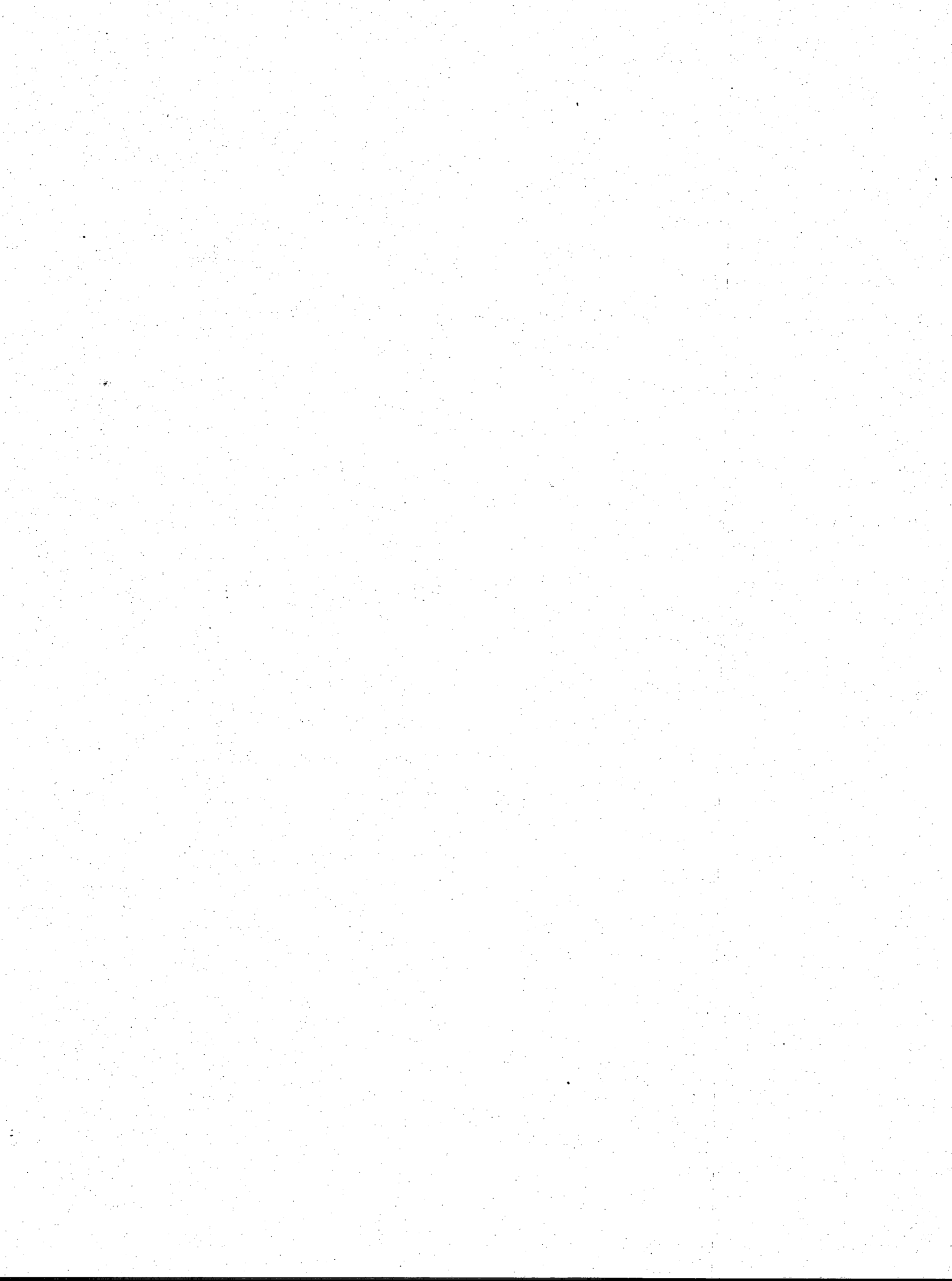
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Statement submitted by
Walter Ellis
President
New Jersey Farm Bureau

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ASSOCIATED EXECUTIVES OF MOSQUITO CONTROL WORK
IN NEW JERSEY

Office of the President

REPLY TO Somerset Co. Mosq. Comm.
P. O. Box 3000
Somerville, NJ 08876

STATEMENT ON SENATE BILL 1342

It is axiomatic for most county mosquito control agencies that that mosquito control is best which does not allow mosquitoes a place to breed. This most basic of all control strategies can be achieved by educating the public that they can help themselves by eliminating breeding places around the home and it can be achieved by water management practices that allow water to drain from transient water-holding sites which would otherwise produce mosquitoes or practices that provide open marsh water management wherein the greatest use of natural predators is utilized in the saltmarsh environment. We would like to be able to employ this form of environmental sanitation that reduces mosquito populations to acceptable levels without the use of pesticides.

We would like to achieve this goal, and boards of chosen freeholders have been funding county mosquito control agencies for this purpose for more than 70 years. We are nearer now than we were in those early days, but we still have a long way to go. Man's predilection for environmentally unsound actions ensures that it will take more than governmental agencies to control mosquitoes. Where man has practiced his his own brand of environmental reconstruction, county mosquito control agencies are faced with places where man has made it impossible to control mosquitoes permanently. One should note that nature provides ideal breeding sites for mosquitoes where permanent control measures would inflict too high an environmental cost. At these times we have to rely on pesticides to control mosquitoes that would otherwise bring

unacceptable levels of nuisance and the potential of disease to the public we serve.

Given our historical orientation, it is not difficult to see why we would vigorously oppose Senate bill 1342. This bill, recently revised by its author, still is an "an antipesticide bill"--the author's term--and it is still an anti-mosquito control bill. Where its predecessor was deficient in the biological information that would have led to an understanding of mosquito control practices, the current version is no closer to understanding what it is we do and why. The timeliness of action this bill denies us is a critical element in mosquito control, and mosquito larvae slow their development no more for our waiting to comply with laws than they do when we are held up from spraying by adverse weather conditions. The biological imperative that conditions our actions is that mosquitoes take from 7 to 10 days to go from egg to adult and less than that in warmer weather.

The revised bill continues the prohibition of aerial application of broad-spectrum pesticides on non-agricultural lands. There is no such thing as a narrow-spectrum pesticide for mosquito control use, but there are selective pesticides with a good safety record. To ban the use of aircraft for county mosquito control programs, except under emergency conditions, means vast mosquito-producing areas will not receive treatment because men on foot or ground equipment cannot match the productivity of the aircraft, and it means that the subsequent increase of mosquito populations will correspondingly increase the potential for emergency conditions.

Mosquitoes emerging as adults from untreated areas will require repeated pesticide applications by ground equipment. Pesticide usage will be increased. This is the environmental reductio ad absurdum of this bill: because we can do less, we will have to

use more. The county mosquito control program that is preventive will put less pesticide into the environment than one that is remedial.

The bill continues to ban aerial application on areas of less than 10 contiguous acres. County mosquito control agencies use helicopters to treat small, inaccessible sites quickly and with precise application rates. Putting men or ground equipment into these areas is a poor utilization of manpower and taxpayers' money, it can lead to poor control through a lack of timeliness or the inability to get to the area, and such practices involve putting more pesticides into the environment.

The bill continues to require a minimum 2-day advance notice to municipalities for any outdoor pesticide application for mosquito control within 200 feet of an outdoor recreation facility. There is no cognizance of the difference between larviciding and adulticiding, and the difference is significant. In the former, the purpose is to get all the pesticide to the water; sprays are coarse or granular formulations are used. In adulticiding the precisely metered pesticide, dispersed in fine droplets, is meant to drift through the target area and make contact with flying mosquitoes.

In addition to ignoring this fundamental difference, there is no definition of an "outdoor recreation facility"; it could be a quarter-acre mini-park or it could be thousands of acres with hundreds of breeding sites producing mosquitoes for nearby residents' discomfort, or it could be a bicycle path paralleling county roads and mosquito-producing ditches for miles and miles. In or near these various areas there could be larval breeding sites, the treatment of which would only be indicated by the absence of mosquitoes and not by exposure to pesticides.

The lack of information on mosquito control procedures further manifests itself in the alerting process required by the bill.

Unless it is a large area requiring treatment by other means, a county mosquito inspector does not, when he finds a breeding site, run back to his truck and radio the office of his find. He treats the area quickly and effectively and goes on to look for more breeding. There may be pupae, the resting stage prior to the emergence of the adult, as well as larvae in the water. The inspector knows if he does not act promptly, there will be adults on the wing biting, causing nuisance, allergic reactions and, as we have seen this year, encephalitis. Any announcement the inspector had to make before he came to the site would be valid only if he were to spray. Were there no breeding there would be no spray, and the announcement a false alarm.

County mosquito control agencies are not only concerned about the lack of knowledge of their procedures, they are also concerned about the impact of the anti-pesticide bias demonstrated in the sections dealing with the registration of pesticides. It is fine to say, "Go ahead and do your mosquito control spraying", but when we look at the bill we wonder if manufacturers are going to decide that a low volume of sales--and mosquito control sales are low volume--cannot be supported in the face of punitive legislation and withdraw the product from the market. We will be left with nothing but the more expensive, "less harmful" pesticides to apply, and I might add the sometimes questioned efficacy of these materials is totally dependent on timeliness of action and the absence of time-consuming regulations.

New Jersey county mosquito control agencies oppose this bill not only because of its anti-mosquito control, anti-pesticide bias but also because it is unnecessary. Under the New Jersey Pesticide Control Act there are regulations that provide guidance for our actions and protection for the citizens of the State. We have been giving notification on adulticiding activities under the regulations,

and the response has been negligible. For years prior to the regulations we have maintained "No spray" lists. These regulations, updated in 1982, are already undergoing yet another revision because of new concerns that have made themselves manifest to the personnel of the Bureau of Pesticide Control in the Department of Environmental Protection. Regulations can keep pace with technology, they can respond more quickly to problems that arise and they allow more flexibility to those who apply the regulations than do laws.

New Jersey county mosquito control agencies oppose this bill because we hear from so many mothers of children who suffer serious allergic reactions to mosquito bites. They are concerned about the health and welfare of their children, and they do not speak kindly of those who would restrict our efforts to bring them relief. Many people call us who want to be sprayed. They do not feel threatened by the pesticides we use but by the mosquitoes that annoy them when they are out of doors working, gardening or just trying to relax.

New Jersey county mosquito control agencies oppose this bill because we know how serious the economic impact of reduced mosquito control activity, to say nothing of disease, would be in our resort areas. We have only to look back to the encephalitis outbreaks of 1959 and 1964 to see what actually did happen in New Jersey. These are not speculative projections; they are based on historical fact. We recognize these problems, and other governmental bodies and associations recognize them also: 11 boards of chosen freeholders--with others ready to oppose--the New Jersey Association of Counties and the New Jersey Association of Health Officers are opposed to to this bill.

New Jersey county mosquito control agencies oppose Senate bill 1342 because we know that since the 1959 outbreak of eastern equine encephalitis, with its 32 cases and 23 deaths and extreme post-disease consequences, there have been some 39 human deaths and over

320 horse deaths from encephalitis and countless canine deaths from dog heartworm, and we know of no deaths or disabilities from pesticides used for mosquito control. You will probably be told that these deaths are statistically insignificant, but I do not think you would say that to one of your constituents who had lost a loved one or seen a loved one turned into a vegetable. These are real deaths; they are not the hypothesized projections spawned by some computer-generated model based on mega-dose testing designed specifically to induce tumors in test animals. These are real victims we are talking about. There is real encephalitis in New Jersey.

We would be less than true to those who went before us in mosquito control--to Finlay fighting yellow fever in Cuba, to Gorgas fighting yellow fever and malaria to make the Panama Canal a reality and to New Jersey's own Clara Maas who gave her life in the battle against yellow fever--if we did not rise up and oppose what we feel is an unnecessary and ill-advised piece of legislation.

Henry R. Rupp.
President

To be included in the statements S-1342



Golf Course Superintendents Association of New Jersey

Cook College - Rutgers University
Box 231, New Brunswick, New Jersey 08903 (201) 932-9453

September 20, 1984

Senator Daniel Dalton
Energy and Environment Chairman
State House
Trenton, New Jersey

OFFICERS

President
Robert Dickison, CGCS
Upper Montclair C.C.
Clifton, N.J. 07012

Vice President
Robert Ribbans
Fairmount C.C.
Chatham, N.J. 07928

Secretary
Wayne Foster
Rockaway River C.C.
Denville, N.J. 07834

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Glenwood C.C.
Old Bridge, N.J. 08857

Past President
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Montclair G.C.
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Absecon, N.J. 08201

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Rumson C.C.
Rumson, N.J. 07760

Michael Dale
Emerson C.C.
Emerson, N.J. 07630

Charles Edgar
Green Acres C.C.
Lawrenceville, N.J. 08648

Joel Jacquemot
Oak Hill G.C.
Milford, N.J. 08848

Dennis Shea
Sunset Valley G.C.
Pompton Plains, N.J. 07444

John Ward
Cedar Hill C.C.
Livingston, N.J. 07039

EXECUTIVE DIRECTOR

Dr. Henry W. Indyk

Dear Senator Dalton:

I would like to take this opportunity to state the concerns of the Golf Course Superintendents of New Jersey in regard to Senate Bill 1342 which would limit the effective use of pesticides. This bill would have a far reaching effect in the golf and the Country Club community in that it would restrict the treatment of the turf, trees, shrubs and waterways of the golf course, clubhouse, restaurant pest control and treatments of club swimming pools.

We feel that the terminology used in this bill such as "any potential threat", "any potentially hazardous pesticide" and "recognized environmental organization" are not definitive enough and would cause undue problems if this bill is allowed to become law.

We also have a problem with this bill in regulation of (1) authorized pesticide applicators (2) regulations in regard to aerial spraying, its buffer zones and notification requirements (3) ornamental pest control equipment restrictions and notifications (4) indoor pest control equipment restrictions and notifications (4) indoor pest control notifications (5) Buffer zones (6) the meaning of "a reasonably effective and practical alternative" (7) who would be "a representative from a recognized environmental organization"? (8) elimination of broadspectrum pesticide spraying (9) storage of pesticides.


Over the past years the technology and understanding of pesticides has advanced greatly. We in the golf course industry have made every effort to stay abreast of all advancements in the turf and ornamental fields. Our organization feels that this proposed legislative is harmful to the fine turf industry in the fact that it puts undue restrictions on our business, is redundant with present legislation

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and generally not needed.

If there are any problems with present DEP regulations they should be strengthened by the DEP.

In general, the Golf Course Superintendents of New Jersey feel that Bill S-1342 is irresponsible and unneeded legislation.



Robert Dickison CGCS
President GCSNJ

RD:nn

NEW JERSEY ASSOCIATION OF NURSERYMEN'S PERSPECTIVE ON S.B. 1342

The New Jersey Association of Nurserymen would like to thank you for this opportunity to present our views on Senate Bill 1342. This legislation is the result of distorted perceptions of pesticide use in New Jersey. The underlying tone of the bill implies that pesticide users in New Jersey are irresponsible and insensitive to the preservation of our environment and the health and safety of our neighbors. This is not accurate. Of the 615 pesticide episodes reported in New Jersey during 1979 and 1980, 87% occurred in or around the home, only 3% related to agriculture.

People seem to forget that we benefit from the use of pesticides every day. This bill ignores the role of pesticides in improving the quality of our lives.

The proposed requirement for pesticide registrations in New Jersey will discourage the distribution of many materials currently in use, hazardous or not. Very few manufacturers will want to duplicate the expensive registration procedures already required by the E.P.A. and F.D.A. As a result of this, only a limited number of pest control products will be available to New Jersey's nurserymen.

The repeated use of a few pesticides is not considered sound agricultural practice. Insects and fungi adapt quickly to adverse conditions by developing resistance to those conditions. Effective pest management requires that a variety of compounds be used to prevent this. The increased restriction of pest control products available to New Jersey's nurserymen will promote the development of resistant pests, requiring more frequent applications, resulting in more, not less, pesticides in the environment.

The definition of adverse effects includes known or potential threats to the environment or to human health. The inclusion of such a vague concept as a criteria for regulating pesticides is in itself a potential threat to human health and the environment. We cannot afford to exclude benefits when weighing risks.

The notification systems set forth in this legislation place an unfair burden on New Jersey's pesticide users. They are cumbersome and confusing.

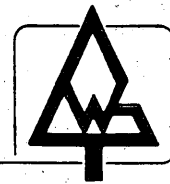
Public notice of specific pesticide applications will provide pesticide use opponents with abundant opportunities for harassment of applicators. Their concern is to stop pesticide use in New Jersey and we will be required, by law, to assist them.

Maintenance of pesticide free buffer zones will encourage the development of large pest populations ensuring rapid reinfestation of treated areas. Small nurseries will not be able to sacrifice the acreage required for buffers, thereby subjecting them to the excessive notification procedures. These small growers are the backbone of New Jersey's nursery industry. Their precious time and energy will be diverted from agriculture to public relations.

This bill will severely inhibit the activities of nurserymen in New Jersey. Landscape contractors will be unable to properly protect newly installed plant material from pests. Garden centers will be forced to sell inferior plants or perhaps watch their inventories become ravaged by insects and diseases. The nurseries will not be able to compete with the higher quality plants shipped in from states with more reasonable regulations. We will be unable to comply with the quarantines against interstate shipment of pest infested nursery stock.

Nurserymen are well aware of the dangers of pesticide misuse. We support efforts to reduce unnecessary use and to improve the safety of these materials. It is essential, however, that the decisions affecting pesticides are based on logic and reason, not fear and emotion. The enactment of this bill will take the garden out of the garden state. Thank you.

David B. Helmer



September 24, 1984

The Honorable Daniel J. Dalton
The United States Senate
Chairman of Senate Energy and Environment Committee

Dear Senator Dalton,

I understand your committee will be reviewing the recently introduced Senate Bill #1342 concerning the use of pesticides.

First of all, I cannot believe that after all the work and taxpayers money that went into the formation of the current regulations just 2 years ago that we are even considering this legislation. The present legislation was revised after 18 months of public hearings, during which written and oral testimony was given by any and all interested parties.

The current legislation has only been in effect since January of this year which hardly gives anyone a chance to evaluate its effectiveness..

One section of the Bill in particular deals with adverse effects. The public understandably fears that chemical pesticides may pose unknown threats. But those who use pesticides know they have been certified by federal and state agencies as posing no "unreasonable risk" to man and the environment - and that current regulations are under constant review and revision to govern their use.

Still, it is true that no chemical is risk-free, and that



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the long term impact on the environment of some pesticides may not be completely understood for years. The absence of certainty, as we see, has left the door open for a classic case of legislative overkill.

The absence of certainty cannot be cured by legislation. It must be accepted - along with reasonable precautions - if we are to advance into the future. In case of pesticides, reasonable precautions are already being taken.

Another section of the proposed legislation which deals with notification, again is covered in the current regulations.

It allows a municipality to adopt a local ordinance to allow concerned residents an opportunity to be notified of a pesticide application if they so desire. We have found that in Morris County, where these local ordinances have been adopted, Hanover Township and Bernardsville to be specific, that residents were quite pleased. I might also add that between these two municipalities which consist of approximately 20,000 people, only 23 residents desired notification.

I am sure that after careful consideration you will find this proposed legislation quite inappropriate and unnecessary.

Sincerely yours,



Robert W. Dubee
New Jersey Certified Tree Expert
President - Greenwood Tree Experts, Inc.

RWD/akb

 **TIMBERLAND TREE EXPERTS, INC.**

P. O. BOX 259 • TOWACO, NEW JERSEY 07082

September 21, 1984

The Honorable Daniel J. Dalton
Chairman of the Senate Energy & Environmental Committee

Dear Mr. Dalton:

I would like to make the following statement in regard to the proposed Senate Committees substitute for Senate bill #1342 dated September 14, 1984.

Why is it when anyone mentions the word "Pesticide" everyone seems to get up in arms, and such statements as listed in this proposed bill as adverse effects and carcinogens etc. etc., get pushed all out of proportion? When are people going to realize the benefits that pesticides do? Why is it Americans live longer than anyone else in the world? Why is it Malaria has been literally extinguished from the earth until DDT was banned? Why is it that we have the highest yield in agriculture and food products of anyone in the world? Why is it that we have made tremendous advances in the medical field thanks to the various disinfectants etc.; yet the classic example that comes to my mind is the popular subject of smoking. There is no particular topic that is related to the above that shows no benefits whatsoever to human nature, the environment, to any of the things listed under adverse effects below except that the list goes on and on and on with negative things why smoking is detrimental to the health. Even so, no legislation has been passed to ban smoking or to even control it.

The statement listed under adverse effects is too widespread and it is impossible to adhere to.

At the beginning, "Adverse effects means any known or any potential threat to the environment" for human health, including but not limited to toxic, carcinogen, mutagenic and teratogenic efforts.

Even though millions of dollars have been spent on each chemical in research and development, it is impossible to guess what the potential threat could be even to common table salt, sugar, driving a car, riding a bicycle, etc. To put such a thing in legislation is totally ridiculous! How can we deal with the unknown?

Under Section H, broad-spectrum pesticides is mentioned. To date, there is only one known non-broad spectrum material that is used specifically for the Lepidoptera classification of insects, a variety of caterpillar; and this is a common known B.T. spray material.

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It is totally impossible to limit the use of B.T. for the control of any insects other than the ones falling into the classification outlined above. There are too many insects, diseases which must be controlled - otherwise total devastation in various areas will occur. B.T. for one instance is one very limited material, which by the way, we widely use when applicable.

In so far as Section 3A, Page 2 where registration on the annual basis is mentioned, I feel that if you check with the EPA on this you will find that this will run into the millions of dollars. It is not felt that every pesticide be reviewed annually. A few that may need re-evaluation can be tackled, but to re-register all of them is unworkable.

On Page 5 is discussed the registration reclassification of pesticide applicators. I feel that the newly instituted registration and certification of pesticide applicators which was introduced this past year is the most just. Here in the existing law, it is the responsibility of the employer to do the training and the certifying with a certified applicator signing for that person. This can be done in-house and rather quickly if need be. The time period suggested in this proposed bill would be a very unworkable situation since there would be a great deal of lag in time before a person could be qualified, even though he could be exposed to a good deal of spraying experience in a lot less time.

Regarding Section 5 on the same page, I feel that the precautions outlined are already stated in the federal and existing state rules and regulations. If these people were to make themselves known and register through town hall, which is the suggested model ordinance at the present time; those people could be adequately be notified.

Furthermore, Section A and Section B contradict one another. On Page 6 Sub-Paragraph 4, it mentions that no aerial spraying will take place in anything less than ten contiguous acres. This is unrealistic. In recent years I have had plots a lot smaller than ten acres which have been successfully been sprayed with no drift problems. In fact, there have been several plots where the acreage ran into the hundreds with only a few one or two acre plots in between which had to be missed, and this was done successfully.



Also in Sub-Paragraph 4, outlined above as I stated earlier, the limiting of broad-spectrum pesticides would be extremely difficult at this time. In the case of insecticides, there is only one known pesticide which falls into the B.T. classification. For such pests as Hemlock Scale, Spruce Bud Worm, Oak Leak Skeletonizers, etc. which move into large stands of trees to cause total devastation, aerial spraying would be much more economical and effective. In forest conditions,

 **TIMBERLAND TREE EXPERTS, INC.**

it would be the only way to deal with the problem. The pesticides available at present have some broad-spectrum qualifications that make them the only suitable method to handle these pests. The same is so for mosquito control. The chemicals used today have a broader spectrum than that which would limit them to mosquito control only.

It is my feeling that the existing ordinance covers the regulations more than what should be necessary and it is more astringent. More restrictions on the aerial applications should not be considered at this time.

In regards to Section 7 on the same page, Sub-Section A "No person shall apply a pesticide earlier or by means of air blast spreader on agricultural lands except in the course of the following procedures". From my own experience I know it is very possible to control any air application, particularly to agriculture situations on the target area.

I feel the 500 feet is way out of line in so far as the air blast sprayers, such as those used in my field particularly the Roto-Mist equipment which is an air blast apparatus. I have a statement from the FMC Corporation which manufactures these items, showing several different examples. "The maximum carrying capacity of air and spray particle discharge by the largest models of Roto-mist sprayers which can be purchased is 125 feet, assuming that the typical operation of 45 degree angle, the limit of the discharge column would be approximately 88 feet vertically and horizontally from the sprayer". "For the model 100K Roto-Mist which is in current production and these distances would be 100 feet and a carry of 70 feet vertically and horizontally from the sprayer."

The latter is the most common sprayer used in our profession. Based on the above and my own experience, even if you were to direct the spray with no caution whatever, not holding within the existing regulations and went to the property line and did not care what direction it took, the maximum that any of these materials would cover would be 125 feet. Keeping in mind the restrictions of wind drift, etc. etc., there is no reason why the notification of 500 feet should be considered.

Furthermore, the necessity of notifying by first class mail or hand delivery in 14 days in advance and not more than 45 days prior to the application, is going to be extremely burdensome and costly, and in my opinion, not really necessary.

If the the existing pesticide regulations are enforced, they are strict enough to keep all applicators in line to protect the neighboring property.

TIMBERLAND TREE EXPERTS, INC.

If the property owners suggest to take the 500 foot buffer, this I feel would be a tremendous hardship on the small farmers and agriculture people in New Jersey. As you know, the farming industry is gradually disappearing in New Jersey and we are among many, many, small farmers. I am sure many of them will try to take the 500 foot barrier to try and eliminate the notification proposed above if it were adopted; thus eliminating many farmers by the lack of cultivated land available. This would make a tremendous amount of loss to each property. This property would not be able to be sold, because if it were developed, it would have to increase the buffer; again, a very unfair way of approaching the problem if in fact there was one.

I believe that if all the information requested is submitted to every person, whether they wanted it or not, it would just simply confuse them beyond all expectations. I feel that those wanting the information are entitled to it.

The posting of signs of restricted pesticide use and any other caution along these lines could lead to monumental problems, particularly unwanted and unjustified legal suits. I make this as a general statement because it has been our experience that as recent as this year when we used just about B.T. exclusively in the control of caterpillar situation in North Jersey occasionally a few calls would come in about our applying a spray to a property next door. The complainant suddenly had headaches, drowsiness and was not feeling well, but as soon as we told them that the chemical used was B.T., then all of a sudden their headaches went away, etc. Before hearing the name B.T., they knew their headaches were a result of the chemical we were spraying.

Submit a lot of this information and you are going to stimulate a lot of mental stress as well as perhaps sympathetic pain or whatever you might call it. It is a fact and it does exist. This situation is totally unworkable and unacceptable,

Along the same lines under Section 2 on Page 9 where the proposed time and date of material or application is discussed with a list of precautions known, health effects not being indicated on the label etc. As far as the predicted time goes, if you know anything about the weather in N.J., you know that the weather bureau has trouble predicting 24 hours in advance. It is very difficult for us to be able to determine 72 hours or any time frame to be able to zero in on an exact time. If we were to bring it down to within a two week time frame, we might be able to make it work.

Regarding the cautions not available on the label - this material is not available and we would not have any way of getting it.

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Page 15 mentions the posting of signs and regulations. This matter is very clearly covered in the existing regulations. I do not feel any further regulations are needed in this area. The posting of signs is unnecessary and very difficult to control, being extremely costly I imagine. First the signs would have to be put up, then removed and trying to collect them from all over the neighborhood after children and pets have had a field day spreading them throughout the township. In the present form, it appears as if there would be restrictions on the homeowners. That situation is totally uncontrollable as far as enforcement goes.

On Page 17 you discussed the possible changes in the pesticide board. I feel that from nine to fifteen would cause chaos and be very difficult in conducting a meeting with so many people. It has been my experience that many times a group of this size is unyielding with many different opinions. However, the Boards approval to go with this particular section, increasing it to fifteen, I would like to suggest even going farther. Add possibly twenty and in that way the representation would be on the Board representing each category for pesticide certification. I do not feel that one person which is what the recommendation is representing the pesticide applicators is adequate. I don't know of anyone that is qualified to speak all avenues of pesticide application.

It is also suggested in the proposed bill that the date be April 1st for any signup for any registered people who wanted to be notified. This is much too late. Our mailings go out to our customers on February 1st. We have to know then which clients have to be notified so we can make the proper arrangements and get the wheels turning. A realistic date should be January 1st.

In summary, I feel that the thousands of dollars that have been spent over the last two or three years in developing a workable model ordinance for townships to adopt, if they feel it necessary to adopt an ordinance, is more than adequate to protect the people and regulating applicators in the state of N.J.

I feel that the whole burden is going to be taken up by the people who want a spray service. They are the ones who will be penalized substantially by the cost that will be carried on with this. Any cost incurred by an applicator such as myself will have to be passed along to the consumer.

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A couple of examples are up in our area, townships such as Hanover, Bernards. Both have adopted ordinances requiring registration of anyone wanting to be notified before spray applications.

A big thing was made of this in each township and after passing it, we were to get a list before going into that township to spray. Upon doing so, we found a grand total of eight people had signed up. Four of the eight were on the list because they belonged there if they wanted their property sprayed. So in reality, the Twp. of Hanover had four people sign up. Now I know it was the same situation in the township of Bernards, and every other township that I have heard of throughout the state.

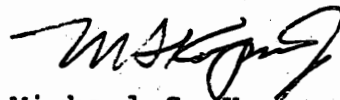
If this is in fact the trend, it is very difficult for me to understand that if such regulations have to be instituted to penalize the hundreds of people in each municipality, and the thousands in the state of New Jersey for just a few people who feel as though they need notification.

My company has notified anyone who has requested notification and we will continue to do so. If the existing regulations are properly enforced, this is all that would be needed to successfully run a pest control operation both for the pest control applicators and for the protection of the public in the state of N.J.

If you should have any questions, please do not hesitate to contact me.

Yours very truly,

TIMBERLAND TREE EXPERTS, INC.



Michael S. Kopas, Jr. C.T.E.
President

MSK/ss



STATEMENT ON
NEW JERSEY SENATE BILL NUMBER 1342
by the
NEW JERSEY PESTICIDE ASSOCIATION

September 24, 1984

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SUMMARY

For compelling reasons, the New Jersey Pesticide Association opposes S. 1342.

It would have the practical effect of banning most if not all pesticides from New Jersey, denying all citizens the demonstrated benefits of pesticides and placing both the State and its people at a competitive disadvantage with neighboring states.

The bill's scope is so broad that it defies implementation. It duplicates existing New Jersey and Federal laws and regulations. Its cost would be prohibitive. And it would be virtually impossible to administer or enforce.

INTRODUCTION

This statement is presented on behalf of the New Jersey Pesticide Association which represents 265 pesticide manufacturers, distributors and applicators. We appreciate the opportunity to present our views to the Committee.

Properly used, pesticides are essential to virtually every phase of modern life: agriculture, public health and sanitation, in

the home, institutions, business and industry.

They increase crop and livestock yields by controlling competing weeds and destructive insects, thus assuring abundant and economical food supplies. They prevent disease by controlling mosquitos, flies, cockroaches, rodents and vermin of all kinds. They protect our homes from termites, our lawns from crabgrass, our pets from fleas, our forests from gypsy moths.

The fact that there are some 6,700 pesticide products currently registered in the State testifies to their usefulness and service to New Jersey's citizens.

Moreover, not all pesticides are equally dangerous. Some are restricted to use by professionals; others which are less toxic are registered for general use. One new herbicide, for example, is only one-tenth as toxic as aspirin. It is far less dangerous than other substances in the environment such as gasoline, tobacco and alcohol which this bill does not purport to regulate. Yet it is a pesticide, and subject to all the provisions of this bill.

We must acknowledge that pesticides are sometimes misused. That is, they are not used according to the very specific directions covering conditions and methods of use that are required to appear on every pesticide label. Such misuse, however, represents only a tiny fraction of total pesticide usage in New Jersey, and calls for increased educational and enforcement efforts, not

a bill that duplicates New Jersey law and regulations and Federal statute restrictions on pesticides such as are contained in S. 1342. We have heard about pesticide incidents, cases that are undeniably sobering. S. 1342 will not prevent these particular incidents. But it will place an onerous burden on farmers, public health officials, homeowners and others who depend on pesticides for essential uses, as well as on pesticide manufacturers and applicators.

THE ASSOCIATION'S POSITION

For compelling reasons, the New Jersey Pesticide Association must oppose S. 1342.

The practical effect of this bill, if enacted, will be to ban pesticides in the guise of regulation, and to deny the use of these essential products to the citizens of New Jersey.

BASIS FOR OPPOSITION

1. The scope of S. 1342 is so broad that it defies implementation.

For example:

- o "Adverse effect" is defined (Sec. 1, Par. 3 e, page 1) to

include known or potential threats to the environment or human health. Every substance, pesticide or not, carries a potential threat. The absence of potential threats can never be demonstrated.

Lysol, for example, is a pesticide. And since Lysol can be accidentally ingested, there is 'a potential' threat of adverse effect. Thus Lysol probably could not sustain a registration in New Jersey. We doubt if this is the intent of individuals who want remedies to the pesticide incidents we have heard about.

2. S. 1342 duplicates in large part existing New Jersey and Federal laws and regulations. (See Appendix A)

o New Jersey regulations govern the manufacture, labeling, registration and classification of pesticides; registration of pesticide dealers and applicators; and the distribution, use, application, storage, handling, transportation and disposal of pesticides.

An amendment and supplement to the New Jersey Pesticide Control Act of 1971 was enacted in 1982. Comprehensive pesticide regulations to comply with this law were adopted in 1983 after public hearings that included 502 public witnesses. A challenge to these regulations by groups supporting S. 1342 was denied as "without merit" by the Superior Court of New Jersey. These regulations address all aspects of pesticide manufacture, use

and application.

Further, the Department of Environmental Protection (DEP) is proposing substantial restructuring of existing pesticide regulations to improve their enforceability based on operating experience of the Bureau of Pesticide Control. These intended revisions, to receive a public hearing in November of this year, are a major step in preventing misuse of pesticides and reducing potential hazards to the public. The fact that the DEP is moving in this direction strongly suggests that a new statute is not necessary. The process is working.

S. 1342 largely duplicates this strong, modern program which is now in place and working to protect the health and environment of New Jersey citizens.

- o The U.S. Environmental Protection Agency (EPA), under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), thoroughly evaluates all pesticides for safety and effectiveness and regulates labeling, uses, worker exposure, environmental effects, applicators, manufacturing sites and testing laboratory practices.

A principal motivation of S. 1342 appears to be a lack of faith in the EPA's ability or willingness to fulfill its responsibilities, and a perceived need to duplicate its activities in New Jersey. A report often cited in support of this

position is "Toxicity Testing To Determine Needs and Priorities," which some suggest 'proves' that few pesticides have proper safety testing behind them. Close review of this report, however, reveals serious flaws. It improperly amalgamates the testing needs of active pesticides with those of inert ingredients and products that are not marketed, and the study admits that it did not have access to data on all tests performed. A review of this report is included as Appendix B to this statement. As pesticide manufacturers closely regulated by EPA, we are fully aware of their effectiveness and professionalism.

The Agency was established in 1970. Most current pesticide registration data -- including the broad areas of chronic and acute toxicology studies, environmental assessment, fish and wildlife and residue chemistry -- have been required since 1972. Pesticides registered after 1975 satisfy all regulations by today's guidelines.

A program to identify and fill data gaps on older products (resulting from lower standards in prior years) has been initiated and is accelerating. Criticism of this program, which was subjected to an unrealistic timetable, is unwarranted for a variety of reasons. The Agency is moving faster and requiring industry to provide more data sooner than originally intended. Industry not only supports this approach, it is actively encouraging it.

EPA's rules of good laboratory practice, which are now in effect, and auditing of outside laboratories, prevent any data falsification such as occurred several years ago with one contract testing laboratory.

The Agency is also reviewing in a timely manner tolerances for all substances such as ethylene dibromide (EDB) which have tolerance exemptions, and is diligently reviewing and upgrading its worker safety regulations.

And in cases where preliminary data indicate possible unreasonable adverse effects to health or the environment from existing substances, a Special Review program has been established. Manufacturers are required to submit additional data on safety and efficacy to maintain their registration. Or the matter is submitted to a Scientific Peer Review Committee (composed of experts from universities, medical schools, etc.) for decision.

The Agency is also initiating new educational outreach programs among pesticide applicators and the agricultural community to reduce pesticide misuse; reviewing new label improvements to broaden coverage of applicators and field workers; and expediting its re-registration and data call-in programs.

EPA's existing programs are effective, and they are initiating new ones that address the concerns of New Jersey citizens.

The Office of Pesticide Management is an experienced, professional organization fully capable of fulfilling its responsibilities to protect the public. Pesticides are second only to drugs in the extent and comprehensiveness of the regulations with which they must now comply.

Yet S. 1342 would duplicate many of the Agency's regulations and much of its activity.

3. The cost to New Jersey taxpayers to implement S. 1342, especially considering its duplicative nature, would be prohibitive.

o By New Jersey DEP estimate, the Federal EPA's Registration Division alone has an annual budget of \$16 million and employs some 230 people. Each year it reviews approximately 275 new product registration applications, 3,700 products for re-registration and 7,000 for amendments to existing product registrations.

o EPA's Office of Pesticide Management budget (which includes the Registration Division, 4 scientific groups, administration and support) is \$37.5 million, with 572 employees. It handles 600 active ingredients and an unknown number of products containing those ingredients.

o If the 6,700 products now registered in New Jersey contain 50% of the federally registered active ingredients, that ratio

translates into an annual cost approaching \$19 million and 285 employees.

o S. 1342 requires New Jersey to duplicate all of that EPA effort and expense, and in some areas, to exceed it. For example:

- EPA evaluates a pesticide's safety and efficacy; under provisions of this bill, New Jersey's DEP would have to evaluate comparative safety and efficacy of all pesticides on a product-by-product basis for each intended use.

Product "A," for instance, could be equally effective and demonstrably less harmful than Product "B" when used against mosquitos, but less effective than Product "B" against gypsy moths. The DEP would have to determine that fact.

It would have to evaluate the effectiveness of each of the 6,700 pesticides now registered in New Jersey against the effectiveness of every other product for every intended use. It would have to repeat the process for comparative safety evaluations. And it would have to evaluate every new pesticide's safety and effectiveness against every existing product intended for the same uses.

The amount -- and cost -- of testing required by S. 1342 is staggering to consider. None of these comparative testing costs is included in our estimate of \$19 million to implement

S. 1342.

- The bill requires DEP to prepare fact sheets in English and Spanish "for each registered pesticide," and issue them to farm workers. Among other information, the fact sheet must contain the product's formulation.

There are currently 6,700 pesticides registered in New Jersey. Just one of these (Sevin, a principal product used against gypsy moths in New Jersey) is available in over 1,500 different formulations. Each would require a separate fact sheet to be prepared, produced, stored and distributed.

- The environmental monitoring program required by the bill -- a total duplication of the existing EPA program -- could alone cost New Jersey an estimated \$500,000.
- o The DEP estimates that, based on current workload experience, the number of field investigators alone must quadruple at a minimum. In addition to manpower, the bill would require substantial increases in equipment, laboratory facilities and operating expenses.
- o The bill makes no provision for appropriations to fund the required activities. There appear to be three possible alternatives, none of which the Association believes is acceptable:

- Funding from the current State surplus. We seriously question if this is 'best use,' especially considering the duplicative nature of the bill. And there is no assurance that surplus conditions will continue in the future.
 - Increase taxes. In addition to forcing current taxpayers to fund programs that largely duplicate existing effective systems at the State and Federal levels, increased taxes would be a substantial deterrent to New Jersey's economic development.
 - Require industry to fund them. Such costs would far outweigh the potential benefits to the pesticide industry. Many companies would likely withdraw their pesticide products from sale in New Jersey, thus denying their benefits to the State's citizens. Farmers, for example, with fewer pesticides available to meet their needs, and probably at higher cost, would be at a serious competitive disadvantage with neighboring states. Further, many pesticide manufacturers would be forced to consider relocating their operations to other states.
4. S. 1342 would be virtually impossible to implement, administer and enforce.

The definitions in the bill are so broad, the decisions it requires of DEP so numerous and difficult to make and the notification procedures it imposes on virtually every citizen.

assure administrative chaos and invite civil disobedience. Moreover, the bill would inevitably result in lengthy and expensive litigation.

- o Section 2, Par. 4, page 2 authorizes regulation of pesticides "which cause or may tend to cause adverse effects...." By proposed definition, 'adverse effects' include known and potential threats to health or the environment (in effect, all pesticides), and 'pesticides' include such common products as household cleansers.
- o Section 2, Par.3f, pages 3-4 requires the DEP to refuse to register, or to revoke the registration of, any pesticide found to cause adverse effects if there is "a reasonably effective and practical alternative demonstrably less harmful to the environment."

This provision forces legislative or regulatory decisions to substitute for market decisions, and eliminates or severely limits consumer choice.

- Which is more effective for the pesticide user: Product A that achieves 100% cockroach control for \$10.00, or Product B that achieves 90% control for \$5.00? The DEP must decide!
- Is one brand of lawn weed killer demonstrably less harmful than another, one brand of household cleanser reasonably as

effective as another? The DEP must decide!

- And, by provision in the bill, the DEP must refuse to register or revoke the registration of the other products! Coupled with the definition of "adverse effects," which includes 'potential' threats to health or the environment, it may be impossible to register any pesticide in New Jersey.

o Section 7 f, page 14 states that "no person shall perform an indoor pest control application" without following notification procedures prescribed in the bill.

This provision not only invites knowing civil disobedience, it would make lawbreakers of virtually every New Jersey citizen.

- It literally requires citizens who plan to set a mousetrap or disinfect a toilet in their own homes to give formal notice to family members -- 24 hours in advance; citing brand name, EPA registration number and complete formulation of the product to be used; label precautions and known health effects; emergency telephone numbers; pest to be controlled; and alternative application dates. Failure to do so would be a violation!

COMMENTS ON SPECIFIC PORTIONS OF S. 1342

Section 1, Paragraph 3 f:

Definition of "adverse effect" to include any "potential" threat to the environment or to human health is so broad as to render the bill impossible to implement, administer or enforce. Further, the absence of potential threat can never be proved.

This definition, coupled with the provision that pesticides with adverse effects (including 'potential threats') cannot be registered, may mean that no pesticide could be registered in New Jersey. It would have the practical effect of banning most pesticides in the guise of regulating them.

Section 1, Paragraph 3 g:

The meaning of "No site included on the label or labeling of the pesticide may be considered a target site unless the site is specifically intended to receive such application of pesticide" is unclear and should be clarified.

Section 1, Paragraph 3 h:

All broad-spectrum pesticides are specific to the pests included on their labeling.

Section 2, Paragraph 4:

"Upon a determination that, with respect to a particular pesticide the elimination of adverse effects is not feasible and that no less harmful procedure or substance is available of comparable effectiveness, the department shall adopt regulations designed to minimize the adverse effects of that pesticide."

This provision, as has been discussed, would be impossible to implement or administer, and would substitute legislative or regulatory decisions for market decisions.

Section 5, Paragraph 3 a:

Numerous questions and objections are raised to this provision:

- o "Continuous" evaluation is not defined. If it means annual re-registration, many manufacturers may abandon sale of their pesticide products in New Jersey.
- o In any event, "Continuous evaluation of effectiveness and safety," as has been discussed, is extremely expensive. Who will evaluate the pesticides is not clear: the DEP, or will manufacturers be required to submit new test data each year? Either way, it places a huge cost burden on either State taxpayers or registrants, and duplicates the work of EPA.
- o The meaning of the sentence beginning "The department shall conduct a thorough evaluation...." is unclear.

- o The provision that the department shall conduct a thorough evaluation of pesticides, "the name of which has been submitted for evaluation by the Pesticide Control Council or the Department of Health," without specified criteria, invites product investigations based on subjective opinion.
- o "The department shall place appropriate restrictions..." allows the DEP no latitude to exercise scientific judgment.
- o "...if the department finds that this use or application will cause, or may tend to cause, adverse effects." This statement, coupled with the definition of adverse effects, is so broad that it would be impossible to implement or administer.

Section 3, Paragraph 3 f:

This paragraph, and its sub-paragraphs, would require the banning of all pesticides except the one in each category of use judged to be least harmful to the environment. The DEP has no discretion. If one of the conditions mentioned occurs (for example, an arguably misleading advertisement), that product would have to be banned.

- o "The department shall refuse to register, or shall revoke the registration of, any pesticide which it finds...." This provision makes it mandatory for the DEP to withhold or revoke

registration with no consideration of any risk-benefit relationship permitted.

- o "Has been demonstrated to cause adverse effects...." Inclusion of potential threat in the definition of 'adverse effects' subjects every pesticide, and such products as common household cleansers, to mandatory banning. The complete absence of potential threat in any substance can never be demonstrated.

- o "Has a reasonably effective and practical alternative demonstrably less harmful to the environment." This provision:
 - Requires the DEP to determine comparative efficacy and safety on a product-by-product basis for each use, a probably impossible and certainly enormously expensive task.

 - Substitutes legislative or regulatory decision for market decisions by individual pesticide users. One product may be 'reasonably effective' at a higher cost. Is this a 'practical alternative?' Or will New Jersey farmers, public health officials and other pesticide users be denied the benefits of the lower cost, equally safe product?

 - Would remove all incentive for manufacturers to do new product research because the market life, and ability to recover costs would be so uncertain.

- Is so broad that it would be impossible to implement and administer.
- o "Has been the subject of any false or misleading statement or implication by the registrant or his agent...."
- The manufacturer has no control over statements made by pesticide distributors, dealers or applicators selling or using his product. Yet the manufacturer's registration could be revoked based on their statements.
- 'Misleading' could be construed to include anything that advertising or salesmen may inadvertently fail to say. There is no requirement that the consumer must actually have been misled. The competitive process and legal recourse available to competitors and customers are preferable to complete banning of a pesticide because of an advertising error.
- o "...the commissioner may require any practical demonstrations he deems necessary...." This is an open-ended provision that could result in continuous requests for new studies or other work, and effectively deny registration without just cause.

Section 6, Par. a (4):

A 10-acre minimum area for aerial application of pesticides

denies the cost benefits of that method to many vegetable and berry farmers in New Jersey who farm smaller plots. Helicopters are capable of applying pesticides to small areas. Available ground equipment may not be suitable for certain areas, e.g., cranberry bogs.

Section 6, Par. a (5):

"...but in no case shall the aerial application of broad-spectrum pesticides on non-agricultural lands be permitted."

o This provision effectively prohibits such essential programs as mosquito and gypsy moth control, for which aerial application is often the only practical method. Mosquito control is a necessity for public health as well as tourism in many areas of New Jersey. And without effective control of gypsy moths, the State would suffer severe economic, recreational and esthetic loss of forested areas.

o The prohibition against 'broad-spectrum' pesticides is unwarranted. Many broad-spectrum products are less toxic than narrow spectrum pesticides.

Section 6 c:

Exemption for mosquito control only "in the event of a health emergency" would be ineffective:

- o It requires a health emergency -- for example, an encephalitis outbreak -- to develop before control measures could be taken, and by then it would be too late. People would have contracted the disease and possibly died.
- o Mosquito control pesticides are most effective early in the season during breeding and larval development.

Section 7:

A workable and effective notification system for planned pesticide applications on agricultural land, developed with substantial public input, is now operating successfully in New Jersey. There is no reason to impose additional requirements or change the procedures.

In addition, the 14-day minimum notification requirement would prohibit unplanned emergency treatment to control unexpected insect or weed infestations. Compliance with this provision could result in loss of an entire crop. It could force farmers to choose between severe economic loss or violating the law.

The Association objects to inclusion of the following information prescribed in notification procedures in this and other paragraphs of this section:

o "Complete formulation" of the pesticides to be used, if that term requires more than a listing of active and inactive ingredients required on the label. The more detailed confidential statement of formula represents valuable proprietary trade secrets which must be protected in order to prevent competitive injury in this country and overseas markets. This information, which would be meaningless to the public, is supplied to and evaluated by both the EPA and DEP prior to registration, as are all subsequent formulation changes. Further, it is not in the best interest of a state as dependent on research as New Jersey is to force public disclosure of trade secrets.

o "Known health effects" not indicated on the label. Such information is neither obtainable nor understandable by the average farmer or the public. It would require detailed medical, biological and chemical knowledge which farmers cannot be expected to have. And, in any event, it has been analyzed by EPA and DEP prior to registration and judged not necessary to be included in labeling.

In addition to the comments above, which pertain to all of Section 7, comments on specific paragraphs are listed below. Many comments appearing elsewhere in this statement also apply to these 'Notification' provisions. This section is unworkable and invites civil disobedience.

Section 7, Par. B:

"No person shall cause or allow...." outdoor ornamental pest control application utilizing certain specified equipment without following prescribed notification procedures. This provision would require homeowners who want to protect their trees against gypsy moths, for example, to certify the equipment used by a pesticide applicator. Compliance with the notification requirements would make such protection either uneconomic for the homeowner or unprofitable for the applicator. As a practical matter, the provision could not be enforced equitably, and would encourage civil disobedience by both homeowners and applicators.

Section 7, Par. f:

"No person" shall perform an indoor pest control application... in a private residence without following an extensive list of prescribed notification procedures. Given the broad definition of 'pesticide' in the bill, every citizen planning to disinfect a toilet bowl or set a mouse trap, for example, would have to go through the entire notification procedure -- with his or her own family! -- or violate the law. That requirement also applies to schools, institutions and commercial buildings.

Section 7, Par. g:

Homeowners would have to post a warning sign on their lawns every time they apply fertilizer containing weed or crab grass

inhibitors.

Section 7, Par. i:

This section specifically reaffirms that "Any person who performs his own pest control application" must follow the relevant notification requirements.

Section 8, Par. b:

In connection with the "farmworker pesticide incident report," there is no provision to verify that 'incident' is actually associated with pesticide exposure. Various effects are frequently erroneously associated with pesticides. Further, a system which merely collects information on errors and makes no attempt to evaluate them has very little utility.

Section 9, Par. a:

This provision duplicates environmental monitoring programs already conducted by Federal EPA, FDA and USDA.

Section 14, Par. a (3):

The 'skull-and-crossbones' international warning symbol could carry a different meaning to many hispanic farm workers. In the Caribbean area, the skull-and-crossbones means 'macho.'

Section 14, Par. b:

As has already been discussed, preparation and distribution of fact sheets in English and Spanish for each formulation of the 6,700 products currently registered in New Jersey represents a large financial cost for questionable benefit. Also, as previously mentioned, the confidential statement of formula is proprietary information and would be useless to farm workers. Current EPA regulations already require disclosure of inert ingredients where they are a significant determinant in toxicity.

Section 14, Par. h:

This provision regarding an employee's right to refuse to work in a treated field duplicates existing Federal law.

Section 18:

The right of private action without the necessity of proving present or future injury encourages frivolous law suits and places an undue burden on the court system. The provision does not specifically provide for award of attorney and expert witness fees to the prevailing party, whether plaintiff or defendant.

Section 19:

The Association objects to mandatory award of any compensatory damages without the need to prove injury. The mandatory award of \$500 for each day of a continuing violation, coupled with the right of private action, could result in awards of many thousands of dollars for an honest mistake or clerical error, and is unreasonable.

Section 20, Par. b:

This provision shifts the burden of proof, traditionally on the plaintiff, to the defendant, and increases that burden from the normal 'preponderance of evidence' to "clear and convincing evidence." The standard proposed in the bill could make it impossible to discharge any employee for wholly legitimate reasons after he has exercised any right under this act.

CONCLUSION

S. 1342 is unworkable, unduly expensive and unnecessary.

The administrative process in New Jersey is working. A hearing is scheduled for November to revise existing pesticide regulations. If any improvements are necessary to protect the public, they can be made more appropriately and effectively through changes to those existing regulations.

APPENDIX A

AREAS OF DUPLICATION:

S. 1342 and A. 1536

N.J.A.C. 7:30(7:30 - 1.2)

FIFRA 7 U.S.C. 136 et. seq.

Definition

"Adverse effect" means any known or any potential threat to the environment or to human health including but not limited to toxic, carcinogenic, mutagenic and teratogenic effects.

(7:30 - 1.2)

"Significant risk of injury or damage" means a potential for injury or damage which is not purely remote or highly speculative, but capable of being perceived or recognized based on the location, type and amount of pesticide involved and available scientific information about the pesticides and its effects on persons, property and the environment.

"Unreasonable adverse effects on the environment" means any unreasonable adverse effects on the environment or man, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

Registration Process

The department shall develop a program of continuous evaluation of the effectiveness and safety of the pesticides registered with the department.

The department can refuse to register or revoke a pesticide if it can be demonstrated to cause adverse effects on man and the environment when used in accordance with generally accepted pesticide application procedures.

and if a reasonably effective and practical alternative demonstrably less harmful to the environment is available.

and if the product does not warrant the claims for it or the labelling and supportive material do not comply with the Act, rules or regulations,

The regulations already provide for yearly evaluation of pesticides.

In the case of renewal of registrations, the registrant shall be required to furnish only information which is different from that furnished when the pesticide was registered or re-registered the previous year.

A complete copy of the FIFRA approved label which reflects extensive safety evaluation among other things is required for registration of a product. In addition to a reliance on FIFRA labels, the state may issue a special local need registration.

The registrant provides the complete formula for the product, a full description of the tests made and the results thereof in support of a pesticide application or alternately, cite data from the public literature or that previously submitted to the Administrator. If the Administrator determines that additional data are required to maintain an existing registration, registrants are afforded 90 days in which to begin to secure these data. Failure to do so would prompt a notice of intent to suspend the registration.

Reregistration must be accomplished in the most expeditious manner with any pesticide that results in a post harvest residue in or on feed or food crops to be given priority.

if it has been the subject of any false or misleading statements or impressions by the registrant or his agent, either verbally or in writing.

The Department may refuse to register or may cancel or suspend the registration of any pesticide distributed, sold, etc. if it does not appear to warrant the proposed claims or if the pesticide or its labeling and other material required ...do not comply with the provisions of FIFRA, the Act or rules and regulations adopted thereunder, provided the department has notified the registrant of the manner in which the pesticide, labeling etc.. has failed to comply and permitted the registrant to make necessary corrections and upon receipt of such notice, the registrant has not made all required changes.

The department may issue an Order prohibiting the distribution or use of a pesticide pending the suspension or cancellation of its registration where it is determined that a situation exists in which the continued use of a pesticide during the time required for suspension or cancellation would likely result in a significant risk of injury or damage.

The Department can restrict or limit the manufacture, delivery, distribution sale or use of any pesticide; refuse to register any pesticide which is highly toxic and for which there is no effective antidote under the conditions of use for which such pesticide is intended or recommended. The Department can refuse to register any pesticide which is highly toxic and for which there is no effective antidote under the conditions of use for which such pesticide is intended or recommended.

The Administrator shall cancel the registrations of any pesticide or propose cancellation or change in classification if the pesticide or its labeling or other material does not comply with the provisions of this Act, or when used according widespread and commonly recognized practice, generally causes unreasonable adverse effects on the environment.

If the Administrator determines that action is necessary to prevent an imminent hazard during the time required for cancellation or change in classification proceedings, he may by order, suspend the registration of the pesticide immediately.

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The Department can refuse to register any pesticide for use on a crop for which no finite tolerances for residues of such pesticide have been established by either the department or the Federal Government.

Notification

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No aerial or airblast application of pesticides on agricultural land, hydraulic outdoor ornamental pest control on municipal and county parks and forests, no right of way spraying indoor pest control, no commercial building pest control including the State House, airports, office buildings etc., lawn pest control or home pest control unless-----

No person shall apply any pesticide on a community or area wide basis unless prior notification of the application has been given to persons residing in the vicinity of the proposed target site, through advertisement in two or more newspapers at a maximum of 60 days and minimum of seven days before the application date.

Notification will include application date, location of application, pertinent information about the applicator, brand name and active ingredients of pesticides, type of equipment used, contact for further information on the pesticide.

On request from individuals adjacent to application, at least 12 hours prior to application additional notification will be given.

The notifier will keep records of all notification and individuals involved. These records shall be made available to the Department on request.

When outdoor application of pesticides uses products that are labeled toxic to bees notification to apiarists must be made 36 hours prior to application to those apiarists desiring notification and within one-half mile of target site and who have registered to be notified.

Pesticide Control Council

The composition of the Pesticide Control Council would have 15 members, 12 of which would represent the general public from various disciplines.

Pesticide Control Council has 9 members, 6 of which represent the public from varying disciplines.

EPA has a Scientific Advisory Panel to review such actions. It is composed of 7 members from varying scientific disciplines.

Pesticide Fact Sheets

Pesticide fact sheets shall be prepared for each pesticide (and experimental pesticides) registered.

In N.J. there are 6700 products registered.

These sheets shall be given farm workers in advance of exposure.

Workers have access to pesticide labels which contain all of the information (except trade secrets) called for by the bill and more.

EPA is developing worksheets for products with a high volume of use. The EPA approved label also satisfies the need for information on products.

Training for Farmworkers

DEP shall provide training to farmworkers likely to be exposed to pesticides in the most effective practices, procedures, equipment and clothing to minimize this exposure.

Proposed new Subchapter
(N.J.A.C. 7:30 - 9)

The DEP is proposing comprehensive regulations governing farmworker exposure that include medical care provision, protective clothing requirements that go far beyond the

The August 15, 1984 Federal Register notice 40 CFR Part 170 proposes comprehensive worker protection standards for agricultural pesticides that go far beyond that

Private Right of Action

Any person whose property or person is exposed to a pesticide resulting from a violation of this Act may bring a civil action in law or equity in his own behalf against any person for violation of any provision of this Act.....It shall not be necessary.... that the person bringing the action prove that he has suffered or will suffer personal loss or damage.

FIFRA provides states primary enforcement responsibilities for pesticide use violations, including misuse resulting in hazardous exposure to private citizens. If a state fails to act upon a citizen complaint, EPA can take enforcement action as appropriate under FIFRA Section 16.

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APPENDIX B

A REVIEW OF:

TOXICOLOGY TESTING, STRATEGIES TO DETERMINE
NEEDS AND PRIORITIES

REVIEW OF: TOXICITY TESTING, STRATEGIES TO DETERMINE
NEEDS AND PRIORITIES. National Academy Press. 1984

RECOGNIZING THE NEED TO AVOID THE UNNECESSARY INCLUSION
OF SUBSTANCES OF LITTLE SIGNIFICANCE TO DESIGNING A
PRIORITY-SETTING SYSTEM FOR SUBSTANCES TO BE TESTED,
NEVERTHELESS THE NAS STUDY GOT OFF-TRACK.

The NAS/NRC Committees first set about to determine what information was available upon which human hazard and environmental impact could be determined. Two hundred pages of the final report is devoted to this phase of the 3-year study. In order to "avoid the unnecessary inclusion of substances not of interest to the National Toxicology Program" (p.33) the NAS/NRC Committees depended heavily on computerized, on-line data bases where substances had been "preselected for human exposure potential". In selecting the NIH/EPA Chemical Information System (CIS) as the source of the list of 3,350 pesticides and inert ingredients of pesticide formulations, the NAS/NRC Committees became aware that not all of the chemical substances on the list posed a significant human exposure problem.

"The (CIS) list of registered active pesticides contains 2,483 entries, including substances that at the time of inclusion were for experimental use or that were analogues, salts, or acids of other substances in the list. The list of registered inert ingredients contains 1,132 ingredients that are present in pesticide formulas, but have no claim of pesticidal action, (not necessarily implying that they might not have adverse effects on human health); because of the potential for human exposure to pesticide-formulation ingredients, the inert ingredients were included..."

(p.38)

THE NAS STUDY IMPROPERLY AMALGAMATES THE TESTING NEEDS OF ACTIVE PESTICIDES WITH THOSE OF INERT INGREDIENTS AND PRODUCTS THAT ARE NOT MARKETED.

There are chemicals on the CIS list that never progressed beyond the laboratory bench, and thus there is no potential public exposure. Others are chemicals never marketed in the United States, or chemicals once registered for pesticidal use but no longer marketed. In the 50-pesticide sample studied by NAS/NRC there are 14 such unused products, 28 percent of the total. In the subsample of 15 pesticide substances studied in depth by the NAS/NRC committees there are 5, making up 33.3 percent of the total. It is to be expected that such chemicals as these would not be covered by a full complement of toxicity tests. Their inclusion in the evaluation of toxicity-testing needs for the sample masks the extent to which marketed pesticides are tested.

In the 50-pesticide substances constituting the sample studied by NAS/NRC there are 10 inert ingredients such as, surfactants, buffering agents, chelating agents and plasticizers, making up 20 percent of the total. In the subsample of 15 substances there are 2, or 13.3 percent. (*) Because of the generally low acute toxicity of such inert formula ingredients, few of the remaining 17 test types named by the NAS/NRC committees are required for registration. Again, including these inerts fogs the perception of the extent of testing on truly agricultural pesticides.

(*) Seven of the 50-pesticide sample remained to be identified and are not included in above figures.

"It should be emphasized that the study was designed to characterize the status of toxicity-testing needs for substances to which there is known or anticipated exposure. The (pesticide subsample) contained few of the substances known to be produced in the greatest volumes. Hence, this study may not provide an accurate estimate of the status of toxicity information on the principal substances to which humans are exposed." (p.13) (emphasis added)

"The committees did not conduct separate analyses to distinguish the findings for active and nonactive substances, although the data may permit others to consider such separate analyses for their own purposes." (p.82)

THE ADEQUACY OF TESTING IS RELATED TO THE INTENDED USE, ASSOCIATED WITH THE DEGREE OF HUMAN EXPOSURE AND ENVIRONMENTAL IMPACT.

The NAS/NRC committees assembled a series of some 18 types of toxicity tests that when conducted in accordance with approved protocols will provide a complete health-hazard assessment. At any number of places thruout the report attention is called to the fact that applying the entire list of 18 test types is neither practical or necessary in most cases - depending on intended use. As for exposure data, the report has this to say:

"The lack of suitable exposure data places an even more severe limitation on the application of inferences drawn from analyses of the chemicals in the final sample to the larger (3,350 pesticide substances on the CIS list) and on the quantitative dose-response models for chemicals in the environment." (p.196)

"Although additional testing is desirable, some circumstances make it unnecessary to perform some or all tests because other available information--including that from prior testing of a substance, its history of intended use, and other anticipated exposures to it (such as occupational and environmental)--may permit some judgement of health hazard in the absence of full data." (p.81)

THE NAS STUDY ACKNOWLEDGES THAT IT DID NOT HAVE ACCESS TO DATA ON ALL TESTS PERFORMED - ESPECIALLY THAT IN CONFIDENTIAL FILES.

"The committees recognize that some toxicity tests may not have been known to them. Although toxicity-test information on the subsample of 100 substances (15 pesticides) was sought from industries and other interested parties via a Federal Register notice and by direct contact with manufacturers and importers of sampled chemicals in commerce, some industrial information probably remained unavailable. Similarly, the committees were not able to examine toxicity, physical, and chemical information on cosmetic ingredients, drugs, excipients in drug formulations and food additives contained in the files of FDA..."
(p.85)

"The committee anticipated that on-line data bases would provide most of the needed toxicity references, as well as the information on uses of chemicals. However, there is only limited coverage of data published before the mid-1960s, when the first large-scale automated data bases were developed."
(p.187)

"All the regulatory agencies expressed concern about granting the committee access to trade-secret information provided by industry."
(p.192)

"EPA provided the toxicology portions of pesticide registration applications to NRC staff and to some committee members not involved in occupations associated with organizations that could benefit from company trade secrets. The information augmented the data in the published literature. Little specific information on extent of environmental contamination was obtained from EPA data files. Because those files are not centralized, it was difficult to gain the required information from them."
(p.192)

"The committees concluded that lack of availability of information could not be used to judge adequacy of testing for the purposes of this report. The estimated percentages expressing the judgement that further testing is required exclude proprietary data."
(emphasis added) (p. 126)

AGRICULTURAL PESTICIDES ON NAS 50-SUBSTANCES LIST

- (3) Dimethyl (2,2,2-trichloro-1-hydroxyethyl)phosphonate.
Product TRICHLORFON: DYLOX CAS No. 52-68-6
Contact: Mobay Chem. Corp.
- (7) 5-Ethoxy-3-trichloromethyl-1,2,4-thiadiazole CAS No. 2593-15-9
Products: KOBAN, TRUBAN, TERRAZOLE, DWELL
Contact: Uniroyal and Mallinckrodt
- (11) Tetrahydro-3,5-dimethyl-2H-1,3,5-thiadiazine-2-thione.
Products: DAZOMET, MYLONE, MICOFUME CAS No. 533-74-4
Contact: BASF, Stauffer, Hopkins, Miller.
- (19) Acetic acid, (2,4-dichlorophenoxy) compound with
1,1',1"-nitrilotris(2-propanol) CAS No. 32341-80-3
Name: 2,4-D tri isopropanol amine salt.
Contact: Dow and Industry Task Force on 2,4-D
- (20) 1,1'-dimethyl-4,4'-bipyridinium CAS No. 1910-42-5
Product: PARAQUAT
Contact: Chevron
- (23) Pyridine (active ingredient in blends) CAS No. 110-86-1
Products: Koppers Wood Preservative; Nott's Dog Check
Contacts:
- X (24) Product: CHLORMEPHOS
C
- (26) p-Benzoquinone CAS No. 106-51-4
Probable active ingredient in animal repellent formulations
Contacts:
- (30) 2,4-Dichlorophenoxyacetic acid, alkylamine salt
Numerous herbicide products CAS No. (/)
Contacts: Union Carbide and Industry Task Force on 2,4-D
- (32) Agrobacterium radiobacter CAS No. (?)
Product: GALLTROL-A a biological for control of crown gall
Registered with EPA in 1979 by Agricultural Biochem Inc.
- (35) N-(Mercaptomethyl)phthalimide S- CAS No. 732-11-6
(0,0-dimethylphosphorodithioate).
Product: PHOSMET; IMIDAN; PROLATE
Contact: Stauffer
- (39) Copper hydroxide [Cu(OH)₂] CAS No. 20427-59-2
Product: KOCIDE-101; KOCIDE-606
Contact: Kocide Chemical

AGRICULTURAL PESTICIDES ON THE NAS 50-SUBSTANCES LIST (cont.)

- (47) Sulfuric acid, zinc salt (1:1) monohydrate CAS No. 7446-19-7
Zinc sulphate, monohydrate (bactericide)
Contact: Woolfolk Chemical Works
- (48) Sodium pentaborate CAS No. (?)
Product: TRONABOR, EPA Reg. No. 2342-905; CAS 11130-12-4
Contact: Kerr-McGee Chem. Corp.
- (41) Phenarsazine, 10,10'-oxybis(5,10-dihydro CAS No. 4095-45-8
Product: VINYZENE BP-5, EPA REG. No. 2829-82
Mfg: Thiokol-Ventron, Danvers, Mass.

SANITIZING AGENTS ON THE NAS 50-SUBSTANCES LIST

- (4) Alkyldimethylbenzylammonium chloride CAS No. 8001-54-4
A family of quarternary ammonium compounds
Contact: Lonza, Inc.
- (42) alkyldimethylbenzylammonium chloride CAS No. 8001-54-5
Product: Hyamine-3500
Contact: Lonza, Inc.
- (45) Heptadecenylimidazoline CAS No. (?)
emulsifier, solubilizer, wetting & dispersing agent
Product: Nalcamine G-13 CAS No. 30968-45-5 (USDA source)
Contact: Union Carbide.
- (50) (1,1'-Biphenyl)-2-ol, ammonium salt CAS NO. 52704-98-0
note: only sodium salt of 0-phenylphenol found
Active ingredient in bathroom cleaner preparations
Contact: DOW

FORMULA INGREDIENTS: INERT OR ACTIVE ONLY IN BLENDS

- (1) Ammonium ligninsulfonate CAS No. 8061-53-8
Crown Zellerbach's ORZAN-A
suspending agent in wettable powders/ surfactant/disper
- (2) Diethylaminoethanolamine CAS No. (?)
- (6) Soap bark CAS No. (?)
Dispersing and wetting agent
- (10) Sulphonated oleic acid, potassium salt CAS No. 67968-63-2
- (12) Ethanol, 2-butoxy-, phosphate (3:1) CAS No. 78-51-3
Plasticizer KP-140
- (13) Sodium decyldiphenyletherdisulfonate CAS No. 36445-71-3
detergent type surfacant
- (21) Oxirane, methyl-, polymer with oxirane, monobutyl ether.
A Witco intermediate B-3, UCON CAS No. 9038-95-3
a non-ionic surfacant
- (27) Glycine, N-((2-[bis(carboxymethyl)amino]ethyl)-
N-(2-hydroxyethyl)-, trisodium salt. CAS No. 139-89-9
a chelating agent: VERSENL 120, HAMP-OL Crystals.
- (31) Sodium acetate CAS No. 127-09-3
a buffering agent
- (16) Citric acid, trisodium salt CAS No. 68-04-2
(synomys: CITRATIN, CITROSODINE, CITREME)
a sequestering agent

PRODUCTS NOT MARKETED IN THE UNITED STATES

- (5) Carbamic acid, dipropylthio-, S-tert-butyl ester.
Stauffer research chemical R-1856 CAS No. 2212-63-7
Never marketed.
- (8) 1-Butanesulfothioic acid, S-(chloromethyl) ester.
Buckman Laboratories BP CAS No. 16008-31-4
Tested as a pulpmill slimicide years ago
Not marketed U.S. (last 18 yrs. of record)
- (9) Phenol, 4-(di-2-propenylamino)-3,5-dimethyl-,
methyl carbamate ester. CAS No. 6392-46-7
BAY 50282; Hydrol: ALLYXYCARB;
a "superseded compound"; withdrawn by BAYER
- (14) Trichlorobenzyl chloride CAS No. 1344-32-7
A pre-emergence herbicide component.
Withdrawn by Monsanto: last sales 1967
- (15) Benzenecarbothioamide, 2,5-dichloro CAS No. 69622-81-7
Marketed by Shell U.K. Ltd in England as PREFIX.
Never marketed in the United States.
- (22) Potassium Iodate CAS No. 7758-05-6
Use? One reg. product discontinued by manufacturer.
(source: EPA)
- (25) 2,3,5-trichloro-4-(propylsulfonyl) pyridine
A mildew control for paint CAS. No. 38827-35-9
Dowicil A-40, not marketed for a number of years (1978)
EPA Reg. No. 464-452 on "hold"
- (29) 0,0-Diethyl 0-2-pyrazinyl phosphorothioate CAS No. 297-97-2
(Above chemical name corrected by NRC)
Product ZINOPHOS: with drawn by American Cyanamid
Actually not marketed for 15 years.
- (33) Carbamic acid, dimethyl-, 3-methyl-1-phenyl-1H-pyrazol-5-yl es
Product PYROLAN: Never marketed in U.S. CAS No. 87-47-8
Ciba-Geigy research No. G-22008 reaches back 1.5 decades.
- (36) C.I. Pigment Green 21: Copper acetoarsenite, solid
Manufacture of PARIS GREEN stopped CAS. No. 12002-03-8
by BP. Los Angeles Chemical Co. sometime in 1974
carried EPA Reg. No. 962-344 AA
- (37) 2,3,5,6-Tetrachloro-2,5-cyclohexadiene-1,4-dione
Product SPERGON, Uniroyal withdrew CAS No. 118-75-2
registration and marketing about 1964
- (39) 1H-Imidazo(4,5b) pyridine, 6-chloro-2-(trifluoromethyl)-
Product FLUROMIDINE, a "superseded" CAS No. 13577-71-4
product: Not produced by Nor-Am Chem. in the U.S.

PRODUCTS NOT MARKETED IN THE UNITED STATES (Continued)

- (24) S-Chlormethyl-0,0-diethyl phosphorodithioate.
Product: CHLORMEPHOS, a soil insecticide CAS NO. 24934-91-6
Not registered with EPA. 9/11/84
- (40) Acetic acid, (2,4-dichlorophenoxy)-,methyl-2-(methyl-2-
[methyl-2-(2-methylpropoxy)ethoxy]-ethoxy) ethyl ester.
Not registered with EPA: 9/12/84 CAS No. 53535-28-7

PRODUCT IDENTITY/MARKET STATUS: TO BE DETERMINED

- (17) Benzenamine (1:1 compound with) 1,3,5-trinitrobenzene
CAS No. 3101-79-9
- X (18) Ethylene thiourea CAS No. 96-45-7
Not a registered pesticide: metabolite under heat of EDB group
REMOVED
- (28) 2-Propanamine, sulphate CAS No. 60828-92-4
- (34) Carbonic acid, methyl 2-(1-methylheptyl)-4,6-dinitrophenyl est
(NPIRS- no record) CAS No. 5386-68-5
- (38) Mercury, (acetate-0) (methylphenyl)- CAS No. 1300-78-3
(NPIRS- no record)
- X (40) Acetic acid, (2,4-dichlorophenoxy)-,methyl-2-(methyl-2-
[methyl-2-(2-methylpropoxy)ethoxy]-ethoxy) ethyl ester.
(NPIRS-no record) CAS No. 53535-28-7
REMOVED
- X (41) (NPIRS-no record)
REMOVED
- (43) 2-hydroxy benzoic acid (1:1 compound with) 4-chlorobenzenamine
(NPIRS-no record) CAS No. 53404-66-3
- (44) N-(2-[2-hydroxyethoxypoly(ethyleneoxy)polypropyleneoxy])
propyl) hexanamide. CAS No. (?)
(NPIRS-no record)
- (46) Benzenamine, ar,ar-dichloro- CAS NO. 27134-27-6
(other name: Dichloro aniline)

STATEMENT FOR
SENATE AGRICULTURAL AND ENVIRONMENT COMMITTEE
ON SENATE BILL 1342

BY
WILLIAM W. METTERHOUSE
DIRECTOR, DIVISION OF PLANT INDUSTRY
NEW JERSEY DEPARTMENT OF AGRICULTURE

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, THANK YOU FOR THE OPPORTUNITY TO COME BEFORE YOU TODAY TO MORE SPECIFICALLY OUTLINE THE DEPARTMENT OF AGRICULTURE'S OPPOSITION TO THE BILL IN QUESTION.

JUST AS THE SECRETARY OF AGRICULTURE EXPLAINED HOW THE BILL WOULD HURT THE AGRICULTURE INDUSTRY, SO WOULD IT SEVERELY HAMPER OUR DEPARTMENT'S ABILITY TO MEET ITS REGULAROTY RESPONSIBILITIES TO THE AGRICULTURAL INDUSTRY AND GENERAL PUBLIC. BY INFRINGING ON OUR DUTIES AND OUR AUTHORITY AS A REGULATORY AGENCY, THIS BILL COULD ENDANGER CROPS, FOOD SUPPLIES, NURSERY STOCK, HORTICULTURAL PRODUCTS, AND THE HEALTH AND SAFETY OF THE ENVIRONMENT AND GENERAL PUBLIC BY BLOCKING OUR ABILITY TO QUARANTINE, ERADICATE AND CONTROL POTENTIALLY DAMAGING PESTS AND PLANT DISEASES QUICKLY AND THOROUGHLY.

BECAUSE IT IS SURROUNDED BY LARGE PROTS OF ENTRY AND TRAVERSED BY THOUSANDS OF VEHICLES CARRYING ANIMAL AND VEGETABLE PRODUCTS AND PLANT MATERIALS, NEW JERSEY IS VULNERABLE TO SERIOUS PEST INFESTATIONS.

THE DIVISION OF PLANT INDUSTRY IS CHARGED WITH MAKING SURE THESE SHIPMENTS ARE FREE OF PESTS AND EXOTIC INSECTS AND DISEASE. IF DAMAGING PESTS ARE DETECTED, THE DEPARTMENT MUST HAVE THE AUTHORITY TO PROCEED WITH ERADICATION MEASURES TO SAFEGUARD THE AGRICULTURAL INDUSTRY AND THE WELFARE OF THE GENERAL PUBLIC.

ALLOW ME TO CITE AN EXAMPLE: IN 1982, THE KHAPRA BEETLE WAS FOUND IN A SHIPMENT OF CONDIMENTS IN A JERSEY CITY WAREHOUSE. THE PRODUCTS HAD BEEN IMPORTED FROM INDIA. THIS IS A DANGEROUS PEST TO STORED GRAIN AND CAN, IF LEFT UNCONTROLLED, DECIMATE THE NATION'S ENTIRE GRAIN SUPPLY. WHENEVER THIS PEST IS FOUND IT MUST BE ERADICATED WITHOUT DELAY. TWO YEARS AGO, THIS DEPARTMENT WORKED WITH THE U.S. DEPARTMENT OF AGRICULTURE ON THE ERADICATION EFFORT AND THE PROCEDURE WAS A SUCCESS. BUT, THAT WOULD NOT HAVE BEEN POSSIBLE IF THIS BILL HAD BEEN IN EFFECT. UNDER 1342, WE WOULD NOT HAVE BEEN ABLE TO TREAT THE BUILDING WHERE THE BEETLE WAS DETECTED IF THERE WAS EVEN ONE INDIVIDUAL WHO OPPOSED THE PROCEDURE. THE BEETLE WOULD HAVE MULTIPLIED, DEVOURING THE WAREHOUSE SHIPMENT AND ENDANGERING GRAIN STORES THROUGHOUT THE COUNTRY. OUR CURRENT STATUTES ALLOW FOR US TO ACT FOR THE GOOD OF ALL THE PEOPLE -- AND THIS DEPARTMENT FEELS IT SHOULD REMAIN THAT WAY.

ALSO, THE BILL FORBIDS THE APPLICATION OF BROAD SPECTRUM PESTICIDES ON NON-AGRICULTURAL LANDS -- AGAIN, IMPRACTICAL AND SEVERELY LIMITING OUR DEPARTMENT'S ABILITY TO CARRY OUT ITS FUNCTION TO PROTECT NEW JERSEY FROM DAMAGING INSECTS. A BROAD SPECTRUM PESTICIDE MUST SOMETIMES BE APPLIED TO CONTROL BEETLES AND OTHER PESTS THAT MAY NOT LIMIT THEIR DESTRUCTION TO AGRICULTURAL LANDS. THE KHAPRA BEETLE IS ONE EXAMPLE OF MANY EXOTIC PESTS THAT DAMAGE FOOD SUPPLIES AND CROPS.

1342 FURTHER STYMIES THE DEPARTMENT OF AGRICULTURE BY PLACING RESPONSIBILITY FOR IDENTIFYING INSECT PROBLEMS AND INFESTATIONS WITH THE DEPARTMENT OF ENVIRONMENTAL PROTECTION. WITH ALL DUE RESPECT TO THE PROFESSIONALS AT DEP, STAFF AT THE DEPARTMENT OF AGRICULTURE POSSESS THE TECHNICAL SKILL AND QUALIFICATIONS NEEDED TO IDENTIFY PESTS AND TO DETERMINE WHETHER THEY POSE A THREAT. WE EMPLOY A STAFF OF TRAINED ENTOMOLOGISTS AT THE DEPARTMENT AND, QUITE SIMPLY, THE DEP DOES NOT.

WHILE I HAVE BEEN OUTLINING SPECIFIC OBJECTIONS TO THE BILL, I THINK IT IS IMPORTANT TO ADDRESS ITS OVERALL TONE AS IT AFFECTS THE DEPARTMENT OF AGRICULTURE. THROUGHOUT, IT IMPLIES THAT THE DEPARTMENT AND OTHER STATE AGENCIES SHOULD BE STUDYING ALTERNATIVES TO THE USES OF PESTICIDES TO CONTROL FARM PESTS. IN TRUTH, THE DEPARTMENT HAS BEEN A LEADER IN THE FIELD OF BIOLOGICAL INSECT CONTROL FOR MANY YEARS, AND IT WILL BE EXPANDING ITS PROGRAM WITH THE COMPLETION OF A NEW BENEFICIAL INSECT REARING LABORATORY THIS FALL.

THIS NEW FACILITY WILL PERMIT US TO PROPOGATE MILLIONS OF PRARSITIC INSECTS TO FEED ON SOME OF NEW JERSEY'S MOST DESTRUCTIVE FARM PESTS. BY COMBINING THESE BIOLOGICAL CONTROLS WITH THE JUDICIOUS USE OF PESTICIDES WE CAN ALLEVIATE THE PROBLEM OF INSECT RESISTANCE TO PESTICIDES AND REDUCE THE AMOUNT OF PESTICIDES THAT FARMERS APPLY.

WE CANNOT RELY SOLELY ON BIOLOGICAL CONTROLS FOR EFFECTIVE PEST CONTROL, BUT THE RESULTS OF OUR PROGRAM SHOW THAT WE CAN GREATLY CUT DOWN ON THE NUMBER OF APPLICATIONS. OUR ALFALFA WEEVIL PROGRAM, FOR EXAMPLE, HAS REDUCED THE SPRAYING OF PESTICIDE FROM 96 TO SIX PERCENT, SAVING FARMERS \$800,000 EACH YEAR.

MEXICAN BEAN BEETLE PARASITES HAVE SAVED MORE THAN \$700,000 IN PESTICIDE COSTS. OVERALL, OUR BIOLOGICAL INSECT REARING PROGRAM SAVES \$5.4 MILLION EACH YEAR IN PESTICIDES. THIS IS IMPORTANT TO FARMERS, OF COURSE, WHO PREFER TO SPRAY AS LITTLE AS POSSIBLE FOR ECONOMIC AND ENVIRONMENTAL REASONS, BUT IT BENEFITS THE GENERAL PUBLIC.

IN CLOSING, IT WOULD LIKE TO REITERATE THAT AS A CORRIDOR STATE, NEW JERSEY IS EXTREMELY VULNERABLE TO INFESTATIONS OF EXOTIC INSECTS AND STRESS THAT PASSAGE OF THIS BILL WOULD SEVERELY LIMIT THE DEPARTMENT'S ABILITY TO CONTROL SUCH INFESTATIONS.

OUR EFFORTS TO ERADICATE PESTS IN EMERGENCY SITUATIONS, AND OUR ONGOING COMMITMENT TO BIOLOGICAL PEST REARING IS EVIDENCE OF OUR DEPARTMENT'S SUCCESS IN MEETING THE PROBLEMS OF PEST CONTROL EFFECTIVELY AND RESPONSIBLY UNDER EXISTING REGULATIONS.

THANK YOU.

STATEMENT FOR PUBLIC HEARING ON
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, NO. 1342

Prepared by
Richard E. Sameth
Vice President
Western Termite & Pest Control

Senator Dalton and members of the Senate Energy and Environment Committee, my name is Richard E. Sameth, residing at 954 Barnegat Lane, Mantoloking, New Jersey. I am a third generation pest control operator and the immediate past chairman of the Pesticide Control Council. It is my recommendation that this revised Bill should not be moved from your committee, because it is unnecessary, duplicative and onerous.

Specifically, I have problems with the following sections:

Section 3 (a) -

Requires Department of Environmental Protection (DEP) to evaluate the effectiveness and safety of 6,700 products currently registered for use in New Jersey, which is already being done by the United States Environmental Protection Agency (EPA) at a cost of \$16 million. In addition, Section 3 (e) (2) requires DEP to refuse to register a pesticide if it "has a reasonably effective and practical alternative demonstrably less harmful to the environment," which would be unenforceable since many pests are listed on a typical pesticide label.

Section 4 -

Requires that all commercial pesticide applicators be certified. About a year ago DEP revised its entire pesticide regulations (N.J.A.C. 7:30), which introduced a new level of certification - the commercial operator. To date, the commercial operator certification is working well and, consequently, extending complete certification to all applicators is unnecessary.

Section 7 (a), (b), (c), (d), (e), (f), (g), (h), (i) -

Goes into considerable detail regarding notification. I believe that such detail would be better covered under regulations than legislation.

Section 7 (f) (1) -

Covers notification for indoor pest control applications to private residences. A minimum of 24 hours notification is required unless "in the event of an emergency, occupants may waive the deadline requirement." What is an emergency? Who decides whether it is an emergency?

Section 7 (f) (1) (Continued) -

Is a hornet's nest outside the front door an emergency? Stinging insects can present a life threatening situation to a family with children or parents hypersensitive to stings.

A family returns from vacation to find their home overrun with fleas and are being bitten so badly that they cannot go into the home. Is that an emergency?

A home is overrun with rats, which have just bitten a young child. Is that an emergency?

Most residential pest control business comes in over the telephone. Some of the work is assigned without seeing the problem and is based on the customer's diagnosis. The service technician goes out and finds a different pest problem requiring a different pesticide. In order to get the 24-hour notification requirement, the service technician would be unable to treat at that time.

Section 7 (f) (2) -

Covers notification for rental units. Typically the public areas of apartment buildings - e.g. hallways, laundry rooms, garbage storage areas - are treated once a month. When the service technician is there to treat the public areas, he picks up a list of apartments from the superintendent to be treated. Under the 24-hour notification requirement, the service technician would be required to make a separate trip. What has been gained? The tenant has already requested the service from the superintendent.

Many smaller apartments have absentee landlords where 24-hour notification is not practical.

The comments on emergency residential treatments also apply to rental units.

Section 7 (f) (4) -

Covers notification for commercial and other public buildings. First, almost every hotel, restaurant, airport, hospital, nursing home, office building, etc. has at least monthly pest control service. What is there to be gained by posting such a notice as "Warning! Pesticides Recently Applied." If there were a potential health hazard to the public, EPA would not have registered the product for that use. In EPA's exposure calculations a safety factor of at least 100 is

Section 7 (f) (4) (Continued) -

built into every dosage recommendation. The only thing accomplished by such a warning could be to create unjustifiable anxiety in the minds of the public. This unjustifiable anxiety would result in unwarranted pesticide exposure lawsuits. A 95-year-old patient in a nursing home passes away. The family reads the warning and decides to institute a pesticide exposure suit.

Section 7 (g) -

Posting a sign every 75 feet of frontage would be required of structural pest control operators every time they treat for fleas, millipedes, ground beetles, spiders, crickets, ants, etc. Even though the service technician may only be doing a perimeter treatment, which is normally limited to ten (10) feet out from the house. Who is responsible for keeping the signs posted? Most home owners are not going to leave the sign standing, and those that do, the neighborhood children will take care of.

Section 7 (i) -

Requires "any person who performs his own pest control application shall be responsible for satisfying the relevant notification requirements . . ." The private home owner who sprays his roses using a one-gallon sprayer or who applies a pre-emergent herbicide for crab grass with a cyclone spreader or who uses a watering can to treat dandelions in the lawn would be required to notify "by mail or hand delivery adjacent property owners" due to the definition in the case of other ground equipment [Section 7 (b) (2)]. The Bureau of Pesticide Control would be inundated with frivolous calls from antagonistic neighbors.

Section 8 (a) -

Requires the Commissioner to establish a mechanism for the reporting of pesticide accidents or incidents to DEP and the Department of Health, which is an excellent idea and could readily be incorporated in new regulations, which the Bureau of Pesticide Control is currently developing.

Section 8 (b) -

Covers the establishment by the Department of Health "a program of medical education to alert physicians and other health care professionals to the symptoms, diagnosis, treatment, and reporting of cases of acute pesticide poisoning. . . ." This is another excellent suggestion, which should be incorporated in the new regulations.

Section 9 (a) -

Requires DEP to carry out an environmental monitoring program. When I was Chairman of the Pesticide Control Council, I can vividly remember when it cost the Department \$500,000 to track one pesticide in the ground water. This requirement should be considered along with other toxic monitoring activities. The cost of an extensive environmental monitoring program is enormous. This bill does not provide for an immediate or substantial appropriation. Fees from the Bureau of Pesticide Control and certification activities could not possibly fund such activity.

Section 10 -

Restructures the Pesticide Control Council. As former Chairman of the Pesticide Control Council under three Governors, I want to make the following observations:

- a. Expanding the Council from 9 to 15 members would make it unwieldy
- b. The future thrust of the Council's responsibilities lies in the area of impact of pesticides on man and the environment. Consequently, the Council should be composed of more people with technical backgrounds. The Council has had the benefits of such noted people as Dr. Ralph Fogelman, President of C.A.S.T., Dr. John Boyd, pesticide metabolite chemist from American Cyanamid and, currently, Dr. Michael Gallo, Pesticide Toxicologist from the University of Medicine and Dentistry in New Jersey. Without these resource people we would not have been able to deal with some very complex issues, e.g. aldicarb, amitrole, sevin.
- c. As an applicator of pesticides, I was able to bring to the Council practical field-related experiences and feel that one should definitely be represented on the Council. Because of the number of types of applicators, e.g. aerial, community-wide, turf and ornamental, tree, and pest control, I suggest that this position be established on a rotational two-year term basis.

Section 11 (g), (h), (j), (k) and Section 12 -

Paragraphs g, h, and j would require that the Pesticide Control Council be assigned greater technical and support staff than it has received in the past. For many years the Council has relied on the Bureau of Pesticide Control for this support, but you are now requiring something far beyond their present capabilities, and would require significant additional funding. In my opinion, you are asking for support in excess of \$100,000 per year. Please remember that the Council is composed of members who serve without compensation, and there is a practical limit to their abilities to do additional research, analyze, and prepare reports.

Section 13 (k) -

States that the fees charged by the Department shall reflect the actual or projected expense. The cost of continuous evaluation of the safety and effectiveness of pesticides and monitoring costs as described previously would result in unrealistic registration fees to the farmers, commercial applicators, dealers, distributors and manufacturers of pesticides. If the public is to be benefited by these additional services, then they should bear the burden through the General Treasury.

Section 14 (b) -

If farm workers are to be included under similar provisions to the Worker and Community Right To Know Act, then it would seem logical to amend this Act. Then the pesticide fact sheet would be the responsibility of the Department of Health as it is for other workers.

Section 18 -

Is ambiguous as to whether a person or property must be exposed to a pesticide before being able to bring a civil action in law or equity.

Senator Dalton and members of the Energy and Environment Committee, for the above reasons, I respectfully request that this revised Bill should not be moved from Committee.

Thank you for providing the opportunity to give input into this pesticide legislation.



NEW JERSEY STATE
CHAMBER OF COMMERCE
GOVERNMENTAL RELATIONS OFFICE
240 WEST STATE ST. - SUITE 1518
TRENTON, N.J. 08608 • (609) 989-7888

Statement of the
New Jersey State Chamber of Commerce
Before the
Senate Energy and Environment Committee
At the public hearing
Monday, September 24, 1984
on the proposed
Senate Committee Substitute for S-1342
Presented by
Linda S. Pelrine, Legislative Analyst
New Jersey State Chamber of Commerce

Mr. Chairman, members of the committee, my name is Linda Pelrine, and I represent the New Jersey State Chamber of Commerce. Thank you for the opportunity to speak with you today on this very important issue.

The State Chamber has always been a representative of the interests of the business community as well as being concerned with the economic and environmental issues which affect this State. We oppose this piece of legislation, because we find that it duplicates the provisions of existing New Jersey Pesticide Regulations, and significant areas of the current standards set forth by the United States Environmental Protection Agency.

New Jersey's newly revised regulations are the result of over 1 1/2 years of exhaustive study by the Department of Environmental Protection to help reduce the potential hazards of pesticides to the public. The DEP, in fact, has a continual process for reviewing and updating these regulations.

The Federal registration process provides for a comprehensive assessment of environmental effects of a pesticide. It takes a company about 7 years and 40 million dollars of research and development to get a new product on the market. The question is, does the legislature want the State of New Jersey to duplicate the EPA's already adequate

screening program?

A specific section of the bill refers to the adoption of regulations with respect to pesticides which "cause or may tend to cause adverse effects on man or the environment." "Adverse Effect" is defined in the bill as any known or potential threat to the environment. The language of the federal law on the other hand, stresses "unreasonable" adverse effects. This important distinction recognizes that pesticides have benefits as well as risks. New Jersey's bill will increase the amount of product registrations which will be denied, because the definition includes "potential" adverse effects, and there is no clarification as to the scope of use or the dosage. Therefore, useful chemicals may be arbitrarily taken off the market even though they have been fully reviewed and approved by the EPA.

The State Chamber of Commerce feels that it is of utmost importance to emphasize the benefits of the proper use and control of pesticides. In every aspect of our daily lives, proper chemical usage helps us to maintain the quality of our environment. The bill would restrict the efforts of pest-control in our homes, in schools, restaurants, hospitals, apartments, hotels and motels and parks. The ability to protect against such pests as termites, lice, roaches and especially rats in urban areas, would be threatened. Because of this, our state could face some very serious health problems.

Another very controversial aspect of S-1342 is the "Pre-notification" provision which, in our opinion, would be an excessive and unreasonable requirement. This provision could be interpreted to prevent anyone from applying pesticides unless notice is given to surrounding residents. A tenant in an apartment building, for example, could not use chemicals such as disinfectants, cleansers or roach spray without first notifying every person in the building. Other burdensome requirements include advising all of these people of the complete chemical formulas and lists of precautions on the labels of pesticides to be used.

I would also like to point out the tremendous economic impact this bill would have on our State. S-1342 would make it virtually impossible to provide mosquito control in New Jersey. The coastal regions, in particular, would suffer a decline in tourism, hotel,

restaurant and casino industries, and consequently a decline in retail trades and building industries.

Because of the potential inability to spray crops effectively, agricultural costs would skyrocket and food production would decrease significantly. During a seminar this past July held at the Rutgers Research and Development Center, local farmers expressed strong opposition to this type of punitive pesticide control. An important point emphasized by one farmer is that insects keep changing genetically, so that the chemicals have to keep changing; if not, then spraying would only be as effective as using water on the insects.

The State Chamber feels that the essential problem to be addressed in this issue is not in the use, but in the misuse of pesticides. Since our existing federal and state regulations already provide adequate protection from the negative effects of pesticides, the passage of this bill, we feel, is not only unnecessary but counter-productive to the State's economic well-being.



Consultants and Advisors to the Urban and Industrial Pest Control Industry

My name is Dr. C. Douglass Mampe. I am speaking on behalf of the New Jersey Pest Control Association. I have all of my degrees in entomology - the study of insects and their control. I was Technical Director of the National Pest Control Association and have worked in the applicator industry. I have been self employed the past four years as a consultant. In my business I make pest control recommendations, evaluate new products and application techniques, have developed decontamination procedures, and act as an expert witness for both the general public and the industry. I am also listed as a resource person for the U.S. House of Representatives Committee on Agriculture.

NJPCA supports the basic theme of Proposed Senate Committee Substitute for Senate Bill Number 1342 - that is, controlling pests without risk. Industry has no desire to injure employees, the public, or the environment. If employees were sick or dying of pesticides, they couldn't work. If customers were sick or dying of pesticides they wouldn't pay their bills nor would we have any repeat business from them. And both employees and the public can bring suit against us if they believe they were injured by pesticides. So we have not only a moral responsibility to provide pest control without undue risk - we have some very real economic reasons for doing so!

Although we support the theme of the bill, we think more thought needs to be given to "risk-benefit" and "cost-benefit". Today's technology cannot give us "no-risk" in most pest control situations. In other cases a "no-risk" procedure isn't effective enough, fast enough, or the significantly higher cost is more than the public is willing to bear. More specifically, some of our concerns about this bill relate to the following sections:

1. "Adverse effect" as defined in paragraph "f" on page one includes the words "potential threat". All pesticides have potential threat with death being the most serious consequence. This needs to be kept in mind when interpreting paragraph "f(1)" on pages 2 and 4. The key words in this paragraph are ". . . when used in accordance with generally accepted pesticide application procedures". As long as this key phrase is implemented we do not perceive problems. If this phrase is ignored, then virtually all pesticides will be banned, much to the delight of the pests. Our record shows that even pesticides having "potential threat" can be used safely when applied according to label directions.

2. "Broad spectrum" is defined on the top of page 2. The definition is accurate, but the concept presents potential problems when one considers paragraph "f(2)" on pages 3 and 4. This paragraph would eliminate broad spectrum pesticides if a "reasonably effective and practical alternate becomes available". The determination of "reasonably effective and practical" is difficult.

Consider the following cases:

a. It costs a manufacturer approximately \$28 million to develop and market a new pesticide. If the manufacturer felt that an alternate might be developed in the near future and that his product would then be automatically banned, would he invest in the development of a new product? Probably not and our arsenal of pest control materials would dwindle rapidly.

b. We have some alternates such as BTI for gypsy moth. Should we then refuse to register products such as Sevin? Ask the people in other Northeastern states who have had to spray their forests and urban trees when BTI failed. Biological materials such as BTI and milky spore disease for Japanese beetles work well under some conditions. But the weather must be favorable and the pest populations high for maximum effectiveness. Diseases, predators, and parasites do not eliminate their targets - for they would then eliminate themselves. Without pesticides to supplement biologicals, much damage from pests can and does occur. To refuse to register a product just because an alternate is available is a disservice to the public.

c. We have an experimental cockroach growth regulator which should be on the market in 1985. We already have a sterilant for rats which shows no harm to man at this point. Both could be considered alternates to broad spectrum pesticides. But sterile rats can live for a year and cockroach populations do not decrease significantly for six months following the application of this new experimental material. Ask the business man if he will wait six months to reopen after the health department has closed his business because of roaches. Or would anyone of you wait for six months to have your house rid of roaches if they suddenly appeared? Or could we wait a year for rats to die of old age in New Jersey if bubonic plague suddenly broke out in our urban areas?

d. Recently homeowners have been given a choice between two pesticides for a particular pest problem. One causes cancerous tumors in mice (but has not been demonstrated to do so in man). The other does not, but it doesn't work as long and costs much more. When advised of these facts, most homeowners choose the least expensive material. They did not think the reduced risk (if there really is any) justified the higher cost of the alternate material. When there are no documented hazards to man when a product is applied properly, should not the public have a choice, or should we make them pay the price just because some of us want no risk at any cost?

e. There are pesticides we have used for more than 30 years and we are just beginning to learn how they might relate to the health of man. New chemicals, no matter what their make-up or the amount of testing done, might be shown to be just as safe today but 30 years from now they might be found to impair man's health. Should we automatically discard known entities just because an alternate becomes available, an alternate which might have just as great a "potential threat" after we

research it and use it for another 30 years?

3. On page 14, paragraph "f(1)". the bill requires that homeowners be given a "list of label precautions and known health effects not indicated on the label". Some homeowners already request this type information and the industry provides it. Others could care less. We have no problem with providing label precautions and warning statements when requested.

We do have a problem with ". . . and known health effects . . .": I hold here two books written by Dr. Wayland Hayes. These are two of the most comprehensive books of their type available today. To comply with this requirement, using malathion as an example, we would hand the homeowner six pages of fine print on malathion and another 20 pages on organophosphates in general. And these pages would include terms such as: cyanosis, cardiac involvement, anoxic brain damage, disassociation of coma, flaccidity, cholinesterase inhibition, potentiation, ataxia, altered blood proteins, fatty degeneration of the liver, necrosis in the gastrointestinal tract, and microscopic lesions of the nervous system. I'm a scientist, but because I'm not a physician even I don't understand many of these terms. So I ask, "Does this help the average public? Is the public willing to pay the cost of such information - because someone has to research this area constantly and then reproduce it? And how do I as an applicator keep up to date on all of this information so that I can pass it along? And what about the pesticides which have had a book written about them and these books cost \$50 each - do I give one to each customer?"

We feel that the customer has a right to know everything he wants and we are prepared to present a copy of the label upon request. If he desires more information, we can refer him to the appropriate medical authorities. This will serve the public without unnecessary cost.

4. And finally page 25 presents a new section - section 18 which proposes to give the public the right to institute legal action without ". . . proving that he has suffered or will suffer personal loss or damage". The public is already doing this. They already have the right. This is an unnecessary section and will only encourage frivolous suits. We suggest this section be deleted.

C. P. Mampa

TO: MEMBERS OF THE SENATE ENERGY AND ENVIRONMENT COMMITTEE
FROM: JOSEPH C. SHOEMAKER, JR, CUMBERLAND COUNTY FARMER AND AGRI-BUSINESSMAN
DATE: SEPTEMBER 24, 1984
SUBJECT: PUBLIC HEARING ON S-1342 ON SEPTEMBER 24, 1984

MY NAME IS JOE SHOEMAKER AND I REPRESENT THE THIRD GENERATION OF MY FAMILY INVOLVED IN AGRICULTURE IN SOUTH JERSEY AND, IF REASON PREVAILS HERE TODAY, MY TWO CHILDREN MAY BE FREE TO ALSO CHOOSE AGRICULTURE CAREERS IN SOUTH JERSEY. I DIFFERENTIATE BETWEEN NORTH AND SOUTH JERSEY BECAUSE WE DO LIVE IN 2 DIFFERENT WORLDS. WE ARE CONSTANTLY REMINDED BY THE NORTHERN MAJORITY THAT WE IN THE SOUTH EXIST AS A READY SOURCE OF TAX DOLLARS TO BE DUMPED ON PROJECTS IN THE NORTH WHILE THE NORTH PROVIDES A READY SOURCE OF REFUSE TO BE DUMPED ON PROJECTS IN THE SOUTH.

BUT LET ME INTRODUCE YOU TO THE NEW JERSEY FAMILY FARM. 1982 STATISTICS SHOW TOTAL CROP ACREAGE IN NEW JERSEY TO BE 576,650 WITH A TOTAL PRODUCTION VALUE OF OVER \$400 MILLION AND A HIRED FARM LABOR PAYROLL OF \$100 MILLION. BESIDES FARMING 160 ACRES MYSELF I ALSO OWN AND OPERATE A CUSTOM APPLICATION BUSINESS APPLYING AGRICULTURAL MATERIALS BOTH BY AIR AND GROUND ON APPROXIMATELY 30,000 FARM ACRES A YEAR. IN OUR 8 YEARS OF CUSTOM FARM SERVICE, I HAVE GOTTEN TO KNOW THE UNIQUE CHARACTER WHO IS OUR SOUTH JERSEY FAMILY FARMER

NUMBER ONE, HE AND HIS FAMILY ARE WORKAHOLICS, HARD AT THEIR LABORS FROM WELL BEFORE DAWN TO WELL AFTER DARK 7 DAYS A WEEK. NO - NOT QUITE SEVEN DAYS - SINCE FOR THE MOST PART, THEY ARE FIRM IN THEIR RELIGIOUS BELIEFS AND TAKE TIME, WHEN THERE ISN'T ANY, TO GIVE THANKS TO THEIR CREATOR FOR THE BLESSINGS OF THE SUN, THE RAIN AND THE LAND THEY ARE PRIVILEGED TO WORK. THEY ARE TRUE ENVIRONMENTALISTS AND HAVE BEEN SO, LONG BEFORE IT BECAME SUCH A POPULAR AND FASHIONABLE MOVEMENT. TODAY'S FARMER IS AN ENTOMOLOGIST - HE MUST BE ABLE TO RECOGNIZE THE LIFE CYCLES OF THE INSECTS ON HIS FARM SO HE CAN PROTECT THE BENEFICIALS AND ATTACK THE PESTS AS NEEDED. HE IS A PLANT PATHOLOGIST - HE MUST BE ABLE TO RECOGNIZE THE DISEASES PARTICULAR TO HIS CROPS AND KNOW THEIR REPRODUCTIVE CYCLES SO HE CAN APPLY CONTROL MEASURES WHEN THEY ARE NEEDED. HE IS AN AGRONOMIST - HE MUST KNOW HOW AND WHEN TO TILL THE LAND TO PRESERVE THE SOIL FROM EROSION: WHEN AND WHAT TO PLANT: HOW DEEP AND HOW WIDE AND WHAT POPULATION DENSITY TO PLANT: HOW AND WHEN TO FERTILIZE AND LIME AND WHAT ANALYSIS TO USE INCLUDING TRACE ELEMENTS: HOW, WHEN AND WHAT WEED CONTROL METHODS TO USE: HOW AND WHEN TO CULTIVATE AND IRRIGATE: WHAT IS THE BEST TOOL

FOR EACH JOB. HE MAKES THESE DECISIONS DAILEY, ALL DIFFERENT, FOR A VARIETY OF CROPS FROM APPLES TO ZUCHINI, AND ANY ONE DECISION COULD MEAN THE LIFE OR DEATH OF THE CROP. HE IS AN ENGINEER AND INVENTOR - GROWING SUCH A VARIETY OF CROPS THAT THE PROPER TOOL TO DO THE JOB IS OFTEN NOT AVAILABLE FROM THE MAJOR MANUFACTURES SO HE OFTEN DESIGNS AND BUILDS HIS OWN. HE IS A MARKETING EXPERT AND FINANCIER - HE MUST KNOW WHEN AND WHERE TO SELL TO GET THE BEST PRICE AND HOW TO LOCK IN AN ACCEPTABLE PRICE THROUGH HEDGING, FORWARD PRICING AND OTHER CONTRACTS. AND IF THE RECENT ATTACKS ON HIS PEACEFUL AGRARIAN EXISTANCE FROM THE BUREAUCRATIC MONSTERS ON THE STATE AND FEDERAL LEVELS DON'T CEASE, HE'LL HAVE TO LEARN TO BE A LAWYER.

IN 1980 THE PEOPLE OF THIS COUNTRY MADE AN IMPORTANT STATEMENT WHEN THEY ELECTED RONALD REAGAN PRESIDENT. WE SAID WE WANTED LESS GOVERNMENT INTERFERENCE IN OUR LIVES AND RELIEF FROM THE BUREAUCRATIC MONSTER THAT IS STRANGLING US. IT WAS A CLEAR MANDATE TO DO AWAY WITH BAD LEGISLATION AND STREAMLINE THE SYSTEM.

THE N.J. PESTICIDE CONTROL CODE (N.J. ADMINISTRATIVE CODE TITLE 7 CHAPTER 30) WAS EXTENSIVELY REVISED IN 1982 AND IS CURRENTLY IN THE PROCESS OF FURTHER REVISION. IT HAS SECTIONS WHICH CORRESPOND TO AND ADDRESS THE PROBLEMS COVERED IN EVERY SECTION OF THE PROPOSED BILL. USE THE CODE! REVISE IT AS NEEDED AND ENFORCE IT! WE SHOULD NOT AND INDEED CANNOT TOLERATE THE ABUSE OF PESTICIDES ANY MORE THAN WE CAN TOLERATE THE ABUSE OF LEGISLATIVE POWERS FOR PERSONAL GAIN AT THE EXPENSE OF THE PUBLIC.

THIS BILL AS INITIALLY DRAFTED SHOWED A REMARKABLE IGNORANCE OF THE VERY INDUSTRY IT IS SEEKING TO REGULATE! IT WOULD COMPLETELY WIPE OUT THE EFFORTS MADE OVER THE LAST FEW YEARS BY RUTGERS AND OTHER RESEARCH EFFORTS TO LIMIT PESTICIDE USE. MR. LESNIAK AND THE DRAFTERS OF THIS BILL HAD NEVER HEARD OF I.P.M!

INTEGRATED PEST MANAGEMENT IS A PROGRAM WHEREBY WE USE VARIETIES OF A PARTICULAR VEGETABLE WHICH HAVE BEEN BRED TO BE RESISTANT TO DISEASE AND INSECT PESTS COMMON TO THAT CROP. WE ALSO USE CULTURAL PRACTICES SUCH AS CROP ROTATION AND CULTIVATION TO MINIMIZE PEST PRESSURES. BIOLOGICAL CONTROLS SUCH AS INTRODUCING PARASITIC WASPS, VIRUSES AND STERILANTS ARE USED TO BREAK THE LIFE CYCLE OF PESTS. THE KEY TO I.P.M. IS AN INTENSIVE SCOUTING PROGRAM WHERE THE FIELDS ARE CLOSELY MONITORED. EGG MASSES AND LARVAE ARE COUNTED AND THEIR STAGE OF DEVELOPMENT NOTED. MOTH TRAPS ARE CHECKED AND THE FIELDS ARE MONITORED FOR DISEASE PRESSURES. AS A LAST RESORT WHEN THE ECONOMIC THRESHHOLD IS REACHED AND ALL ELSE HAS FAILED, WE MUST SPRAY. IN MOST CASES WE DON'T SPRAY UNTIL THE LAST MINUTE IN

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HOPES THAT WE CAN SAVE THAT GREAT EXPENSE OFTEN AS HIGH AS \$50 PER ACRE. BUT WHEN WE DO SPRAY IT IS ALMOST ALWAYS URGENT AND THE CROP COULD BE RUINED IN THE TIME IT TAKES TO NOTIFY THE NEIGHBORS. IN THIS NEW PROPOSAL, I.P.M. IS MENTIONED FREQUENTLY BUT MR. LESNIAK STILL SHOWS HE IS IGNORANT OF ITS WORKINGS.

WHILE GIVING LIP SERVICE TO I.P.M., HE IS EFFECTIVELY DENYING THE USE OF THE VERY TOOL THAT MAKE I.P.M. POSSIBLE - THE AGRICULTURAL AIRCRAFT. SINCE WE ARE WAITING TILL THE ABSOLUTE LAST MINUTE TO SPRAY IN HOPES OF AVOIDING IT ALTOGETHER WE OFTEN DON'T HAVE TIME TO COVER THE THREATENED ACRES BY GROUND SPRAYING. THE AIRCRAFT AT OFTEN A FEW MINUTES NOTICE CAN SWOOP DOWN OVER THOSE FIELDS AT 100 MPH AND GET THE JOB DONE WITH ITS MORE EFFECTIVE SPRAY DISTRIBUTION GIVING THOROUGH COVERAGE TO EVEN THE UNDERSIDE OF THE LEAVES WHICH IS NECESSARY TO CONTROL MANY PESTS SUCH AS APHIDS AND MOST DISEASES. AN AIRCRAFT AT 100 MPH USING A 40' SWATH WIDTH CAN SPRAY A 30 ACRES FIELD IN 15 MINUTES WHILE THE LOW PRESSURE ROOM SPRAYER WHICH AVERAGES 6 MPH WITH A 20' - 30' SWATH WILL TAKE OVER 5 HOURS TO SPRAY THE SAME FIELD. COMMON SENSE WOULD SHOW THAT THE ENVIRONMENT IN AND AROUND THAT FIELD AND CERTAINLY THE APPLICATOR WOULD BE SUBJECTED TO THAT PESTICIDE FOR 5 HOURS WHILE THE EXPOSURE TO THE ENVIRONMENT WITH THE AERIAL APPLICATION IS ONLY 15 MINUTES AND THE APPLICATORS EXPOSURE IS MINIMAL SINCE HE IS LEAVING THE SPRAY BELOW AND BEHIND HIM AT THE RATE OF 100 MPH. IT IS ALSO A FACT THAT OPTIMUM CONDITIONS FOR SPRAYING EXIST FOR A VERY SHORT TIME ON ANY GIVEN DAY AND IT IS MORE PROBABLE THAT GROUND APPLICATORS WOULD BE FORCED TO SPRAY UNDER LESS THAN OPTIMUM CONDITIONS. UNDER EXTREMELY WET FIELD CONDITIONS, HE MIGHT NOT BE ABLE TO SPRAY AT ALL. I HAVE USED A 30 ACRE FIGURE IN THIS EXAMPLE BUT FOR THE MOST PART IF OUR GROWERS HAVE A PEST EMERGENCY THEY WOULD NEED SEVERAL TIMES THAT ACREAGE SPRAYED AND, IF REQUIRED TO DO IT BY GROUND, WOULD NEED A FLEET OF SPRAYERS OR LOSE A LARGE PORTION OF THE CROP. IT IS A SIMPLE MATTER OF LOGISTICS! ONCE AGAIN THE GROWER WOULD BE FORCED TO SPRAY ON A FIXED SCHEDULE INCURRING UNNEEDED EXPENSES AND DUMPING EXCESS PESTICIDES IN THE ENVIRONMENT. AND THE LAST ITEM IN THE PROPOSED BILL, A ONE TIME "TOKEN" SWEETNER OF \$75,000 FOR I.P.M. WOULDN'T EVEN COVER THE EXPENSES OF INCREASING THE PROGRAM BY 2 MORE FIELD SCOUTS.

I AM NOT SAYING THERE ISN'T ROOM FOR IMPROVEMENT IN THE USE OF PESTICIDES. BUT A RADICAL FEW AND A MISINFORMED MEDIA ARE TRYING TO CONVINCING THE PUBLIC THAT WE ARE POISONING THE PEOPLE OF THIS STATE IN EPIDEMIC PROPORTIONS.

IT IS IMPORTANT TO NOTE THAT ANYONE WHO LIVES IN AN AGRICULTURAL AREA KNOWS THAT THE FIELDS WILL BE SPRAYED FROM TIME TO TIME. THEY DON'T NEED A LETTER TO TELL THEM THAT. A VERY SMALL NUMBER OF PEOPLE REQUEST TO BE NOTIFIED AND WE HONOR THAT REQUEST. IF A CROWER REFUSES TO GIVE NOTIFICATION OR PESTICIDE INFORMATION REQUESTED, A SIMPLE CALL TO YOUR LOCAL BOARD OF HEALTH AND THE DEP WILL GET QUICK RESULTS. THE BOARD OF HEALTH HAS THE RIGHT NOW OF INSTANT ACCESS TO YOUR HOME, PLACE OF BUSINESS, AND RECORDS. YOU DON'T NEED THE LESNIAK BILL! AND AS FOR GIVING THEM ALL THE KNOWN AND UNKNOWN INFORMATION ON THE MATERIALS TO BE USED, IF THEY READ THE PAPER, WATCH T.V., OR LISTEN TO THE RADIO, THEY KNOW THEY ARE DOOMED!

AS I SEE IT THE KEY TO THE WHOLE PROBLEM IS EDUCATION. SINCE OUR STATE IS BLESSED WITH A SIZABLE SURPLUS OF FUNDS, I SUGGEST THEY BE USED FOR THIS PURPOSE. DON'T GIVE ME A TOKEN REFUND FOR SHORTLY AFTER RECEIVING IT I WON'T KNOW WHERE IT WENT. ALTHOUGH I KNOW YOU WOULD REMIND ME AROUND ELECTION TIME THAT I RECEIVED IT. TAKE SOME OF THOSE FUNDS AND GIVE THEM TO THE DEP AND BOARD OF HEALTH EARMARKED FOR AGRICULTURAL PESTICIDE EDUCATION IN THE SCHOOLS AND LABOR CAMPS. AND BY ALL MEANS EDUCATE THE MEDIA. A DOLLAR SPENT ON EDUCATION WILL COME BACK TO YOU MANY-FOLD IN THE FUTURE. ALSO A LARGE PORTION SHOULD GO TO RUTGERS RESEARCH AND DEVELOPMENT TO PURSUE BETTER ALTERNATIVES TO PESTICIDES AND SAFER USES OF NECESSARY AGRICULTURAL CHEMICALS. ALSO GIVE THE CHEMICAL COMPANIES ENCOURAGEMENT TO CREATE SAFER MORE SPECIFIC PESTICIDES FOR USE WHEN THEY ARE NEEDED. YOU HAVE THE OPPORTUNITY TO CONTRIBUTE SOMETHING LASTING TO THE STATE OF NEW JERSEY. SEIZE IT!

IN CLOSING, I'D LIKE TO INVITE OUR NORTHERN COUSINS TO COME TO CUMBERLAND COUNTY AND VISIT OUR LUSH AND BEAUTIFUL FARMLANDS AND YOUR RUTGERS RESEARCH CENTER. VISIT OUR BEAUTIFUL LAKES, STREAMS AND WOODLANDS FILLED WITH WILDLIFE OF ALL KINDS. AND MAYBE, JUST MAYBE, WE ALL MIGHT BE LUCKY AND YOU MIGHT GET TO WITNESS THE GRACE AND BEAUTY OF AN AERIAL APPLICATOR SWOOPING LOW OVER THE FIELDS SO WE ALL CAN ENJOY A BOUNTIFUL HARVEST AND HAVE FRESH QUALITY PRODUCE TO GRACE OUR TABLES.

COME SEE US. WE HAVE A LOT TO OFFER AND WITH ANY LUCK WE'LL BE ABLE TO OFFER IT FOR A LONG TIME TO COME.

RESPECTFULLY SUBMITTED,
Joseph C. Shoemaker, Jr.
 JOSEPH C. SHOEMAKER, JR.
 RD 1, BOX 444
 BRIDGETON, N. J. 08302

VIEWS ABOUT SENATE BILL S-1342 FROM THE ATLANTIC COUNTY BOARD OF AGRICULTURE,
PRESENTED TO THE N.J. SENATE COMMITTEE ON THE ENVIRONMENT
SEPTEMBER 24, 1984

Ladies and Gentlemen:

The Atlantic County Board of Agriculture represents over 400 farmers and their families. Intensive vegetable and fruit production in Atlantic County is worth over \$50,000,000 annually which is typical of the South Jersey area. Over 80 types of vegetables are grown, some double or triple cropped each season, and four major fruit types are produced in the county. Along with soybeans and some grains, these crops make up the bulk of our agriculture. Judicious use of pesticides and other pest management tools allow our farmers to provide high quality, fresh produce to the entire Eastern seaboard ten months out of the year.

We feel that the proposed bill, S-1342, if passed, would be restrictive and unreasonable for New Jersey Agriculture and other pesticide users. Several points support this opinion.

S-1342 duplicates existing Federal and State legislation which regulates the registration, use and control of pesticides. The Federal Environmental Protection Agency currently requires extensive testing of pesticides for safety and efficacy before proceeding with an elaborate and expensive registration process. Present legislation grants the Commissioner of the State DEP regulatory, investigatory and enforcement powers.

Since it took eighteen months and a large expenditure of the taxpayers money to receive testimony and make revisions in order to adopt the current pesticide code, all less than two years ago, it is a waste to repeat the process for duplicative revisions.

This bill misrepresents the concepts of Integrated Pest Management, or IPM. This is a tool which helps farmers make better management decisions. It does not eliminate the need or use of pesticides. In fact it may predict the need for increased frequency of sprays if the pest populations are extremely high and environmental conditions are favorable for pest development. IPM does, however, increase the farmers efficiency in pest control since it helps him predict the optimum time to apply pest control measures. Unfortunately, this concept is working well for only a few crops at this time.

Biological Control has also been misrepresented in this bill. It is not a cure all, but only an alternative which has been developed for only a few pests.

Requirements for pesticide applicators to be trained and certified also duplicates existing legislation which already requires this of anyone applying pesticides. Potential applicators must take a general safety test and then a specific test on their specialty. Certifications last for five years and can be renewed by retesting or by attending educational meetings through which points are accumulated. The current certification requirements are more than adequate.

The majority of farms in Atlantic County are family owned and operated. It is almost always the farmer or a member of his family who receives the applicator certification and applies the pesticides to the crops. The farmer's concern for his own health and that of his family requires the proper care and handling of pesticides. It is also the farmer and his family who supply the backbone of the planting and harvesting crews, so care must be taken to avoid exposure.

Finally, S-1342 will create a tremendous burden, a cost of both time and money, to carry out its notification requirements. With so many different crops, which require almost as many different pesticides to control a myriad of weeds, diseases, insects and nematodes, adequate time rarely exists to notify neighbors more than 24 hours in advance. Even if only one person requests notification via a certified letter, predicting spray dates and alternative dates is next to impossible. Crops, pests, and weather conditions all are variable and often require last minute changes in management strategies.

It is also impractical to suggest that a 500 foot border could be left in a field. If a 500 foot border were left on a square 25 acre field, less than one acre in the center of that field could be sprayed. With the intensive cropping systems of Atlantic County and South Jersey, few of the fields are 25 acres in size. Many plantings are not even 500 feet wide, so to suggest a border of this size is out of the question.

Therefore, since this bill duplicates much existing legislation, misrepresents many of the concepts it talks about, and is impractical for the farming community to comply with, we urge you to oppose it.

Thank you.

EDWARD WUILLERMIN SR.
Vice President
Atlantic County Board of Agriculture

GOOD MORNING,

MY NAME IS DAVID M. RIZZOTTE JR., I AM PART OWNER AND OPERATOR OF GLOSSY FRUIT FARMS LOCATED IN HAMMONTON, N.J. I AM HERE REPRESENTING THE ATLANTIC COUNTY BOARD OF AGRICULTURE, THE N.J. PEACH PROMOTION COUNCIL AND I AM ALSO, A PRESENT MEMBER OF THE N.J. STATE BOARD OF AGRICULTURE. MY MAIN REASON FOR PRESENTING TESTIMONY, HOWEVER, IS BECAUSE I AM A FARMER, WHO HOPEFULLY HAS MORE COMMON SENSE THAN THE LEGISLATORS WHO DERIVE SUCH BRILLIANT LEGISLATION.

SENATE BILL 1342 IS AN INSULT TO THE AGRICULTURAL COMMUNITY. I STATE THIS FOR MANY REASONS. FIRST, HOWEVER IS THE FACT THAT THERE ALREADY IS IN EXISTENCE, IN THIS STATE, A PESTICIDE CODE WHICH ADDRESSES MANY OF THE AREA'S WHICH BILL 1342 BRINGS UP. THEREFORE, LEGISLATION SUCH AS THIS IS DUPLICATIVE AND ONLY AN ADDED COST TO THE TAXPAYERS OF THIS STATE. SECONDLY, IF THE BILL'S SPONSOR HAD CONTACTED OUR OWN DEPARTMENT OF ENVIRONMENTAL PROTECTION HE MIGHT HAVE LEARNED THAT OUT OF 400 COMPLAINTS DURING 1983 ONLY 20 OF THESE WERE RELATED TO AGRICULTURE. HE WOULD HAVE, ALSO, FOUND OUT THAT OF THESE 400 COMPLAINTS OVER 200 DEALT WITH PEOPLE ASKING QUESTIONS ABOUT EXTERMINATION CONTROL MEASURES WHICH HAD BEEN DONE IN THEIR HOUSEHOLDS. QUITE POSSIBLY SENATOR LESNIAK'S AMBITIOUS LEGISLATION HAS BEEN MISDIRECTED.

I MUST USE SOME PERSONAL EXAMPLES TO FURTHER COMMENT ON S.1342. GLOSSY FRUIT FARMS DURING THE 1983 SEASON BEING BOTH, A FRUIT AND VEGETABLE OPERATION, WITH A TOTAL OF SIX DIFFERENT CROPS, OPERATED SPRAY RIGS, WHETHER ROW CROP OR ORCHARD SPRAYERS, OVER 180 TIMES APPROXIMATELY. WE SPENT CLOSE TO 50,000 DOLLARS FOR OUR FARM CHEMICALS ALONE AND THIS DOES NOT INCLUDE THE LABOR INVOLVED WITH THESE APPLICATIONS. OUR APPLICATIONS BEGIN AS EARLY AS 5 A.M. AND SOMETIMES ARE NOT COMPLETED TO 7:30 OR 8:00 P.M. WE ARE SPEAKING ABOUT AN ALMOST NON-STOP PROCESS WHICH WOULD MAKE NOTIFICATION IMPOSSIBLE.

I MUST, ALSO, STATE THAT THESE NUMBERS PER SEASON CHANGE VERY LITTLE BOTH THE NUMBER OF APPLICATIONS AND THE DOLLARS SPENT. ONE MUST REALIZE THAT GLOSSY FRUIT FARM HAS BEEN IN THE FRUIT AND VEGETABLE BUSINESS SINCE 1887 AND, ALTHOUGH, NOT AS EXTENSIVE AS NOWADAYS' BEEN COMBATING PESTS ANNUALLY SINCE ITS BEGINNINGS. NEVER HAVE OUR COSTS BEEN AS HIGH AS THEY ARE PRESENTLY. WHY AS FARMERS AND ESPECIALLY BUSINESSMEN WOULD WE MISAPPLY PESTICIDES TO ADD TO THE ALREADY COSTLY, AND SOMETIMES FUTILE, PRACTICE. I HAVE STOOD IN A TOMATO FIELD ONE HOUR AFTER APPLYING 200 DOLLARS PER GALLON MATERIAL AND WATCHED THE COLORADO POTATO BEETLE CONTINUE TO EAT TO HIS HEARTS CONTENT. THIS PROVES THE POINT THAT WITH THE COSTS OF TODAY'S CHEMICALS AND SOMETIMES EXTREMELY POOR RESULTS WE ARE NOT GOING TO FURTHER WASTE OUR HARD EARNED DOLLAR BY MISAPPLICATIONS.

ON THE POINT OF FARMWORKER EXPOSURE OUR EXPERIENCE AT GLOSSY FRUIT FARMS DOES NOT LEAD US TO BELIEVE SENATOR LESNIAK'S CONCERNS ARE WELL FOUNDED. WE EMPLOY AS HIGH AS 60 PEOPLE SEASONALLY FOR AS FAR BACK AS I CAN REMEMBER AND I CAN HONESTLY SAY I HAVE NEVER RECEIVED ANY COMPLAINTS OR HAVE I HEARD OF ANY COMPLAINING BY OUR EMPLOYEES. I KNOW FOR A FACT, ALMOST HALF OF THESE PEOPLE HAVE BEEN EXAMINED AT OUR LOCAL HEALTH SERVICES CLINIC-SALANTIC-EACH SEASON AND I HAVE NEVER BEEN NOTIFIED OF ANY PROBLEMS SINCE THE CLINICS INCEPTION. IF EXPOSURE IS AS RAMPANT AS IT SEEMS FROM RECENT REPORTS WHY HAVEN'T WE SEEN THIS TREND OVER THE PAST FEW YEARS, COULD THESE SUDDEN CASES BEEN A RESULT OF PROPOSED LEGISLATION. IT IS UNFORTUNATE THAT FARMERS MUST COMBAT SUCH LEGISLATION BECAUSE OF ONE OR TWO WELL PUBLICIZED PESTICIDE MISHAPS. AS IS ALWAYS THE CASE, THE PUBLIC IS ONLY MADE AWARE OF THE UNFORTUNATE CIRCUMSTANCES WHICH INVOLVE PESTICIDE USE BUT ONE MUST ALSO, REALIZE THAT FOR EVERY ONE MISHAP THERE ARE THOUSANDS OF APPLICATIONS WHICH ARE DONE CORRECTLY EACH DAY WITHIN THE AGRICULTURAL COMMUNITY.

IF YOU HAVE NOTICED THAT WITHIN MY TESTIMONY I DID NOT TRY TO PICK APART SENATOR LESNIAK'S LEGISLATION PIECE BY PIECE. I SPOKE ON GENERAL TOPICS AND FROM PERSONAL EXPERIENCE TRYING TO BRING COMMON SENSE BACK INTO FOCUS. I HAVE READ THE BILL TWICE AND FOUND THAT THERE IS NO COMPROMISE ON SUCH AN ISSUE AS FAR AS I AM CONCERNED. THERE IS ONE, AND ONLY ONE, GOOD PLACE FOR S-1342 AND THAT IS IN THE CIRCULAR FILE. IN CLOSING, I MUST SAY THAT QUITE POSSIBLY SENATOR LESNIAK SHOULD START TO DIRECT HIS ENERGY TO THE PEOPLE WHO PUT QUALITY FOOD IN HIS MOUTH INSTEAD OF THOSE WHO WOULD RATHER SEE HIM EATING AN APPLE FULL OF MAGGOTS.

THE CUMBERLAND COUNTY BOARD OF AGRICULTURE

R. D. 1, MILLVILLE, NEW JERSEY 08332

September, 1984

The Cumberland County Board of Agriculture is in opposition to the Proposed Senate Committee Substitute for Senate Bill Number S-1342.

As family farmers and businessmen in South Jersey, we have concern for the preservation of a healthy environment for people and agricultural production. We believe in the protection of the farmworkers which results in maximum productivity and also the protection of our lands. We, as farmers, are concerned with the long-term effects of production practices. Many of us are second and third generation farmers and must maintain our land and the environment in a condition that is conducive to agricultural production by our children.

We believe the passage of this bill will not benefit the environment, will reduce farm labor jobs, will result in massive costs to the consumer, and will directly lead to farmers leaving business or this state. Below are specific concerns with this bill.

Page 1, Section 3 of P.L. 1971, c 176: 3b

This section is so general as to effectively make the term "pesticide" either unworkable or excessively restrictive. The definition will cause virtually all medicines and all petroleum products (including automobile fuel) to fall in the "pesticide" category. Agriculturally, common plant regulators such as soil, air, water and sunshine would also be included under this definition. In fact they are the environment and are essential to human health. Also, fertilizer materials like manures and cover crops could be classed as "plant regulator" pesticides. Years of research have shown these materials to be necessary for plant growth, safe and ecologically beneficial to the environment. One notable exception in the definition is bacteria which can cause significant problems. We believe this definition to be unworkable and excessively restrictive.

Page 2, Section 4 of P.L. 1971, c 176

As agriculturalists, we are already willing to meet Federal Standards and laws. We consider the EPA able and quite restrictive in the formulation of sound pesticide labeling regulations. This places all states under an equal and competitive food and fiber growing business environment and provides for a safe, healthy atmosphere.

Page 2, Section 3 of P.L. 1981, c 538

The registration of pesticides should be equal to Federal registration requirements (which is every five years). The staggering cost of annual re-registration would be millions of dollars. If this cost were transferred to chemical companies they may stop sale of crop protection chemicals in New Jersey and put other states at an unfair competitive advantage. This could also generate an unregulated black market in the interstate movement and sale of these agricultural chemicals.

Rutgers, the State University, also produces an annual book recommending safe, effective pesticides for specific crops. This has resulted from years of research. With annual registration of all pesticides, the logistics of producing that book would be impractical. This book is necessary for intelligent decision-making by farmers in the state of New Jersey.

The Federal EPA has the facilities to carry on the testing for safety of the agricultural chemicals we use in New Jersey. The EPA is qualified to determine the value of pesticides and has the ability to review test data about whether registration applications and pesticides have value in serving the intended purpose or are subject of any false or misleading statements. This portion of Bill S-1342 is duplicative of work already conducted by the EPA.

In addition, to enable the department to conduct this duplicative work, it would require the establishment of a laboratory. This would cost \$16-60 million for the physical structure. That figure would translate to approximately \$1770 - \$6300 per farm in New Jersey. Considering the net farm income before living expenses is approximately \$7000 per year. And since the fees charged shall reflect actual expenses of the program, (p. 21 Sub Section K) we will lose family farms. As agriculturalists and citizens, we fail to see the added environmental protection benefit and can see the staggering taxpayer expense to duplicate their work.

Page 3, Sub Section C

If private companies were required to disclose not just the active

ingredients but the complete formulation of products, they may not seek to register these products in New Jersey. The possible release (albeit inadvertent) of formulas or formulating techniques could cost companies millions of dollars in sales. Incidentally, EPA is presently being sued for this type of information release. If a new product containing a novel and safe biological control element was developed, its use could easily be denied to New Jersey farmers and citizens because companies may not register in New Jersey in order to protect patents. Companies may not seek to have these new generation products in New Jersey and deny residents the best in safety and new technology.

Page 3, Sub Section F

Farmers have always balanced the use of pesticides that are effective and environmentally safe. There is a need to have a variety of chemicals available for use in IPM (integrated pest management) programs and under normal farming programs in order to reduce the amounts of chemicals used. By alternating the use of pesticides, pesticide resistance in target organisms is reduced. If applicators are limited to one compound, resistance can build rapidly and ever larger quantities of pesticides then need to be applied. The result of compliance with this section would be more negative effects on the environment due to increased pesticide use.

Page 5, Section 4

Pesticide applicators have been tested and certified in the state of New Jersey for many years. The statutes for certification were recently reviewed, subjected to lengthy public hearings, revised and updated in 1982. In order to be certified, applicators study from educational manuals developed by the Cooperative Extension Service of Rutgers University. They are tested and must pass a core examination administered by the DEP concerning environmental precautions and adverse effects of misuses, safety and safe handling of pesticides, proper disposal of wastes, and current pesticide regulations. The certified applicator must then pass a separate Category Exam for each category of use. For example, category exams include Agricultural Plants, Turf and Ornamentals, Forestry and Recreation Areas. These exams test specific knowledge regarding pesticide use in these subject areas.

This section can effectively end all hiring of non-certified pesticide applicators. While we feel that an applicant could be totally certified within the 60 day limit, we believe that the process would take the full

period to complete even under ideal conditions. This section only allows the prospective applicator to work for the first 30 days of his or her employment. Few employers are willing to give 30 or more days of vacation after one month's work.

Page 5, Section 5

This portion of Section 5 implies that every precaution an applicator takes to prevent hazard to humans and the environment, including the precautions specified in Bill S-1342, are not necessarily limiting. However, the bill does not specify the limiting precautions.

Page 6, Section 6

Existing regulations cover penalties for malpractice in custom aerial application already. The legislature should specify the goals to be attained - not specific methods. The methods should be the responsibility of the trained professionals (i.e. safe application, proper place and time). The way this section is written, it will cause more spraying and potential drift because application would be limited to pre-determined times.

The aerial applicator is already one of the most regulated and specifically trained professionals associated with the pesticide industry. Through extensive and costly ground and flight training and testing by federally licensed inspectors, the aspiring agricultural pilot must first be certified as a private pilot, then a commercial pilot, and then be certified under Sub-chapter G, Air Carrier & Commercial Operator Certification & Operations, of Title 14 of the Federal Regulations, Part 137, as a commercial agricultural aircraft operator.

The state of New Jersey then demands further training and proof of competence prior to state certification under the New Jersey Pesticide Control Code, N.J.A.C. Title 7 Chapter 30, which was extensively updated in 1982 to more stringent demands. Many highly qualified people worked long and hard through many hours of public hearings to establish the 1982 version of the code. Under this code the aerial applicator must first pass a core exam which extensively covers the rules and regulations governing pesticides, the types of pesticides and their uses, the environmental dangers and precautions necessary, the type of equipment used and how to calibrate and care for it, proper disposal of wastes, first aid and symptoms of poisoning, etc. Then he must pass a separate intensive category exam for each category in which he works (i.e. agricultural plants, turf and ornamentals, forestry, camp grounds, etc.). These exams, besides reviewing all the core material, deal intensively

with their special field of coverage. Unlike any other commercial pesticide applicator, the aerial applicator must also pass an additional category exam which again reviews the core material and gives in-depth coverage of the responsibilities, equipment and calibration, environmental precautions, and subjects pertinent to aerial application. Up-to-date information is ensured in core and each category by a point system. Conferences, seminars and training sessions provided by Rutgers University Cooperative Extension Service and other experts in their field are given throughout the year with points awarded by the Department of Environmental Protection according to the content of the course. Recertification is based on maintaining the required number of points or retaking the exams.

Aerial application in many cases is more efficient and less harmful to man and the environment. The average 30 acre field can be sprayed by air in less than 15 minutes with virtually no exposure to the applicator and minimal exposure to the environment while a ground application may take half a day with prolonged exposure to the operator and the environment. A custom applicator's livelihood depends on the application equipment being properly calibrated and the chemical mixed and applied professionally resulting in a quality job. This applies to a 1/2 acre field as well as a 100 acre field with the custom applicator or grower the best qualified to decide what is the best equipment, time, and conditions to do the job.

We have in place legislation which ensures aerial applicators and growers are qualified to do the job. Since each job has its own peculiarities, the professionals (custom applicators and growers) should decide how the job should be done. Excess regulation will cause waste and unnecessary exposure to the environment by pesticides.

Pages 6-8, Section 7

The agricultural community finds particular fault with Section 7 of Bill 1-1342. Passage of this section would result in monumental cost increases on a diversified family farm and at the same time cause increases in the amounts of pesticides used.

This section allows for the exemption from notification when using a 500 foot buffer between the target area and a residence. Many diversified, successful family farming operations average 25 acres in size. Given a single target point in a crop field, a 500 foot buffer around this point takes up 22.2 acres of land. In fact, on a 108 acre farm (the state average farm size) 75 acres of that farm could potentially be needed for a 500 foot buffer. Any

farm of less than 22 acres could not have a 500 foot buffer around it.

Given the information above, there would be few farms in New Jersey that could economically comply with the proposed 500 foot buffer. Therefore, this 500 foot buffer concept is not an alternative for farmers to use.

All farmers will then have to comply with the proposed notification procedures. An example of these proposed notification procedures on the typical diversified family farm that produces 16 different vegetable commodities and sprays small portions of the total farm two to three times each week is presented: The notification as specified in Bill S-1342 would call for an initial general notification, which for the protection of the farmers, would have to be by certified mail. The certified mail notification (again for protection) of neighbors within 500 feet would cost about \$4.50 per letter including secretarial costs. Thus, to give the proposed general notification and notify ten neighbors would cost the family farmer \$45. Because of the number of commodities and special pesticides for each purpose, the farmer notifying five neighbors would potentially have to make two-three notifications each week. This results in \$675 each month. For an average seven month farming season this results in \$4725 each year to New Jersey vegetable farmers. Cumberland County has approximately 300 diversified vegetable growers. In Cumberland County alone this notification section could cost small family farm businessmen an estimated \$1,417,500 each year. This is an unnecessary cost to our family farms. With county unemployment at 17%, can we afford to hurt the county's major industry?

This substitute bill S-1342 would require applicators to list the known potential adverse health effects as well as unknown effects. This is truly a formidable requirement.

We challenge anyone to make a complete list of known health effects not listed on the label as specified for notification.

Page 8, Section 7 (2)

Probably the most important development of the decade towards minimizing environmental impact while maximizing agricultural yields has been the concept of integrated pest management. IPM utilizes biological, mechanical, chemical and other cultural means such as crop rotation and resistant varieties to combat disease, insect, animal and plant pests which can inhibit agricultural production. In all cases under IPM the last resort in pest control is chemical pesticides. We are fortunate to have Rutgers Research and Extension keeping the farmer informed and trained in the latest IPM technology.

Probably the most important element in IPM is an effective scouting program. Trained experts survey the crops on a fixed schedule taking egg mass and larval counts and monitoring for disease. Black light and pheromone traps are regularly monitored to determine insect populations. Economic thresholds are computed and if necessary a spray recommendation is made as a last resort. This delayed spraying often lets the natural predators build to a point where there is a natural balance and a spray is not necessary.

While we recognize the importance of integrated pest management programs, and use them wherever possible, we also recognize that there are few IPM programs that have been developed for New Jersey's wide diversity of fresh produce commodities. Since an additional 50 or more programs would need to be developed at an average cost of \$200,000 each and requiring five years of research effort, we question the value of this section in protecting our crops. Who will bear this \$12,000,000+ expense? The \$75,000 made available on p. 26, Section 21 to support IPM does not come close to the needs.

In the past many growers sprayed on a fixed schedule whether it was needed or not. This archaic "shot gun" method was wasteful, expensive, and more hazardous to the environment. With the notification requirement and without an IPM program for the specific crop grown, prior notice would result in a lost crop. Growers will then be forced to use a "shot gun" approach. Growers would also be unable to experiment with IPM techniques. The "shot gun" method would preclude the potential use of any biological controls such as parasitic wasps. Under IPM they are proving to be very effective in controlling some pests, but the wasps would be wiped out by the prescheduled spraying. The natural predator populations would never get a chance to develop. Let us not take a giant step backwards by forcing costly, unnecessary, ineffective, impractical and counter-productive legislation which in fact would cause the indiscriminant use of pesticides with more cost to the grower. The proposed legislation would produce greater environmental hazard, no possibility of building a natural balance and for all practical purposes cause the antithesis of the original intent of the New Jersey Pesticide Control Code.

Page 17, Section 10

The proposed changes to be made in the Pesticide Control Council do not help the Council become more effective in advising the DEP on matters relating to the control, regulation and use of pesticides.

Page 19, Section 12

The Pesticide Council is advisory (P. 18, Section 11, Line 7) to the DEP.

Section 12 of Bill S-1342 gives the Pesticide Council administrative responsibilities beyond the DEP. In what capacity would the Council work?

Page 23, Sub Section 4E

The law already requires the buildings to be separate of living quarters, locked and labeled. The present law is actually more restrictive than the one proposed in Sub Section 4E. The 500 foot buffer between worker quarters and a pesticide storage facility may force farmers to purchase additional property for pesticide storage. Further, it may require that farmers place pesticide storages in locations that are unsupervised and open to vandalism and theft.

Page 22, Section B

This section creates a false presumption of farmworker exposure to pesticides by farmers and other applicators. Applicators apply pesticides to target areas. Farmworkers and farmers are prohibited from entering those areas until already approved re-entry times have been observed.

Though pesticide fact sheets may be of use for the education of farm workers, the method of dispersal suggested in this section is questionable and impractical. Farmers make every effort to avoid any likelihood of farm labor coming into contact with pesticides. The availability of fact sheets to workers would be of more value than farmer distribution.

Page 25, Section 18

Section 18, as proposed here, is unacceptable in any form. Every affected individual already has the right to bring suit. Unacceptable here is the portion that specifies "it shall not be necessary to the maintenance of the action that the person bringing the action prove that he has suffered or will suffer personal loss or damage". This opens up family farmers and pesticide users to potential nuisance suits brought by individuals or groups that have suffered no personal loss or damage.

Page 25, Section 19

We feel that suits brought as the result of loss or injury are justified. We believe that suits brought resulting from personal prejudice or for financial gain can be of no benefit to anyone except those seeking financial gain without work or notoriety. This section will further foster nuisance suits. We may be developing a new breed of bounty hunters.

SUMMARY

We, the members of the Cumberland County Board of Agriculture, are in opposition to the proposed Senate Committee Substitute for Senate Bill Number 1342. We believe that these regulations are duplicative of EPA regulations and existing laws which are already regulating our farmers all across the country and feel that the regulations as they exist now are adequate to protect the workers and the environment.

We believe the notification section will cause undue hardship especially on the small, diversified family farm because of the large number of crops not in IPM programs grown by this type of farm and the buffer requirement. The location of farms, which in many cases have had houses built up around them, will cost the farmer enough money for notification that farming will no longer be a feasible means of employment.

In addition, we feel that the notification section will cause additional use of pesticides because of the inability of farmers to use integrated pest management techniques. The notification procedure will require farmers to wait to apply a pesticide on a monitored pest population that can cause crop damage. This added use of pesticides not only will cost the farmers additional money but it will also cause harm to the environment.

We have a serious concern about Section 18 of Senate Bill 1342. In that section, it indicates that any person exposed to a pesticide can bring civil action on his own behalf against any person for a violation of any provision of the act. We believe the existing laws cover the situation for claimants who have had a loss. We believe that this particular section of the bill will lead to nuisance suits against farmers and make farming and the farming climate impossible for farmers to continue. Also, in Section 19, there is a statement which would allow for compensatory damages awarded to the people filing suit. This will result in compensation without loss and we question whether there should ever be any award of this type, and that this will further foster nuisance suits.

We believe that this bill will destroy the ability of New Jersey farmers to market their products competitively across the country. We also believe that with the resulting reduction in or loss of Cumberland County's major industry, our 17% unemployment rate can only grow.

Sincerely,



Erwin Sheppard, Chairman
Legislative Committee

he

List of Organizations Opposed to S.1342/A.1536

Alliance for Environmental Concerns
New Jersey Farm Bureau
New Jersey State Board of Agriculture
New Jersey Golf Course Superintendents Association
National Federation of Independent Businesses
Southern Jersey Development Council
New Jersey State Chamber of Commerce
New Jersey Business & Industry Association
Society for Economic and Environmental Development
New Jersey State Mosquito Control Commission
New Jersey Association of Counties
New Jersey Conference of Mayors
Monmouth County Chamber of Commerce
Cape May County of Commerce
New Jersey Pest Control Association
South Jersey Pest Control Association
National Pest Control Association
Pesticide Association of New Jersey
New Jersey Turfgrass Association
New Jersey Hotel and Motel Association
New Jersey Association of Health Care Facilities
The Garden Club of New Jersey
International Sanitary Supply Association
Garden State Aerial Applicators Association
New Jersey Farm Supply Dealers Association
Camden County Board of Chosen Freeholders
Cape May County Board of Chosen Freeholders
Cumberland County Board of Chosen Freeholders
Gloucester County Board of Chosen Freeholders
Hunterdon County Board of Chosen Freeholders
Middlesex County Board of Chosen Freeholders
Monmouth County Board of Chosen Freeholders
Morris County Board of Chosen Freeholders
Salem County Board of Chosen Freeholders
Somerset County Board of Chosen Freeholders
Sussex County Board of Chosen Freeholders
Cumberland County Board of Agriculture
Middlesex County Board of Agriculture
Cape May County Campground Association
New Jersey State Grange
New Jersey Cemetary Association
New Jersey Council of Multi-Housing Industry
New Jersey Forestry Association

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List of Organizations Opposed to S.1342/A.1536 (continued)

Arborists Association of New Jersey
Mercer County Board of Agriculture
New Jersey Restaurant Association
New Jersey Food Council
Monmouth County Board of Agriculture
New Jersey Shade Tree Federation
New Jersey Chapter, International Society of Arboriculture
New Jersey Horse Council
Burlington County Board of Agriculture
Garden State Fairs and Harness Racing Association
New Jersey Bred Hunters Association
Monmouth County Shade Tree Commission
New Jersey Campground Owner's Association
Tri-County Cooperative Auction Market Association, Inc.
American Cranberry Growers' Association

TESTIMONY OF

NEW JERSEY SANITARY SUPPLY ASSOCIATION

AND

INTERNATIONAL SANITARY SUPPLY ASSOCIATION

**Henry Josephs
President
NJSSA**

**Kay E. Pinkus
Association Attorney
ISSA**

SEPTEMBER 1984

The International Sanitary Supply Association (ISSA) and the New Jersey Sanitary Supply Association (NJSSA) represent nearly 3,000 companies, with 100 companies in the state of New Jersey. These companies manufacture and sell products used in the cleaning and maintenance industry. The testimony of ISSA and NJSSA is based on the planned changes to the Proposed Senate Committee Substitute for Senate Bill No. 1342, a copy of which is attached. This testimony will explain the reasons for these changes, and outline the remaining problems in S. 1342, as it concerns the cleaning and maintenance industry.

The planned changes will provide exemptions from the certification requirements contained in Section 4 and the notification requirement contained in Section 7(f) for antimicrobial agents. "Antimicrobial agents" shall be defined in S. 1342 in the same manner as this term is defined in the regulations. This definition states:

"Antimicrobial agents" means:

1. Disinfectants intended to destroy or irreversibly inactivate infectious or other undesirable bacteria, pathogenic fungi, or viruses on surfaces of inanimate objects; or
2. Sanitizers intended to reduce the number of living bacteria or viable virus particles on inanimate surfaces, in water, or in air; or
3. Bacteriostats intended to inhibit the growth of bacteria in the presence of moisture; or
4. Sterilizers intended to destroy viruses and all living bacteria, fungi, and their spores, on inanimate surfaces; or
5. Fungicides and fungistats intended to inhibit the growth of, or destroy fungi (including yeasts) pathogenic to man or other animals on inanimate surfaces; or
6. Commodity preservatives and protectants intended to inhibit the growth of, or destroy bacteria in or on raw materials (such as adhesives and plastics) used in manufacturing, or manufactured products (such as fuel, textiles, lubricants, and paints), but not in wood treatment, the pulp and paper process or cooling towers.

These antimicrobial agents are used in cleaning and maintenance products such as germicidal floor cleaners, disinfectant toilet bowl cleaners, and sanitizing dishwashing liquids. These antimicrobial agents are classified as pesticides because they repel or destroy "pests"; these pests include the germs, fungi and viruses which are harmful to public health.

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It would pose an untenable burden if applicators of antimicrobial were required to comply with Section 4 (which now requires certification for the application of any pesticide) and Section 7(f) (which requires a 24 hour notification of detailed information as to EPA registration number, complete formulation, and date and time of application for use in private residences and rental units; and posting of a sign stating: "Warning! Pesticide Recently Applied" for use in commercial establishments). If antimicrobials were not exempted from these requirements, the law would literally require that a janitor in an office post this sign after cleaning a toilet bowl with a disinfectant.

While this modification is helpful, S. 1342 still imposes several unnecessary hardships on the cleaning and maintenance industry. These problems relate to insecticides which are applied on a non-commercial basis and an unduly burdensome registration standard.

Members of the International Sanitary Supply Association and the New Jersey Sanitary Supply Association manufacture and sell insecticides which are applied on a non-commercial basis. Examples of these products include the aerosol insecticide which a private resident may buy at a grocery store or hardware store for use in the home, or which a small business may store in a broom closet for occasional use. These products fall within the coverage of many provisions of S. 1342, although it is ISSA's and NJSSA's contention that this coverage is both unnecessary and unintended.

For example, S. 1342 states: "No person shall perform an indoor pest control application except in accordance with the following procedure..." of Section 7(f)). The Section provides for detailed notification for application in private residences and rental units. It requires that barriers be erected for application in schools. In the case of commercial building, such as hotels and offices, a notice is required to be posted for at least 24 hours which state: "Warning! Pesticides recently applied". On its face, this provision would require notification when an employee squirts a few bugs under his desk. It

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appears that the reasonable scope of this provision would pertain to commercial pesticide businesses which apply pesticides in these indoor settings on a for-hire basis.

There is a similar problem with Section 7(c) of S. 1342 which states: "No person shall perform an outdoor pest control application for mosquito control except in accordance with the following procedure...". This provision requires advertisement in at least two newspapers of general circulation at least 14 days prior to the beginning of spraying, among other requirements. Without modification, this provision would apply to *any* outdoor pest control application, including the use of a home and garden insecticide spray for mosquito control around a private residence. This same overbreadth is present in all of the provision of Section 7, except for 7(a) and 7(b), which relate to application on agricultural lands aerially or by means of an airblast sprayer, and outdoor ornamental pest control utilizing hydraulic spraying equipment.

It is logical to assume that all of these provisions were intended to regulate commercial pest control businesses. This inference is supported by the fact that S. 1342 requires certification for pesticides which are applied "commercially"; "No person shall be authorized to apply any pesticide *commercially* without having received certification from the department therefor". Section 4 (emphasis added). There is, however, no definition in S. 1342 for the term "commercially".

The enactment of similar legislation in Illinois and its subsequent rescission may provide some guidance for legislative action in New Jersey. In 1983 the Illinois legislature amended the Structural Pest Control Act to require certification for the application of all pesticides. The resulting problems for the cleaning and maintenance industry were similar to those in S. 1342. The broad scope of the law enacted in Illinois required certification for the application of antimicrobials, as well as for the application of insecticides by a homeowner or employee of a commercial establishment who is using the insecticides in the same manner as a private consumer. Customers of ISSA members were reluctant to buy and use any

September 1984
Page Four

of the cleaning and maintenance pesticides because they were not certified. To correct these problems, the law was amended again in 1984 so that certification is required only for commercial structural pest control (see attached copy of Illinois Structural Pest Control Act and recently enacted amendment). A similar clarification pertaining to certification and notification is necessary for this proposed legislation in New Jersey.

The other major aspect of S. 1342 which present a problem to members of ISSA and NJSSA is the provision relating to registration standards. Senate bill 1342 sets up registration standards which are unwarranted for pesticides used in the cleaning and maintenance industry. These registration standards apply to *all* pesticides, including antimicrobials.

The restrictiveness and burden imposed by any statute should be proportionate to the risks associated with that regulated subject matter. The burdens imposed by the registration standard of S. 1342 are excessive by comparison with the risks incurred through the use of cleaning products. Cleaning products are not applied aerially or over vast areas of land, where the potential for environmental impact is greater. Rather they are applied to distinct and limited inanimate surfaces, by a mop, sponge or aerosol spray. Many of these cleaning and maintenance pesticides are the same products which any private consumer can buy in a grocery store.

It should also be noted that any state registration of pesticides cannot be viewed in a vacuum. These pesticides are also registered with the federal Environmental Protection Agency; this registration must be substantiated by data relating to toxicity, physical and chemical characteristics and any potential for adverse health effects. In addition, antimicrobial products are required to meet minimum levels of effectiveness against bacteria and viruses.

What is the burden which is imposed by the registration requirements of S. 1342? The bill sets up four standards for the registration decision. The first standard is reasonable

September 1984
Page Five

and is already a part of the current law. This is that the department may revoke the registration of any pesticide which has been demonstrated to cause adverse effects on man and the environment, when used in accordance with generally accepted pesticide application procedures. The other three standards are unacceptable and present an undue burden for cleaning and maintenance pesticides.

S. 1342 requires the department to revoke the registration of a product if there is a reasonably effective practical alternative, if the alternative product is demonstrably less harmful to the environment. It is arguable that any product could pose *some* threat to health or the environment, and that different formulations pose different threats. S. 1342 does not set a standard, or threshold of safety; rather, it requires the department to make a determination of which product or products are the *best* in the industry, and to revoke the registrations of other products which are less safe. Our associations believe that the basic principles of statutory regulation require a government agency to set standards, *not* to require a side-by-side comparison of the relative merits of individual products.

We have the same objection to the third "standard" which requires a pesticide registration to be revoked if the department determines that it is of little or no value in serving the purpose for which it is intended. In addition, Section 18 allows any individual to bring a lawsuit against the department for failure to enforce any one of these standards (the individual bringing the lawsuit does not have to prove that he has suffered or will suffer any personal loss or damage). The result will be that competitors can sue the department for allowing the registration of another product if they believe their product is safer or of greater value. These provisions would wreak havoc on the highly competitive cleaning and maintenance pesticide industry.

The fourth and final standard by which the department may revoke registrations is if the department determines that the pesticide has been the subject of any false or misleading

September 1984
Page Six

statement or implication, including verbal statements and implications. This standard is vague and therefore allows undue discretion on the part of the department or other individuals who sue to enforce the law. For example, a salesman selling a floor cleaner, who merely "implies" that the floor cleaner is more effective than his competitor thinks it is, could be subject to an action for revocation of his company's pesticide registration.

The fact that an exemption for antimicrobials is necessary for the certification and notification provisions, as well as the registration standards, points out an underlying problem with S. 1342. These requirements are so inappropriate for antimicrobials that it seems self-evident that this category of pesticides was never intended to be covered at all. It should also be noted that the other major provision of the law pertaining to pesticides and agricultural worker safety is completely inapposite for antimicrobials (antimicrobials *are*, however, covered under the New Jersey Worker and Community Right to Know act).

This legislation is not directed at antimicrobials for the simple reason that there is no need for additional regulation of this category of pesticide. The current regulations under the New Jersey pesticide control code cover all uses of cleaning and maintenance pesticides, including registration, handling, transportation, storage and disposal. The New Jersey Department of Environmental Protection has the power to receive or initiate complaints of violations and to enter and inspect any building to investigate actual or suspected violation.

In order to alleviate the problems which result from the blurring of these two categories, i.e. antimicrobials and other pesticides, a basic distinction should be drawn in this legislation. This would resolve the problems in S. 1342 and clarify the law so that any future proposals adequately distinguish between these two categories. This could be easily accomplished by establishing two discreet categories: "antimicrobials" and "pesticides". Any particular provision which is intended to cover both categories would

September 1984
Page Seven

specifically refer to each. This would eliminate the confusion which results from having two very different classes of substances fall under the same terminology.

ISSA and NJSSA appreciate the responsiveness which has been shown to the problems of the cleaning and maintenance industry. We ask the Energy and Environment Committee to consider the additional changes contained herein. We believe that these changes will not only resolve problems in S. 1342 for the cleaning and maintenance industry, but also, as outlined above, correct a basic problem which now exists in the law.

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JACK D. RAMALEY

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5901 Churchview Dr., Unit #11
Rockford, IL 61107
(815) 282-5441

October 1, 1984

Senator Raymond Lesniak
651 Westfield Avenue
Elizabeth, NJ 07208

Dear Senator Lesniak:

This letter acknowledges the receipt of "Planned Changes To Proposed Senate Committee Substitute for Senate Bill No. 1342" (copy enclosed).

These changes are very important to ISSA and NJSSA. The members of our organizations greatly appreciate your recognition of the cleaning and maintenance industry.

Sincerely,



Kay E. Pinkus
Association Attorney

KEP:ew

Enclosures

cc: Senator Di Francesco

Members of Task Force on S. 1342

109X



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New Jersey State Legislature
OFFICE OF LEGISLATIVE SERVICES
DIVISION OF LEGISLATIVE INFORMATION AND RESEARCH
ROOM 103, STATE HOUSE ANNEX
CN-042
TRENTON, N.J. 08625
TELEPHONE: (609) 292-4661

ARTHUR S. APPLEBAUM
Research Director

GLENN E. MOORE, III
Assistant Research Director

September 27, 1984

Kay Pinkus
ISSA
5330 North Elston Avenue
Chicago, Illinois 60630

Dear Ms. Pinkus:

As per our conversations of September 24 and 26,
enclosed is a copy of the changes, concerning the International
Sanitary Supply Association, which Senator Lesniak plans to
include in a future revision of Senate Bill No. 1342.

Sincerely,

Leonard J. Colner
Research Assistant

LJC:mam
Encl.

ISSA

SEP 29 1984

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PLANNED CHANGES TO PROPOSED SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 1342

Page 2.

After "h." insert

"i" "Antimicrobial agents" means:

1. Disinfectants intended to destroy or irreversibly inactivate infectious or other undesirable bacteria, pathogenic fungi, or viruses on surfaces or inanimate objects; or
2. Sanitizers intended to reduce the number of living bacteria or viable virus particles on inanimate surfaces, in water, or in air; or
3. Bacteriostats intended to inhibit the growth of bacteria in the presence of moisture; or
4. Sterilizers intended to destroy viruses and all living bacteria, fungi, and their spores, on inanimate surfaces; or
5. Fungicides and fungistats intended to inhibit the growth of, or destroy fungi (including yeasts) pathogenic to man or other animals on inanimate surfaces; or
6. Commodity preservatives and protectants intended to inhibit the growth of, or destroy bacteria in or on raw materials (such as adhesives and plastics) used in manufacturing, or manufactured products (such as fuel, textiles, lubricants, and paints), but not in wood treatment, the pulp and paper process or cooling towers.

Page 5.

Insert, on line 17 of section 4 after

"application", "Persons applying antimicrobial agents, other than those classified as restricted use pesticides, shall be exempt from the provisions of this section."

Page 15.

Insert after line 21, "Persons applying antimicrobial agents, other than those classified as restructured use pesticides, shall be exempt from the provisions of this subsection."

ISSA

SEP 29 1984

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///X



NATIONAL AGRICULTURAL CHEMICALS ASSOCIATION

THE MADISON BUILDING

1155 Fifteenth Street, N.W., Washington, D. C. 20005

202 • 296-1585

Cable: NAGRCHEM

October 3, 1984

Mr. Mark Connelly
Office of Legislative Services
State House Annex
CN-042
Trenton, NJ 08625

RE: Senate Bill Number 1342, entitled "an act concerning pesticides, amending and supplementing P.L. 171, c. 176, amending P.L. 1981, c. 538 and supplementing chapter 7 of Title 4 of the Revised Statutes."

The National Agricultural Chemicals Association ("NACA"), requests the opportunity to comment, on the record, regarding S.B. 1342. NACA is a nonprofit industry association whose members produce, register, and sell agricultural chemicals. NACA members manufacture virtually all the pesticides used in the United States for agricultural purposes--both the basic pest control chemicals and the end-use pesticides formulated from these basic chemicals.

The legislation, as drafted and submitted for consideration, ignores the science of risk-benefit analysis and the structural components of risk management. It mandates that the entire spectrum of agricultural chemicals that may, mathematically, pose potential threats to the environment be categorized under the "Adverse effect" definition: Section 2(bb) of FIFRA (7 U.S.C. 136 et seq.) addresses "Unreasonable Adverse Effects..." NACA strongly opposes duplication of existing statutory law; but more to the point, opposes legislation that ignores the intent of Congress and avoids logic.

Senate Bill 1342 is introduced for passage in a state that has stringent regulations governing all facets of pesticide manufacture, labeling, classification and registration. Further, the regulations amply cover

Mr. Mark Connelly
October 3, 1984
Page two

application, distribution, use, storage, handling, transportation and disposal of our products. Pesticide applicators and dealers are registered by law. The regulations in place were enacted in 1983 following an amendment and supplement to the New Jersey Pesticide Control Act of 1971. At this writing, the Department of Environmental Protection ("DEP") has proposed weightly revisions to N.J.A.C. 7:30 et seq. These regulatory revisions will compliment and restructure existing law for the benefit of the public. They are scheduled for hearings next month, and they strengthen a system already responsive the the state's concerns. In short, S.B. 1342 can best be ascertained as duplicative; at worst, it must be viewed as a structured attack upon an agency of the state presumed to be functioning with the advice and consent of the legislature.

NACA wholly endorses the statements submitted by the Pesticide Association of New Jersey and other trade organizations who were not afforded the opportunity to testify before the Committee on September 24, 1984. We respectfully request to go on the record in opposition to S.B. 1342's language with regard to:

- o "Adverse Effects".
- o Registration and reregistration of products.
- o Prior Notification.
- o Public Access to Farm Records.
- o Aerial Application Restrictions.
- o Private Pest Control Constraints.
- o The Composition of the Pesticide Control Council
- o Farmer Recordkeeping Requirements.
- o Re-entry Intervals.
- o Private Right-of-Action in Courts of Law and Equity.

Mr. Mark Connelly
October 3, 1984
Page three

o Compensatory Damage Award Scheme.

NACA notes that these categories have all been addressed fully and, to that end, the Association will not offer duplicative language in its supportive comments. We will note, however, that the sponsor of S.B. 1342 drafted the majority of the 1981 amendments to the New Jersey Pesticide Control Act. It is curious that the Senator now implies, by legislation, that the intervening years of their implementation have been of small consequence. This suggests that an absence of confidence in regulatory schemes created by the author of this bill may become a painful legislative ritual; correspondingly, there is no guarantee that the same level of satisfaction will be evidenced in this legislation, should it come to fruition. There is a cyclical violence in these events that suggests reconsideration of this bill or significant amendment to realign it with a viable regulatory purpose.

Respectfully submitted,

Paul B. Jacoby

Paul B. Jacoby

New Jersey Blueberry Growers Association

P. O. BOX 166, MARMORA, NEW JERSEY 08223

October 5, 1984

State of New Jersey
Office of Legislative Services
State House Annex
CN 042
Trenton, New Jersey 08625

Attention: Mr. Mark P. Connelly, Committee Aide

RE: PESTICIDE BILL

Dear Mr. Connelly:

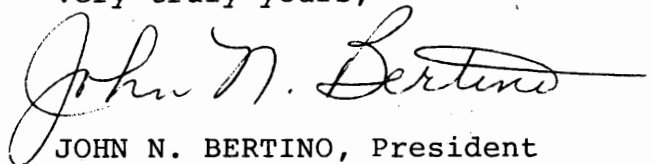
The Blueberry Industry in New Jersey is very much concerned with the proposed pesticide Bill sponsored by Senator Raymond Lesniak.

The State, presently, has regulations regarding the issues of worker protection and pesticide use. If the present State regulations were enforced properly and adequate educational procedures followed, all concerned would be properly protected.

The notification of property owners in the vicinity of pesticide application, as the proposed Bill would require, would be so economically burdensome that many in agriculture could not survive.

The present regulations, if properly enforced, would be capable of addressing the issues in the proposed Bill.

Very truly yours,


JOHN N. BERTINO, President

JNB:rbr

Cape May County Board of Agriculture

(Affiliated with New Jersey and
American Farm Bureau Federation)

Board of Directors meets
each First Wednesday at
8:00 P.M. in the
Cape May County Extension
and Educational Center



Return Address:
% Cape May County Extension Service
Dennisville Road, Route 657
Cape May Court House, N. J. 08210

October 5, 1984

Statement to be included in the testimony of the public hearing held on September 24, 1984 by the Senate Committee on Energy and Environment on Senate Bill 1342 as revised September 14, 1984, known as the Lesniak Pesticide Bill.

To: Senate Committee on Energy and Environment
Office of Legislative Services
Statehouse Annex Room 305
CN042
Trenton, NJ 08625

Attention: Mark P. Connelly, Senate Aide

Dear Legislators:

The Cape May County Board of Agriculture wishes to express its strong opposition to proposed Senate Bill 1342 as revised September 14, 1984 and generally known as the Lesniak --- Pesticide Bill. We were going to make a statement at the public hearing held September 24, but as you know, probably not even half of those registered to speak were able to present testimony at the hearing.

We basically oppose Senate Bill 1342 due to the fact that it is duplicative when compared to existing State Pesticide Regulations already in effect, and with no question would put New Jersey farmers at a serious economic disadvantage in competition with farmers from surrounding states, gives little consideration to the effect on farmers in conducting their standard farm practices, would further open up the farmers to unwarranted nuisance suits, and would certainly further deteriorate the climate for agriculture in New Jersey at a time when we need more than ever to preserve and enhance agricultural operations. We want to also extremely impress you with the fact that if more farmers become discouraged and cease to farm in this state if this legislation were to become law, then it would be a larger economic detrimental effect in the overall state economy and on the consuming public as the ultimate users of food and other agricultural products. You also need to evaluate much further the effect of this proposed legislation in the urban areas of the state in regard to nonagricultural pesticide applications.

We are particularly concerned about the portions of the proposed Senate Bill 1342 in regard to the following:

PRIOR NOTIFICATION: The notification requirements as proposed in the bill are totally unfair in terms of the practical conduct of farming operations. As any good agriculturist knows, insect and plant disease infestations can occur quickly and farmers need to react to these situations quickly to avoid serious losses of yield and quality. Let us assure you that no farmer indiscriminately applies pesticides without having already assessed their real need because it is the farmer himself who has to pay for the

pesticides and the application cost. Weather conditions for pesticide application can change rapidly and farmers have to and do adjust to these conditions. This would be very difficult to accomplish on the very tight notification procedures outlined in the bill.

Senate Bill 1342 appears to make a strong push for Integrated Pest Management (IPM). Integrated Pest Management has been increasing greatly in recent years and has been a help to farmers as well as in many cases to reduce the amount of pesticides required. However, one should recognize that pesticide applications are an integral part of any IPM Program. There are times when the pesticide spray schedule would be frequently tightened, as well as there are other times when no pesticides might be required at all. Even with an IPM Program the notification procedures as outlined in the bill would make it very difficult to accomplish and would often force farmers to apply unnecessary sprays on a prior notification schedule rather than to have the effect that the sponsors of the bill would lead you to believe that it would.

The amount of legal paper work involved for a farmer in the notification process would be extremely unfair during the very busy and harvesting season.

In particular, the section of the bill that would require the posting of signs every 200 feet along public road frontage during the application of restricted use pesticides would cause farmers with large numbers of individual fields in different locations an extreme hardship. Also, the listing of any adverse health effect of the particular pesticide, in addition to those listed on the label, is really stupid -- how is a farmer to know this if it has not already been researched and listed by the EPA or the manufacturer? Also, we believe that these requirements would merely tend to excite and upset the general population who do not often have technical understanding on pesticides.

LAW SUIT POTENTIAL: In the bill there is no need for damage to occur before a complaint can be registered by a concerned citizen. The court would be obligated to award \$500 to the complainant if substantiated. In our opinion this certainly sets up a "bounty system" with the burden of proof resting on the farmer or applicator. We believe that the great majority of these complaints would be unwarranted but could seriously result in severe harrassment to individual farmers and even if exonerated, the farmer could have serious loss of time and legal expense in defending himself.

PUBLIC ACCESS TO FARM RECORDS: The Bureau of Pesticide Control in the DEP already has the right of access to farm records on pesticides. However, Senate Bill 1342 would give workers and the general public access to these records, which again, could cause severe harrassment to farmers even though they were conducting their pesticide applications in a proper and safe manner. Does the State allow public access to all other private business records in New Jersey?

DUPLICATION OF EFFORT: Many of the concerns addressed in Senate Bill 1342 have already been handled by the DEP and other government agencies. As structured this bill would require excessive expenditures of tax funds by state agencies who do not now have the budgets to accommodate them.

AERIAL APPLICATION: Our interpretation of S1342 as revised would practically eliminate aerial application of pesticides. We believe that the environmental thrust in this bill is a reaction against aerial spraying of trees and woodland for the control of gypsy moths, but the real effects of the proposed legislation would be to seriously

October 5, 1984

hamper aerial applications of pesticides on farmland. There are many times in our county when a hurricane or bad storm has blown down sweet corn or other crops so that it is just impossible to get in the field with ground equipment. There are other times when applications of an insecticide or fungicide would be needed on small grains, soybeans or other crops where ground equipment would severely damage the crop and here again, loss of aerial spraying options could cause severe losses.

COMPOSITION OF PESTICIDE CONTROL COUNCIL: The size of this council would be increased from the current nine members to 15 members. However, when you look at the composition of the membership in the council as proposed in S1342 the Pesticide Control Council could well wind up as a "stacked deck" against the farmer.

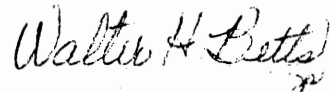
It appears to us that the proponents of S1342 are extremely unknowledgeable on the real effects on commercial agriculture which would be to essentially put extreme hardship on farmers and ultimately further tend to drive agriculture out of the state of New Jersey at a time when we are talking about the "Right to Farm" and about programs to preserve our good farmland and farms in the state. If what is proposed in the Lesniak Pesticide Bill were really good for agriculture and the general public then theoretically it should be good across the whole nation. The fact of the matter is, that we know of no other state that is proposing restrictions on the use of pesticides such as this bill does.

Anyone with real knowledge about agriculture knows that farmers cannot exist without pesticides and that the serious effects on the yield and quality of our food for consumers in the long run would even be greater. We wish to make a positive point here, that currently American farmers provide this country with the best and most wholesome supply of food in the world at the cheapest price to consumers.

We also wish to comment on this bill in regard to migrant or farm labor. Farmers, of all people, appreciate the farm workers who labor in their fields and do many of the very necessary jobs such as harvesting, hand weeding, moving irrigation pipe, etc. We certainly want to be safe and careful in the use of pesticides for ourselves and for our families, our farm workers, employees, and the consuming public. One of the effects of this bill if it passes will be to not only reduce the number of farmers, but also to reduce the number of job opportunities for farm workers.

I hope that we have conveyed some of the concerns of our farmers and that you in the legislature would understand that much of the legislation proposed in S1342 is detrimental. We are absolutely opposed to the Lesniak Pesticide Bill as it stands, and if it should be released for vote in the legislature, then we will continue to vigorously oppose it there and with Governor Kean.

Sincerely



Walter H. Betts
Corresponding Secretary

fjs

cc: Senator James R. Hurley
Assemblyman Joseph Chinnici
Assemblyman Guy F. Muziani

WUERKER'S NEW ACRES FARMS, INC.

600 SOUTH RAILROAD AVENUE
RIO GRANDE, NEW JERSEY 08242

F. EDWARD WUERKER, PRES.
886-1538

FELIX WUERKER, VICE PRES.
886-1484

October 4, 1984

Senate Energy and Environment Committee
State House
CN-042, Trenton, N. J. 08625

Dear Mr. Dalton and Committee:

RE: S-1342

We own and have farmed 800 acres in Rio Grande, Cape May County for over forty years. Our basic crops are fresh vegetables and soybeans, wheat, and rye. Prior to this we were a dairy farm back in the '50's, until changes and regulations forced the dairy business out of our area which had many dairy farms at that time.

In regards to spraying, it is only when the crop shows any real serious need for control of pests that we use sprays. My husband only applies as recommended by the IPM system and through the Cooperative Extension Service agents advice and their recommendations. My husband is trained, licensed and qualified to handle pesticides, which he has applied over many years of farming. He has excellent health, no ill effects.

We definitely need to spray our crops when certain pests invade our crops in overwhelming numbers, and swiftness of action is imperative. Not to do so would do serious harm to the plants and leave us a worthless poor quality or unsellable crop. Sticking to schedules of spraying would cause more pesticide use than would probably ever be needed. Besides, schedules or notices wouldn't work in regard to notifying others, because farming has too many variables, the rain, wind, field condition to wet to drive through, and possible unforeseen priorities or emergency situations, like machine breakdowns.

If you pass S-1342 you will cause us to take costly, burdensome, very timeconsuming tasks regarding compliance to this regulation, when farming at present is already weighted down with too many regulations and Paperwork which cut down on actual growing or farming time. Our farming business is already put under more stressful conditions for a human being to handle, and many of us are in economic crises.

Passage of this bill would be ^anightmare with bounty hunters and their lawyers looking for lengthy law suits which could bind us up in more timely problems which would give us no time to farm, in eventuality, ruin us.

It is no wonder our children and many more young potential future farmers are turning away from this profession. Don't worry about preserving farmland, consider preserving "the farmer of tomorrow". We now seriously have to consider whether to continue farming if this bill passes.

If you vote no to this bill, you will have saved many farms for future farming and open space, and a guaranteed supply of food needs for our

Sincerely,
Mrs. Suzanne Wuerker
Mrs. Suzanne Wuerker



October 2, 1984

Senate Energy & Environment Committee
State House Annex
Trenton, New Jersey 08625

Gentlemen:

Excell Carson Chemical Corporation, established in 1929 and located in Paterson, is a manufacturer of nationally-distributed moth preventative products and household deodorant specialty items.

We employ over 70 persons during peak period; most of our workers are of minority origin and over 35% are women. As our competitors, we are a relatively small business; however, statewide our category of the chemical industry employs over 400 people.

Our product line includes commonly-used household items such as: Moth Balls and Flakes, Para Nuggets and Crystals, Closet Freshener Blocks, Garbage and Diaper Pail Deodorants, Bathroom Fresheners, and Toilet Bowl Deodorants and Cleaners, all of which are sold for retail use. EACH OF THE ABOVE ITEMS WOULD BE INCLUDED UNDER SENATE BILL 1342 AS IT NOW WORDED.

While we recognize the very admirable intent of Senator Lesniak's bill and support legislative protection from toxic pesticides, we find that the broad nature of this bill has made it applicable to various non-hazardous, socially desirable household products. The imprecise and vague wording of this bill, as it applies to the items we manufacture, would engender great economic cost and confusion.

We would, therefore, like to enumerate our opposition to this proposed legislation (as well as to the Committee substitute); our comments are not redundant of those already made before you on September 24, 1984.

Senator Lesniak, in his opening remarks at the hearing of September 24th, referred to the degree of misunderstanding and controversy aroused by this bill and even used the example of an individual using a can of Raid fearing that Bill 1342 would affect him. However, Senator Lesniak did not proceed to demonstrate how indoor, individual use of common household pesticides and deodorants would be excluded under this bill. NOWHERE in the wording of either 1342 or the proposed substitute is household use exempted. Furthermore, the bill does not provide a definition of what constitutes a "pesticide application".

In fact, the notification requirements for indoor household use (as covered on Page 14, parts f1-2) are even more stringent than those for aerial sprayings of restricted pesticides, since indoor use would demand notification without a written request for such information.



Senate Energy & Environment Committee
October 2, 1984
Page 2

Household pesticide and deodorant products such as ours should be excluded from Senate Bill 1342, which appears to have been designed to monitor and control agricultural and outdoor pesticide use, thereby preserving jobs and a sizeable New Jersey industry associated with desirable household and sanitary staples.

Additionally, all of our pesticide products (such as Moth Balls) are already duly registered with the Environmental Protection Agency and the State of New Jersey and conform to all state and federal labelling requirements. Current New Jersey pesticide registrations are reviewed on an annual basis, as are the registration we hold in the other 36 states our goods are sold in. It is our belief that pesticide control can best be accomplished within the existing regulatory framework; the time lag necessary for new councils and regulations to be formulated under the provisions of this bill might disrupt our ongoing business and impose redundant paperwork and costly registration fees on a small manufacturer such as ourself.

Our major raw materials, Paradichlorobenzene and Naphthalene, have natural destruction mechanisms (including biodegradation) which eventually result in their disappearance. In support, recent studies by Monsanto and Dow Chemical indicate that paradichlorobenzene does not accumulate in the environment. When used in toilet blocks and hung over the side of the bowl, paradichlorobenzene is an evaporative non-water soluble chemical, is not introduced into the water, and has never been detected in potable waters in the State of New Jersey, or anywhere else.

Section 18 of the proposed Committee substitute for Bill 1342 poses a major problem and legal headache to small businesses as well, especially a company whose products are as widely used as ours. Under this section, we would be open to suit by anyone entering a home or apartment where our closet blocks or bowl deodorants are being used.

In conclusion, we would again like to stress the necessity of excluding household products from a bill such as this. It is our firm belief that sanitary, deodorant, and moth preventative specialty manufacturers are adequately regulated and monitored by the EPA and New Jersey Department of Environmental Protection under current registration formulations. Our plant facilities and working conditions are strictly monitored by OSHA inspections, and there have been no problems found endangering the health of our employees. We foresee that passage of Senate Bill 1342 would entail duplicative and excessive costs for enforcement, cause great consumer confusion, and unnecessarily threaten many jobs in our industry, both in and out



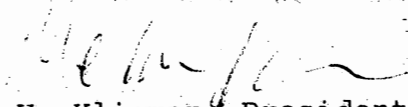
Senate Energy & Environment Committee
October 2, 1984
Page 3

of the State of New Jersey.

I urge you to take these comments into consideration as you are evaluating this bill, and I thank you for your time and attention to this matter.

Very truly yours,

EXCELL CARSON CHEMICAL CORP.


Melvin H. Kligman, President

MHK:ss

PAPER IN OPPOSITION TO SENATE BILL 1342

My name is Thomas E. Sellers. I am the Superintendent of the Camden County Mosquito Extermination Commission. I am here in opposition to Senate Bill 1342. This Bill is detrimental to organized mosquito control. If this Bill is enacted and enforced, organized mosquito control will be so costly, it may make mosquito control a thing of the past. In my opinion, the current regulations, administrative codes and laws meet the criteria for effective supervision and control, especially for organized county commissions/agencies operating under provisions of N.J. Statutes Annotated 26:9.

Camden County has a population in excess of 470,000 people. There are, approximately, 224 square miles. The County has extensive urban areas, suburban areas, rural areas, as well as agricultural areas. In these areas, we have in excess of 50,000 Catch Basins, Storm Drain Outlets, many miles of Drainage Ditches which do not include the four hundred miles of various size water courses.

The County is divided into seven mosquito control districts. There are almost two thousand recorded, known and potential, mosquito breeding locations; not counting temporary breeding locations which result during construction activities or breeding locations that occur after heavy rains and those locations found in and around homes, because the people failed to adhere to the rules for controlling mosquitoes in and around their property. The current procedures are for the Inspector assigned to the district to:

1. Inspect
2. Obtain a sample of the larvae for identification
3. Treat the breeding location
4. Record.

We attempt to inspect each location every seven days. We treat the location only when breeding is found. Ninety-eight percent of our treatments involve larviciding. Under the provisions of S-1342, requiring notification by megaphone, immediately prior to control application, the Inspector would have to:

1. Inspect
2. Take his sample of the larvae
3. Give notification by megaphone, walking or driving his vehicle in the immediate vicinity
4. Return to the location to treat
5. Record

The question arises as to what is defined as the immediate vicinity? We, those in the office of the Camden County Mosquito Commission calculate a reduction of at least fifty-eight percent in the productivity of the Inspectors. Another point we have taken into consideration is noise pollution. Most of the Municipalities in Camden County have noise pollution codes/ordinances. The average ordinance sets limits - not to exceed 65 decibels during the hours of 7 a.m. to 9 p.m., and not to exceed 50 decibels between 9 p.m. and 7 a.m. An additional question - Is it necessary to notify, by megaphone, when Catch Basins are being treated? In the Urban Areas, there are as many as four Catch Basins at one intersection. There are as many as twenty in a two-block area then, in some of the Suburban Areas and Rural Areas they are spaced from 50 to 200 yds. apart. Do we use the megaphone for notification in "Quiet Zones" such as, in and around hospitals, nursing/convalescent homes, schools, etc? We perform adulticiding operations by ULV - Ultra-low Volume - when it is deemed necessary.

The notification requirement would necessitate the use of another vehicle preceding the ULV vehicle and double the expense for one operation. Since ULV operations take place from one-half hour before sun-down to late in the evening, the employees are paid at the overtime/night rate (time and one-half). Two nights cost for one night of productivity! The added cost, with current budget limitation, we cannot bear. I believe, that everyone here is aware of what is called the CAP? Will this bill be modified so that the State will pay the additional cost? If mosquito control operations are reduced or eliminated, who will assume the responsibility for the resulting annoyances, health and illness problems caused by mosquitoes?

Another section of the bill states - "that no person shall perform an out-door pest application for mosquito control within two-hundred feet of an out-door recreational facility, unless the governing body of the Municipality has been notified, no fewer than two days in advance of the application." Camden County has in excess of 500 locations which we classify as recreational or play areas. These include bicycle paths, that are extensive, jogging paths, some are miles in length. We have playgrounds, parks, athletic fields and play areas in housing and apartment complexes. I cannot see the need for notification, when larvicide applications with granules are used. Many of these locations are within the immediate vicinity of Catch Basins. Common sense directs that no location would be treated, larvicide or adulticide, if considered dangerous or harmful. When we notify a Municipality of intent and the need to treat an area to prevent adult mosquitoes from emerging, can we be sure that they will have personnel to post the area a day before the treatment and personnel to remove

the signs after the expressed period?

In Section 18 of the proposed law, there is a one-sided part. Part of the section reads: "and it shall not be necessary to the maintenance of the action that the person bringing the action prove he has suffered or will suffer personal loss or damage. The Court may award the cost of litigation, including reasonable attorney and expert witness fees". It did not state, in any place, that if the person bringing the action cannot prove that the action was just, that they would be subject to paying all cost, including reasonable attorney and expert witness fees.

There has been drastic increases in insurance premiums for coverages, especially in the Comprehensive General Liabilities/Public Officials Liability, as a result of existing rules and laws. The passage of this legislation undoubtedly will result in added increased premiums.

Our Commission, occasionally, uses aerial application, when deemed the best and most economical method. However, we use a mist blower, an air blast sprayer, more frequently to help accomplish our objective. The need to notify people residing in the stated range of the proposed target site by mail is unrealistic, extremely costly and time consuming.

I am sure, everyone is aware of the postal rate increase scheduled for January 1, 1985.

As I stated previously, mosquito control and the mosquito commissions work under the health laws of the State of New Jersey RS 26-9.

Our job is to protect the people within our County from annoyance and from health problems and illness caused by mosquitoes. I was not the Superintendent at the time, but in 1964 Camden County and the area around Camden County was the focal point of an Encephalitis Epidemic. Because of our location it, Encephalitis, is a constant threat. Every law or regulation, hindering our work, compounds the possibility that there will be another outbreak of Encephalitis. I can assure you, that the employees of the Camden County Mosquito Commission are very cognizant of the environment. We make every effort to do a good job, to accentuate and help the environment, not to destroy the environment. The health and welfare of the citizens of Camden County, the State of New Jersey and the United States is utmost in our minds.

The Camden County Mosquito Commission opposes Senate Bill 1342, as being unrealistic, fiscally disastrous and environmentally unacceptable.

Thank you.

Swedesboro Auction, Incorporated

SWEDESBORO, NEW JERSEY 08085

PHONE: 609-467-0313



October 4, 1984

Mr. Mark Connelly, Committee Aide
Senate Energy and Environment Committee
State House Annex
Third Floor
Trenton, N. J.

Dear Mr. Connelly,

I attended the hearing held by Senator Daniel Dalton,
Committee Chairman on September 24th.

As a farmer, and representing many vegetable growers who
patronize our Auction, I must add my voice in opposition to
Senate Bill 1342.

If this should become law, it would be impossible to grow
fruits and vegetables. The many advance notices required
would so delay positive action that any pesticide application
would be of no value in controlling insects or disease, with a
loss of the crop. As a farmer I do not want to harm anyone
or myself during pesticide application.

Sincerely yours,

Sebastian Patten KM

Sebastian Patten

128X

New Jersey Farm Products - Fresher... By Miles!



PACKARD INDUSTRIES, INC.

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PENNSAUKEN, N. J. 08110

October 8, 1984

Mark Connelly, Committee Aide
Senate Energy and Environment Committee
State House Annex
Third Floor
Trenton, New Jersey 08625

SUBJECT: Senate 1342

Dear Mr. Connelly,

I was pleased to meet with Senator Lesniak during the public hearing in Trenton September 24. I was also pleased of the changes recently made to S1342. However, I still feel there should be exemptions from insecticides used below certain levels of application.

I would like to go on record as opposing the present form of S1342 and would rather you direct this proposed legislation to the large scale commercial applicators using more than three gallons of product per acre.

As written S1342 still will adversely effect our type of business in this State.

Sincerely,

PACKARD INDUSTRIES, INC.



J. Benson
Vice President Operations

JB/hs

cc: D. S. Brown, Attorney
S. Markovitz

October 1, 1984

Office of Legislative Services
Statehouse Annex
C.N. 042
Trenton, N. J. 08625

Attention: Mark P. Connelly, Committee Aide.

Dear Mr. Connelly:


Land Holders, Inc. is the owner of approximately 4,000 acres of farmland in Cumberland and Salem Counties of New Jersey, which are leased out to area farmers. We would like to comment on the effects that the proposed pesticide bill revision would have on our holdings in South Jersey.

It is my understanding that the pesticide bill as it is now written, forbids any direct exposure to pesticides of field workers. This would seem sufficient to protect the farm worker from contamination. Due to the large farming industry in South Jersey and the rural nature of the area, the new proposed restrictions are much too extreme and impractical for the farmer to comply with.

South Jersey has always been the leading agricultural area of the State. Rising costs and strained economic conditions have already put many farmers out of business. This proposed pesticide bill will cause further strain and hardship on the farming industry.

We strongly oppose this bill.

Respectfully yours,


Claire P. Furia
Assistant Vice President
Project Manager

cpf

130X



Vegetable Growers' Association of New Jersey Inc. .

ANNUAL VEGETABLE MEETING & TRADE SHOW — January 15, 16, 17, 18, 1985, ATLANTIC CITY

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Burlington

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Camden

Alan Ebert

Cape May

Vincent DiLuzio

Cumberland

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Essex

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P. Gregory Scibilia

Mercer

Scott Ellis

Middlesex

Roman Clark

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Salem

Alan Shimp

Somerset-Middlesex

Joseph Musialowski

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At Large

Henry Klimkowski

Charles Maier

Harry Musumeci

Walter Ellis, Jr.

SERVICES: Research, Marketing, Legislative, Advertising,
Production, Grower Relations, Public Relations

October 3, 1984

Honorable Daniel J. Dalton
P. O. Box 39
Blackwood, NJ 08012

Dear Senator Dalton:

The Vegetable Growers' Association of New Jersey (VGANJ) is providing written comment in response to Senate Bill 1342, an act concerning pesticides, amending and supplementing P.L. 1971, C 176, amending P.L. 1981, c 538, and amending and supplementing R.S. 4:7-39. The VGANJ is an agriculturally oriented organization which speaks out on issues affecting production agriculture. The association's membership totals 1000 and includes members whose professions range from a small farmer to a manufacture representative of farm equipment. The VGANJ is providing these comments for the entire association rather than to resort to having each member write his/her individual comments.

The VGANJ is gravely concerned about many of the proposals included in S 1342. The entire approach of this bill assumes that additional legislative/enforcement action will cure the so-called "misuse of pesticides" problem. This entire legislative bill is an over reaction to a very small problem. There must be a better approach than one which:

1. Attempts to create a bureaucratic maze of paperwork.
2. Encourages duplication of efforts in the registration/labeling areas.
3. Thwarts state emergency efforts to eradicate newly introduced pests of economic importance.
4. Ties the farmers' hands when unexpected pest populations erupt.
5. Increases government enforcement costs by an incredible amount.

We believe the few incidents of pesticide misuse can be presently handled by prompt, fair enforcement of the existing laws. We also firmly believe that the support of additional research and training efforts at Cook College will help solve the problem better than more laws. Our farmers want to use pesticides correctly and carefully.

BUY NEW JERSEY VEGETABLES — FRESHER BY MILES

131X

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1st Vice President

William E. Johnson, Medford

2nd Vice President

Fred Nurge, Vineland

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W.B. Johnson, New Brunswick

Blake Hall, P.O. Box 231

New Brunswick, N.J. 08903

Phone: (201) 932-9395

Honorable Daniel J. Dalton

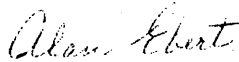
Page 2

October 3, 1984

We realize these materials are expensive and require caution when used. We also value our farm labor and want to ensure the health of our workers. That is why we are requesting additional funding for research and training.

We respectfully request that this entire bill be rejected. The VGANJ would be pleased to meet with members of the Energy and Environment Committee to discuss legislation which would provide additional funding for pesticide applicator training, research in integrated pest management research and pesticide safety for farm workers and our own farmers.

Sincerely,



Alan Ebert
President

hs

cc: Catherine A. Costa
Paul Contillo
Peter P. Garibaldi
Lee B. Laskin

STATEMENT ON
NEW JERSEY SENATE BILL NUMBER 1342
BY THE
NEW JERSEY PESTICIDE ASSOCIATION
SEPTEMBER 24, 1984

The intent of Senate Bill Number 1342, as originally proposed and amended, is to eliminate or minimize public exposure to pesticides. It is based on the unwritten assumption that the general public is exposed to an unreasonable risk and that existing pesticide regulations (as developed and enforced by the United States Environmental Protection Agency and the New Jersey regulatory agencies) are woefully inadequate. Previous testimony has demonstrated that this bill is unwarranted in that it is expensive and duplicates current state and federal laws and regulations. The premise underlying this legislation is both misleading and inaccurate. Moreover, this bill totally ignores the legitimate concept of risk assessment, as well as the obvious benefits which are derived from judicious pesticide usage. I will leave the discussion of benefits up to the many user groups represented here today.

Pesticides are among the most intensively regulated products used in the United States. Concurrent with these stringent regulations are extensive and specific data requirements that ensure against unreasonable risk to man and the environment. In fact, pesticide data requirements are similar to those associated with pharmaceuticals, the most thoroughly regulated class of products in the world. The data required for pesticide registration are thus used to provide a substantial and reliable basis for determining the potential for adverse effects upon man and his environment.

How is this potential for adverse effects determined? Pesticides are rigorously evaluated for both acute and chronic effects. Acute, or short-term, effects are assessed through a series of extensive tests, which measure the immediate impact of a toxicant on several animal species. These tests determine not only the survival, but also any abnormal response by a test organism when exposed to differing concentrations of a pesticide administered through oral, dermal and respiratory routes of entry. Additionally, chronic, or long-term, effects are conducted on a much broader range of animal species. Like acute toxicological requirements, chronic tests involve administration of the pesticide through the oral, dermal, and respiratory route of entry. The administration of the pesticide to the test organism may continue for weeks, months, or even throughout its entire lifespan. Chronic toxicological studies are rigorously evaluated for carcinogenic, teratogenic, mutagenic, neurotoxic, and reproductive effects.

Although much of the data required for a pesticide's registration involves the assessment of human toxicology, a considerable effort is devoted to the understanding of its environmental effects. This includes numerous studies on such non-target organisms as birds, fish, honeybees, and aquatic insects. Moreover, the fate of a pesticide within the environment is also evaluated using studies to determine its breakdown, mobility, and dissipation in soil, air and water. Additionally, the nature and magnitude of a pesticide's residues in plant and animal products must also be determined prior to its registration.

A common misconception among those unfamiliar with the regulatory process is that the registration process is static; that once a pesticide registration is granted no additional data are required. To the contrary, the regulatory

process is a dynamic one, which does not end at registration, but continues throughout a product's use history. It is important to realize that the regulation process is deeply rooted in the physical and natural sciences and, as such, it is constantly evolving. As methods of analyses become more precise, registration requirements for products new as well as old are constantly refined. This is the basis for EPA's Registration Standards Program, which periodically re-evaluates the data base of existing pesticides, thus ensuring that the most current, up-to-date data requirements are utilized. Another method of regulating a pesticide following its registration utilizes the Special Review Process. In this procedure, formally referred to as RPAR (Rebuttal Presumption Against Registration), the EPA can re-examine a pesticide's registration on the basis of newly-available data or an expressed public concern.

Persons supporting this bill may cite the withdrawal or eventual use restrictions of DDT, chlordane, toxaphene, dieldrin, and aldrin as proof of the need for more stringent regulatory policies. In reality, however, the scientific reviews and subsequent restriction placed on these products are indicative of the successes, not the failures, of the current regulatory system.

A certain level of exposure to a multitude of natural and synthetic chemicals in the air, water, and food is generally unavoidable. The use of pesticides is a natural result of the public's demand for abundant foodstuffs, high-quality living and recreational resources, unspoiled scenery, and disease-free habitats. The risks associated with these important benefits are neither lightly assessed nor lightly assumed. Instead, these risks are the

final reference points in a process requiring many years and millions of dollars to achieve. The ultimate decision of this massive research effort is not made in spite of public and environmental considerations, but rather because of them.

John V. Boyne, Ph. D.
Product Development Specialist
Union Carbide Agricultural Products
Company, Inc.

0715g

136X



CORDOBA HELICOPTER ENTERPRISES, INC.

R.D. #1, APPLGARTH ROAD, HIGHTSTOWN, N.J. 08520 • (609) 448-0031

To the Committee for Senate Bill 1342
Attn. Mr. Mark Connelly
Office of Legislative Services
Room 305 - State House Annex
Trenton, N.J. 08625

October 1, 1984

Dear Senators:

We at Cordoba Helicopters feel that Senate Bill 1342 should be dismissed in its entirety as it is duplicative legislation to existing regulations and that implementation of this bill would impose an additional financial burden to the people of New Jersey.

In regards to the aerial application industry in this State, this bill is designed to close the doors of all aerial application businesses in N.J. by making sure that operators or customers to be sprayed can not comply with notification or buffer zones as proposed in this bill. At present there are notification requirements set forth by N.J. DEP which were implemented one and a half years ago and cover non-agricultural lands.

Re. Section 6- (1) Type of aircraft to be used:

We feel that there is no one better qualified to choose the aircraft most adequate to do the job than the aerial applicators themselves. An operator stays abreast of development in the industry and he is constantly updating and improving his aircraft and spray equipment. He has access to all this information through Associations he belongs to, Conventions, Seminars and Agricultural Industry publications. We are the experts in the field.

(2) The hours during which an aircraft can be utilized to spray can not be fixed times as weather conditions (wind, fog, temperature, rain etc.) dictate the time of the day most propitious for the applications. In general we spray early mornings and late afternoons, but there are times when this is not possible because of adverse weather conditions.

(3) Wind and weather conditions under which the spraying of pesticides may be performed by the aircraft: The applicator is the best judge of weather conditions. He might in some cases utilize a certain wind condition to control drift and keep the insecticide from going into a non-target site, the direction of the wind has to be taken into account, not just the velocity.

(4) Minimum area on which spraying may be performed not less than 10 contiguous acres: This restriction places a great burden on the farming community as there are a great number of agricultural fields in N.J. under 10 acres. In particular, it will put the small farmer completely out of business. Many sweet corn, cranberry, blueberry, tomatoe, cabbage etc. fields are under 10 acres. The rights of the individual homeowners who have less than 10 acres of property, and wish to protect their trees and homes from pests by the most economical and efficient means, will be totally disregarded.

(5) This paragraph would allow our trees to be destroyed by unwanted pests in such areas as State forests, parks, campgrounds, golf courses, privately and publicly owned woodlands, private residences etc. as there is no other way that forest land can be sprayed at all except by air.

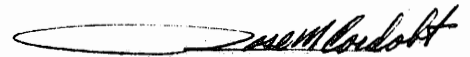
(6) High amounts of public liability and property damage insurance are already carried by aircraft operators.

(b) Permits for aircraft: Involving another Agency such as The Health Department is going to create a bigger bureaucratic mess and no doubt there will be contradictory information arising from so many Agencies involved not to mention the increased cost to the Taxpayer.

(c) Department of Health providing exception for mosquito control spraying in event of health emergency may not be necessary as there might not be any aerial applicators left in the State to take care of an emergency. How many cases of encephalitis must occur for a state of emergency to be declared.

Aerial application is an already controlled, efficient and safe way of controlling pests and it should not be legislated as if we were talking about toxic dumps.

Sincerely Yours,



Jose M. Cordoba
President

Cape May County
Mosquito Extermination Commission

Cape May Court House, N. J. 08210

Tel. 465-9038

465-9039

Mark Connelly
Office of Legislative Services
Room 305
State House Annex
Trenton, New Jersey 08625

September 26, 1984

Dear Sir:

I am writing to have included in the record, a statement opposing Senator Lesniak's Bill S-1342 and its current revisions. We oppose the bill on the basis that it is detrimental to the health and welfare of the citizens and visitors to the State of New Jersey. It is an antipesticide bill with very serious side effects to mosquito control efforts, agriculture and many other industries and agencies. I wish to speak to the issue of mosquito control.

The war against mosquitoes is an ongoing one dating back to early mankind. Mosquitoes have been responsible for more human deaths than all wars put together since recorded civilization began. History has been changed by the small winged insect that can cause so much devastation. Throughout the ages many control techniques have been developed ie. water management, genetic, biological, and chemical. All of these tools play an important part in professional, environmentally sound mosquito control methods and programs today and none should be eliminated.

By prohibiting the use of aerial application of broad spectrum pesticides on nonagricultural lands, a tool of good mosquito control is virtually wiped out. Furthermore, if these same pesticides must be applied by ground, it will be necessary to apply many times more than the amount used by air, thus increasing the pesticide usage in the environment with far less effect. The effectiveness of aerial application is determined by the necessary drift and the fact that it is broad spectrum. The provision in this law for a health emergency spray is a moot point because good mosquito control is preventative in nature and by the time a case of Eastern Equine Encephalitis appears, it is already 2 to 3 weeks too late. Our sophisticated surveillance methods tell us when viral activity is present and when it is necessary to adulticide. Larviciding (eliminating mosquito larvae while in the aquatic stage), must be treated immediately when it is found. Cape May County has several thousand acres of breeding marsh and upland that must be treated constantly. We are a tourist oriented county with 90% of our economy in tourism. We do no indiscriminate or unnecessary spraying and we cannot afford to once again allow mosquitoes to become so numerous that we cannot enjoy the outdoors. We cannot afford to gamble with the health & welfare of our citizens and visitors.

The notification procedure outlined is purely obstructionism by a group who want NO PESTICIDES. It is not practical, not affordable, and completely unworkable & unenforceable.

We do notify the public of sprays, by public notice in the newspaper and radio announcements for an adulticide, and police departments. We also notify people upon request prior to a spray. Sometimes we only have three to four hours prior notice ourselves. Mosquito migrate. They are not stationary. If you control them early while they are concentrated you adulticide less area and use less pesticide. It is sound economics and good environmentally sound mosquito control.

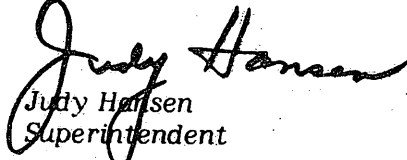
Page 2 of 2

Mosquito control research and control operations have made great strides since the days when 1/3 of the population of Philadelphia was wiped out by yellow fever.

Please don't set us back one hundred years now; not at a time when research is opening many new doors.

We strongly oppose this bill and urge its defeat in its entirety.

Sincerely yours,


Judy Hansen
Superintendent

JAH/d

140X

OCT. 04 1984



**SOMERSET COUNTY
MOSQUITO EXTERMINATION COMMISSION**

P. O. BOX 3000
66 EAST HIGH STREET
SOMERVILLE, N.J. 08876
TELEPHONE 201-231-7126

2 October 1984



**STATEMENT ON THE "PROPOSED SENATE COMMITTEE
SUBSTITUTE FOR SENATE BILL NUMBER 1342"**

I am writing as Superintendent of the Somerset County Mosquito Extermination Commission to oppose the "Proposed Senate Committee Substitute for Senate Bill Number 1342" (R-80 9/7/84; 9/13/84/man; 9/14/84). Those parts of the bill which adversely affect mosquito control activities will be discussed in the following commentary.

1. In 3.f. the definition of "adverse effect" contains the phrase "or any potential threat". This potentiality is juxtaposed with "any. . .threat". Clearly a threat is either known or it is unknown. Those of use who use pesticides in the public service can live with the clarity of the definition used in the regulations of the New Jersey Pesticide Control Act where "significant risk of injury or damage" is "based on the location, type and amount of pesticide involved, and available scientific information about the pesticide and its effect on persons, property and the environment."

Surely, this latter definition shows a more responsible approach to the conditions of pesticide use and our knowledge of the effects of this use. To speak of "potential threat" is to invite the unfortunate mumbo-jumbo of pseudo-scientists with their reams of scientifically unsubstantiated claims of what pesticides will do to us.

2. In 3.h. the definition of "Broad-spectrum pesticide" is, to use one of the definition's own words, so "nonspecific" as to defy definition. Each pesticide will have to be litigated to determine its specificity. Tighter terminology is necessary.

3. Product registration: As a user of a limited numbers of insecticides for mosquito control, I am concerned that manufacturers of these materials will feel intimidated about marketing their products in New Jersey unless there are enough sales to warrant going through the registration procedure. Sales of insecticides to mosquito control agencies do not constitute a major portion of the sales of any manufacturer, and we cannot afford to lose one of the products we

now use. Legislation resulting in less harmful materials will probably result in having only the more costly materials that must be applied at greater amounts per acre. The taxpayers will pay more for materials that are possibly only slightly less toxic and still subject to timely application for effective control.

5. Certification: The requirement that all persons using pesticides be certified, as opposed to present system of certification and registration, will work a hardship on county mosquito control agencies where summer help is used for larviciding. To have to train for certification, to have to go through the dual testing (Core and category) and to have to wait while administrative paper work is accomplished mean that valuable time will be lost. County agencies send their seasonal help out on this work with the basic training required. Their exposure to insecticides of very low toxicity is minimal and the public's is even less.

6. 10-acre limitation: In 6.a.(4) we oppose such a limitation because there are many breeding sites that are smaller than 10 acres. To be limited to application by men or ground equipment can mean no treatment. No man or machine can match the productivity, typically 4 to 6 acres per minute, of the helicopters used to treat these sites. The effect of this ban would be that more adult mosquitoes would emerge, mosquitoes that have to be treated with ground equipment resulting in greater insecticide use.

7. Aerial ban: In 6.a.(5) banning aerial application of broad-spectrum pesticides on non-agricultural lands means that much larval control of mosquitoes, a better method than adulticiding, will be terminated. Again, the net result will be greater insecticide use for the protection of citizens. We oppose this ban because it means less effective control--no larvae ever swam away from their breeding site to escape treatment--and great expense. Let me illustrate this point. To treat the larvae in an acre of water requires .1 pound of insecticide at a material cost of about \$3.00. The larvae from this acre when they emerge can easily spread through one square mile (640 acres), the treatment of which requires 100 pounds of insecticide with a cost of about \$200.00. Certainly this is neither environmentally nor economically desirable.

The aerial control of adult mosquitoes, when it is necessary, is more effective than when done with ground equipment because the

area is more uniformly treated at a lower cost. A fixed-wing aircraft can treat 45 acres per minute, a helicopter 18 acres and a truck travelling at 10 mph 6 acres under optimum conditions. Additionally, to wait for an emergency is to deny the logic of preventive work that employs less insecticide than remedial work.

8. Mosquito control regulations: In 7.c. we believe that all ground and aerial larviciding should be exempted as they are in the regulations of the Pesticide Control Act because larviciding does not present a threat of insecticide exposure to the public. Larvae live in water people do not. Insecticides used for larviciding are selective and/or of low mammalian toxicity except where there is heavily polluted water that supports no life but mosquitoes. Larviciding depends on timeliness of action, and anything that prevents that timeliness will result in the use of more insecticides.

Regarding notification for adulticiding, county mosquito control agencies have been giving notice under the regulations for the past two summers, and the response statewide, even from those who pushed for notification, has been negligible. In Somerset County I have received no request for information or notification as a result of notices placed twice each season in two papers for the past two summers. County mosquito control agencies have lists of people who want to be on a "No Spray List", typically shorter than a list of people who had called requesting to be sprayed.

9. Pre-spray notification: In 7.c.(3) and (4) such a notification procedure impedes the timely treatment of larvae. To go out and inspect, to report the breeding, to set up the notification procedure and then to go back the area to spray mean the loss of valuable time, time during which mosquitoes will emerge as biting adults. The timely action an inspector would take has been denied him; the result: more mosquito bites, more complaints and more spraying.

10. Recreation areas. In 7.c.(4) the bill lumps all treatments together just as it lumps all kinds of recreation facilities together. It may be repetitious to say it, but larviciding does not constitute a threat to health and welfare while failure to do so may. And, we feel, neither does adulticiding. Mosquito control agencies do not undertake adulticiding casually. We spray in response to populations that are causing demonstrable nuisance and that are evidenced by light trap and landing count collections. If

there are mosquitoes and no complaints, there is no spraying unless there are other factors like disease that is a clear and present danger to the public we serve.

11. Pesticide council: In enumerating the composition of the Pesticide Control Council, the term "pest control applicators" is used. It appears to me that a better term would be "professional pesticide users" since the present term seems to denominate pest control operators exclusively. As I am sure you are aware, there are others of us out in the State who use pesticides professionally and who should be allowed participation in the deliberations of the Council. There might be agreement that the pesticide user representative be selected from the various user groups on a rotating basis.

12. The bounty: As a public servant in mosquito control I find the provisions of 19. ominous. I know of no bounty hunters in Somerset County, but in other counties there are people strongly opposed to mosquito control who would not be averse to profiting from what they perceive as a violation, and for them any use of pesticides is a violation of the environment. One of the most radical anti-pesticide statements I have heard of came from a woman who said at a public meeting that she would rather see her son die of encephalitis than be sprayed with malathion. For some mosquito control is anathema because it represents a change in a way of life. Striking out a mosquito control and making it pay for what they see as wrongs would be their way of striking out at the society over which they have no control. Making it harder for us to serve the public will, one supposes, make it easier for conditions to revert to the good old days.

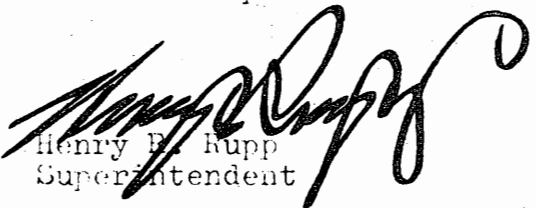
In light of the fact that there are already effective regulations under the New Jersey Pesticide Control Act that govern our activities with pesticides fairly comprehensively and provide protection for the public we serve, I would respectfully suggest to the Committee that mosquito control activities funded under Title 26 (Health & Vital Statistics) of the New Jersey Statutes be exempted from the provisions of the "Proposed Senate Committee Substitute for Senate Bill Number 1342".

Speaking as an individual, I find it curious that if I strictly observe the provisions of this new version of Senate Bill 1342,

I cannot put a citronella candle in my back yard to repel mosquitoes without going through the notification procedure. Similarly, if I am outside and am attacked by large numbers of mosquitoes, I cannot use a repellent unless I have gone through the notification procedure. I would respectfully suggest to the Committee that such all-encompassing, such oppressive legislation would in these instances be honored more in the breach than in the observance thereof. We all recognize that pesticides in the hands of the untrained cause more calls to the New Jersey Poison Information and Education System than any other source, but this is too much.

It is inequitable to deny a person the right to use a spray in his own back yard for mosquitoes with a .5% pyrethrin spray unless he has given notice while at the same time allowing his neighbor to treat his yard for plant pests with a 5% carbaryl spray. If such inconsistencies are not removed from the bill, if you deny the individual the right to judicious self-protection, you make a mockery of the intent of the bill unless the intent is to ultimately ban all pesticide use in New Jersey, and then you will open up a Pandora's box of neighbors suing neighbors for violations of the law and collecting an easy \$500.00. All one would need is a video camera, and he is in business.

I am not making light of the intent of the bill, but I am concerned that, as written, the bill makes light of itself. Concern for pollution of the environment is eminently laudable, but I would ask the members of the Committee to check and see whether the baby is still in the tub before they throw out the bathwater, the baby being the safe and proper use of pesticides in the public's behalf.


Henry B. Rupp
Superintendent



JUNE DULINSKI - OWNER
465-3121

DELSEA DRIVE AT DIAS CREEK

- BOARDING ALL BREEDS & CATS
- AKC COCKER SPANIELS
- CHAMPION STUD SERVICE & PUPPIES

R.D. 3 BOX 92
CAPE MAY COURT HOUSE, N.J., 08210

9-28-84

Office of Legislative Services
Trenton, N.J.

Dear Sirs:

Please vote No on Senate Bill
S-1342. More Mosquito Comm.
services are needed rather than less.

Sincerely -

Vincent Dulinski

151A Schoolhouse Ln
R.D.I Elders
New Jersey
08270

Please vote no on
Senate bill S 1342

Lynell Penda

147X

New Jersey Shade Tree Federation

Blake Hall, Cook College

P. O. Box 231 • New Brunswick, N. J. 08903

(201) 246-3210

STATEMENT PUBLIC HEARING

S/1342

September 24, 1984

9/24/84

STATEMENT PUBLIC HEARING S/1342

My name is William Porter, and I am currently wearing two hats. I am the Executive Secretary of the New Jersey Shade Tree Federation, whose 1200 members include shade tree commissions, municipal and utility foresters, commercial arborists, scientific personnel from our State colleges, and just a lot of people who have a concern for trees. My other hat is that I am a commercial arborist, with a company in Rumson, New Jersey. I have been in the arboricultural field for over 40 years, and I am a New Jersey Certified Tree Expert, License #100. In my career, I have served on the Bureau of Tree Experts in the Department of Environmental Protection, on Governor Hughes' Advisory Committee on Pesticides, was President of the Arborists Association of New Jersey, the New Jersey Certified Tree Experts, and the New Jersey Shade Tree Federation. I am a member in good standing of the International Society of Arboriculture and the American Society of Consulting Arborists.

Today I speak to you first as the voice of the New Jersey Shade Tree Federation, who in its fifty-nine years of existence, has established a firm history of conservation, protection of the environment or supporter of the ecology, or by any other title you would care to put on it. To paraphrase Barbara Mandrell, "We were Country when Country wasn't cool."

We have supported legislation to preserve our farmlands, provide open space and sensible regulations controlling pesticide usage. We believe in providing the public with the best information available for the preservation of their trees. We were the prime supporter of Chapter 100 Public Law 1940 called 'The Tree Expert Act', which established the Tree Expert Bureau who examines and qualifies men as Certified Tree Experts. This enables the public to employ competent arborists who are qualified to diagnose and treat tree problems.

We are firm supporters of the Bureau of Pesticide Control and have actively assisted them in establishing sensible regulations for pesticide usage. We are of the opinion these regulations and the Bureau is effective in protecting the rights of our citizens and preserving the environment they inhabit.

-more-

149X

We are prepared to support any legislation or any organization or any method that will be useful in continuing these goals, S/1342 and its companion A/1536 fail to do this. Adoption of these bills will do the opposite by seriously curtailing:

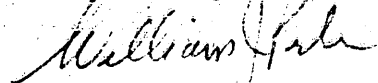
- Agricultural production
- Gypsy moth suppression
- Arboricultural treatment of trees
- Mosquito control
- Tree and brush control along highways and utility lines

We have made great strides in New Jersey with our recent integrated pest management programs against the gypsy moth. I cannot see anything but good that has come out of that. It requires the use of pesticide. Its goal is the control of the pest using less and less pesticide. It is working. If S/1342 is enacted, then this program will be forced back to square one.

We have programs that work, we have regulations that can and are easily updated to adjust to current situations. Legislation would seriously curtail this flexibility that we must have to meet the problems. It will be costly and ineffective by creating more problems than it solves. It duplicates federal regulations and completely ignores public input that was responsible for our existing pesticide regulations.

The New Jersey Shade Tree Federation is opposed to S/1342 and A/1536 on the grounds that it is not in the best interests of the citizens of New Jersey.

Respectfully submitted,



William J. Porter,
Executive Secretary

9/24/84

STATEMENT PUBLIC HEARING S/1342

My second hat and statement is of a commercial arborist with third generation management in the same location for over 60 years. In the interest of brevity, I support and second the objections previously stated by the New Jersey Shade Tree Federation and those of the

Alliance for Environmental Concerns

The Farm Bureau

Secretary Brown and others

whose concern over S/1342 as being unworkable and too restrictive without attaining its goal of reduction of the use of pesticides. It would be far more productive if the energies and monies be put to strengthening the present regulations and the Bureau of Pesticide Control.

I will however, ask the Committee's indulgence in considering two aspects of S/1342 that was not brought up at the hearing on September 24th.

In respect to notification, I will not burden you with the going out of business nonsense because it will not happen. I and others will continue to spray and do it profitably. We will be restricted in the number of properties will be able to service with any given machine, but we will get a higher price for each job. This will create three distinct situations:

No. 1, the more affluent will pay

No. 2, the little guy who cannot pay will try to do it himself.

This will result in an increase in usage of pesticides and a resultant increase in misuse with a greater injury possibility and as has been proven time and time again, in studies, an increase in pesticide pollution with many of the unused portions going down the sewer.

No. 3, it will create an environment conducive to bootleg sprayers with the promise of high profits for desperate homeowners who cannot get a legitimate operator because of his full slate.

-more-

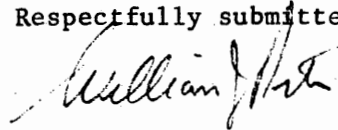


"Second Hat"

Section 18 with its bounty hunting aspect is wrong, terribly wrong. It goes against everything this country was built on. I am not only frightened of this section, I am equally frightened of the kinds of minds who could conceive such a regulation, and I protest this.

In conclusion, I would like to stress arboriculture and the preservation of trees in New Jersey is, and has been, a leader for others to follow. Trees are more than aesthetically pleasing, they are essential to our very survival. We need pesticides to preserve them. We need sensible effective regulations. We need increased education regarding the uses of pesticides, both for the user and the general public. We do not need S/1342.

Respectfully submitted,



William J. Porter, CTE,
Consulting Arborist

Mark Connelly
Office of Legislative Services
Rm 305
State House Annex
Trenton, N.J. 08625

September 26, 1984

Dear Mr. Connelly:

After reviewing the Lesniak proposed S.1342/A.1536 material I look upon the results of such an order with total incongruousness. What the proposed bill wishes is not what it states, but it realizes that it seeks a compromise on the issues. What it fails to provide is solid scientific evidence to an individual such as myself who can sit in judgement on such matters.

These demands would put me out of business since as a single individual I could not absorb the costs of such demands. I would suspect this is against my constitutional rights and would react to this measure very strongly. The state may have a final say in determining rules in this event but you have no right to remove a mans livelihood, this is against the constitution.

I would suspect that each group of for and against has shown that each is correct and naturally these sides have what appears to be sufficient evidence to show that each is correct. Having worked in science and chemicals for the past twenty-four years this is not an unusual occurrence. What you are actually looking at is insufficient evidence and in science this is what we call the need for additional testing. It is very easy to make test results appear to be different from what they actually are. For those who say that it is better to be safe than sorry I find this a poorly placed argument, for these same people would remove everything from the market, it is simply their philosophy of life.

In actuality the legislature cannot decide this issue, they do not have the expertise. Our society is asking nonscientists to decide a scientific question. Aside from this, most scientists themselves are pigeonholed in a specific job and could not speak from experience. The only valid way to decide the validity of each sides claim is to have ten scientists of each sides choosing look at the facts and allow them to refute each others claims. If they do not agree, they do not have sufficient evidence to prove anything except that they wish that they were right. There is only right and wrong in science and you will be able to determine this after each side is able to refute the other with tests and time.

The Federal DEP has made known this week that it will be taking a more detailed look at pesticides to determine if these are more hazardous than they are. I would suggest that this is

an opportunity to have the Federal Government conduct tests without an injustice occurring by putting through this nebulous legislation.

Sincerely,

Robert L. Nazarete, Owner
Turf Serf Lawn Care
Cloverhill Drive
RD 3 BOX 334
Califon, N.J. 07830

Experience: Worked for or with

B.S. Biology with minor in Chemistry
Owner Turf-Serf Lawn Care, Califon, N.J.
Lamont Doherty Geological Observatory of Columbia University
work in marine biology and geology
Alpine Geophysical Associates, Norwood N.J.
work in testing pollution off Long Island shore
Teacher of Earth Science, Franklin Twp. N.J.
Liberty Labs, Liberty Corners, N.J.
raised cats for medical testing
Beecham Pharmaceuticals, Piscataway, N.J.
R.P. Scherer, Somerset, N.J.
Ormont Drug and Chemical, Englewood, N.J.
Chase Chemical, Newark, N.J.
Philadelphia Labs, Philadelphia, Pa.
S.B. Penick, Lyndhurst, N.J.
operated machinery, worked in biological and chemical
testing labs, was production supervisor and assistant plant
manager.

LEON M. MAZZOTTA, D. D. S.
217 E. GLENWOOD AVENUE
WILDWOOD, NEW JERSEY 08260

TELEPHONE 522-4321

Sept. 29, 1984

Mark Connelly

Office of Legislative Services

Room 305

State House Annex

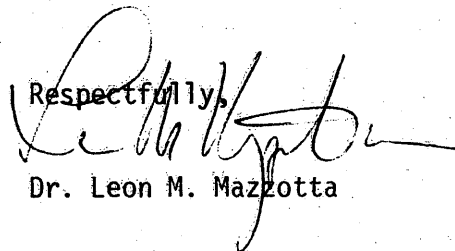
Trenton, N.J. 08625

Dear Mr. Connelly:

I am very much opposed to Senate Bill S-1342 and wish that it be deposed entirely. I am in favor of the Mosquito Commission actively spraying unimpeded in its fight against this intolerable pest, the mosquito. As you and I both know that this insect, in addition to providing much discomfort to humans, also is the vector for the spread of equine encephalitis, malaria, and other dread diseases.

Just because some activist decides to impose her will on the majority, this does not justify passage of this bill. I think you will find that the majority of the people want this protection against this insect without restraint. Also our democracy is founded on the principle of the greatest good for the greatest number. One person that is all this wrong should not be allowed to defy the above principle. This is tantamount to tyrannical behavior. I have confidence that the Senate and the Assembly will prove superior judgment and vote against this bill.

Respectfully,



Dr. Leon M. Mazzotta

Office of Legislative Services
Statehouse Annex, CN 042
Trenton, NJ 08625

ATTN: Mark P. Connelly,

Dear Sir,

I am opposed to the
proposed bill increasing
state legislation & regulations
on pesticides use.

I am a part time farmer
who holds an individual
and commercial Certified
Pesticide License for the State
of NJ which costs \$25.00 per
year. I attend meetings
each year to keep my

157X

certification. Isn't this
enough regulation?

Over regulation is certain
to lead to the demise of
the back bone of New Jersey
farming - the small farmer.

Thank you.

Granville F. Dore
1900 Union Landing
Riverton, NJ

08077

Oct 5, 1984

Dear Sir

This is in regards to the controversial bill of (Sen. Raymond Lesniak). There is no way that we can continue farming under these type of restrictions. I for one, but speaking for many am very much opposed to this bill and would like to go on record as such. If we are not allowed to spray our crops properly, then the next step might be to quit farming.

Respectfully
Richard C. Rusk
Orchard Lane farm
Box 1133-B
Mt Holly N.J. 08060

LESLIE C. REA FARMS, INC.

4TH AVENUE & BAYSHORE ROAD

BOX 593

WEST CAPE MAY, N. J. 08204

October 9, 1984

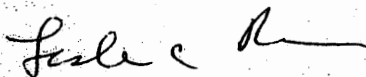
Mark Connelly, Committee Aide
Senate Energy and Environment Committee
State House Annex - Third Floor
Trenton, New Jersey 08625

Dear Mr. Connelly:

Being the third generation of farmers with the fourth also farming, we feel that farmers in the State of New Jersey should be exempt from the proposed legislation, NJ S.1342/A.1536. Farmers have enough restriction on them now! It is causing more and more farms to become extinct. Soon there will be no farms in New Jersey, hence no food! Therefore we are in great opposition to Senator Lesniak's Pesticide Control Act.

This legislation puts New Jersey farmers at an economic disadvantage with other states, opens farmers to nuisance suits, excaerbates the situation of farming in a suburbanizing state, and does not take into account standard farm practices. Farmers could not possibly live with such regulations. You would need a secretary just to keep up with the paperwork.

Sincerely,



Leslie C. Rea



cc: Miss T. Ch...

NEW JERSEY
STATE BOARD OF AGRICULTURE

CN-330

TRENTON, N.J. 08625

October 5, 1984

President
Raymond L. Blew, Jr.
R.D. 4
Bridgeton, NJ 08302

Vice President
Donald F. Pyle
2906 Harrison Street
Wall, NJ 07719

Norman J. Schnetzer
Box 900, R.D. 2
Asbury, NJ 08802

William G. Stoyko
R.R. 1, Box 380
Swell, NJ 08080

David A. Meirs, V.M.D.
R.D. 1
Cream Ridge, NJ 08514

Anthony Russo, Jr.
Carranza Road
R.D. 3, Tabernacle
Vincentown, NJ 08088

Harold O. Farrand
248 West Mill Road
Long Valley, NJ 07853

David M. Rizzotte, Jr.
86B Route 206
Hammononton, NJ 08037

TO: Daniel J. Dalton
Catherine A. Costa
Paul Contillo
Peter P. Garibaldi
Lee B. Laskin

FROM: Raymond L. Blew, Jr., President **RLB**
New Jersey State Board of Agriculture

Accompanying this letter is a copy of the talk I had hoped to give at the Senate hearing on S-1342. There were some issues not brought out or addressed at the hearing that are of prime importance.

1. Many times following a rainy period we will have an influx of different pests and diseases from the ones that were damaging the plants previous to the rain. This would mean we would be forced to reactivate the notification process since a different chemical is to be used.
2. Very frequently we see a resistance to a chemical which prompts us to switch pesticides very quickly. The pesticide that is the replacement may not be known to us as a grower at the time of the original notice so it would not be listed by us as a possible pesticide. This then would require the entire notification process (14 days) be reactivated taking far too much time to save the crop.
3. There are laws and regulations prohibiting the spraying of any worker. These should be enforced not rewritten.
4. The cost of training an individual to operate a tractor and sprayer along with pesticide mixing methods is considerable. Therefore, I cannot afford to have that man sick due to mismanagement of pesticides.

5. The farmers income is a direct result of his field workers staying healthy and producing a profitable harvest. We cannot afford to have them sick from pesticides or for any other reason.
6. We are farmers and businessmen. Agriculture is a very competitive field. We cannot afford the cost of over applying pesticides. We are environmentalists which means we must pass on the environment in good shape to the next generation. It is imperative we have more biological control research working towards extensive I.P.M. as well as the flexibility to utilize the necessary proper chemicals at the right time.
7. There are some factors I believe should be considered by the Department of Environmental Protection.
 - a) Any operator of spray equipment must be certified or supervised and trained by a certified applicator from that farm. Both the certified applicator and the operator must sign a statement to the effect that he has been properly trained to apply pesticides.
 - b) Wall posters and/or brochures should be prepared, perhaps in consultation with the Department of Health, to address the following:
 1. Explain the primary means of exposure to pesticides, including oral, dermal and inhalation and how they can be avoided or greatly reduced.
 2. If exposure has occurred, what decontamination or other emergency procedures that should be followed. This should also include the phone number of the New Jersey Poison Information and Education System and an emergency plan.
 3. Methods of reducing exposure in one's daily life by simple housekeeping or personal hygiene techniques could also be stressed.

- c) The great concern by people living near a farm seems to be they are not aware of the sprayer until the equipment is in operation. This could be easily solved by requiring that any plane or airblast sprayer must make a dry run around the entire perimeter of the field previous to spraying. This would allow adequate time to close windows, etc.

If we are to continue keeping New Jersey green and feeding millions and providing jobs for thousands we must have the flexibility to use the proper pesticides at the proper time and Senate Bill 1342 destroys or hinders all of this.

Attachment

✓ cc: Mark T. Connelly



*Copy to
Mr. Conall*

NEW JERSEY
STATE BOARD OF AGRICULTURE

CN-330

TRENTON, N.J. 08625

September 29, 1984

President
Raymond L. Blew, Jr.
R.D. 4
Bridgeton, NJ 08302

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Vincentown, NJ 08088

Harold O. Farrand
248 West Mill Road
Long Valley, NJ 07853

David M. Rizzotte, Jr.
86B Route 206
Hammonton, NJ 08037

TO: Senate Energy and Environment Committee
FROM: Raymond L. Blew, Jr., President **RLB**
New Jersey State Board of Agriculture
RE: Public Hearing on Bill S-1342, Committee Substitute

I am an environmentalist, a conservationist and also a farmer! In agriculture we are willing to meet Federal pesticide requirements. The E.P.A. has the facilities to perform all necessary tests and are deliberate as well as careful in the writing of pesticide regulations. When we operate under these conditions we can produce a high quality, uncontaminated product, compete with other sections of the country and provide jobs for our people in addition to maintaining a safe environment.

Bill S-1342 speaks of a 500 foot buffer with somewhat relaxed notification rules. However, the average farm in New Jersey consists of 108 acres and the 500 foot buffer would render 75 acres of that farm useless. If we look at the minimum buffer area of 100 feet, we find the farm loses 18 acres. A farm of 22 acres would be totally consumed by the 500 foot buffer and would lose 36% of the land with the minimum of 100 foot buffer. No farm or industry can lose this large a percentage of its production area and survive. Therefore, it is evident that the buffer area clause is of no value, so the notification procedure would be the only option.

As required by Bill S-1342 the farmer would notify everyone by mail, within 500 feet, of his intention to spray the crop along with stating any possible pesticides to be used on that crop. In addition, twenty-four hour advance notice is mandatory for those who request it. This notice goes beyond just the proposed date, time of application and pesticide name. Literally, a packet of documents would be needed for each pesticide application.

In some cases, initial notice could include several hundred people at a delivery cost of \$4.50 per certified or registered letter. I suggest this mail service since it would provide proof of sending.

The number of individuals that would request prior notice before each spray application is difficult to predict. However, mailing and preparation costs would be high since so much information must be relayed. For example, a pesticide fact sheet, similar to that being developed by the Department of Health, would be four pages alone.

Secondly, a farmer does not always know what pesticides he will apply since it is impossible to predict for the next several weeks weather factors such as minimum - maximum temperatures, wind velocity, wind direction, intensity of rainfall and dew point.

A specific example is from 1983 in our own nursery operation. We must be certified free of pests to allow us to ship nursery stock (80% of our production) out of the state. How could I predict a north-northeast wind that covered us up with gypsy moth larvae (from a state park one mile away) flying on their silk thread. We do not normally use the product recommended for the control of this pest. If we were operating under bill S-1342 at that time, we would have had to terminate or lay off 80% of our work force while waiting for the cumbersome and unjustifiable mechanics of the bill to reach a go state. By that time our customers would have purchased plant material from another supplier, probably from another state. This would mean we must carry the plants until another planting season arrives. During that time the plant must be sprayed several more times and then we could have another infestation of some differing, unanticipated insect or disease resulting in a repeat of the same process. However, this process would not be completed the second time. Our workers would be out of a job, we would be out of business.

We in agriculture have practiced a procedure for many years that is presently called Integrated Pest Management or I.P.M. This is the process of capturing insects, counting them and projecting the population expansion level over the next few hours or days. Unfortunately any accurate, recent research work on most crops and insects resulting in reliable I.P.M. has not been initiated as of this date. Following is an example of problems that do occur, must be analyzed and reacted to swiftly.

The crop is peas - the time 10:00 a.m.
Temperature in the 70 degree range
Medium infestation of aphids (30 per sweep)
Spray probability time 48 hours forward at
70 degree range

If we get a temperature rise into the upper
90 degree range, an 18 hour time is a
necessity

If we get a heavy shower followed by a temperature drop, we may be four days from a critical spray time and if we are close enough to harvest, we may not spray.

Under Bill S-1342 we must mail out (sometime in advance of our pest problems) to any requesting person the notification follow up letters. We cannot run the risk of missing our critical spray time and must spray, since it would be impossible to again notify these people, set up our new schedule and apply the pesticide within the 24 hours.

Twenty four hour advance notice sounds good but how many letters get delivered in less than 24 hours? Suppose the recipient of the letter was not at home for a day or two? How do I prove the letter was delivered on time? The bill does state the advance notice may be by phone but you know very well a reported phone call would not hold up in court.

Now we have three days with a crop of peas that is not an acceptable food product for the consumer or at best, a half crop resulting in a net loss of many dollars. If during the rainy period or waiting time a differing pest problem arises we must go through the cycle again which would be too late to salvage the crop.

In this article I refer to shotgun methods of applying pesticides and by this we mean applying several pesticides at one time to control present as well as possible future pests. Under the cloud of S-1342 this will be forced upon the farmer to prevent the renotification quagmire. We, as farmers, cannot afford the dollar cost of shotgun methods of applying pesticides. We, as farmers, cannot afford the risk to our personnel of the shotgun method. And we, as environmentalists, cannot afford the damage to our environment resulting from the shotgun method of applying spray. We must have more I.P.M. and biological control research along with the freedom to use the proper materials at the proper time.

S-1342 will create more problems, make the New Jersey farmer less competitive, force some out of business, result in higher quantities of pesticide per acre, force higher prices in the store and worst of all, will create more environmental damage to our animal and plant life -- not less.

My environmental lessons started at my fathers side in the fields of our farm when I was so young I could hardly tell the difference between a bird and a butterfly. I was taught that we were here to produce good food for the consumer and ourselves. Although we were food producers from the land, we were not to eliminate

or harm the habitat and environment, since it belongs to the animals and birds, as well as to man. This must all be cared for and passed on to another child whose small world is made up of butterflies, birds and grandfathers.

I, as President of the State Board of Agriculture can make this factual statement. The New Jersey farmer is the best producer of the highest quality food in the world. To remain the best you must work with us, the true environmentalist and citizen of New Jersey, not against us with such bills as S-1342.

J. Lee Womack
S. Academy St.
R. D. 1
Box 112
Glassboro, N.J.
08028

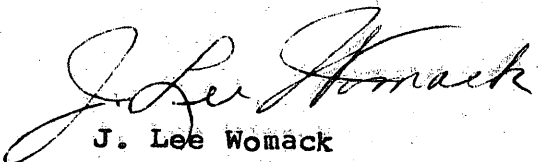
Mr. Mark Connelly
Committee Aide
Senate Energy and Environment Committee
State House Annex
Third Floor
Trenton, N. J. 08625

Dear Sir:

I attended the public hearing on S-1342 and in response to Senator Daniel Dalton's notice of September 26, 1984 would like to be recorded as opposing this proposed legislation.

Farmers in New Jersey are already overburdened with rules and regulations. They really must have time to grow their crops rather than go to time consuming regulations. Already in place by EPA are sufficient regulations to protect farm workers and the public. More regulations would cause more farmers to give up farming. With an army of new expenses the cost of government will greatly increase.

Respectfully yours,


J. Lee Womack

BURLINGTON COUNTY MOSQUITO EXTERMINATION COMMISSION



EAYRESTOWN ROAD
LUMBERTON, NEW JERSEY

(609) 261-5064

MAILING ADDRESS
49 Rancocas Road
Mount Holly, N. J. 08060



FIELD OFFICE
East Greenbush Road
New Gretna, New Jersey
609-296-2303

~~William J. Harris~~, President
Brian R. Gooley, Superintendent

October 5, 1984

Mr. Mark Connelly
Office of Legislative Services
Room 305
State House Annex
Trenton, N. J. 08625

Re: Proposed Senate Committee Substitute for Senate Bill 1342

Dear Mr. Connelly:

I wish to go on record as opposing the 'Proposed Senate Committee Substitute for Senate Bill 1342'.

Although the original bill has gone through a revision stage, the proposed substitute remains a serious deterrent to effective and efficient, organized mosquito control in New Jersey.

The first problem is the proposed ban of aerial application of broad spectrum pesticides. The use of broad spectrum mosquito adulticides, when timed and applied properly, maintains non-target mortality at a minimum. If mosquito adulticides are banned from use, no means of aerial mosquito control will be available. Mosquito control agencies will be unable to effectively 'check' adult mosquito populations, which cannot be properly controlled by ground application. Adulticiding from the ground is effective only against small, localized mosquito populations. In many situations, there simply is no access to infested areas.

A second problem is the prohibition of spraying in areas of less than ten acres. Every county in the State contains mosquito breeding habitats of less than ten acres in size. If control is not permitted in these areas, each one has the potential to produce literally billions of adult mosquitoes every year.

Third, and last, is the notification problem. Removal of the original '1,000-foot radius' and '21-day notice' provisions lessened the negative impact of the proposed notification requirements. However, the substitute remains next to impossible to contend with, and it presents a major obstruction to mosquito control agencies in New Jersey. Our Commission has published notices in

BOARD OF COMMISSIONERS

Sara Guertler . William J. Harris . John E. Hiro . Henry W. Metzger, Freeholder . Robert A. Preston . Ira L. Sussman

169X

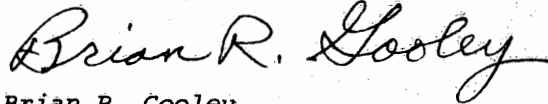
Mr. Mark Connelly
Office of Legislative Service

local newspapers (as already required by law) every sixty days during the mosquito season, for two years now. To date, we have not received any requests for information, or individual notification, as a result of our notices.

As you may be aware, Evesham Township, which is located in Burlington County, recently adopted the strongest anti-pesticide Ordinance in the State. However, the importance and necessity of County and State programs were recognized by the Township, and our Commission's operations were exempted from the provisions of that Ordinance. Since adequate safeguards and regulation of pesticide applications by mosquito control agencies in New Jersey already exist, the proposed substitute for Senate Bill 1342 should also provide such an exemption for State and County agencies, in the event it reaches the Senate floor.

Thank you for the opportunity to present this testimony.

Sincerely,



Brian R. Gooley
Superintendent



Geiser's Orchard

1863 Barbee Lane
Wall, N. J. 07719
(201) 449-5975

Oct. 3, 1984

Mr. Mark Connelly, Committee Aide
Senate Energy and Environment Committee
State House Annex
Third Floor
Trenton, N.J. 08625

Dear Mr. Connelly:

I would appreciate your conveying to the members of the Senate Energy and Environment Committee my, and my neighbors who are farmers, concern over the pesticide-use bill S-1342 introduced by Sen. Raymond Lesniak.

This measure would constitute an intolerable burden in terms of time, paperwork and expense for farmers and nurserymen. Agriculture in New Jersey is fading under the crush of taxes and regulation and many beleaguered farmers feel that passage of the bill S-1342 would be "the straw that broke the camel's back."

New Jersey farmers already must be state-certified to use restricted pesticides; they must attend periodic seminars; they are subject to inspection; they must be thoroughly versed in the handling, application and dangers of pesticides and they must be personally aware of the liabilities involved.

Agriculture is a business today that requires a careful husbanding of the farmer's time and money. Pesticides are money and, in the case of the orchard business, the single largest expense. They are applied prudently and in compliance with present state standards. To further burden the farmer with expense and red tape for a negligible benefit is not in the interests of agriculture and society in New Jersey.

Yours truly,



John Geiser

Kurt W. Alstede

Fruits • Vegetables • Hay
CUSTOM FARMING

Old Mill Road
Chester, New Jersey 07930

(201) 879-7189

October 7, 1984

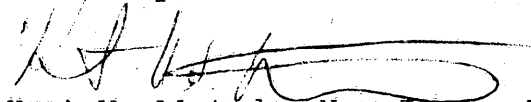
Mr. Mark P. Connelly, committee aide
Office of Legislative Services
Statehouse Annex, C.N. 042
Trenton, NJ 08625

To Whom it May Concern:

I would like to take this opportunity to share with you my position on bill S-1352 which is currently before you. To state my opinion of the bill would only serve to reiterate statements already made to you by Secretary of Agriculture Arthur Brown and New Jersey Farm Bureau President Walter Ellis. I will, however, simply say this: The passage of this bill would mean the end of agriculture in New Jersey, the "Garden State." I don't intend this statement to be a threat, but rather a fact. The restrictions that this legislation proposes would make it economically unfeasable to farm in this state. It is already quite difficult to farm in New Jersey, please let us not make it any more difficult than it already is.

I urge you to oppose this legislation.

Sincerely,



Kurt W. Alstede, New Jersey Farmer

KWA/kwa

Box 180 Main Road
R.D. #1 Newfield, NJ 08344
October 8, 1984

Office of Legislative Services
Statehouse Annex
C.N. 042
Trenton, NJ 08625

Attention: Mr. Mark P. Connelly

Dear Mr. Connelly:

I am a farmer in Franklin Township,
Gloucester County, New Jersey and I wish to show
my concern against Pesticide Bill S 1342 as
it would hinder the farmers in New Jersey.

Your assistance in bringing this matter to the
attention of the legislators will be appreciated.

Very truly yours,
FABRIZIO FARMS
Anthony A. Fabrizio

October 5, 1984

Dear Sirs:

This letter is in reference to the pesticide bill that will significantly increase state regulations of pesticide use.

At the present time we are farming approximately 200 acres which supports four families. We also hire, during our busy season, at least twenty full-time workers plus day-hauls from the Glassboro Labor Camp. We generate the expenditure of thousands of dollars into the local economy.

Sections of our farm have been in our family for over 100 years and we have, during all of that time, had good rapport with our neighbors.

If the above bill should pass and become law we will find it very difficult to continue farming and the possibility of being forced to sell our land will probably become a necessity.

All farmers in New Jersey (The Garden State) have, during the past few years, been forced to struggle with more and more legislation aimed at making their demise a certainty.

We are totally against this bill and hope that it will not become law. It would be great if the legislators in New Jersey would show the same consideration toward farmers as legislators of other states show their farmers.

Very truly yours,

Everett H Walker

WALKER BROTHERS



Located 3 Miles N. W. of Tuckahoe on
Aetna Drive Between Routes 49 & 50

BOX 366

TUCKAHOE, N. J. 08250

TEL. 628-2415

GEORGE W. BETTS
President

THOMAS H. BETTS
Secretary - Treasurer

October 5, 1984

Mr. Mark Connelly
Office of Legislative Services
Rm. 305
State House Annex
Trenton, N.J. 08625

Mrs. Janice L. Betts
RD 2 Box 872
Woodbine, N.J. 08270

Dear Mr. Connelly,

The following testimony was not heard at the hearing for SI342 on September 24 and should be included in the public hearing:

My family has been farming in New Jersey since 1930. My husband and his brother currently own the business and are farming 600 acres spread out over parts of Cape May, Atlantic and Camden County. All of our farmland is located within and regulated by the Pinelands' Protection Act. We are opposed to the Lesnick Bill. Surely we are regulated adequately under current laws.

The trouble with people like Mr. Lesnick is that their bellies are always full and many are fat. Their only concern over food is which kind they will eat! They say they are looking for long term protection, but they are not hungry enough to consider the basic of life, "food". If you force farmers out of New Jersey now just because you're "fat" and have nothing better to do,

don't think it will be easy to bring them back when twenty years from now for a number of reasons the United States and the world could be starving. It would be impossible.

Please, do not force farmers in New Jersey to become criminals to be left open to lawsuits from an unreasonable few because of the unrealistic and ludicrous proposed pesticide regulations in this bill.

Consider your options closely before voting on this bill. Think about the number of people in New Jersey who have actually been harmed by pesticides today and in the past. Then, consider that this bill will end farming in New Jersey.

Sincerely,


Janice L. Betts
New Jersey State Farm Bureau
(Cape May County Board of Agriculture)

NEW JERSEY FORESTRY ASSOCIATION

P. O. BOX 51 • CHATHAM, N.J. 07928-0051

DIRECTORS

Richard West, President
Charles C. Ryan, Vice President
Ronald J. Sheay, Secretary
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Wilmer Johnson
Mrs. Sylvia Miller
George H. Pierson
Harry Sampson
Frank R. Wallace
James A. Hosford

12 Brainerd Drive
Cranbury, New Jersey 08512
October 2, 1984

New Jersey Senate Committee on Energy & Environment
c/o Mr. Mark Connelly
Office of Legislative Services
Room 305, State House Annex
Trenton, New Jersey 08625

Re: S 1342, A 1536

The Board of Directors of the New Jersey Forestry Association, representing forestland owners and citizens interested in forest conservation, wishes to express its opposition to Senate Bill Number 1342, as amended September 14, 1984.

We believe "this Act concerning pesticides" is unnecessary in view of the controls now existing in present federal regulations and pesticide registration, and in the recently enacted New Jersey Pesticide Code.

Further, we oppose the proposed bill for the following specific reasons:

1. the unwarranted prohibition of the aerial use of broad-spectrum pesticides on non-agricultural land. (Sect. 6-5). This would include sevin which is the most effective pesticide against gypsy moth and has been fully cleared and certified by both the Federal Department of Environmental Protection and the New Jersey Department of Health.
2. the unwarranted prohibition of aerial spraying of less than 10 acres (Sect. 6-4).
3. the unrealistic time requirements of notification of spraying intent and date (Sect. 16). Forest insect outbreaks can occur suddenly. This requires quick action of control so that the least amount of pesticides can be used effectively. It would not be possible to do this within the time constraints as given in the bill for notification.

N.J. Senate Committee on Energy & Environment
c/o Mr. Mark Connelly
October 2, 1984
Page 2

4. the requirement of listing all "known health effects not indicated on the label" is unreasonable.
5. the definition of "adverse effect" to include any potential threat to the environment or to human health is extremely speculative and ambiguous. This could lead to frivolous law suits.
6. the authorization of any person to bring civil suit (Sect. 18) even without suffering personal loss or damage for violations of provisions of the Act is far beyond the usual basis of litigation in civil action. This is completely unwarranted.

Instead of benefiting the environment and our valuable forest resources, it is very possible that the enactment of this bill would have a detrimental effect because of its prohibitions and restrictions on our ability to respond and control promptly destructive forest pests. We urge your committee to reject this bill.

Very truly yours,

Richard F. West

Richard F. West
President

NEW JERSEY FORESTRY
ASSOCIATION

AUGUSTUS NASMITH
COUNSELLOR AT LAW
132 WEST STATE STREET
TRENTON, NEW JERSEY 08608
(609) 394-2550

BY HAND

October 11, 1984

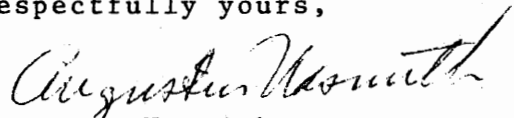
Mr. Mark T. Connelly
Senate Energy & Environment Committee
State House Annex
Room 305
Trenton, New Jersey

Dear Mr. Connelly:

On behalf of Consolidated Rail Corporation may we submit for inclusion in the record of the public hearing on Senate No. 1342, the attached statement in opposition.

We request that in lieu of the specific notification proposals in Section 7e applying to gas, electric, telephone or other utilities or railroads, that paragraph should be rewritten to exempt all utilities from the notification requirements.

Respectfully yours,


Augustus Nasmith

AN:gv
Enclosure

CONRAIL STATEMENT IN OPPOSITION
S.B. No. 1342

Conrail owns over 1,700 miles of track and operates over another 1,300 miles of NJ Transit track in the state of New Jersey. On all of that track, for successful maintenance and housekeeping to be undertaken, weed growth must be controlled. The application of herbicides is the only feasible means of weed control when that much property is involved. Conrail, and the railroad industry in general, contract with thoroughly qualified licensed applicators of herbicides who make appropriate use of the chemicals.

The notification provisions included in Senate Bill Number 1342, in all its versions, are unmanageable for a far-flung enterprise such as a railroad. Our only possible response to the rigorous enforcement of these provisions as written would be the cessation of right-of-way spraying. While some might find that prospect to be desirable, ultimately those whose homes abut the railroad--the very neighbors this language is intended to protect--would find the alternative much less desirable. While other means would be found to control weed growth on main lines, these options are so much more expensive that weed control would cease on many branch lines and industrial track--the great bulk of our 3,000 miles. Weeds would then grow and proliferate, spread to peoples'

Conrail Statement in Opposition
S.B. No. 1342
Page two

yards and gardens, attract pests, and generally create a nuisance. Drainage would deteriorate, maintenance costs would increase, and in some cases, abandonment of the railroad would result.

We do not know who many, if not most, of the abutting residents are, along our right-of-way. It would be an enormously difficult, time consuming and expensive process to determine who lives within 500 feet of the railroad and provide the specified forms of notification. In fact, we can with confidence predict that errors and oversights will occur. Our consequent inability to comply with the terms of this language will make this corporation subject to the penalty provisions of the law, should we proceed with chemical application. This legislation subjects Conrail to the "Catch 22" of being a bad corporate citizen regardless of how we would reasonably choose to deal with the problem of weed control.

Morris County Board of Agriculture

c/o Extension Service
Courthouse
Morristown, N.J. 07960
285-6920

October 12, 1984

Daniel J. Dolton
Senate Energy & Environmental Commission
State House
CN 042
Trenton, NJ 08625

Dear Senator Dalton,

The Board Members have reviewed S-1342.

The changes from the original submission have not been substantial or have in any way altered our thinking.

The bill is not only bad for agriculture, but everyone who wants to improve their environment using pesticides (any substance).

EPA and DEP all ready have all the rules and regulations that are addressed in S-1342.

We believe this bill should not be enacted and you do what is necessary to prevent its passage.

Sincerely,



Daniel O. Farrand
President

rc

October 2, 1984

Senator Daniel J. Dalton
Greentree Road & Blackhorse Pike
Turnersville, New Jersey 08012

Dear Senator Dalton:

I was unable to attend the public hearing on Senate Bill No. 1342 on Monday, September 24, but understand that you agreed to take comments by mail for two more weeks.

I am a member of the Pesticide Control Council and was led to believe a representative from the PCC would appear at your hearing. Since no one did, I take this means to present my comments concerning S-1342.

Section 3a

A new requirement for the DEP is to "conduct a thorough evaluation of any pesticide, etc." This adds great new responsibilities to the DEP or possibly to the PCC, but does not provide the financial means to exercise the responsibility.

Section 6a(5)

Prohibits all aerial applications to non-agricultural lands. This is overly restrictive and will prohibit the Department Of Transportation, Department Of Agriculture or Parks & Recreation from aerial applications if, in their professional judgement, such application is beneficial. Some exceptions should be permitted, eg. gypsy moths.

Section 7

The notification requirements are almost impossible to comply with-- particularly for home owners or small gardeners who apply pest control to their lawns, ornamental or fruit trees. In essence, it would make law violators of all of us! In addition, how would the enforcing agency monitor and control such activity?

OCT. 05 1984

October 2, 1984

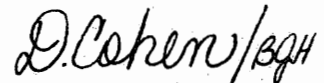
Section 10 - Composition Of The PCC

Expanding the Pesticide Control Council to 15 members will make it unwieldy and more difficult to conduct business (we sometimes have difficulty getting a quorum with 9 members). But more importantly, the bill describes exactly who all 15 members shall be, but fails to recognize the importance of having expertise and input from manufacturers of pesticides, distributors of pesticides or from the chemical industry in general. The proposed composition of the PCC does not afford a balanced or representative opinion for the Commissioner or the Governor.

Some people have jokingly referred to S-1342 as the Mosquito Protection Act, but I assure you, Senator, that it is no joking matter if we were denied the use of pesticides and other technological advances that have given us good and plentiful crops, a greener environment and world leadership in farm productivity. I am a strong advocate of pesticide control, but not making it so difficult or even illegal to use them so that we end up with pesticide elimination.

Thank you for the opportunity to comment on this bill.

Sincerely,



David Cohen

1 E. Parkway Place
Holmdel, New Jersey 07733
(201) 946-8198

cc: Mr. Ray Ferrarin
Mr. Joe Lomax
Senator S. Thomas Gagliano

TESTIMONY OF CHRISTOPHER L. FORTH,
REGIONAL TECHNICAL SERVICES MANAGER
ON BEHALF OF
CHEMLAWN SERVICES CORPORATION

Presented to:

THE NEW JERSEY STATE SENATE
ENERGY AND ENVIRONMENT COMMITTEE REGARDING
SENATE BILL NUMBER 1342 (ASSEMBLY BILL NUMBER 1536)

SENATOR DANIEL J. DALTON, CHAIRMAN

OCTOBER - 1984

My name is Christopher Forth and I am Regional Technical Services Manager for ChemLawn Services Corporation ("ChemLawn"). I am providing comment on behalf of ChemLawn with regard to Senate Bill 1342/Assembly Bill 1536. I am also a resident of the state of New Jersey and an Agronomist by profession, with extensive experience in Turfgrass and Ornamental management.

ChemLawn is engaged in the business of providing lawn and tree and shrub care service to residential and commercial customers through periodic applications of weed control, insect control, and fertilizer materials. Service is provided through a network of company-owned and operated branches to more than 1.6 million customers in 42 states and Canada. ChemLawn services over 80,000 customers in the state of New Jersey, employing a staff of nearly 400 people.

As Regional Technical Services Manager, I am responsible for the design and implementation of all agronomic and horticultural programs for company branch locations in New Jersey, Pennsylvania, and Delaware. I am a certified pesticide applicator in each of these states in turf, ornamentals, household pest control and research and demonstration.

SIGN POSTING AND LAWN CARE APPLICATIONS

After reviewing the proposed legislation, which was received September 10, 1984, the items of major concern are those provisions regarding notification and sign posting, particularly the sign posting requirements found on Page 15, item 4(g).

In residential and commercial lawn situations, ChemLawn applies insect and weed control materials which are diluted with water at a rate of 70-700 times to achieve legal label rates of application.

Most pesticides registered for general use, the category for most lawn care products, have toxicities comparable to aspirin, Tylenol[®], or the commonly used antibiotics. However, pesticide exposures are much, much lower than therapeutic doses of these commonly used drugs. Pesticide applications on lawns may occur only from 2 - 4 times a year. The dose or quantity applied to the lawn ranges from about 10 mg./square foot of grass. (1/40 teaspoon/square foot of grass) to about 90 mg./square foot of grass. The remaining residue does not translocate nor is it readily transferable to the skin. This residue declines due to uptake into the plant, degradation by sunlight, and through soil microbial activity.

ChemLawn has conducted its own animal studies investigating exposures to end-use tank mix dilutions of fertilizers and weed and insect control material combinations. The results show that these mixtures can be classified as practically *"non-toxic," according to accepted scientific standards. Additionally, patch tests administered to individuals who have made personal inquiries regarding their sensitivity to materials applied by ChemLawn have not demonstrated positive or clinically significant allergic responses.

The safety of the materials used by ChemLawn speaks for itself. It is our opinion that requirements to post notification signs would only serve to create undue and scientifically unfounded public alarm.

* Gosselin, Hodge, Smith, and Gleason, Clinical Toxicology of Commercial Products, 4th Ed., Williams & Wilkins, 1976.

PESTICIDE LICENSING

While ChemLawn supports the certification of all pesticide applicators, the current system for the administration of the required examinations would, due to the limited number of times which the exam is given and the fact that many sessions are filled to capacity weeks ahead of time, make it virtually impossible for all our current registered operators to receive certification within the time frame allotted by the proposed legislation. Also, due to this restrictive licensing provision, ChemLawn will no longer be able to offer part-time employment opportunities during the summer months.

Page 5, Item 5, sub-paragraph C is extremely vague. This vagueness is certain to be exploited through the new citizens suit provision of Page 25, Item 18, in which persons may bring civil action without demonstrating personal loss or damage--the net result being the creation of a lawyers welfare bill.

CONCLUSION

ChemLawn supports reasonable pesticide legislation and regulation. However, we find that the proposed legislation fails to address the real "problem" -- enforcement of existing law and regulations. It is unreasonable to think that cases of misuse and misapplications will effectively be dealt with by introducing additional legislation.

Safety to our customers, employees and the environment is important and we strongly support legislative action which would provide increased enforcement of the existing regulatory scheme.



CHRISTOPHER L. FORTH
REGIONAL TECHNICAL SERVICES MANAGER
CHEMLAWN SERVICES CORPORATION

attachments

cc: Senator Catherine A. Costa
Senator Paul Contillo
Senator Peter P. Garibaldi
Senator Lee B. Laskin

Oral intubation of dogs with combinations of fertilizer, herbicide, and insecticide chemicals commonly used on lawns

Roger A. Yeary, DVM

SUMMARY

Six Beagle dogs were orally intubated with mixtures of a urea-based fertilizer, 2,4-D, mecoprop (MCP), dicamba, and either bensulide or chlorpyrifos. The mixtures were formulated as they are used in liquid application to lawns. The dogs were given volumes of 10 ml/kg of body weight, delivering the following quantities of each ingredient: urea—623 mg/kg, inorganic phosphorus (P_2O_5)—24 mg/kg, potassium (K_2O)—66 mg/kg, 2,4-D—6.5 mg/kg, MCP—3.26 mg/kg, dicamba—0.55 mg/kg, and either bensulide—60.93 mg/kg or chlorpyrifos—6.77 mg/kg. The dogs were given 3 consecutive daily doses of the mixture containing bensulide (round 1) or the mixture containing chlorpyrifos (round 2). The dogs did not exhibit any clinical signs of illness associated with the treatments.

Effects on hematologic values or routine clinical chemical analyses did not occur with the round 2 mixture. Serum lactic dehydrogenase activity decreased by approximately 50% after a single dose of the round 1 mixture was given. Plasma cholinesterase decreased to approximately 50% of control values following either the round 1 or the round 2 mixture; this decrease was not accompanied by cholinergic signs of intoxication.

Claims of illness of pesticide and fertilizer origins in dogs allowed to roam on lawns are often made primarily based on a history that such materials were applied to the given lawns several days before the illness. In some instances, such claims arise even when several weeks have intervened since the chemicals were applied to the lawns. Seldom is there an attempt to discover the identity of the chemical applied, to consider the rate of application, or to compare the signs of illness with known toxicologic data on the expected effects of toxic exposures. The most frequent complaints are associated with signs of vomiting and diarrhea, hepatic disease, and dermatologic disorders.

Among the most commonly used chemicals in lawn care programs are urea as a nitrogen source, inorganic phosphorus (P_2O_5) and potassium (K_2O), 2,4-D, mecoprop

TABLE 1—Chemical composition of lawn-care chemicals and dosage rates for lawns and Beagles

Chemicals	Lawn application rate (mg/m ²)	Round 1 mixture		Round 2 mixture	
		Composition (%)	Dose (mg/kg)	Composition (%)	Dose (mg/kg)
Fertilizer					
Urea	85.6	6.23	623	6.23	623
P_2O_5	3.4	0.24	24	0.24	24
K_2O	9.3	0.66	66	0.66	66
Herbicide					
2,4-D	0.92	0.0651	6.51	0.0651	6.51
MCP	0.46	0.0326	3.26	0.0326	3.26
Dicamba	0.07	0.0055	0.55	0.0055	0.55
Bensulide	8.63	0.6093	60.93	—	—
Insecticide					
Chlorpyrifos	0.95	—	—	0.0677	6.77

(MCP), and dicamba for postemergence broadleaf weed control; bensulide as a preemergence herbicide for crabgrass control, and chlorpyrifos as an insecticide. Although toxicologic data on each pesticide ingredient are available from studies conducted by the manufacturer for EPA registration, such data on pesticide mixtures are not readily found. We conducted the studies reported here to obtain toxicologic data on exaggerated exposures of dogs to mixtures of fertilizer and pesticides that are commonly applied to lawns.

Materials and Methods

Two fertilizer-pesticide mixtures were prepared in the same dilution^a used in lawn programs, using liquid application methods. Their compositions and application rates are shown in Table 1. The mixture identified as round 1 is used in the early spring months for fertilization and postemergence broadleaf weed control and to prevent the germination of crabgrass seed. The round 2 mixture is used during the summer months when temperatures do not exceed 30 C for fertilization and postemergence broadleaf weed control, and to control insects.

Six mature female Beagles, weighing 8.7 to 12.8 kg each, were used. Each dog served as its own base line. Before the initial treatment or exposure, blood samples were taken to establish base lines for plasma and erythrocyte cholinesterase,¹ complete blood count,^b and a multiple chemical analysis^b to evaluate organ function. The fertilizer-pesticide mixture was administered to the dogs by stomach tube at a volume of 10 ml/kg. The calculated dose per kilogram of body weight for each ingredient is shown in Table 1. Food was withheld for a period of at least 4 hours before dosing. Afterward, the dogs were offered food and water ad libitum. The dogs were housed in indoor

Received for publication Mar 4, 1983.

From the Department of Veterinary Pharmacology and Physiology, The Ohio State University, Columbus, OH 43210-1092.

Supported by a grant from the ChemLawn Corporation, Columbus, Ohio. The technical assistance of Jan Singell is appreciated.

^a Fill charts, ChemLawn Corp, Columbus, Ohio.

^b Roche Biomedical Laboratories, Columbus, Ohio.

188X

TABLE 2—Clinical chemical changes in blood of dogs given mixtures of fertilizer, herbicide, and insecticide chemicals

Blood chemical (units)	Base line*	24 Hours after 1 dose of round 1 mixture	24 Hours after 3rd dose of round 1 mixture	24 Hours after 3rd dose of round 2 mixture
Glucose (mg/dl)	69 ± 5.9	96.7 ± 4.5	79.7 ± 8.6	99.5 ± 3.5
Sodium (mEq/L)	150 ± 0.8	149.2 ± 1.2	147.8 ± 0.6	147.5 ± 0.8
Potassium (mEq/L)	4.4 ± 0.1	4.4 ± 0.1	4.8 ± 0.3	4.6 ± 0.2
Chloride (mEq/L)	113.5 ± 1.7	115.7 ± 1.0	109.2 ± 1.2	109.3 ± 0.9
Urea nitrogen (mg/dl)	14.3 ± 1.1	22.3 ± 2.3	18.8 ± 2.6	22.0 ± 1.1
Creatinine (mg/dl)	0.8 ± 0.03	0.8 ± 0.05	0.7 ± 0.1	0.8 ± 0.02
Uric acid (mg/dl)	0.95 ± 0.09	< 1.0	< 1.0	< 1.0
Calcium (mg/dl)	10.9 ± 0.2	10.2 ± 0.1	9.7 ± 0.1	10.6 ± 0.2
Phosphorus (mg/dl)	3.6 ± 0.2	5.1 ± 0.4	4.4 ± 0.2	4.7 ± 0.3
Alkaline phosphatase (IU/L)	76.3 ± 26.6	75.2 ± 26.1	52.4 ± 13.4†	46.5 ± 9.4
γ-Glutamyl-transferase (IU/L)	7.5 ± 0.8	7.7 ± 0.5	10.2 ± 2.0	9.8 ± 1.8
Alanine aminotransferase (SGPT) (IU/L)	60.2 ± 2.6	60.0 ± 2.0	59.2 ± 3.6	53.2 ± 4.1
Aspartate aminotransferase (SGOT) (IU/L)	42.8 ± 4.9	32.8 ± 1.7	43.2 ± 4.4	34.5 ± 3.9
LDH (mU/L)	398.3 ± 54.3	111.5 ± 19.0	159.3 ± 35.6	150.7 ± 27.8
Cholesterol (mg/dl)	174.2 ± 12.4	159.2 ± 14.9	204.3 ± 24.4	176.8 ± 16.2
Triglyceride (mg/dl)	30.5 ± 2.3	34.8 ± 8.4	20.2 ± 4.1	27.0 ± 3.6
Protein total (g/dl)	6.3 ± 0.3	6.2 ± 0.2	6.0 ± 0.2	6.3 ± 0.2
Albumin (g/dl)	3.5 ± 0.1	3.3 ± 0.1	3.3 ± 0.0	3.3 ± 0.1
Globulin (g/dl)	2.8 ± 0.1	2.9 ± 0.2	2.7 ± 0.2	2.8 ± 0.2
Iron (μg/dl)	227 ± 25	223 ± 30	226 ± 50	240 ± 25

* All values are the mean ± SEM for 6 dogs. Detailed results for each dog are available on request addressed to the author. † One dog (No. 43190) had an increased alkaline phosphatase value of 459 IU/L and was not included in the group mean.

runs and were observed each day for behavioral changes or signs of anorexia, vomiting, or diarrhea.

The studies of the round 1 mixture were conducted in 2 parts. The first part was a single oral dose. Twenty-four hours later, blood samples were obtained and cholinesterase measurements, complete blood counts, and clinical chemistry analyses were repeated (Table 2). Cholinesterase measurements also were made at 3 days and 6 days. The second part of the round 1 studies consisted of giving 3 consecutive daily doses at a volume of 10 ml/kg, starting after withdrawing blood samples for cholinesterase on day 6. Cholinesterase measurements were made at 24 hours after each daily dose and 10 days after the 3rd dose. Complete blood counts and clinical chemistry analyses were made 24 hours after the 3rd daily dose was given.

The dogs were rested for 3 weeks, and base lines for cholinesterase were reestablished. The dogs were given 3 consecutive daily doses of the round 2 mixture at a volume of 10 ml/kg. Cholinesterase measurements were made 24 hours after the 1st and 3rd doses and 7 days after the 3rd dose. Complete blood counts and clinical chemistry analyses were made 24 hours after the 3rd daily dose.

Results

Round 1 mixture—The combination of the urea-based fertilizer and herbicides did not produce any clinical signs of illness in the 6 dogs. Body weight did not vary more than 0.5 kg during these studies. One dog (No. 43190) had a large branchial cyst (approx 5 cm in diameter) on the left thyroid area and had an abnormal gag reflex. It was difficult to avoid tracheal intubation. After the 3rd dose of the second part of this study, the dog had an increased leukocyte count (Table 3) and an increase in serum alkaline phosphatase (Table 2). The leukocytosis was

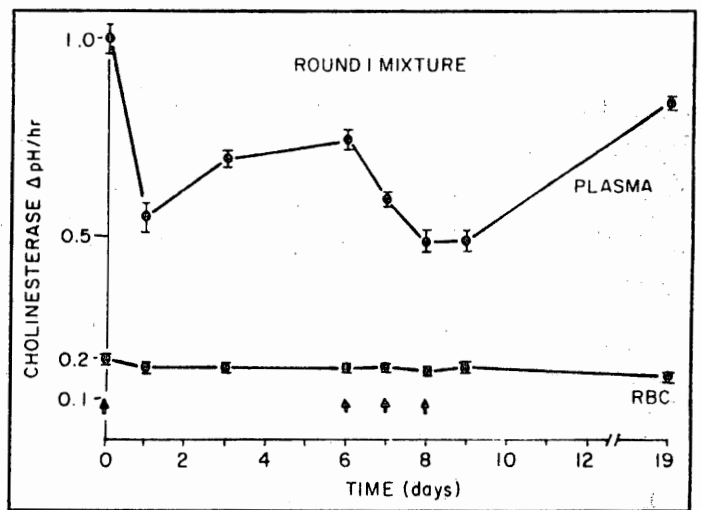


Fig 1—Plasma and erythrocyte cholinesterase (mean ± SEM) for 6 dogs infused with a fertilizer-herbicide mixture used on lawns. Treatment days are indicated by arrows. The mixture contained a cholinesterase-inhibiting herbicide, bensulide, which was given at a daily dosage of 60.9 mg/kg of body weight.

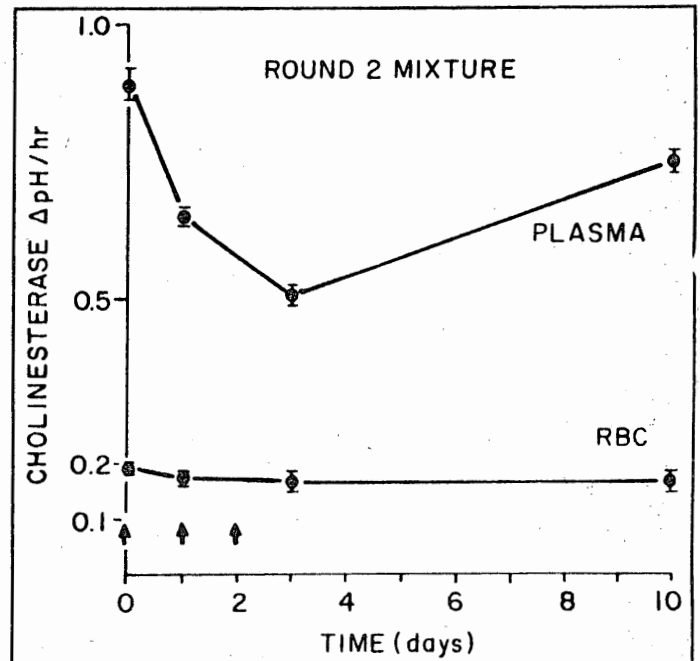


Fig 2—Plasma and erythrocyte cholinesterase (mean ± SEM) for 6 dogs infused with a fertilizer-herbicide-insecticide mixture used on lawns. Treatment days are indicated by arrows. The mixture contained a cholinesterase-inhibiting insecticide, chlorpyrifos, which was given at a daily dosage of 6.8 mg/kg of body weight.

TABLE 3—Hematologic changes in dogs given mixtures of fertilizer, herbicide, and insecticide chemicals

Tests (units)	Base line*	24 Hours after 1 dose of round 1 mixture	24 Hours after 3rd dose of round 1 mixture	24 Hours after 3rd dose of round 2 mixture
wbc ($10^3/mm^3$)	9.13 ± 1.02	11.05 ± 1.06	9.46 ± 0.87†	10.45 ± 0.81
rac ($10^3/mm^3$)	6.4 ± 0.22	6.74 ± 0.19	6.59 ± 0.24	6.45 ± 0.21
Hemoglobin (g/dl)	16.27 ± 0.71	16.73 ± 0.53	15.90 ± 0.70	17.17 ± 0.64
Hematocrit (%)	47.8 ± 1.8	48.2 ± 1.2	46.7 ± 1.9	46.8 ± 1.9

* All values are the mean ± SEM for 6 dogs. Detailed results for each dog are available on request addressed to the author. † One dog (No. 43190) had an increased wbc value of 28.9 ($10^3/mm^3$) and was not included in the group mean.

lieved a result of partial tracheal intubation with the mixture. This dog was replaced for subsequent studies.

The only effects of the round 1 mixture attributable to the treatment were a decrease in cholinesterase activity (Fig 1) and a decrease in lactic dehydrogenase (LDH; Table 2). Plasma cholinesterase decreased almost 50% within 24 hours of a single dose of the round 1 mixture. This was attributed to the bensulide, a cholinesterase-inhibiting herbicide, which was given at a dosage of 60.9 mg/kg. The plasma cholinesterase concentration returned to 75% of base line by the end of the 6th day after treatment. When the dosing was reinstated for 3 additional days, the plasma cholinesterase concentration decreased again to about the same activity as after a single dose. There was little, if any, additive effects of the repeated treatments. Erythrocyte cholinesterase did not appear affected. The decrease of plasma cholinesterase was not accompanied by cholinergic signs.

Round 2 mixture—Clinical signs also were absent after 3 consecutive doses of this mixture. There were no alterations in hematologic values (Table 3) or clinical chemical analyses (Table 2). Plasma cholinesterase decreased to 58% of base line by the 3rd dose (Fig 2). Within 1 week after the last dose, the plasma cholinesterase returned to 85% of base line. Erythrocyte cholinesterase activity decreased slightly to approximately 84% of base line. As with the round 1 mixture, these decreases were not associated with cholinergic signs.

Discussion

Fertilizer and chemicals applied in liquid form for weed and insect control are often applied at a rate of 0.16 L/m². The volume of the fertilizer-pesticide mixture given to the dogs in these studies, 10 ml/kg, can be translated to lawn-exposure terms. This would correspond to ingestion of all the material applied to 0.061/m² of lawn/kg of body weight or 0.492 m² for an 8-kg dog. This, of course, could not occur. If the chemicals were applied in a granular rather than a liquid form, the rate of application of the active ingredients would be the same. Consequently, the exposure factors would be quantitatively identical. It is difficult to reduce these data to a numerical safety fac-

tor as is often done for drug therapy. Only about half of the material applied to the lawn remains on the grass and the remainder falls into the thatch and soil. The margin of safety would seem to be large based on necropsy observations at this University that a dog rarely eats more than 5 to 10 g of grass.

Absorption via skin is generally poor in comparison with gastrointestinal absorption, and highly keratinized areas, such as the foot pad, are especially impermeable to transport of chemicals.² The quantity absorbed by dogs walking or laying on treated lawns or following grooming would likely be insignificant in comparison with the doses used in these studies.

The decrease in plasma cholinesterase concentration was an expected effect, but the extent of the decrease was not clinically significant. Fortunately, diagnosis of poisoning due to cholinesterase inhibitors is not difficult to obtain and presents fewer problems in differential diagnoses than poisoning by other classes of pesticides.

It is difficult to evaluate the decrease in LDH activity after the dosing of round 1. This author is not aware of reports associating the chemicals used in this study with an effect on LDH. Speculatively, this may be base-line laboratory artifact or a form of enzyme inhibition similar to that which occurs with cholinesterase. The significance of this effect is not known and warrants further investigation.

The blood urea nitrogen concentration appeared to be lower during the base-line period. This is due to an extended fast of approximately 28 hours before blood sampling to obtain the base-line values. The urea nitrogen values after treatment are within the usual laboratory limits for the Beagle. Urea absorbed as part of the study should have been excreted quickly. The urea clearance for the dog is about 2.2 ml/kg of body weight/minute.³

References

1. Michel HO: An electrometric method for the determination of red blood cell and plasma cholinesterase activity. *J Lab Clin Med* 34:1564-1568, 1949.
2. Meshon MM, Callahan JF: Exploiting the differences, in Maibach H (ed): *Animal Models in Dermatology*. New York, Churchill Livingstone, 1975, pp 40-43.
3. Cardielhac PJ: The kidney, in Breazile JE (ed): *Textbook of Veterinary Physiology*. Philadelphia, Lea & Febiger, 1971, p 320.



CHEMLAWN®

*Chris Jones
Phila Reg*

RECEIVED JUL 5 1984

DATE: July 3, 1984

TO: See Distribution

FROM: Roger A. Yeary

SUBJECT: ACUTE TOXICITY OF TANK MIXES IN RATS

The oral acute toxicity of pesticide-fertilizer tank mixes most commonly used in lawn care and tree and shrub care was tested in rats. All tests were conducted with male rats that had been fasted overnight prior to administration of the test solutions using a plastic stomach tube. The rats were observed for clinical signs for 1 hour after dosing and were observed for mortalities for a period of at least one week.

The test solutions were prepared by Jay Wright and were refrigerated until used. One test solution containing Oftanol was frozen for 3 days prior to use, otherwise all test solutions were used within 3 days of preparation.

The dosages employed are expressed as mg of test solution (tank mix) per kilogram of body weight and are not corrected for specific gravity.

With the exception of the mixture containing base mix, Trimec 992, Lescosan and Oftanol 2F all tank mix solutions had LD₅₀ values greater than 20,000 mg/kg. This mixture will require further testing and probably has an LD₅₀ value between 15,000-25,000 mg/kg. Because of volume limitations it is unusual to test for acute toxicity at doses above 20,000 mg/kg.

One of the most commonly used ratings for acute toxicity of commercial products is that published by Gosselin, Hodge, Smith & Gleason in Clinical Toxicology of Commercial Products, 4th Edition, Williams & Wilkins, Balt. 1976. Their toxicity rating chart is reproduced to show that the toxicity rating of the tank mixes all are classified as practically non-toxic. (I caution you in using the numerical rating system 1-6 because some raters reverse the numerical order. For example, EPA rates category I pesticides as the most toxic and Category IV as the least toxic.)

TABLE I-1

Toxicity Rating or Class	Probable Oral LETHAL Dose (Human)		
	Dose	For 70 kg. person (150 lb.)	
6 Super toxic	less than 5 mg./kg.		A taste (less than 7 drops)
5 Extremely toxic	5-50 mg./kg.		Between 7 drops and 1 teaspoonful
4 Very toxic	50-500 mg./kg.		Between 1 tsp. and 1 ounce
3 Moderately toxic	0.5-5 gm./kg.		Between 1 oz. and 1 pint (or 1 lb.)
2 Slightly toxic	5-15 gm./kg.		Between 1 pt. and 1 quart
1 Practically nontoxic	above 15 gm./kg.		More than 1 quart (2.2 lb.)

191 X

This information may be shared with local poison control centers. For their use I have included a glossary of trade names.


Roger A. Yearly

RAY/cib

Attachments

DISTRIBUTION

Zone Technical Managers
Regional Agronomists
Chuck Darrah
Robert Partyka
Dave Martin
Bob Miller

ORAL ACUTE TOXICITY OF CHEMLAWN TANK MIX SOLUTIONS

	<u>SAMPLE COMPOSITION</u>	<u>RAT STRAIN</u>	<u>WT. RANGE (GM)</u>	<u>DOSE (MG/KG)</u>	<u>DEATHS</u>
A.	bensulide 5015ppm chlorpyrifos 669ppm 2,4-D acid 652ppm MCPP 326ppm dicamba 56ppm nitrogen (a) 2.91% P ₂ O ₅ 0.36% K ₂ O 1.09%	Fischer CDF	239 - 275	20,000	0/10
B.	dacthal 6672ppm chlorpyrifos 667ppm 2,4-D acid 650ppm MCPP 325ppm dicamba 55ppm nitrogen (a) 2.91% P ₂ O ₅ 0.36% K ₂ O 1.09%	Fischer CDF	241 - 283	20,000	0/10
C.	bensulide 5016ppm 2,4-D acid 652ppm MCPP 326ppm dicamba 56ppm nitrogen (a) 2.91% P ₂ O ₅ 0.36% K ₂ O 1.09%	Fischer CDF	235 - 259	20,000	0/10
D.	bensulide 6688ppm atrazine 334ppm nitrogen (a) 2.91% P ₂ O ₅ 0.36% K ₂ O 1.09%	Fischer CDF	238 - 282	20,000	0/10
E.	bensulide 5021ppm diazinon 1674ppm 2,4-D acid 653ppm MCPP 327ppm dicamba 56ppm nitrogen (a) 2.92% P ₂ O ₅ 0.36% K ₂ O 1.09%	Fischer CDF	255 - 296	20,000	0/10
F.	bensulide 5020ppm Isofenphos 1339ppm 2,4-D acid 652ppm MCPP 326ppm dicamba 56ppm nitrogen (a) 2.92% P ₂ O ₅ 0.36% K ₂ O 1.09%	Fischer CDF	264 - 292	20,000	6/10

(a) Fertilizer solutions are derived from urea, ammonium polyphosphate and muriate of potash
urea = 6.12% ammoniacal ion = 0.59%

ORAL ACUTE TOXICITY OF CHEMLAWN TANK MIX SOLUTIONS
PAGE 2

	<u>SAMPLE COMPOSITION</u>		<u>RAT STRAIN</u>	<u>WT. RANGE (GM)</u>	<u>DOSE (MG/KG)</u>	<u>DEATH</u>
G.	Isufenphos nitrogen (2) P ₂ O ₅ K ₂ O	1340ppm 2.92% 0.36% 1.09%	Sprague-Dawley CD	150 - 200	10,000 15,000 20,000 25,000 30,000	0/11 0/11 0/10 2/10 1/7
H.	mancozeb acephate benomyl triton B 1956	1436ppm 601ppm 598ppm 256ppm	Sprague-Dawley CD	233 - 298	20,000	0/10
I.	mancozeb acephate benomyl dicofol triton B 1956	1436ppm 601ppm 598ppm 523ppm 256ppm	Sprague-Dawley CD	234 - 297	20,000	0/10
J.	diazinon kelthane benomyl triton B 1956	598ppm 523ppm 448ppm 256ppm	Sprague-Dawley CD	175 - 289	20,000	0/10
K.	carbaryl diazinon dicofol triton B 1956	1196ppm 598ppm 523ppm 256ppm	Sprague-Dawley CD	105 - 133	20,000	0/10

(a) Fertilizer solutions are derived from urea, ammonium polyphosphate and muriate of potash
urea = 6.12% ammoniacal ion = 0.59%

TRADE NAME GLOSSARY

COMMON NAME

acephate
atrazine

benomyl
bensulide

carbaryl
chlorpyrifos
dicofol
dicamba
2,4-D
MCP
isofenphos
mancozeb

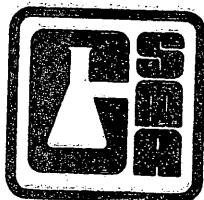
TRADE NAME

Orthene
Aatrex
Purge
Tersan 1991
Betasan
Lescosan
Sevin
Dursban
Kelthane

Trimec

Oftanol
Dithane M-45
Manzate 200
Lesco - 4

COMMENTS OF THE
CHEMICAL SPECIALTIES MANUFACTURERS ASSOCIATION, INC.
REGARDING THE
NEW JERSEY PESTICIDE SENATE BILL NO. 1342
FOR THE
COMMITTEE ON ENERGY AND ENVIRONMENT
NEW JERSEY STATE SENATE
TRENTON, NEW JERSEY
OCTOBER 9, 1984



Chemical Specialties Manufacturers Association
Suite 1120
1001 Connecticut Ave., N.W.
Washington, D.C. 20036
(202) 872-8110

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CHEMICAL SPECIALTIES MANUFACTURERS ASSOCIATION, INC.
REGARDING THE
NEW JERSEY PESTICIDE SENATE BILL NO. 1342
FOR THE
COMMITTEE ON ENERGY AND ENVIRONMENT
NEW JERSEY STATE SENATE
TRENTON, NEW JERSEY
OCTOBER 9, 1984

The Chemical Specialties Manufacturers Association, Inc. (CSMA) is pleased to have this opportunity to comment on S. 1342.

We would like to associate our comments with the testimony of our member company representatives, including: Jeffrey Peterson, Economics Laboratory, Inc.; Debra Biczak, Airwick Industries, Inc.; and Gary A. Krieger, S. C. Johnson & Son, Inc., made before the State Senate Committee on Energy and Environment on September 24, 1984.

CSMA is a voluntary non-profit membership association composed of some 400 companies engaged in the manufacture, distribution and marketing of chemical specialty products, including: disinfectants and sanitizers; home, lawn and garden insecticides; and a wide variety of other pesticides for home, industrial and institutional use.

We represent the non-agricultural, consumer products side of the pesticide industry. Most of these consumer products are classified for general use, such as institutional or industrial uses or for home, lawn and garden uses.

When we usually think of pesticides we frequently overlook pesticides that are common and useful household products that consumers use on a daily basis to enhance the quality of their lives and assist in the preservation of public health.

The most regrettable facet of S. 1342 is that it fails to recognize that the term "pesticide" includes household, institutional and industrial disinfectants, sanitizers, and other necessary and beneficial products.

At the federal level, pesticides are registered and regulated by the Environmental Protection Agency (EPA) under the authority of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). In fact, about 52% of all the pesticides registered at the EPA are consumer and household products. We believe the State Senate Energy and Environment Committee should be aware of the fact that most of these non-agricultural products are prescribed for general use application and are not highly toxic or restricted use pesticides. Any pesticide legislation should recognize these pesticides and take such differences in use into consideration. Unfortunately, S. 1342 fails in this regard and, in fact, its provisions are so inappropriate and unnecessary for these and other home, garden, industrial and institutional products, that we respectfully request that the Committee not report the bill.

Before moving on to our specific concerns with S. 1342, we would like to point out that there is much misunderstanding among the public and legislators concerning the regulation of pesticides and the types of products such regulations actually affect. There is in place at the federal level a national statute and stringent regulations affecting the sale and use of pesticides. This state, in addition, has its own statute and regulations which enable the State Department of Environmental Protection to adequately further regulate the sale and use of pesticides. CSMA

believes that this system already provides the necessary controls and means to address regulatory concerns that might arise.

We would now like to address several specific concerns that the Association has with S. 1342.

First, we believe that Section 9 of this bill goes too far in mandating that the Department "carry out a program of testing in order to determine the nature and extent of pesticides in the environment to which man and animals may be exposed." Such testing at the state level is unnecessary. Each product registered at the state level has already been registered at the federal level (EPA), and has undergone extensive testing.

Additional testing requirements for non-agricultural products in New Jersey would impose an unnecessary and unreasonable burden upon companies which are attempting to register their products in the Garden State. Such a testing program will result in the following problems:

- 1) excessive delays in the New Jersey registration process;
- 2) duplicative testing for similar products or "me-too registrations;
- 3) imposition by other states of different and changing registration test data requirements, resulting in a patch-work of multiple state requirements; it is very difficult or even impossible to market a national consumer product given this type of regulation;
- 4) substantially increasing the cost of research and development for new pesticides and new use products, and increased costs to the consumer for these household products; it could

thwart innovation in the pesticide industry;

5) sufficiently increase the burdens of registering products in New Jersey and could, in effect, lock out competition from the marketplace and deprive citizens and users in New Jersey of useful and needed consumer products; and

6) substantially increase costs to the Department and the State of New Jersey if it developed a testing program; it would divert significant resources from other Department responsibilities, and would require new staff to monitor and evaluate such testing results.

If the State sought testing information, it could obtain such data from the federal EPA, or from the company itself. The State, however, should have a specific scientific purpose and justification for requesting the data, or a specific local concern (since products are registered on a national basis). We believe that any testing program at the State level will be unnecessary, duplicative, and costly, both to the State and the industry.

Second, we are particularly concerned with the broad impact that Section 7 has on homeowners, renters, consumers, etc. Although Section 7 requires several specific categories for notification, the most troublesome requirements come under subsections 7(f), 7(g), and 7(i), which generally prohibit persons from applying pesticides unless notice is given to surrounding residents and neighbors.

Subsection 7(i) states that "any person who performs his own pest control application shall be responsible for satisfying the relevant notification requirements in subsections (a), (b), (c),

(d), (e), (f), (g), and (h) of this section." Consequently, these provisions collectively apply, literally, to anyone who applies or uses a pesticide in any location enumerated under Section 7.

Anyone who either personally applies or hires a professional applicator of pesticides in his or her home, apartment, hotel, restaurant, school, airport, office or "non-commercial building routinely visited by the general public" will need to comply with these restrictions. We commend to your attention the examples mentioned in the testimony of Gary A. Krieger (S. C. Johnson & Son, Inc.) on September 24, 1984.

We believe that any notification provision for non-agricultural products is simply not feasible or appropriate.

Third, Section 2 of S. 1342 also alters the historic balance of federal FIFRA, requiring an assessment of risks and benefits. S. 1342 specifically states that "these regulations shall be designed to eliminate the adverse effects of pesticides within the limits of technical feasibility." Nowhere is there a single mention of economic feasibility! Nowhere is there a single mention of the benefits-side of the equation!

Federal FIFRA currently provides for the weighing of both the human and environmental costs and the benefits of pesticide regulation. The approach of S. 1342 to consider only "the adverse effects on man and the environment" eliminates the regulatory judgment whether human risk is reasonable relative to benefits. Under the provisions of subsection 2(bb), FIFRA states that the EPA Administrator should take into consideration

"unreasonable adverse effects on the environment," meaning "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide." If the New Jersey Department of Environmental Protection is going to evaluate the "adverse effects," it should also evaluate the benefits-side of the issue.

Fourth, as Mr. Jeffrey Peterson (Economics Laboratory, Inc.) pointed out in his testimony of September 24, 1984, we are concerned about the certification requirements of Section 4 of S. 1342. This provision provides that "no person shall be authorized to apply any pesticide commercially without having received certification from the Department therefor." This provision is far too broad and does not provide for a distinction between "certified applicators," "private applicators," "commercial applicators," or those working "under the direct supervision of a certified applicator," as included in subsection 2(e) of FIFRA, or even those persons who perform common sanitization functions in restaurants, hospitals or food processing establishments.

Since pesticides are applied "commercially" by salaried personnel in institutional, industrial or "commercial" establishments, the ramifications of this loosely-defined section could affect every person who washes dishes, cleans food processing equipment, or does cleaning and maintenance work. It is absolutely ludicrous to require these individuals to obtain certification from the State to apply these disinfectant and sanitizer-type pesticides; yet S. 1342 actually goes that far! This provision fails to realize the adverse effect that this bill would have on the standards of cleanliness presently enjoyed by the

citizens of New Jersey. Passage of this provision would make it all the more difficult to maintain a high standard of sanitization now available to all citizens who frequent any public place.

Fifth, Section 18 of S. 1342 permits any person to bring a civil action on his/her own behalf against another individual for violation of any provision of the state pesticide act or any regulation issued thereunder. In addition, a suit may be brought by an individual against the Department of Environmental Protection for its failure to enforce provisions of the act or any rules. This provision is frequently referred to as the "private right of action."

Such an amendment has great potential for abuse, especially when applied to home, lawn and garden use pesticides. It could halt the application of pesticides and potentially result in an increased problem of noxious weeds, insect pests, and disease-carrying organisms. It could also enable a plaintiff to collect damages, including court costs and witness fees, resulting from even minor violations.

This provision is unnecessary because remedies already exist under State law and federal FIFRA enforcement procedures exist to stop pesticide misuse when it occurs. In virtually all states, citizens can already bring suit in State court for injunctive relief and damages. Since almost all states have statutes defining pesticide use violations, citizens may bring suit to enforce their own State laws and therefore do not need a new "private right of action."

In addition to enforcing already existing State pesticide

statutes, citizens also have the right to bring suit under State tort law for many actions which would constitute pesticide use violations. In virtually all states, use of a pesticide in violation of government laws and regulations would be strong evidence of negligence. Where an individual can show that he is entitled to equitable relief, virtually every state allows its citizens to obtain injunctions against such unlawful or negligent acts.

We believe that such a provision, as Section 18 of S. 1342, would result in undue harassment of legitimate pesticide users, consumers, and manufacturers.

Sixth, in a significant number of places, S. 1342 would require the submission of information, including the complete formula, to the State of New Jersey. No reason is stated for requiring this information. No provisions are included to protect this information at the State level.

As Debra Biczak (Airwick Industries, Inc.) pointed out in her testimony on September 24, 1984, subsection 3(c), for example, would make it mandatory, rather than discretionary, for the states to require submission of the complete formula, the EPA registration number and the common name of all pesticides. Formula information is held by manufacturers to be strictly confidential, and submission to individual states opens the door for possible release of such valuable information to competitors, particularly foreign competition. Moreover, there are no provisions in S. 1342 to prevent the disclosure of confidential or proprietary information, either for subsections 3(b), 3(c) or elsewhere.

Confidential trade secret information submitted to a state or utilized to register a product at the State level, should be protected from disclosure by the State. Individuals, organizations or companies should not be allowed to circumvent the trade secret provisions of federal FIFRA by securing the same data at the State level.

Seventh, subsection 3(f) states that "interested parties shall be granted the right to intervene in hearings held pursuant to this section." This provision would permit any individuals, regardless of their economic interest or lack of standing, to participate in any registration hearing or cancellation hearing. Such a provision would virtually assure that most pesticide registrations in New Jersey would be contested. This provision of S. 1342 would make the registration of one product so burdensome on the Department that substantial administrative resources would have to be devoted to settling disputes over registrations, no matter how insignificant or unjustified.

The EPA has held that only those persons who have an economic interest in the registration or cancellation have a right of standing or are permitted to participate in these types of hearings. In the court case of Environmental Defense Fund v. Costle 631 F.2d 922 (D.C. Cir. 1980), Cert. Denied, 449 U.S. 1112 (1981), EPA's interpretation of subsection 6(b) relating to standing in administrative hearings was upheld; consequently, those participants who do not have an economic interest in the registration or cancellation were denied access or the right to participate in these kinds of hearings.

Eighth, in addition, subsection 3(f) permits the Department to refuse registration or to revoke registration if it finds, after a hearing, that any one of a number of conditions have been met by the pesticide. Several of these are particularly onerous:

1) Provision (1) allows such refusal to register or revoke upon a showing that a pesticide causes adverse effects on man and the environment when used in accordance with accepted pesticide application procedures. There is no mention here about benefits, and virtually any product could have an adverse effect on the environment whether or not it is even a pesticide. This provision could be used as a tool to keep virtually any product off of the market.

2) Provision (2) permits the State to hold a product off of the market if it has a reasonably effective and a practical alternative, which has been demonstrated less harmful to the environment. This provision allows the State to "pick and choose" among products, and exclude all competitive products to the one product which has been selected. It has implications to limit competition and limit the availability of pesticides to the consumer.

3) Provision (4) permits exclusion by the rendering of any false or misleading statement or implication of such a statement by the registrant or his agent, either verbally or in writing. This provision is particularly dangerous, since it may be alleged without virtually any proof, that a sales agent made certain statements concerning the pesticide which were not true. While CSMA is certainly in favor of registrants conducting their business based on truthful and accurate statements, entry of mere

verbal allegations which may be based on heresay or even implications of such allegations is totally unacceptable.

Ninth, a provision of Section 2 allows the Department to compare the effectiveness of various products, including disinfectants, sanitizers, cleansers, toilet bowl cleaners, bleaches, flea and tick collars, and pesticides for the home, lawn and garden. Under the authority to minimize the alleged adverse effects of a particular pesticide, even a non-agricultural pesticide, a provision in Section 3 of S. 1342 would reimpose a significant burden on the Department to re-evaluate the efficacy of the thousands of products registered in New Jersey, would interfere substantially with the registration process, would divert the State resources away from other programs, and would not result in the performance of more efficacy testing that is already performed in response to market conditions and competition. Current federal FIFRA language does not relieve manufacturers from efficacy requirements, only from submission of such data for EPA review.

This provision of S. 1342 is opposite from one contained in subsection 3(c)(5) of federal FIFRA which directs that the EPA Administrator may "not make any lack of essentiality a criterion for denying registration of any pesticide." The statute goes on to specifically state that "where two pesticides meet the requirement of this paragraph, one should not be registered in preference to the other." In addition, "the Administrator may waive data requirements pertaining to efficacy."

Tenth, subsection 13(k) would permit the Department to esta-

blish and charge fees on an annual or periodic basis for any of the services it performs. The provision is not clear as to whether or not this is in addition to the annual registration fee paid to the State by registrants. The provision confuses the user fee concept, and leaves registrants subject to the whim of the State with respect to varying, unbudgeted and, perhaps, unnecessary fees.

Eleventh, subsection 13(1) would permit the Commissioner to adopt rules and regulations governing disposal of pesticides. Such rules are to be consistent with subsection 19(a) of federal FIFRA and regulations issued thereunder. CSMA believes that any disposal regulations must not only be consistent with the Federal Act, but in fact, be the same. The EPA issued two documents directly pertaining to disposal of pesticides. The first is pesticide regulatory notice 83-3 dated March 29, 1983, and the second is a modification of that document in the form of a pesticide regulatory notice PR 84-1, issued on February 17, 1984. CSMA took great pains to convince the EPA that its original document was inappropriate for the non-agricultural portion of the pesticide industry. S. 1342 once again fails to ensure uniformity between the State and federal requirements.

Twelfth, subsection 14(e) of S. 1342 requires that pesticides not be stored "within 500 feet of worker living quarters." It appears that this language was designed for an agricultural setting. The bill language, however, is all inclusive and lumps together both agricultural and non-agricultural storage requirements. Almost every hotel, hospital, and apartment complex stores pesticides such as cleansers, bleaches, disinfectants and

sanitizers near employee living quarters. The language could also impact on domestic workers living in private households.

Thirteenth, Section 11 of S. 1342 would permit the Pesticide Control Counsel, as an advisory body within the Department of Environmental Protection to "request from the Commissioner such information concerning pesticides as it may deem necessary." Such authority is unduly broad and would permit members of the Pesticide Control Counsel to obtain trade secret information including formula data, or even to request the generation of additional tests, without specifying the reasons for such information. In addition, as in other parts of S. 1342, there are no provisions for confidentiality or proprietary information submitted to the State of New Jersey. And finally, the mandated staffing of this council does not provide any participation for representatives of the agricultural and non-agricultural pesticide manufacturing industry, an oversight which could seriously damage the council's ability to properly evaluate real-world conditions and alternatives.

Fourteenth, Section 20 prohibits an employer from discharging an individual or from discriminating against any individual who has exercised any right under the statute. This provision would severely affect the right of manufacturers and users of pesticides to rightfully discipline or discharge an employee for reasons other than bringing an action under this provision.

Fifteenth, Section 22 provides that the "act shall take effect immediately." Although we oppose enactment of S. 1342 because it is inappropriate and unnecessary, the enactment of any

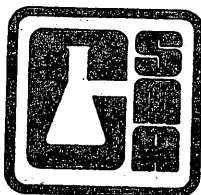
legislation should never be done immediately. All parties should have an opportunity to adjust to new legislation. In addition, all parties will need substantial lead-time to determine legal responsibilities and to respond accordingly.

CONCLUSION

This legislation fails to understand the important differences between pesticide products in terms of use or concentration. It also fails to appreciate the significant testing and registration requirements suggested in the bill or for that matter at the federal level. S. 1342 is inappropriate and unnecessary. It is duplicative of the federal registration process and would impose costly regulations on pesticide manufacturers, and ultimately the consumer. It imposes onerous burdens on registrants. It imposes notification provisions on homeowners and consumers that are unreasonable. The proposed bill provides no protection for confidential business information or trade secret provisions. It will create an unwieldy, expensive bureaucracy in the Garden State to administer this potentially new law, as well as enforce it.

We do not need this legislation and we do not support its enactment. We respectfully urge the Committee not to report out S. 1342. Thank you.

TESTIMONY OF GARY A. KRIEGER
S. C. JOHNSON & SON, INC.
ON BEHALF OF THE
CHEMICAL SPECIALTIES MANUFACTURERS ASSOCIATION
BEFORE THE
COMMITTEE ON ENERGY AND ENVIRONMENT
NEW JERSEY STATE SENATE
TRENTON, NEW JERSEY
SEPTEMBER 24, 1984



Chemical Specialties Manufacturers Association
Suite 1120
1001 Connecticut Ave., N.W.
Washington, D.C. 20036
(202) 872-8110

TESTIMONY OF GARY A. KRIEGER
S. C. JOHNSON & SON, INC.
ON BEHALF OF THE
CHEMICAL SPECIALTIES MANUFACTURERS ASSOCIATION
BEFORE THE
COMMITTEE ON ENERGY AND ENVIRONMENT
NEW JERSEY STATE SENATE
TRENTON, NEW JERSEY
SEPTEMBER 24, 1984

MY NAME IS GARY A. KRIEGER. I AM AN ASSOCIATE COUNSEL IN THE LAW DEPARTMENT AT S. C. JOHNSON & SON, INC., WHICH HAS A FACILITY IN NORTHVALE, NEW JERSEY. AS A MEMBER OF THE CHEMICAL SPECIALTIES MANUFACTURERS ASSOCIATION (CSMA), I WOULD LIKE TO ASSOCIATE MY COMPANY WITH COMMENTS AND SUGGESTIONS MADE BY THE OTHER CSMA MEMBERS ON THIS PANEL.

S. C. JOHNSON & SON, INC. IS A PRIVATELY-OWNED, FOURTH GENERATION BUSINESS WHICH MANUFACTURES AND MARKETS A VARIETY OF WELL-KNOWN, NATIONAL PRODUCTS THAT ARE USED BY CONSUMERS FOR THE HOME, LAWN AND GARDEN. SPECIFICALLY, WE HAVE LAUNDRY, FLOOR CARE, AND PERSONAL CARE PRODUCTS, AS WELL AS INSECTICIDES, AND INSECT REPELLANTS. MOST OF THESE PRODUCTS ARE UTILIZED BY INDIVIDUALS AND HOMEOWNERS FOR THEIR OWN PERSONAL USE, BUT WE ALSO HAVE A LINE OF PRODUCTS FOR INSTITUTIONAL AND INDUSTRIAL USES, SUCH AS DISINFECTANTS, INSECTICIDES, CLEANSERS, POLISHES AND BUILDING MAINTENANCE SUPPLIES.

WE APPRECIATE THE COMMITTEE'S INTEREST AND CONCERN ABOUT PESTICIDE LEGISLATION. WE WELCOME THIS OPPORTUNITY TO DISCUSS WITH THE COMMITTEE SOME OF OUR INTERESTS AND CONCERNS WITH S. 1342.

FIRST, WE ARE PARTICULARLY CONCERNED WITH THE BROAD IMPACT THAT SECTION 7 HAS ON HOMEOWNERS, RENTERS, CONSUMERS, ETC. ALTHOUGH SECTION 7 REQUIRES SEVERAL SPECIFIC CATEGORIES FOR NOTIFICATION, THE MOST TROUBLESOME REQUIREMENTS COME UNDER SECTIONS 7(F), 7(G) AND 7(I), WHICH GENERALLY PROHIBIT PERSONS FROM APPLYING PESTICIDES UNLESS NOTICE IS GIVEN TO SURROUNDING RESIDENTS AND NEIGHBORS.

SECTION 7(F) APPEARS TO BE DIRECTED AT THOSE CERTIFIED APPLICATORS WHO APPLY PESTICIDES IN PRIVATE RESIDENCES, RENTAL UNITS, SCHOOLS AND COMMERCIAL BUILDINGS, BUT THE LANGUAGE IS VAGUE AND UNCLEAR. SECTION 7(I) STATES THAT "ANY PERSON WHO PERFORMS HIS OWN PEST CONTROL APPLICATION SHALL BE RESPONSIBLE FOR SATISFYING THE RELEVANT NOTIFICATION REQUIREMENTS IN SUBSECTIONS A, B, C, D, E, F, G, AND H OF THIS SECTION." CONSEQUENTLY, THESE PROVISIONS COLLECTIVELY APPLY TO ANYONE WHO APPLIES OR USES A PESTICIDE IN ANY LOCATION ENUMERATED UNDER SECTION 7.

ANYONE WHO EITHER PERSONALLY APPLIES OR HIRES A PROFESSIONAL APPLICATOR OF PESTICIDES IN HIS OR HER HOME, APARTMENT, HOTEL, RESTAURANTS, SCHOOL, AIRPORT, OFFICE OR "NON-COMMERCIAL BUILDING ROUTINELY VISITED BY THE GENERAL PUBLIC" WILL NEED TO COMPLY WITH THESE RESTRICTIONS. LET'S LOOK AT A COUPLE OF EXAMPLES:

1) EVERY HOMEOWNER WHO APPLIES AN ANT AND ROACH INSECTICIDE OR A FLEA SPRAY TO A CARPET (AN INDOOR PEST CONTROL APPLICATION) WOULD HAVE TO NOTIFY ALL RESIDENTS OF THE BUILDING OR FAMILY MEMBERS WITH INFORMATION ON COMPLETE FORMULATION, LIST OF LABEL PRECAUTIONS, AND HEALTH EFFECTS NOT INCLUDED ON THE LABEL.

2) AN INDIVIDUAL APARTMENT OCCUPANT COULD NOT APPLY PESTICIDES SUCH AS CLEANSERS, TOILET BOWL CLEANERS OR ROACH SPRAYS WITHOUT FIRST NOTIFYING EVERY PERSON, IN THEIR NATIVE LANGUAGE, IN THE BUILDING AND ADHERING TO THE BURDENSOME NOTIFICATION REQUIREMENTS, AS WELL AS ADVISING HIS OR HER FELLOW OCCUPANTS OF THE COMPLETE FORMULATION AND LISTS OF LABEL PRECAUTIONS.

3) EVERY HOTEL MANAGER OR RESTAURANT OWNER COULD NOT APPLY PESTI-

CIDES SUCH AS CLEANSERS, TOILET BOWL CLEANERS, OR SANITIZE DISHES WITHOUT POSTING A NOTICE FOR AT LEAST 24 HOURS WITH A STATED MESSAGE: "WARNING! PESTICIDE RECENTLY APPLIED." THE NOTICE MUST ALSO INCLUDE THE BRAND NAME OF THE ACTUAL PESTICIDES.

4) EVERY AIRPORT OR OFFICE BUILDING COULD NOT APPLY PESTICIDES FOR DISINFECTING FLOORS OR REST ROOMS, USE TOILET BOWL CLEANERS, OR SPRAY AN INSECTICIDE FOR FLIES, ANTS, ROACHES, ETC., WITHOUT FOLLOWING THE SAME NOTIFICATION PROCEDURE WHICH I JUST MENTIONED.

5) A HOMEOWNER OR RENTER WHO WANTED TO APPLY A PESTICIDE SUCH AS A FLEA SPRAY TO ONE OF HIS PETS WOULD FALL UNDER THE NOTIFICATION REQUIREMENTS MENTIONED ABOVE.

6) UNDER SECTION 7(G), ANY PROPERTY OWNER (HOMEOWNER OR BUSINESS OWNER) THAT SOUGHT TO APPLY A PESTICIDE TO A LAWN, SUCH AS A HERBICIDE TO KILL ORDINARY WEEDS, MUST POST A SIGN ALONG HIS OR HER PROPERTY AT 75 FOOT INTERVALS, SAYING THAT "THIS LAWN CHEMICALLY TREATED. KEEP CHILDREN AND PETS OFF."

7) IF A PERSON APPLIED AN INSECT REPELLANT FOR MOSQUITOES WHILE OUTSIDE IN HIS YARD, HE COULD FALL UNDER THE PROVISIONS OF SECTIONS 7(I), 7(G), AS WELL AS SECTIONS 7(C), WHICH REQUIRE A 14-DAY PRE-NOTICE ADVERTISEMENT, AS WELL AS ALERTING CITIZENS BY USE OF A MEGAPHONE. IF ONE WANTED TO APPLY A PESTICIDE IN A STATE PARK TO WARD OFF MOSQUITOES WHILE AT A PICNIC, THERE ARE ANOTHER SET OF NOTIFICATION REQUIREMENTS. IF ONE WANTED TO SPRAY FOR WASPS OUTSIDE HIS HOME, HE WOULD HAVE TO COMPLY WITH NOTICE REQUIREMENTS OF SECTIONS 7(F)(1), 7(G), AND 7(I).

WE BELIEVE THAT THESE SEVEN EXAMPLES CLEARLY DEMONSTRATE THE FOLLY OF TRYING TO ESTABLISH A SYSTEM OF NOTIFICATION FOR CONSUMERS, HOME-

OWNERS, RENTERS, HOTELS, RESTAURANTS, OTHER BUSINESSES, ETC., WHICH APPLY PESTICIDES FOR HUNDREDS OF DIFFERENT USES. A PROVISION OF THIS TYPE IN A PESTICIDE BILL IS SIMPLY NOT FEASIBLE, OR APPROPRIATE.

FEDERAL LAW HAS ESTABLISHED RESTRICTED USE AND GENERAL USE CLASSIFICATIONS FOR PESTICIDE PRODUCTS UNDER FIFRA, SECTION 3(D)(1)(B). EPA REGULATIONS 40 CFR 162.2(c)(1) AND 162.11(c) DEFINE THE GENERAL USE CLASSIFICATION TO INCLUDE THOSE PRODUCTS THAT ARE GENERALLY CONSIDERED TO BE "PRACTICALLY NON-TOXIC" OR "SLIGHTLY TOXIC," AND WHICH "WILL NOT GENERALLY CAUSE UNREASONABLE ADVERSE EFFECTS ON THE ENVIRONMENT."

IT WAS CLEARLY THE INTENT OF CONGRESS AND THE EPA TO PROVIDE A MEANS OF IDENTIFYING THOSE PESTICIDES WHICH POSE NO SIGNIFICANT RISK TO MAN OR THE ENVIRONMENT, AND WHICH CAN SAFELY AND AFFECTIVELY BE USED BY THE GENERAL PUBLIC. THE FAILURE OF S. 1342 TO RECOGNIZE THIS CLASSIFICATION WILL RESULT IN OVERLY BROAD RESTRICTIONS ON THE USES OF COMMON HOUSEHOLD PRODUCTS.

SECOND, SECTION 3(F) STATES THAT "INTERESTED PARTIES SHALL BE GRANTED THE RIGHT TO INTERVENE IN HEARINGS HELD PURSUANT TO THIS SECTION." THIS PROVISION WOULD PERMIT ANY INDIVIDUALS, REGARDLESS OF THEIR ECONOMIC INTEREST OR LACK OF AN ECONOMIC INTEREST, TO PARTICIPATE IN ANY REGISTRATION HEARING OR CANCELLATION HEARING. SUCH A PROVISION WOULD VIRTUALLY ASSURE THAT MOST PESTICIDE REGISTRATIONS IN NEW JERSEY WOULD BE CONTESTED. THIS PROVISION OF S. 1342 WOULD MAKE THE REGISTRATION OF ONE PRODUCT SO BURDENSOME ON THE DEPARTMENT THAT SUBSTANTIAL ADMINISTRATIVE RESOURCES WOULD HAVE TO BE DEVOTED TO SETTLING DISPUTES OVER REGISTRATIONS, NO MATTER HOW INSIGNIFICANT OR UNJUSTIFIED.

THE EPA HAS HELD THAT ONLY THOSE PERSONS WHO HAVE AN ECONOMIC

INTEREST IN THE REGISTRATION OR CANCELLATION HAVE A RIGHT OF STANDING OR ARE PERMITTED TO PARTICIPATE IN THESE TYPES OF HEARINGS. IN THE COURT CASE OF ENVIRONMENTAL DEFENSE FUND v. COSTLE 631 F.2d 922 (D.C. CIR. 1980), CERT. DENIED, 449 U.S. 1112 (1981), EPA'S INTERPRETATION OF SECTION 6(B) RELATING TO STANDING IN ADMINISTRATIVE HEARINGS WAS UPHELD; CONSEQUENTLY, THOSE PARTICIPANTS WHO DO NOT HAVE AN ECONOMIC INTEREST IN THE REGISTRATION OR CANCELLATION WERE DENIED ACCESS OR THE RIGHT TO PARTICIPATE IN THESE KINDS OF HEARINGS.

THIRD, UNDER SECTION 24(A) OF FIFRA, EACH STATE "MAY REGULATE THE SALE OR USE OF ANY FEDERALLY-REGISTERED PESTICIDE OR DEVICE IN THE STATE." DURING THE 1980s, HOWEVER, THERE HAVE BEEN NUMEROUS ATTEMPTS BY VARIOUS POLITICAL SUBDIVISIONS OF STATES TO GET INVOLVED IN THE PROCESS OF REGULATING THE SALE OR USE OF PESTICIDES OR REQUESTING GENERATION OF DATA. BEFORE THIS PROBLEM SPREADS TO OTHER STATES, AND THEIR POLITICAL SUBDIVISIONS, WE BELIEVE THAT THE PROPER INTENT OF FIFRA MUST BE PRESERVED AND ACCORDINGLY ALL REFERENCES TO REGULATION BY LOCAL MUNICIPALITIES, COUNTIES, CITIES AND TOWNSHIPS, SUCH AS THAT APPEARING IN SECTION 6, ARE INAPPROPRIATE IN ANY STATE LEGISLATION.

FEDERAL FIFRA RETAINED PRESENT STATE AUTHORITY TO REGULATE SALE OR USE OF PESTICIDES AND SPECIFIED THAT SUCH AUTHORITY RESTS WITH STATES, BUT NOT WITH SUBDIVISIONS THEREOF. THIS PROVISION WAS CONSISTENT WITH THE LEGISLATIVE HISTORY OF THE 1972 FIFRA AMENDMENTS:

"...[I]T IS THE INTENT THAT SECTION 24, BY NOT PROVIDING ANY AUTHORITY TO POLITICAL SUBDIVISIONS AND OTHER LOCAL AUTHORITIES OF OR IN THE STATES, SHOULD BE UNDERSTOOD AS DEPRIVING SUCH LOCAL AUTHORITIES AND POLITICAL SUBDIVISIONS OF ANY AND ALL JURISDICTION AND AUTHORITY OVER

PESTICIDES AND THE REGULATION OF PESTICIDES." (S. REP.
No. 92-8838 (PART II) 92ND CONG., 2D SESS. 47 1972)
APPENDIX E (EMPHASIS ADDED).)

WE BELIEVE THAT NEW JERSEY SHOULD HONOR THE CONGRESSIONAL INTENT OF FIFRA THAT POLITICAL SUBDIVISIONS BELOW THE STATE LEVEL SHOULD NOT REGULATE THE SALE OR USE OF PESTICIDES.

FIFTH, WE BELIEVE THAT SECTION 9 OF THIS BILL GOES TOO FAR IN MANDATING THAT THE DEPARTMENT "CARRY OUT A PROGRAM OF TESTING IN ORDER TO DETERMINE THE NATURE AND EXTENT OF PESTICIDES IN THE ENVIRONMENT TO WHICH MAN AND ANIMALS MAY BE EXPOSED." SUCH TESTING AT THE STATE LEVEL IS UNNECESSARY. EACH PRODUCT REGISTERED AT THE STATE LEVEL HAS ALREADY BEEN REGISTERED AT THE FEDERAL LEVEL (EPA), AND HAS UNDERGONE EXTENSIVE TESTING.

ADDITIONAL TESTING REQUIREMENTS IN NEW JERSEY WOULD IMPOSE AN UNNECESSARY AND UNREASONABLE BURDEN UPON COMPANIES WHICH ARE ATTEMPTING TO REGISTER THEIR PRODUCTS IN THE GARDEN STATE. SUCH A TESTING PROGRAM WILL RESULT IN THE FOLLOWING PROBLEMS:

- 1) EXCESSIVE DELAYS IN THE NEW JERSEY REGISTRATION PROCESS;
- 2) DUPLICATIVE TESTING FOR SIMILAR PRODUCTS OR "ME-TOO" REGISTRATIONS;
- 3) IMPOSITION BY OTHER STATES OF DIFFERENT AND CHANGING REGISTRATION TEST DATA REQUIREMENTS, RESULTING IN A PATCH-WORK OF MULTIPLE STATE REQUIREMENTS; IT IS VERY DIFFICULT OR EVEN IMPOSSIBLE TO MARKET A NATIONAL PRODUCT GIVEN THIS TYPE OF REGULATION;
- 4) SUBSTANTIALLY INCREASING THE COST OF RESEARCH AND

- DEVELOPMENT FOR NEW PESTICIDES AND NEW USE PRODUCTS,
AND INCREASE COSTS TO THE CONSUMER FOR THESE PRODUCTS;
IT COULD THWART INNOVATION IN THE PESTICIDE INDUSTRY;
- 5) SUFFICIENTLY INCREASE THE BURDENS OF REGISTERING
PRODUCTS IN NEW JERSEY AND COULD, IN EFFECT, LOCK OUT
COMPETITION FROM THE MARKETPLACE AND DEPRIVE CITIZENS
AND USERS IN THIS STATE OF USEFUL AND NEEDED PRODUCTS;
AND
- 6) SUBSTANTIALLY INCREASE COSTS TO THE DEPARTMENT AND
THE STATE OF NEW JERSEY IF IT DEVELOPED A TESTING PRO-
GRAM; IT WOULD DIVERT SIGNIFICANT RESOURCES FROM OTHER
DEPARTMENT RESPONSIBILITIES, AND WOULD REQUIRE NEW
STAFF TO MONITOR AND EVALUATE SUCH TESTING RESULTS.

IF THE STATE SOUGHT TESTING INFORMATION IT COULD OBTAIN SUCH DATA FROM
THE ENVIRONMENTAL PROTECTION AGENCY, OR FROM THE COMPANY ITSELF. THE
STATE, HOWEVER, SHOULD HAVE A SPECIFIC SCIENTIFIC REASON, PURPOSE AND
JUSTIFICATION FOR REQUESTING THE DATA, OR A SPECIFIC LOCAL CONCERN (SINCE
PRODUCTS ARE REGISTERED ON A NATIONAL BASIS). IN ADDITION, THE STATE
NEEDS TO DEVELOP PROCEDURES FOR PROTECTING TRADE SECRET, CONFIDENTIAL
BUSINESS INFORMATION SO THAT COMPETITORS DO NOT OBTAIN AN UNFAIR ADVAN-
TAGE. WE BELIEVE THAT ANY TESTING PROGRAM AT THE STATE LEVEL WILL
BE UNNECESSARY, DUPLICATIVE, AND COSTLY, BOTH TO THE STATE AND THE
INDUSTRY.

FIFTH, SECTION 18 OF S. 1342 PERMITS ANY PERSON TO BRING A
CIVIL ACTION ON HIS OWN BEHALF AGAINST ANOTHER INDIVIDUAL FOR
VIOLATION OF ANY PROVISION OF THE STATE PESTICIDE ACT OR ANY REGU-
LATION ISSUED THEREUNDER. IN ADDITION, A SUIT MAY BE BROUGHT BY AN

INDIVIDUAL AGAINST THE DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR ITS FAILURE TO ENFORCE PROVISIONS OF THE ACT OR ANY RULE. THIS IS FREQUENTLY REFERRED TO AS THE "PRIVATE RIGHT OF ACTION."

SUCH AN AMENDMENT HAS GREAT POTENTIAL FOR ABUSE. IT COULD HALT THE APPLICATION OF PESTICIDES AND POTENTIALLY RESULT IN AN INCREASED PROBLEM OF NOXIOUS WEEDS, INSECT PESTS, AND DISEASE-CARRYING ORGANISMS. IT COULD ALSO ENABLE A PLAINTIFF TO COLLECT DAMAGES, INCLUDING COURT COSTS AND WITNESS FEES, RESULTING FROM EVEN MINOR VIOLATIONS.

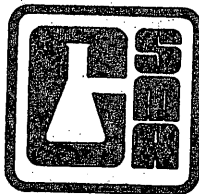
THIS PROVISION IS UNNECESSARY BECAUSE REMEDIES ALREADY EXIST UNDER STATE LAW AND FIFRA ENFORCEMENT PROCEDURES EXIST TO STOP PESTICIDE MISUSE WHEN IT OCCURS. IN VIRTUALLY ALL STATES, CITIZENS CAN ALREADY BRING SUIT IN STATE COURT FOR INJUNCTIVE RELIEF AND DAMAGES. SINCE ALMOST ALL STATES HAVE STATUTES DEFINING PESTICIDE USE VIOLATIONS, CITIZENS MAY BRING SUIT TO ENFORCE THEIR OWN STATE LAWS AND THEREFORE DO NOT NEED A NEW PRIVATE RIGHT OF ACTION.

IN ADDITION TO ENFORCING ALREADY EXISTING STATE PESTICIDE STATUTES, CITIZENS ALSO HAVE THE RIGHT TO BRING SUIT UNDER STATE TORT LAW FOR MANY ACTIONS WHICH WOULD CONSTITUTE PESTICIDE USE VIOLATIONS. IN VIRTUALLY ALL STATES, USE OF A PESTICIDE IN VIOLATION OF GOVERNMENT LAWS AND REGULATIONS WOULD BE STRONG EVIDENCE OF NEGLIGENCE. WHERE AN INDIVIDUAL CAN SHOW THAT HE IS ENTITLED TO EQUITABLE RELIEF, VIRTUALLY EVERY STATE ALLOWS ITS CITIZENS TO OBTAIN INJUNCTIONS AGAINST SUCH UNLAWFUL OR NEGLIGENT ACTS.

WE BELIEVE THAT SUCH A PROVISION, AS SECTION 18 OF S. 1342, WOULD RESULT IN UNDUE HARRASSMENT OF LEGITIMATE PESTICIDE USERS, GROWERS, FARMERS AND MANUFACTURERS.

WE APPRECIATE THIS OPPORTUNITY TO TESTIFY BEFORE YOUR COMMITTEE. WE BELIEVE THAT THIS PANEL HAS AMPLY ILLUSTRATED THAT THIS LEGISLATION IS UNNECESSARY AND ACTUALLY HINDERS STATE ENFORCEMENT OF EXISTING EQUITABLE PESTICIDE REGULATIONS. ON BEHALF OF S. C. JOHNSON & SON, INC., AND THE MEMBERSHIP OF THE CHEMICAL SPECIALTIES MANUFACTURERS ASSOCIATION, WE, THEREFORE, RESPECTFULLY URGE THAT THIS COMMITTEE NOT REPORT OUT S. 1342.

TESTIMONY OF DEBRA BICZAK
AIRWICK INDUSTRIES, INC.
ON BEHALF OF THE
CHEMICAL SPECIALTIES MANUFACTURERS ASSOCIATION
BEFORE THE
COMMITTEE ON ENERGY AND ENVIRONMENT
NEW JERSEY STATE SENATE
TRENTON, NEW JERSEY
SEPTEMBER 24, 1984



Chemical Specialties Manufacturers Association
Suite 1120
1001 Connecticut Ave., N.W.
Washington, D.C. 20036
(202) 872-8110

TESTIMONY OF DEBRA BICZAK
AIRWICK INDUSTRIES, INC.
ON BEHALF OF THE
CHEMICAL SPECIALTIES MANUFACTURERS ASSOCIATION
BEFORE THE
COMMITTEE ON ENERGY AND ENVIRONMENT
NEW JERSEY STATE SENATE
TRENTON, NEW JERSEY
SEPTEMBER 24, 1984

MR. CHAIRMAN, I AM HAPPY TO BE HERE TODAY TO TESTIFY BEFORE THE COMMITTEE ON ENERGY AND ENVIRONMENT. MY NAME IS DEBRA BICZAK. I AM DIRECTOR OF REGULATORY AFFAIRS AND PRODUCT SAFETY AT AIRWICK INDUSTRIES, INC. IN CARLSTADT, NEW JERSEY. AS A MEMBER OF THE CHEMICAL SPECIALTIES MANUFACTURERS ASSOCIATION (CSMA), I WOULD LIKE TO ASSOCIATE MY COMPANY WITH COMMENTS AND SUGGESTIONS MADE BY OTHER CSMA MEMBERS ON THIS PANEL.

AIRWICK SERVES THE HEALTH CARE PROFESSIONAL WITH A COMPLETE LINE OF DETERGENTS, DISINFECTANTS, AND ODOR COUNTERACTANT PRODUCTS. WE ALSO PRODUCE AND MARKET FLOOR, CARPET CARE, AND ODOR CONTROL SYSTEMS, AS WELL AS IN-HOUSE TRAINING SERVICES. WE ALSO PROVIDE THE CONSUMER WITH SPECIALTY ENVIRONMENTAL AND HEALTH PRODUCTS. LIKE OTHER CSMA MEMBERS, WE PRODUCE AND MARKET DISINFECTANTS, SANITIZERS, DETERGENTS, CLEANING COMPOUNDS AND FLOOR FINISHES FOR HOUSEHOLD, INSTITUTIONAL AND INDUSTRIAL USES. A SIGNIFICANT NUMBER OF THESE PRODUCTS MAKE PESTICIDAL CLAIMS, AND ARE REGULATED BY THE FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT (FIFRA), AS AMENDED.

WE APPRECIATE THE COMMITTEE'S INTEREST AND CONCERN IN PESTICIDE LEGISLATION AND LOOK FORWARD TO WORKING WITH YOU. WE WOULD LIKE TO TAKE THIS OPPORTUNITY TO SHARE WITH YOU SOME OF OUR CONCERNS ABOUT S. 1342.

FIRST, WE BELIEVE THAT SECTION 1 CONTAINING THE DEFINITIONS OF PESTICIDES UNDER S. 1342 IS TOO BROAD AND SHOULD BE AMENDED TO BE COM-

PATIBLE WITH THE FIFRA TERMINOLOGY. UNDER FIFRA, SECTION 2(U), "THE TERM 'PESTICIDE' MEANS (1) ANY SUBSTANCE OR MIXTURE OF SUBSTANCES INTENDED FOR PREVENTING, DESTROYING, REPELLING OR MITIGATING ANY PEST, AND (2) ANY SUBSTANCE OR MIXTURE OF SUBSTANCES INTENDED FOR USE AS A PLANT REGULATOR, DEFOLIANT OR DESICCANT" FEDERAL FIFRA ALSO DEFINES PLANT REGULATOR IN THE FOLLOWING TERMS: "THE TERM 'PLANT REGULATOR' MEANS ANY SUBSTANCE OR MIXTURE OF SUBSTANCES INTENDED, THROUGH PHYSIOLOGICAL ACTION, FOR ACCELERATING OR RETARDING THE RATE OF GROWTH OR RATE OF MATURATION, OR FOR OTHERWISE ALTERING THE BEHAVIOR OF PLANTS OR THE PRODUCE THEREOF, BUT SHALL NOT INCLUDE SUBSTANCES TO THE EXTENT THAT THEY ARE INTENDED AS PLANT NUTRIENTS, TRACE ELEMENTS, NUTRITIONAL CHEMICALS, PLANT INOCULANTS, AND SOIL AMENDMENTS. ALSO, THE TERM 'PLANT REGULATOR' SHALL NOT BE REQUIRED TO INCLUDE ANY OF SUCH OF THOSE NUTRIENT MIXTURES OR SOIL AMENDMENTS AS ARE COMMONLY KNOWN AS VITAMIN-HORMONE HORTICULTURAL PRODUCTS, INTENDED FOR IMPROVEMENT, MAINTENANCE, SURVIVAL, HEALTH, AND PROPAGATION OF PLANTS, AND AS ARE NOT FOR PEST DESTRUCTION AND ARE NONTOXIC, NONPOISONOUS IN THE UNDILUTED PACKAGED CONCENTRATION."

WE SHARE THE CONCERNS EXPRESSED BY JEFF PETERSON OF ECONOMICS LABORATORY, INC. CONCERNING THE DEFINITION OF "ADVERSE EFFECT" BECAUSE IT DOES NOT TAKE "INTO ACCOUNT THE ECONOMIC, SOCIAL, AND ENVIRONMENTAL COSTS AND BENEFITS OF THE USE OF ANY PESTICIDE" AS DEFINED IN FIFRA, SECTION 2(BB).

SECOND, WE WOULD LIKE TO EXPRESS OUR CONCERNS ABOUT SECTION 3, SUBSECTIONS (A), (B) AND (C). SECTION 3(A) DIRECTS THE COMMISSIONER TO DEVELOP A PROGRAM FOR CONTINUOUS EVALUATION OF THE "EFFECTIVENESS AND SAFETY OF PESTICIDES" REGISTERED WITHIN THE STATE. SUCH A STATE PROGRAM WOULD DIVERT CONSIDERABLE RESOURCES AWAY FROM THE EVALUATION

OF HEALTH AND SAFETY DATA AND ACHIEVE NO MORE EFFICACY TESTING THAN IS ALREADY PERFORMED IN RESPONSE TO MARKET CONDITIONS AND COMPETITION. IN THE CASE OF DISINFECTANTS IN PARTICULAR, WE DO NOT BELIEVE THAT STATES SHOULD CONDUCT THEIR OWN TESTING TO DETERMINE EVALUATION OF THE EFFECTIVENESS OF THESE PRODUCTS BECAUSE THE BIOLOGICAL NATURE OF THE TESTS CREATES CONSIDERABLE DIFFICULTY IN REPRODUCING TEST RESULTS.

WE BELIEVE IT IS APPROPRIATE TO HAVE ONE FEDERAL LABORATORY FACILITY THAT HAS THE AUTHORITY TO PROVIDE TESTING OF DISINFECTANT MATERIALS AND THUS AVOID CONFLICTS OVER TESTING METHODS AND TEST RESULTS. SUCH A PROPOSAL HAS BEEN PUT FORTH BY U. S. SENATOR PAUL SARBANES (D, MD) IN S. 780, WHICH IS PRESENTLY PENDING IN THE COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY IN THE U. S. SENATE.

WITHOUT A FEDERAL LABORATORY, WE FORESEE THE POSSIBILITY OF NUMEROUS STATES OBTAINING VARYING TEST RESULTS ON THE SAME PRODUCT AND THEREBY TAKING DIFFERENT ENFORCEMENT ACTIONS. IN THE LAST THREE YEARS, WITH ONLY THREE STATES CONDUCTING THE TESTS THERE HAS BEEN EARLY EVIDENCE OF DIFFERING TEST RESULTS BETWEEN THEM. INSTANCES HAVE OCCURRED WHERE ONE STATE WOULD FAIL A PRODUCT AGAINST A SPECIFIC TEST ORGANISM WHILE ANOTHER STATE WOULD OBTAIN PASSING RESULTS GIVEN THE SAME PRODUCTION BATCH. MULTIPLY THAT EXAMPLE BY THOUSANDS OF PRODUCTS BY 50 STATES AND YOU CAN EASILY SEE THE CONFUSION THAT WOULD RESULT, NOT ONLY AMONG GOVERNMENT AND MANUFACTURERS, BUT END USERS AND THE GENERAL PUBLIC AS WELL.

UNDER SECTION 3(B), THE REGISTRANTS ARE DIRECTED TO PROVIDE "THE DEPARTMENT WITH THE INFORMATION IT MAY DESIRE." THIS PROVISION IS TOO BROAD AND OPEN-ENDED. IT COULD FORCE MANUFACTURERS OF "ME-TOO" PRODUCTS TO DUPLICATE INFORMATION AND TESTING, BOTH OF WHICH ARE EXTREMELY COSTLY TO THE MANUFACTURER TO DEVELOP AND COSTLY TO THE DEPARTMENT TO EVALUATE.

MOST IMPORTANTLY, THIS PROVISION PERMITS THE STATE TO REQUIRE THE NEED-
LESS GENERATION OF DATA WITHOUT ANY REASON WHATSOEVER.

SECTION 3(C) WOULD MAKE IT MANDATORY, RATHER THAN DISCRETIONARY,
FOR THE STATES TO REQUIRE SUBMISSION OF THE COMPLETE FORMULA, THE EPA
REGISTRATION NUMBER AND THE COMMON NAME OF ALL PESTICIDES. FORMULA
INFORMATION IS HELD BY MANUFACTURERS TO BE STRICTLY CONFIDENTIAL, AND
SUBMISSION TO INDIVIDUAL STATES OPENS THE DOOR FOR POSSIBLE RELEASE OF
SUCH VALUABLE INFORMATION TO COMPETITORS, PARTICULARLY FOREIGN COMPETI-
TION. MOREOVER, THERE ARE NO PROVISIONS IN S. 1342 TO PREVENT THE
DISCLOSURE OF CONFIDENTIAL OR PROPRIETARY INFORMATION, EITHER FOR SEC-
TIONS 3(B) OR 3(C).

CONFIDENTIAL TRADE SECRET INFORMATION SUBMITTED TO A STATE OR
UTILIZED TO REGISTER A PRODUCT AT THE STATE LEVEL, SHOULD BE PROTECTED
FROM DISCLOSURE BY THE STATE. ALTHOUGH THERE IS AN ATTEMPT TO PROTECT
FEDERAL TRADE SECRET MATERIALS UNDER SECTION 10 OF FIFRA, THERE NEEDS TO
BE EVEN STRONGER PROTECTION AT THE STATE LEVEL. INDIVIDUALS, ORGANIZA-
TIONS OR COMPANIES SHOULD NOT BE ALLOWED TO CIRCUMVENT THE TRADE SECRET
PROVISIONS OF FEDERAL FIFRA BY SECURING THE SAME DATA AT THE STATE
LEVEL.

THIRD, SECTION 4 OF THE BILL PROHIBITS APPLICATION OF A PESTI-
CIDE "COMMERCIALLY" WITHOUT THE INDIVIDUAL HAVING RECEIVED CERTIFI-
CATION APPROVAL FROM THE DEPARTMENT. THIS PROVISION IS PARTICULARLY
TROUBLESOME. PESTICIDES ARE USED IN CLEANING AND DISINFECTING SCHOOLS,
HOSPITALS, HOTELS, MOTELS, FOOD SERVICE OPERATIONS, NURSING HOMES,
ATHLETIC CLUBS, AND MANY MANUFACTURING FACILITIES. IN FACT, ANY "COMMER-
CIAL" ESTABLISHMENT THAT IS REQUIRED TO MEET CERTAIN LEVELS OF SANITA-
TION, UNDER OTHER STATE LAWS, MUST USE PESTICIDES. THE RAMIFICATIONS ARE

ENORMOUS. EVERY PERSON WHO WASHES DISHES, CLEANS FOOD PROCESSING EQUIPMENT, DOES CLEANING AND MAINTENANCE WORK OR OTHER JOBS WHERE REGISTERED "PESTICIDES" ARE SPECIFICALLY USED AS DISINFECTANTS, SANITIZERS OR CLEANING AGENTS, WOULD HAVE TO BE CERTIFIED AND TRAINED AS "APPLICATORS." THE ADDITIONAL ADMINISTRATIVE COSTS INVOLVED IN TRAINING, TESTING AND CERTIFYING THESE "APPLICATORS" WOULD BE A WASTEFUL EXPENDITURE OF TAX DOLLARS AND ARE SIMPLY UNNECESSARY IN MOST CASES. WHERE IN SOME LIMITED INSTANCES APPLICATION INSTRUCTION MIGHT BE NEEDED, RESPONSIBLE ORGANIZATIONS ALREADY PERFORM SUCH TRAINING INDEPENDENTLY.

IN ADDITION, THERE IS NO PROVISION FOR A PERSON WORKING UNDER THE DIRECT SUPERVISION OF A CERTIFIED APPLICATOR, SUCH AS SECTION 2(E)(4) OF FIFRA, WHICH STATES: "UNLESS OTHERWISE PRESCRIBED BY ITS LABELING, A PESTICIDE SHALL BE CONSIDERED TO BE APPLIED 'UNDER THE DIRECT SUPERVISION OF A CERTIFIED APPLICATOR' IF IT IS APPLIED BY A COMPETENT PERSON ACTING UNDER THE INSTRUCTIONS AND CONTROL OF A CERTIFIED APPLICATOR WHO IS AVAILABLE IF AND WHEN NEEDED, EVEN THOUGH SUCH CERTIFIED APPLICATOR IS NOT PHYSICALLY PRESENT AT THE TIME AND PLACE THE PESTICIDE IS APPLIED."

THIS PROVISION AFFECTS LAWN CARE PROFESSIONALS, TREE EXPERTS, THE STRUCTURAL PEST INDUSTRY, AERIAL APPLICATORS, ETC. FURTHER IT AFFECTS INSTITUTIONAL AND INDUSTRIAL PERSONNEL. AN EXAMPLE OF CURRENT PRACTICE IS THAT ALL HOSPITAL CUSTODIAL AND HOUSEKEEPING STAFF WORK UNDER THE SUPERVISION OF THE EXECUTIVE HOUSEKEEPER WHO IS THOROUGHLY TRAINED AND CERTIFIED BY PROFESSIONAL ASSOCIATIONS IN THE TECHNIQUES AND PRACTICES OF ENVIRONMENTAL SANITATION AND INFECTION CONTROL.

WE URGE YOUR COMMITTEE TO TAKE INTO CONSIDERATION THE PROBLEMS OF APPLYING DISINFECTANTS, SANITIZERS, CLEANING COMPOUNDS, AND PESTICIDES IN

INDUSTRIAL AND INSTITUTIONAL AREAS.

FOURTH, WE SHARE THE COMMITTEE'S CONCERN THAT "ALL NECESSARY PRECAUTIONS" BE TAKEN PRIOR TO THE APPLICATION OF ANY PESTICIDE, AND WOULD APPRECIATE THE CLARIFICATION OF SECTION 5(D), TO INCLUDE ONLY TERMITE CONTROL RATHER THAN ALL PESTICIDES.

UNDER THE BROAD TERMINOLOGY OF SECTION 5(A) "TO ELIMINATE HUMAN EXPOSURE TO THE PESTICIDE" AND TO TAKE "PARTICULAR CARE ... TO AVOID EXPOSING CHILDREN," CAUTION MUST BE TAKEN HERE AS IT MIGHT BE POSSIBLE TO INTERPRET THIS SECTION SO AS TO PROHIBIT JANITORS FROM CLEANING OR DISINFECTING SCHOOL WASHROOMS WHEN CHILDREN ARE PRESENT OR SANITIZING DISHES USED IN SCHOOL CAFETERIAS DURING SCHOOL HOURS. WE BELIEVE THAT THIS LEGISLATIVE LANGUAGE NEEDS TO BE RE-EXAMINED.

FIFTH, ALTHOUGH MY COLLEAGUE FROM S. C. JOHNSON, GARY KRIEGER, WILL FURTHER DISCUSS SOME OF THE PROVISIONS OF SECTION 7 OF S. 1342, I WOULD LIKE TO OFFER A FEW OBSERVATIONS.

THE PROVISIONS OF SECTIONS 7(F), 7(G) AND 7(I) GENERALLY PROHIBIT PERSONS FROM APPLYING PESTICIDES UNLESS NOTICE IS GIVEN TO SURROUNDING RESIDENTS.

THE PROVISION OF SECTION 7(F) SPECIFICALLY IDENTIFIES PRIVATE RESIDENCES, RENTAL UNITS, SCHOOLS, AND COMMERCIAL BUILDINGS, INCLUDING HOTELS, RESTAURANTS, AIRPORTS, OFFICES, AND NON-COMMERCIAL BUILDINGS ROUTINELY VISITED BY THE GENERAL PUBLIC. THIS PROVISION REQUIRES AN ASSORTMENT OF PUBLIC NOTIFICATIONS INCLUDING THE COMPLETE FORMULATION, LIST OF LABEL PRECAUTIONS, AND HEALTH EFFECTS NOT INCLUDED ON THE LABEL, WITH AT LEAST 24 HOURS PRIOR TO THE APPLICATION. CONCERNING COMMERCIAL BUILDINGS, A NOTICE NEEDS TO BE POSTED WHICH STATES:

"WARNING! PESTICIDE RECENTLY APPLIED."

THESE NOTICE PROVISIONS COULD BE INTERPRETED TO REQUIRE HOME OWNERS, APARTMENT DWELLERS, HOTEL OWNERS, RESTAURANT OPERATORS, ETC., TO COMPLY WITH DETAILED NOTIFICATION REQUIREMENTS IF THEY APPLY PESTICIDES SUCH AS DISINFECTANT SPRAYS, TOILET BOWL CLEANERS, ROACH SPRAYS, MOTH BALLS OR IF THEY SANITIZE DISHES THEY USE.

SPECIFICALLY, SUBSECTION 7(1) MAKES IT MANDATORY FOR ANYONE PERFORMING "HIS OWN PEST CONTROL APPLICATION" TO SATISFY THE SAME NOTIFICATION REQUIREMENTS, THUS DIRECTLY AFFECTING HOMEOWNERS AND CONSUMERS.

SIXTH, SECTION 11 OF S. 1342 WOULD PERMIT THE PESTICIDE CONTROL COUNSEL, AS AN ADVISORY BODY WITHIN THE DEPARTMENT OF ENVIRONMENTAL PROTECTION TO "REQUEST FROM THE COMMISSIONER SUCH INFORMATION CONCERNING PESTICIDES AS IT MAY DEEM NECESSARY." SUCH AUTHORITY IS UNDULY BROAD AND WOULD PERMIT MEMBERS OF THE PCC TO OBTAIN TRADE SECRET INFORMATION INCLUDING FORMULA DATA, OR EVEN TO REQUEST THE GENERATION OF ADDITIONAL TESTS, WITHOUT SPECIFYING THE REASONS FOR SUCH INFORMATION. IN ADDITION, AS IN OTHER PARTS OF S. 1342, THERE ARE NO PROVISIONS TO PROTECT THE CONFIDENTIALITY OF PROPRIETARY INFORMATION SUBMITTED TO THE STATE OF NEW JERSEY. AND FINALLY, THE MANDATED STAFFING OF THIS COUNCIL DOES NOT PROVIDE ANY PARTICIPATION FOR A REPRESENTATIVE OF THE PESTICIDE MANUFACTURING INDUSTRY, AN OVERSIGHT WHICH COULD SERIOUSLY DAMAGE THE COUNCIL'S ABILITY TO PROPERLY EVALUATE REAL-WORLD CONDITIONS AND ALTERNATIVES.

WE APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE THIS COMMITTEE AND WE CERTAINLY UNDERSTAND AND SHARE YOUR CONCERNS ABOUT THE DANGERS OF IMPROPER USE AND ABUSE OF PESTICIDES. I WOULD LIKE TO NOTE THOUGH,

THAT BECAUSE OF THE CONSTRAINTS IMPOSED BY TIME WE HAVE LIMITED OURSELVES TO A BRIEF IDENTIFICATION OF THE ITEMS OF MOST CONCERN TO US WITHOUT PROVIDING COMPLETE DETAILS. THEREFORE, WE WOULD WELCOME AN OPPORTUNITY TO WORK WITH YOU AND THE COMMITTEE IN THE MONTHS AHEAD.



NFIB® National Federation
of Independent Business

The Guardian of Small Business.

POSITION STATEMENT ON THE
PROPOSED SENATE COMMITTEE SUBSTITUTE

FOR S-1342

AN ACT CONCERNING THE USE OF PESTICIDES

MR CHAIRMAN, COMMITTEE MEMBERS, THANK YOU FOR THE OPPERTUNITY TO ADDRESS YOU TODAY. MY NAME IS THOMAS E. INTILE JR. AND I AM THE OWNER AND OPERATOR OF INTILE TREE EXPERTS, INC. I AM HERE TODAY AS A MEMBER AND REPRESENTATIVE OF THE 9000 SMALL BUSINESS MEMBERS OF THE NEW JERSEY CHAPTER OF THE NATIONAL FEDERATION OF INDEPENDENT BUSINESS.

NFIB/NJ OPPOSES S-1342 AS IT WAS ORIGINALLY PROPOSED AS WELL AS THE PROPOSED SENATE COMMITTEE SUBSTITUTE.

NFIB/NJ REPRESENTS SMALL BUSINESS OWNERS WHO ARE OFTEN THE USERS AND APPLICATORS OF PESTICIDES AND ARE DEDICATED TO THEIR CONTINUED SAFE USE. MEMBERS INCLUDE...

LAWN, TREE AND SHRUB SPECIALISTS	TOURISM
PEST CONTROL SPECIALISTS	CAMPGROUND OWNERS
FARMERS	GOLF COURSES
RODENT CONTROL SPECIALISTS	AMUSEMENT PARKS

AND MANY MORE WHO DEPEND ON THE CAREFUL USE OF PESTICIDES.

WE BELIEVE THAT IT IS THE DUTY OF THE LEGISLATURE TO PROTECT THE PUBLIC HEALTH AND SAFETY, WHEN A HAZARDOUS SITUATION HAS BEEN ESTABLISHED AND FOR WHICH NO PROTECTION EXISTS.

IN THIS CASE NO PUBLIC HEALTH THREAT HAS BEEN ESTABLISHED. IN FACT, THE QUALITY OF LIFE WE NOW EXPERIENCE THROUGH THE CAREFUL USE OF PESTICIDES HAS HAD A POSITIVE EFFECT ON ALL OUR CITIZENS. IN ADDITION THROUGH THE ENFORCEMENT OF CURRENT RULES AND REGULATIONS AT BOTH THE STATE AND FEDERAL LEVELS WE CAN ASSURE THE PUBLIC THAT THE CURRENT CONTROLS OF PESTICIDE USE ARE ADEQUATE.

THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION RECENTLY ENACTED A SET OF NEW REGULATION THAT WERE A RESULT OF 18 MONTHS OF PUBLIC HEARINGS AT A COST OF \$100,000. DEP IS ALSO EXPECTED TO BE HOLDING HEARINGS THIS FALL TO FURTHER ADDRESS PESTICIDE USE.

WE BELIEVE THAT THE MECHANISMS ARE CURRENTLY IN PLACE FOR GOVERNMENT TO BE RESPONSIVE TO THE NEEDS OF THE CITIZENS OF NEWJERSEY WITHOUT CREATING ANOTHER BUREACRACY.

WE ASK THAT YOU SUPPORT THE SMALL BUSINESS COMMUNITY BY OPPOSING THIS PROPOSAL.

THANK YOU.

INTILE TREE EXPERTS, INC.

19 Grover Lane
Caldwell, New Jersey 07006



226-3319

Honorable Daniel J. Dalton
Chairman, Committee on Energy and Environment
P.O. Box 39
Blackwood, New Jersey 08012

Dear Senator Dalton:

I would like to address you and your committee on S.1342. Senator Lesniak met with me on August 24, 1984 and told me at the end of our meeting I would have a copy of the revisions to S.1342 by the end of the week of Labor day (September 7, 1984) at the latest. I was not able to acquire a copy of the revised bill until September 17, 1984. This left five working days to read and review the revisions and prepare testimony.

The term adverse effect in the definitions is so broad and unclear as to include substances such as table salt and Clorox bleach. Included in the term is also potential threat which covers anything ever made, past or future, including naturally occurring substances.


The continuous ongoing evaluation of products by the DEP in New Jersey would cost at least \$16,000,000.00 annually of taxpayers money to duplicate the exact same process done at the Federal level by EPA in Washington, DC.

The supposed concerns of Senator Lesniak can be adequately addressed by the newest update to the Bureau of Pesticide Control regulations. These newest set of updated regulations were just put into effect this year after an expenditure of NJ taxpayers money of over \$100,000.00. These regulations are continually undergoing change as needed. There will be public hearings in November 1984 to change and update the regulations even more. Regulations are responsive to the needs of the applicators and the people of the state of New Jersey.

The people of New Jersey have at stake a very large and tangible monetary investment concerning the homes and property they own. You will see by the attachment that homeowners are the people who have invested large sums of money into residential real estate that requires maintenance on an annual basis. It is the homeowners of New Jersey who will be at the greatest disadvantage if they are not going to be able to protect their landscape and green investment.

I only see an appropriation for one time of \$75,000.00 for an IPM program at Rutgers. Who is to supply the millions of dollars in funding for the rest of S.1342? The already overtaxed citizens of New Jersey?

Thomas E. Intile, Jr.


President

232X



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF ENVIRONMENTAL QUALITY
BUREAU OF PESTICIDE CONTROL
380 Scotch Road, West Trenton, N.J. 08628

March 9, 1984

Mr. Thomas Intile
19 Grover Lane
Caldwell, NJ 07006

Dear Mr. Intile:

As per your request, the following is a list of the estimated expenditures incurred by the department for the latest revision process of the State pesticide regulatory code. I underlined the word estimated because of the "ball park" figure used to determine department staff time allocated to the project. The other expenses listed are accurate.

Department staff time	-	\$ 70,000.00
Court Stenographer	-	1,010.35
Printing Costs	-	9,147.36
(Proposed regulations, Final regulations, Reports of Public Hearing)		
Newspaper Advertisements	-	446.36
Mailing Costs	-	<u>22,698.00</u>
(Copies of regs. to interested parties and those we regulate)		\$103,302.47 (Total)

I hope this information serves in answering your questions.

Sincerely,

Raymond A. Ferrarin
Acting Bureau Chief

RAF:mfs

INTILE TREE EXPERTS, INC.

19 Grover Lane
Caldwell, New Jersey 07006



226-3319

NEW JERSEY GREEN ENVIORNMENT VALUES

Actual value of Essex Country Real Estate (as per 1982 county tax records)	\$12,611,661,807.00
50% of value as residential (homeowners)	\$ 6,305,830,903.00
20% of real estate value as Green Enviornment (as per I.R.S. and surveys of Real Estate Ind.)	\$ 1,261,766,180.00
20% damage to the homeowners property because restrictions placed on application community	\$ 252,353,236.00
Multitplied by 21 counties in New Jersey	\$ 5,299,417,956.00

More than 5 BILLION DOLLARS ANNUALLY damage to New Jersey HOMEOWNERS.

If given the fact that all my calculations are wrong by 50% that
still leaves 2 1/2 BILLION DOLLARS damage to New Jersey HOMEOWNERS.
ANNUALLY

RECOMMENDATIONS by NORMAN COOPER, VICE PRESIDENT
NATIONAL PEST CONTROL ASSOCIATION INC.
RE: "LESMAK BILL" R-80
9/7/84- 9/13/84 mam: 9/14/84
PROPOSED SENATE COMMITTEE SUBSTITUTE FOR
N.J. SENATE BILL NUMBERS-1342

Section 3

(page 1) f.

"adverse effect"

Recommend: "or any potential" be dropped

- reason: (1) Too broad to be clear enough to know what is meant: not able to be administered or measured by existing rules or definitions.
- (2) Dropping this does not change the effect of the definition since last phrase "but not limited to" allows discretion by D.E.P. to define "adverse effect" to include that which can be supported with evidence as hazardous to health or environment.

(page 2) h.

"Broad-Spectrum pesticide"

Recommend: This definition be dropped

- reason: (1) As defined it includes all pesticides without a definition for "wide range." When pesticides are used in accordance with label directions it is prescribed for specific use against specific pests.
- (2) This definition is not specific enough to not include any pesticide plus many other commonly used chemicals including:
water (hot or cold)
gasoline
fuel oil
lighter fluid
etc.
- (3) The concern is to identify materials that are hazardous when not used on target sites or organisms prescribed on label. It is already illegal to use any pesticide for purposes or against organisms not on label ~~on~~ on sites prohibited on label, i.e. "do not use within 100 feet of lake, stream, or water supply" and "not to be used on shrubs or trees," etc.

This sections regulations are designed to eliminate adverse effects within limits of feasibility and to ensure that N.J. state regulations regarding labelling shall conform to federal requirements. This section provides for the consideration of risks versus benefits of pesticides.

(page 3) Third line from bottom
Recommend: Eliminate the word "preliminary"

- reason: (1) In this context it contradicts "substantive" and adds nothing.
- (2) Action is prescribed for pesticides with substantive data to indicate (whether preliminary or final) adverse effects.

(page 3) Recommend: Eliminate the phrase ".or the name of which has been submitted for evaluation by the Pesticide Control Council or The Department of Health."

- reason: (1) The Pesticide Control Council and The Department of Health must be held to the same provision of providing "substantive data to indicate adverse effect" not just naming a pesticide.
- (2) Add "significant" before "adverse effects" in item (1).

reason" Any adverse effect regardless of how insignificant-even to only one person would mandate the refusal to register. This would seriously impair effective pest control and health environmental protection in New Jersey.

(page 5) i, Is a very good paragraph that provides protection to the public.

page 5 (New section)

Recommend: (1) On second line after the word "certification" "or registration" should be added.

(2) On third line after the word "certification" "or registration" should be added.

(3) On sixth line after the word "certification" "or registration" should be added.

reason: The certification and registration provision has been proven to be highly effective in Florida and Texas, states with effective pest control programs. New Jersey adopted a highly effective program less than one year ago that addresses this issue. This registration and certification program assures that all commercial

applicators are:

- known to the state of N.J.
- provides for N.J. state prescribed training requirements that fully satisfy the objectives of this provision that "the applicant is knowledgeable concerning the toxic nature and adverse effects of pesticides and is adequately trained with respect to the precautions necessary to minimize human exposure to any potentially hazardous pesticide.

(page 5) Third Line

Recommend: Add "in compliance with specifications on the pesticide label" after "all necessary precautions."

reason: Pesticide label has clear directions regarding all necessary precautions.

(page 14) f,1

Recommend: After the word "notified" add "upon request"

- reason:
- (1) The only persons needing prior notice are those with special health concerns. They have the right not to contract for pest control services initially or to request prior notice and information.
 - (2) Pest control services will not be applied without request from private dwelling residents.
 - (3) The state has existing provisions (re-inforced by this bill, if passed) to assure the safety of pesticides registered in N.J. and the training of commercial applicators.

(page 14) f,1

Recommend: The word "formulation" be deleted and the words "list of ingredients" be substituted.

reason: The formulation is often a trade secret (i.e.) heating and cooling of ingredients, etc. however all ingredients must be disclosed on the label.

(page 14) f,1

Recommend: "Delete" and known health effects not indicated on the label."

reason: If data is not available on label such data is ordinarily not in existence or is unknown to the applicator or his firm. It would be impossible to satisfy such a requirement. Who would have the responsibility to give the applicator information not contained on the label?

(Page 14)

f,2

Recommend: After the word "notified" add "upon request".

reason: Same as above.

Recommend: In rental units a permanent notice as to dates of routine pest control treatment (at least 24 hours prior to treatment) posted in a central location visible to tenants should suffice to satisfy notification requirement. Non-scheduled return visits in response to tenant request should be exempt from this requirement.

(Page 14)

f,2

How will the applicator know that the landlord has supplied this information to tenants?

(Page 15)

4

Recommend: "In case of commercial buildings, including but not limited to State poison control center toll free number" be deleted.

- reason: (1) New Jersey D.E.P. and U.S., E.P.A. have determined that pesticides are safe when properly applied in conformity with label directions. This provision would serve no useful public health protection purpose.
- (2) This provision would be counter-productive as it would intimidate the public and reduce entry to facilities where such a sign appears. This provision implies that even when properly applied, pesticides are dangerous.
- (3) This provision would penalize those establishments that provide for a greater frequency of pest control treatment. It would discourage proper pest control and encourage sanitary violations.
- (4) At a time when the N. J. Chamber of Commerce is spending a great deal of money to promote N. J. tourism (the State's second biggest source of income) this would drive business and tourism away.

(Page 17)

10, 6a

- Recommend: (1) The Pesticide Control Council shall remain at nine public and six private members.
- (2) Add "at least one member shall be recommended by organizations of urban commercial pest control applicators".

(3) delete "Of these members, one..... recommended by recognized environmental organizations."

reason: 27 members are too many to function effectively in arriving at a consensus in recommendations. Fifteen is a large number but considerably more manageable. The input of practical knowledge and experience in the field of commercial pest control is absolutely essential to effectively fulfill the Councils assigned duties.

(page 21) k

Recommend: Any fees to be set based on budgeted needs as approved by the State Legislature (Assembly and Senate)

reason: As stated herein it could provide unlimited taxing authority on business to one agency to do with it as it will under very broad parameters.

September 24, 1984

Hello my name is Walter Kern. I am a farmer in Salem County and would like to comment on Senate Bill 1342. I am also a freeholder from Salem County and am representing my constituents in our rural county where farming is very important to our local economy.

Mr. Lesniak, do you understand agriculture? And, are you aware, Mr. Lesniak, of the consequences to agriculture and consumers if this bill passes?

Section 6 10 Acres - minimum size for aerial spraying - Discriminating against the small farmers. Many fields in the State are less than 10 acres in size that need to be sprayed by air due to crop and vine sizes.

Section 6 No broad spectrum pesticides on non agricultural lands - Destroy the mosquito control program in the county. Encephalitis has been a real threat in Salem County this year and is carried by mosquitoes.

Section 7 Discriminates against aerial applicators since ground spray applications by farmers are exempt from the regulations.

14 day notice not practiced since many pests are not even identified 14 or more days ahead of schedule to make a pesticide application. 500 ft. buffer would be waste of land resources. Weeds, insect, & diseases would build up in these areas and move over to the adjacent crops.

Section 7 Notification requirements would cause undue hardship on the farmer since he would be constantly under harassment by his neighbors each time he made a pesticide application. The notification system would only lead to more nuisance suits between the farmer and an uncooperative neighbor. Yet pesticides would still be applied the same as

Continued from Pg. 1: they presently are now. New farmers would be reluctant to start farming in this state if they could go to another state with less restrictions.

Section 7-A Participants in the Rutgers Integrated Pest Management programs are exempt from 24 hour notification requirement but most of the crops in the state do not qualify for a formal integrated pest management program. All farmers practice integrated pest management since they spray pesticides only when needed because they are expensive to use.

Section 7 (3) Posting signs every 200 ft. down the road is another nuisance to the farmer that would not change any pesticide applications nor help anyone physically, since pesticides adhere readily to the plant leaves or soil and are not a danger to people following application. People who go into a field without the farmers permission are trespassing.

Section (4) g. p-5 Lawns treated with a pesticide must post a sign for 72 hours warning children and pets to Keep Off. I do not know of many dogs that can read. To enforce these regulations the DEP will have to hire enough regulatory employees to be the largest employer in the state. This may be a great jobs program but a lousy pesticide bill.

In Conclusion: People who choose to live in a rural community should not expect farmers to maintain the rural nature of the community and at the same time harass and regulate them out of business.

(more)

241 X

In Conclusion: (cont'd)

If you owned land, could you expect a fair profit on your land while you maintain a 500 ft. buffer zone on that land.

I have been continually harassed by a neighbor who claims to be farmer and opposes all pesticides. However, she does not derive her living from farming and probably not even the taxes on this farm which she has inherited are payed from farming. This farm has been either rented out or overgrown with weeds until this year. She now has twenty acres of soybeans and she now uses pesticides but vociferously opposes aerial spraying.

The agricultural economy has a great impact on the towns of Salem County, on the banks, stores, suppliers, jobs. In Salem County it is a 40 million dollar industry. Our Freeholder Board has just passes a right to farm bill. This bill 1342 will do nothing but put another nail in the coffin of agriculture in New Jersey.

While processor contract prices have stayed relatively the same for twenty years, farmers have tried to compensate by expansion, cutting labor costs, high finance, and a multitude of moves to stay in business. The enemies of aerial spraying like everyone else are benefiting from cheap food and the farmers perserverance⁺ ingenuity. Perhaps they should be trying to cope in a third world country, with mosquito carried diseases and very poor agriculture so they can appreciate what the farmer in New Jersey is doing for them.

Testimony of Dr. David Hall, Conservation Chairman, Bergen County Audubon Society

Sept. 24, 1984

RE: PESTICIDE CONTROL ACT (S-1342)

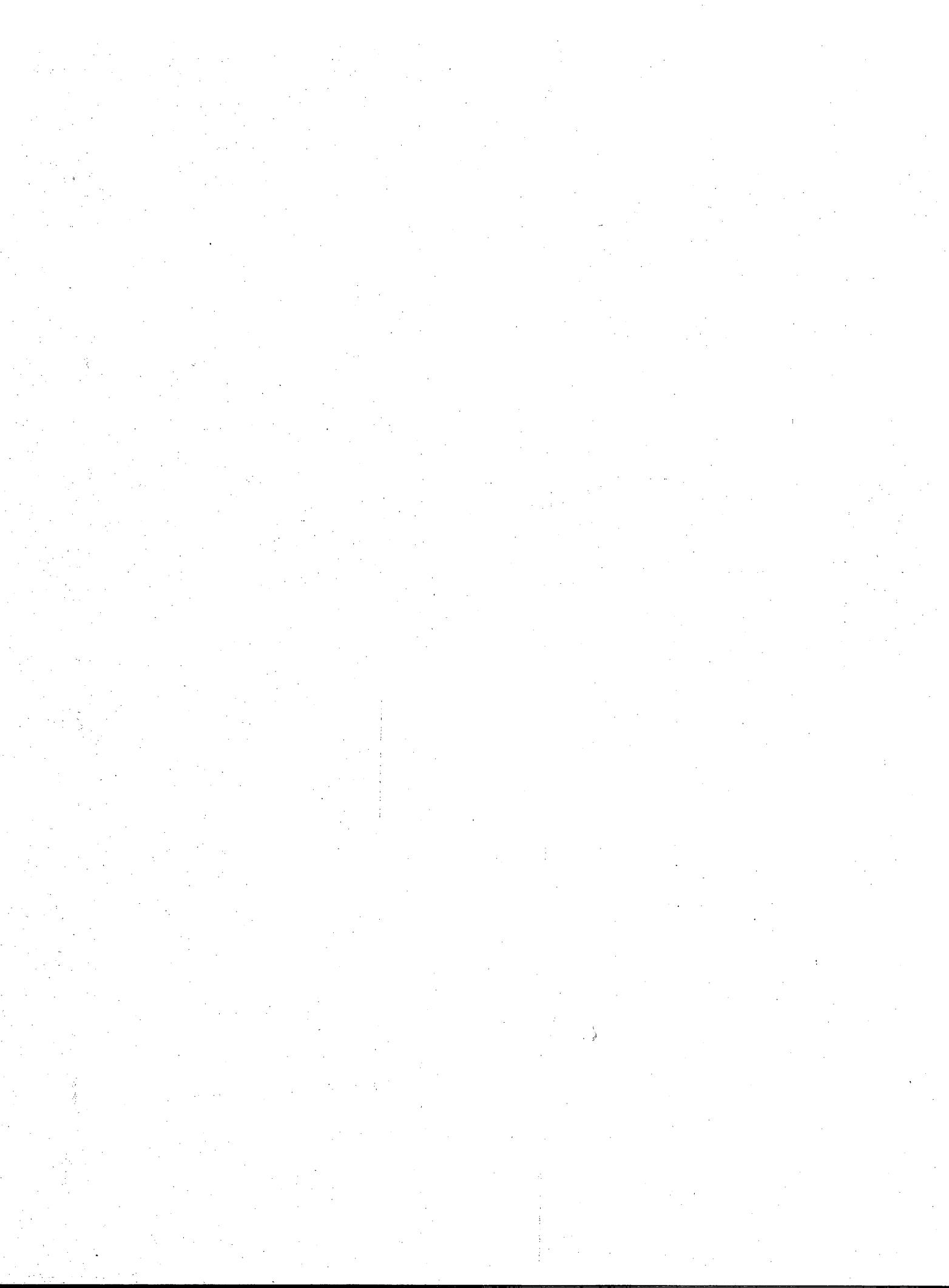
Senate Energy and Environment Committee, State of New Jersey

We oppose the current levels of use of broad spectrum pesticides because of their inability to distinguish between beneficial insects and harmful insects, the disruption of the chain of life which results, the direct toxic effects of pesticides on other species, and the significant safety questions which remain concerning human health. We are also disturbed that current usage patterns so often affect private property without permission or consent of the owners.

You may remember that the canary was once carried down into coal mines to indicate whether the environment was fit to work in. Likewise, our wild bird populations have served as an indicator of the health of our overall environment. When the first broad spectrum pesticides such as DDT were in use, it was changes in bird populations which signalled that these pesticides were not so safe as the chemical industry would have us believe. These pesticides do not discriminate between good and bad insects, they kill everything. Beekeepers get notification already, but homeowners & gardeners do not. The enormous losses to all insect populations leads to imbalances in the chain of life, starves bird populations that depend on insects for food, and is exterminating insects that our members view positively: butterflies, moths, & ladybirds for example. We have members who are trying to restore the wild populations of moths and butterflies, so that our children won't have to depend upon museums to see one. However, all of their efforts can be wiped out when pesticides are sprayed over their communities without warning. If the local park's shade trees are sprayed without warning, or a neighbor hires an aerial spraying service, the pesticide can easily drift onto neighboring properties, killing irreplaceable collections of living butterflies, for instance. This is one reason why we are concerned about proper notification, adequate buffer zones around agricultural spraying, and limitations on the indiscriminate use of broad spectrum pesticides. We believe that the individual citizen has a right to avoid having his property sprayed unnecessarily, and that the environment will be better served by more use of directed pest control measures such as integrated pest management (IPM) and less use of broad spectrum pesticides.

These are not the whims of a few oddballs, I might add. We have 1600 families who belong to Bergen County Audubon Society, and over 12,000 families statewide who belong to National Audubon. There are many more people than that who share our respect for the chain of life in the natural world.

Our second major concern is the safety of these pesticides. Again let me use bird life as an example. Besides the imbalances which develop from wiping out insect populations, we now know that pesticides such as DDT have direct physiological effects on vertebrates as well. We lost every peregrine falcon on the eastern half of the North American continent due to DDT. We almost wiped out the brown pelican, the bald eagle, and many other long-lived species. The DDT which they ingested built up systemically and

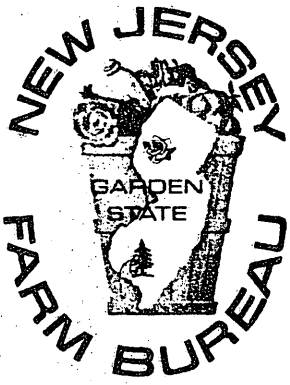


rendered them sterile. The few remaining bald eagles here in New Jersey are still functionally sterile due to DDT residues in their bodies from ten to twenty years ago. At the time, of course the chemical industry insisted that DDT was completely safe.

Now we are using a new generation of broad spectrum pesticides, and we hear a lot about how safe they are from industry spokesmen. When the EPA registered these compounds as safe for use, it is well known that exposure levels were often established by former Secretary Ann Gorsuch-Burford during cosy luncheon meetings with the industry representatives. Even the EPA's reports on pesticides have often consisted of cut and paste jobs where a company's own data sheets are inserted to look as if the EPA has done an independent study. Toxicity studies have often been farmed out to fly by night testing companies that actually fake the data out of whole cloth. To give one example, when the EPA looked at the pesticide studies of Industrial Bio-Test Inc. (IBT) in Illinois, they found that out of 1205 studies, 991 studies were fraudulent. Although the company officials were taken to court and three were convicted, seven years later the EPA had still failed to retest 737 IBT studies involving over 200 pesticides. How can the public feel secure about the safety of these 200 pesticides when the toxicity tests are known to be faked? None of these products was taken off the market until honest tests could be done; in many cases the tests still haven't been done, and other tests by other companies are often suspected to be faked as well. We know from the history of DDT that the residues of some pesticides are entering our bodies daily, accumulating each year in higher levels. We are the ultimate guinea pigs; we deserve to have our exposure to these compounds strictly limited to only the most urgent uses.

Too often these pesticides are viewed by general public as some sort of miracle cure against those pesky bugs; this sort of attitude leads to sloppy handling by the people who are in charge of spraying. As a result, the workers in the fields are overdosed, the fields are overdosed even when more precisely targeted methods such as IPM are available, and the surrounding environment is overdosed for no good reason. The chemical and agricultural industries complain about learning to cope with a new set of regulations; but that is just the point of this legislation - to force the users of pesticides to rethink their methods, reduce doses, switch to IPM methods where they are available, and better protect workers, the public and the environment. The users of pesticides must be forced to confront the scientific facts at hand: we can now detect pesticide residues at far lower levels and sometimes find significant health and environmental risks at even very low levels of exposure. The old blunderbuss methods of bug-killing must give way to more sophisticated, more responsible approaches.

Dr. David H. Hall
Conservation Chair
Bergen County Audubon Society
149 Runnymede Road
West Caldwell, NJ 07006
(201)226-7825



168 West State St., Trenton, New Jersey, 08608 tel. (609) 393-7163

TESTIMONY

OF

WALTER ELLIS, PRESIDENT

NEW JERSEY FARM BUREAU

ON

S-1342 - PROPOSED AMENDMENTS TO THE PESTICIDE CONTROL ACT

to

SENATE COMMITTEE ON ENERGY AND THE ENVIRONMENT

Monday, September 24, 1984



248X

OVERVIEW

This legislation would dictate a series of changes to the state pesticide code that will directly and indirectly affect the practice of farming in the state. Farmers throughout the state have been greatly concerned since the bill was first introduced last fall and re-introduced in February. The sponsor released an amended version on September 14, just a few days ago, which changed some of the specific details. We have reviewed the proposed committee substitute, and remain opposed to the bill's passage for a variety of reasons. We believe the changes being proposed for the pesticide code in this bill are prompted by fears and suspicions rather than documented evidence. The existing regulatory process is, in our opinion, flexible and responsive enough to address questions about pesticide use in New Jersey. As an example of this, both the DEP and EPA are developing regulations regarding further precautions for farmworker safety. This illustrates how the current process can address changing circumstances and why this bill is not needed.

We are greatly concerned about the prenotification section of the bill because of the burden it will impose on growers and the likelihood that such notices will create a sense of danger where none exists. Direct contact on people or property of pesticide material is presently prohibited by state regulations. Most if not all the persons to be notified under this section of the bill are not affected by the farm use of pesticides. Thorough and vigorous enforcement of existing regulations should be the means of isolating target areas from any undesired misapplication of pesticide material.

Furthermore, we believe that we in agriculture have a good track record with the use of these materials when all things are considered. Only 5 percent of the complaints of code violations received by the Bureau of Pesticide Control last year dealt with agriculture, and most of those were rectified quickly. There is

OVERVIEW (Continued)

always room for improvement and we support the efforts of the Extension Service in promoting the safe use of these products which are vital to produce high quality crops for a very competitive marketplace. This bill, by proposing new controls, would in effect be penalizing all farmers who apply pesticides by air or airblast sprayer regardless of their experience. This also shows how the existing rules are more equitable, since they investigate complaints to hear both sides of the argument before recommending fines or license suspension.

In addition to what we see in this bill as unnecessary duplication and a lack of justification, we urgently petition this committee to consider how these new requirements would be interpreted by the farming community. Now is not the time to heap regulations on New Jersey farmers. Agriculture in the state and throughout the nation is facing a crisis of declining net income. Many good farmers are struggling to make ends meet, because of poor commodity prices and high interest rates. What kind of a future do they face in New Jersey, if they see more and more controls being instituted as they work long hours just to pay their bills. This type of legislation flies in the face of the state right to farm and farmland preservation programs, which ask farmers to hang in there - there is a future for agriculture in this state. We are not suggesting that pesticide rules should be reviewed because of this or that farming will cease if this bill passes, although to some degree that may happen. Rather, it is a matter of sending the wrong signal at the wrong time.

Let me close these opening remarks by stating we support the regulation of pesticides and pesticide use. We agree with research and development of biological controls and are proud of the state's Integrated Pest Management program.

I have been a participant myself for the past seven years. Farmers know the cost and toxicity of these materials. Discussion of "alternatives to pesticides" is fine - a laudable goal - but please bear in mind that abrupt changes in either the availability of certain products or the manner in which they are used can have adverse economic consequences in farming. We sincerely believe the proponents of this bill have not made their case and suggest that their energies be channelled into this existing regulatory structure.

PESTICIDE USE IN AGRICULTURE

Permit me please to offer a few comments from my perspective about pesticide use in farming, as I am sure others will speak from their particular point of view. Pesticides, which can also be termed crop protection chemicals, are to agriculture what medicines are to human health. Used according to prescription they cure or control, used to excess they may cause injury.

Every aspect of pesticide use and regulation has changed significantly in the past 30 years. By comparison to the 1950's today's pesticides are:

- less persistent, breaking down into non-toxic substances more quickly
- more effective in smaller quantities, products are used by the ounce now where they once were used by the gallon
- applied with more diligence and concern for safety
- more strictly regulated by federal and state laws.

A number of the positive changes are the result of constant research and a desire to improve the risk/benefit relationship of all agricultural chemicals. There are risks to those who handle these materials, as farmers well know because he or she and some family members often are directly involved with them.

PESTICIDE USE IN AGRICULTURE (Continued)

The decision to use crop protection chemicals to control insects, disease, and weeds is not made by the farmer alone. Probably the most significant single factor is consumer demand. Growers must meet the standards of the marketplace at competitive prices, or risk letting the crop go to waste without being paid. The profit margin for farmers today is so slim they cannot afford to apply pesticides unless they are certain the increased productivity or quality of produce will pay for the costs. A farmer has no control over weather or the market but technology has provided a tool that can be useful in curtailing crop loss and hence helps to improve his profitability.

REVIEW OF THE BILL

We are concerned about a number of areas in the bill, some of which we would call your attention to:

SEC. 7a. - PRENOTIFICATION: The sponsor shocked the farming community with the original terms of the prenotification section (7 day minimum, all persons within 1,000 feet for each application, etc.). The revised version remains objectionable for a variety of reasons. Currently, it is a violation to expose any non-target site property and certainly any person to a pesticide spray. The farm use of pesticides do not affect these residents. Receiving a notice of spraying may unnecessarily arouse fears, rather than promote understanding. Notifying surrounding residents may be costly and impractical as well. Furthermore, rural area residents are familiar with farm practices. A serious drawback to this requirement is that it represents a new chore for questionable benefit that may itself become the basis of a lawsuit against the farmer, with associated costs of legal defense and so forth.

REVIEW OF THE BILL (Continued)

The posting responsibility has similar defects. Beyond those draw-backs, we do not want people near farm fields anyway! Farmers in New Jersey already face serious problems from farm trespass and vandalism. Legislation was approved earlier this year which makes it unlawful for anyone to be present in farm fields, orchards, bogs, or fenced pasture. Any obligation to have a sign posted, at the pain of a \$500 fine per day, suffers from the problem of having the signs deliberately torn down. Since this bill makes the fines payable to the complainant, real incentive would exist to remove these signs. Our experience with "no trespassing" signs proved this.

SEC. 6 - AERIAL APPLICATION: Subsection 6a(4) would ban the aerial application of pesticides in areas having less than 10 contiguous acres, which we have to assume includes farm fields. This would cause a real hardship for certain vegetable fields or other small, non-contiguous fields that may be using helicopters for example. We do not see any justification for this and further demonstrates the interference this bill could create for current farm practices.

In addition, the other restrictions on aerial applicators appear to be an overlap with FAA regulations. Further, farmers utilize the services of aerial applicators who may no longer continue doing business in the state because of the "hassle factor". Increased costs and a loss in application efficiency would result in that event.

SEC. 13L - CONTAINER DISPOSAL: We understand that representatives from the D.E.P., Extension Service, Department of Agriculture and others have already developed draft rules for the safe disposal of pesticide containers. Once again, another example of how this bill is not needed.

SEC. 14 - AGRICULTURAL WORKER SAFETY: Both the D.E.P. and representatives of farmworker organizations have been advised of the farm community's interest in developing an information disclosure and education program for farm workers. The D.E.P. draft revised rules, released several months ago and to be made the subject of public hearings in a few weeks, address several components that we can support. Also, the E.P.A. has announced an advance rule-making notice in this same area. Clearly, this is an area where rules are in the making that preclude the need for this bill.

Further, this type of effort should involve the existing intergovernmental migrant education task force. Farmers will do their part and cooperate with practical, meaningful steps. We are surprised to see the adversarial nature in the way this section is being promoted and the exaggerated claims of farmworker exposure. A good program to help educate and inform workers upon request can result only if it is the product of input from all sides and a spirit of cooperation.

SEC. 3 - PRODUCT REGISTRATION: The D.E.P. already has the power under subchapter 1 of its regulations (N.J.A.C. Title 7, Chapter 30) to deny, cancel, or suspend the registration of existing labelled products beyond the criteria in the federal FIFRA program. The content of this section of the bill also addresses decertification. We fear that vague language like "reasonably effective and practical alternative" may lead to decertification of products that are being used safely now but if lost would cause decreased effectiveness and hence economic loss to the farmer.

SEC. 8 - ACCIDENT REPORTING: The D.E.P. Bureau of Pesticide Control currently has a system in place for reporting pesticide accidents. Involving the Department of Health in the manner prescribed by this section of the bill seems like it could be achieved by administration directive.

SEC. 10 - PESTICIDE CONTROL COUNCIL: It is interesting to note that the language for designating a farmer member stipulates that the person "have training and experience in farming" rather than actually say he or she "shall be a farmer", as is the case under the present law.

SECS. 18&19 - PENALTY SECTIONS: Many farmers are most concerned about the harsh terms in this section. We believe section 18 may open the door to a rash of threatening lawsuits as a means of achieving ends unrelated to pesticide control. Section 19 has aptly been described as establishing a "bounty hunter" system. Farmers justifiably fear the liability being created by these sections in the bill. Neighbor harassment is already a big problem for farmers in New Jersey.

CONCLUSION:

We believe the bill is weak and lacks justification. There is no supporting documentation or analysis of pesticide use in New Jersey to accompany this bill. We recognize that some people have concerns about pesticide use, but any change to current regulations must be based on fact and experience. The D.E.P. considered many of the points in this bill when it revised the pesticide code, but opted to make several selective changes instead. They have asked and we agree that the present code should be given a chance to work, and then evaluated at a later date. They have the technical expertise and code enforcement experience to make these decisions carefully.

We are not closed to this discussion of pesticide use, although farmers were not consulted when this bill was drafted. There is a benefit for greater public awareness and understanding of the benefits and potential risks associated with pesticides in the state. From agriculture's standpoint, however, we encourage

CONCLUSION (Continued)

this committee to refer this bill to the existing administrative review procedures of the D.E.P. and other state agencies, where a mechanism already is in place to respond to these questions.

Thank you for your attention.

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