

CHAPTER 30

PESTICIDE CONTROL CODE

Authority

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

Source and Effective Date

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

Executive Order No. 66(1978) Expiration Date

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

Chapter Historical Note

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

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

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

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

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

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

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

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

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## SUBCHAPTER 1. PESTICIDE PRODUCT REGISTRATION AND GENERAL REQUIREMENTS

### 7:30-1.1 Scope

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

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

Petition for Rulemaking.

See: 25 N.J.R. 4675(e), 26 N.J.R. 261(a).

Amended by R.1995 d.205, effective April 17, 1995.

See: 26 N.J.R. 3922(a), 27 N.J.R. 1576(b).

### Case Notes

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

### 7:30-1.2 Definitions

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

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

"Act" means the Pesticide Control Act of 1971 (N.J.S.A. 13:1F-1 et seq.) as amended.

"Active ingredient" means any ingredient which will prevent, destroy, repel, control, or mitigate pests, or which will act as a plant regulator, defoliant, or desiccant.

"Adulterated" means any pesticide:

1. Whose strength or purity is not equal to the professed standard or quality as expressed on its labeling or other representations under which it is sold; or
2. In which any substance has been substituted wholly or in part for the pesticide; or
3. In which any valuable constituent of the pesticide has been wholly or in part extracted.

“Animal” means any and all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish.

“Antidote” means the most practical immediate treatment for poisoning and includes first aid treatment.

“Applicant” means any person who applies for a registration.

“Brand” or “brand name” or “trade name” means the characteristic designation by words, symbols, name, number or trademark of a specific, particular pesticide or formulation thereof under which the pesticide is distributed, sold, offered for sale, handled, stored, used or transported in the State of New Jersey.

“Commissioner” means the Commissioner of Environmental Protection in the State Department of Environmental Protection.

“Defoliant” means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant, with or without causing abscission.

“Department” means the State Department of Environmental Protection.

“Desiccant” means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

“Distribute” means to offer for sale, sell, barter, ship, or otherwise supply a pesticide.

“Environment” means water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these.

“EPA” means the United States Environmental Protection Agency.

“FIFRA” means the Federal Insecticide, Fungicide, and Rodenticide Act as amended (7 U.S.C. 136 et seq.).

“Fungi” means all non-chlorophyll-bearing thallophytes (that is, all non-chlorophyll-bearing plants of a lower order than mosses and liverworts) as, for example, rusts, smuts, mildews, molds and yeasts, except those on or in living man or other living animals, and except those in or on processed food, beverages, or pharmaceuticals.

“Highly toxic pesticide” means any pesticide determined to be a highly toxic pesticide under the authority of section 25(c)(2) of FIFRA or by the department under the Act or rules and regulations promulgated thereunder.

“Inert ingredient” means an ingredient which is not an active ingredient.

“Ingredient statement” means a statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the pesticide; if the pesticide contains arsenic in any form, the ingredient statement shall also include the percentages of total and water soluble arsenic, each calculated as elemental arsenic.

“Insect” means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes, and wood lice.

“Label” means the written, printed or graphic matter on, or attached to, the pesticide or any of its containers or wrappers.

“Labeling” means the label and all other written, printed, or graphic matter:

1. Accompanying the pesticide at any time; or
2. To which reference is made on the label or in literature accompanying the pesticide except to current official publications of the EPA, the United States Departments of Agriculture and Interior, the Department of Health and Human Services, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

“Land” means all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances, and machinery appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.

“Misbranded” means a condition as to a pesticide wherein:

1. Its labeling bears any statement, design or graphic representation relative thereto or to its ingredients which is false or misleading in any particular; or
2. It is an imitation of or is distributed under the name of another pesticide; or
3. Any word, statement, or other information required to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or graphic matter in the labeling), and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; or
4. The labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and, if complied with, together with any requirements imposed by

FIFRA, are adequate to prevent injury to plants and animals including man, and protect against any significant risk of injury or damage; or

5. The labeling bears any reference to registration under the provisions of the Act; or

6. The label does not bear the information designated in N.J.A.C. 7:30-1.9(a)2; or

7. The pesticide container does not bear a label or if the label does not contain all the information required by the Act and the rules and regulations adopted pursuant to the Act, or both; or

8. The pesticide has been determined to contain any substance or substances in quantities highly toxic to man and the label does not bear in addition to any other matter required by the Act or rules and regulations promulgated thereunder:

- i. The skull and crossbones; and
- ii. The word "POISON" prominently printed in red on a background of distinctly contrasting color; and
- iii. A statement of an antidote or a practical treatment in case of poisoning by the pesticide.

"Nematode" means invertebrate animals of the phylum Nematelminthes and class Nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts; may also be called names or eelworms.

"Persons" means and shall include corporations, companies, associations, societies, firms, partnerships, and joint stock companies as well as individuals, and shall also include all political subdivisions of this State or any agencies or instrumentalities thereof.

"Pest" means any insect, rodent, nematode, fungus weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria or other micro-organisms on or in living man or other animals) which is injurious to health or the environment.

"Pesticide" means and includes any substance or mixture of substances labeled, designed or intended for use in preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances labeled, designed, or intended for use as a defoliant, desiccant, or plant regulator; provided, that the term "pesticide" shall not include any substance or mixture of substances which EPA does not consider to be a pesticide.

"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 ornamental or crop 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.

"Private residence" means any portion of a building or structure that is occupied exclusively for residence purposes.

"Registrant" means any person whose name is on a registration issued by the Bureau of Pesticide Control.

"Restricted use pesticide" means any pesticide or pesticide use so classified under the provisions of N.J.A.C. 7:30-2, or so classified by the Administrator of the United States Environmental Protection Agency.

"Significant risk of harm, injury or damage" means a potential for harm, 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 pesticide and its effects on persons, property, and the environment.

"Subterranean application" means the placement of any pesticide:

1. Under or adjacent to structures by trenching; or
2. Under slabs or under or within six inches of foundation walls by rodding; or
3. Within the interior voids of foundation walls.

"Supplemental registration" means an additional registration, with the EPA, of a primary registered pesticide product for the purpose of allowing a distributor to market that pesticide product under the distributor's brand name. The supplemental registered product is characterized by having the same composition and labeling claims as the primary registered product and by having a label which bears the registration number of the primary registered product and the distributor's company number as a suffix to that registration number.

"TBT antifoulant paint" means any paint formulation containing any tributyltin compounds having three normal butyl groups attached to a tin atom and with an anion such as chloride, fluoride or oxide.

"Termiticide" means any pesticide labeled, designed, or intended for use in preventing, destroying, repelling or mitigating termites.

"Use" means any act of handling or release of a pesticide, or exposure of man, property, or the environment to a pesticide through acts which include but are not limited to:

1. Applying a pesticide, including mixing and loading and any required supervisory action in or near the area of application;
2. Handling, transporting or storing a pesticide or pesticide container;
3. Disposal actions for a pesticide and/or containers or equipment associated with the pesticide.



"Weed" means any plant which grows where not wanted.

"Wildlife" means all living things that are neither human, domesticated, nor pests, including but not limited to mammals, birds, and aquatic life.

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

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

Inserted definitions for "antidote", "private residence" and "use." Amended by R.1988 d.538, effective November 21, 1988.

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

Added definitions "acceptable release rate", "subterranean application", "TBT antifoulant paint" and "termiteicide"; added text to "supplemental registration".

### 7:30-1.3 Registration

(a) No person shall hold, use, distribute, sell, or offer for sale within this state or deliver for transportation or transport in commerce or between points within this State through any point outside this State any pesticide unless it is currently registered with the Department.

(b) Any pesticide product containing a supplemental registration and all brand or trade names shall be registered separately.

(c) At the time of registration, the registrant shall file a statement with the Department which includes:

1. The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant's;
2. The brand name of the pesticide;
3. A complete copy of the label, which shall contain all statements, words, graphic material and any other information required by FIFRA, and the labeling accompanying the pesticide and a statement of all claims including the directions and precautions for use;
4. The use classification of the pesticide as required by Federal or State regulation;
5. For registration of pesticide products which are termiteicides labeled for subterranean application, resource manuals, clean-up procedures, and sampling methodology shall be supplied; and
6. For registrants of any TBT antifoulant paint labeled for marine uses, a certification which states that the TBT antifoulant paint has an acceptable release rate.

(d) When deemed appropriate by the Commissioner, the Department may also require, for registration of a pesticide, the submission of the complete formula of the pesticide, including all active and inert ingredients, and any other necessary information relating to the pesticide's safe and effective use. The Commissioner shall advise the registrant by mail of what information is needed and the reason thereof and provide a reasonable time for response from the registrant.

(e) Information required pursuant to (d) above shall be considered confidential and shall not be made public by the Department unless the Commissioner has first determined that the disclosure is necessary to protect against a significant risk of injury or damage and has notified the registrant of his intent to disclose the information at least 30 days prior to doing so.

(f) In the case of renewal of registration, the registrant shall be required to furnish only information which is different from that furnished when the pesticide was registered or reregistered during the previous registration year.

(g) Before holding, using, distributing, selling, or offering for sale any pesticide in this State, the applicant or registrant shall pay an annual registration fee of \$200.00 to the Department or its authorized representative for each pesticide to be registered. All such registrations shall expire on December 31 of each calendar year.

(h) Any registration approved by the department and in effect on December 31 of the year for which a renewal application has been made and the proper fee paid, shall continue in full force and effect until the department notifies the registrant that the registration has been renewed or denied. Forms of reregistration shall be mailed to the registrant at least 30 days prior to the due date.

(i) If the renewal of pesticide registration is not filed prior to January 1 of any one year an additional fee of \$100.00 per product may be assessed and added to the total registration fee and must be paid by the registrant before the renewal registration for any pesticide(s) shall be issued. The payment of such additional fee shall not preclude any other actions deemed necessary by the Department.

(j) All Federal, State and county agencies or municipalities must register all pesticides held, used, distributed, sold, or offered for sale by them but shall not be required to pay the registration fee.

(k) Any person who can prove to the satisfaction of the Department that he has not manipulated, distributed, or sold a specific pesticide for at least two years shall not be required to register such pesticide.

(l) The provisions of this section shall not apply to:

1. A pesticide if it is shipped from one plant or warehouse to another plant or warehouse and is used solely at such plant or warehouse as a constituent part to make a pesticide; provided, however, that the pesticide is not technical grade material which is required by the EPA to be registered.

2. Any carrier while lawfully engaged in transporting a pesticide within this State, if such carrier shall, immediately upon request, permit the department to examine and copy all records showing the transactions in and movement of the pesticide.

3. Public officials of this State and the Federal government while engaged in the performance of their official duties in administering State or Federal pesticide laws or regulations or while engaged in pesticide research.

4. Any pesticide which is intended solely for export to a foreign country, and is prepared or packed according to the specifications or directions of the purchaser; provided that all provisions of this subchapter shall apply if the pesticide is not exported.

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

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

Added to (g) "holding, using."

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

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

Added (c)5.-6 and annual registration fee raised from \$40.00 to \$80.00.

Amended by R.1990 d.426, effective August 20, 1990.

See: 22 N.J.R. 1314(a), 22 N.J.R. 2571(a).

Annual product registration fee increased from \$80.00 to \$200.00; late registration fee increased from \$40.00 to \$100.00.

#### **7:30-1.4 Registrations pursuant to the provisions of sections 18 and 24(c) of FIFRA**

(a) The department may issue emergency exemption registrations pursuant to the provisions of section 18 of FIFRA if the State has been authorized by the Administrator of the EPA to issue such registrations. The issuance of such registrations shall comply with the terms and conditions of such authorization and any rules and regulations promulgated under the provisions of section 18 of FIFRA.

(b) The department may issue a special local needs registration pursuant to the provisions of section 24(c) of FIFRA if:

1. The State is authorized by the Administrator of the EPA to issue such registrations; and
2. The department has received the information set forth in N.J.A.C. 7:30-1.3(c), (d), (e) and (f); and
3. The composition of the pesticide is such as to warrant the proposed claims for it; and
4. The labeling and other material required to be submitted comply with the requirements of FIFRA, the Act or any rules and regulations promulgated thereunder; and
5. The pesticide will perform its intended function without significant risk of injury or damage; and
6. When used in accordance with widespread and commonly recognized practices the pesticide will not generally cause significant risk of injury or damage; and
7. The classification for general or restricted use is in conformity with State of New Jersey regulations and section 3(d) of FIFRA.

#### **7:30-1.5 Experimental use permits**

(a) The holder of a Federally issued experimental use permit shall:

1. Submit to the department a copy of the Federally approved experimental use permit label; and

2. Submit to the department a copy of the EPA letter which authorizes and approves the experimental use permit and which defines the parameters limiting the experimental use of the pesticide; and

3. Submit to the Department the names, locations, and acreage of the site(s) in New Jersey where the experimental pesticide will be used, and the addresses and telephone numbers of any persons who will be applying an experimental pesticide in the State of New Jersey;

4. Submit to the Department the names and addresses of any person(s) whose property in the State of New Jersey will be used for the experimental use program;

5. Submit to the Department the location, total acreage treated, and amount of experimental pesticide that will be used at each site as this information becomes available; and

6. Have available upon request a copy of the reports required under Federal regulations.

(b) Provided that the State is authorized by the Administrator of EPA to issue experimental use permits and subject to the terms and conditions of such authorization, the department may:

1. Determine the condition(s) and situation(s) under which an experimental use permit would be necessary;

2. Issue an experimental use permit to any person applying for an experimental use permit if the Department determines that the applicant needs such permit and that the pesticide use under the proposed terms and conditions would not cause a significant risk of injury or damage;

3. Prescribe terms, conditions, and the period of time for the experimental use permit;

4. Revoke or modify any experimental use permit at any time, if the Department finds that the terms and conditions of the permit are being violated or if the Department finds that the terms and conditions of the permit are inadequate to avoid a significant risk of injury or damage.

(c) Any person who intends to test or use a substance to determine its potential for pesticidal activity under conditions which do not require an experimental use permit from the State or the EPA must notify the Department of the name and address of the person testing the substance and the location(s) where the substance will be tested.

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

See: 20 N.J.R. 579(a), 20 N.J.R. 2865(a).  
Substantially amended (a)3.-6.

See: 17 N.J.R. 242(b), 17 N.J.R. 2609(b).  
Old text deleted and new text substituted.

### 7:30-1.6 Refusal, cancellation, or suspension of a pesticide registration

(a) The Department may refuse to register any pesticide, if:

1. The Department determines that the pesticide does not warrant the proposed claims;
2. The pesticide is highly toxic and there is no effective antidote under the conditions of use for which such pesticide is intended or recommended;
3. The pesticide is recommended for use on food or feed crops, and the EPA has not established for such pesticide a tolerance or exemption from the need of a tolerance or a temporary tolerance or exemption from the need of a temporary tolerance; or
4. The pesticide and its labeling and other material required to be submitted for registration do not comply with the provisions of FIFRA, the Act or rules and regulations promulgated thereunder.

(b) The Department may cancel or suspend the registration of any pesticide upon determination that the pesticide or its labeling does not comply with the provisions of FIFRA, the Act or this chapter, or upon determination that continued use of a pesticide would present a significant risk of harm, injury or damage; provided, that no registration shall be cancelled or suspended until the registrant has been given a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1 et seq.

(c) The Department, upon determination that an imminent hazard to man or the environment would result from continued distribution or use of a pesticide, may issue an order immediately prohibiting such distribution or use pending the final cancellation or suspension hearing given the registrant. Such hearing shall be scheduled on an expedited basis.

(d) If the Department refuses registration as provided in (a) above, the Department shall notify the registrant of the manner in which the pesticide, labeling, or other material required to be submitted fails to comply, so as to afford the registrant an opportunity to make the necessary corrections. If, after receipt of such notice, the registrant does not make the necessary corrections within 30 days, the Department shall refuse registration and afford the registrant a hearing pursuant to the Administrative Procedure Act and the Uniform Administrative Rules of Practice. In the event corrections take more than 30 days, the Department may hold the review status in abeyance for a period as determined by the Department to be adequate to comply with the mandated corrections.

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

### 7:30-1.7 Collection of samples

To determine compliance with the requirements of the Act or rules or regulations promulgated thereunder, the Department may, at reasonable hours, enter any building or place except private residences, for the purpose of inspection or sampling, and may procure samples, for analysis or examinations from any lot, package or parcel or pesticide or substance suspected to contain a pesticide. If the owner, operator or agent in charge of the place to be inspected is present, officers or employees of the Department shall notify him of their attempt to inspect or sample and inform him of the reason therefore. Having been so notified, no person shall prevent officers or employees of the Department from conducting such inspection or sampling.

### 7:30-1.8 Records

(a) Any person issued a registration under the provisions of this subchapter must maintain and, upon request by the Department, submit accurate records containing the following information:

1. The delivery, movement, or holding of any pesticide including the quantity;
2. The date of shipment and receipt;
3. The name of consignor and consignee; and

(b) The department shall have access to such records at any reasonable time to copy or make copies of such records for the purpose of carrying out the provisions of this subchapter.

### 7:30-1.9 General requirements

(a) No person shall hold, use, distribute, sell, or offer for sale within this State or deliver for transportation or transport in intrastate commerce or between points within this State through any point outside this State:

1. Any pesticide if any of the claims made for it or any of the directions for its use or other labeling differs from the representations made in connection with its registration, or if the composition of a pesticide differs from its composition as represented in connection with its registration;

2. Any pesticide unless it is in the registrant's or the manufacturer's unbroken immediate container and there is affixed to such container—and to the outside container or wrapper of the retail package, if there is one through which the required information on the immediate container cannot be clearly read—a label bearing the following information:

- i. The name and address of the producer, registrant or person for whom produced; and

ii. The brand or trade name under which the pesticide is distributed; and

iii. An ingredient statement on that part of the immediate container—and on the outside container or wrapper of the retail package, if there be one, through which the ingredient statement on the immediate container cannot be clearly read—which is presented or displayed under customary conditions of purchase; provided, that the ingredient statement may appear prominently on some part of the container, as permitted by the provisions of FIFRA, if the size or form of the container makes it impracticable to place the ingredient statement on the part which is presented or displayed under customary conditions of purchase; and

iv. Directions for use and a warning or caution statement which are necessary and which, if complied with, would be adequate for the protection of health and protection against injury to plants, animals and the environment; and

v. The net weight or measure of the contents; and

vi. The EPA establishment number assigned to each establishment in which it was produced and the EPA registration number, and supplemental registration number, if applicable, assigned to the pesticide, if required by regulations under FIFRA;

vii. A statement of the use classification, if any, under which the product is Federally registered; and

viii. A statement of the use clarification under which the product is registered; and

ix. Any other information required by Federal regulations or the Act or any rules and regulations promulgated thereunder.

3. Any pesticide which has not been colored or discolored pursuant to the provisions of FIFRA, the Act or rules and regulations promulgated thereunder;

4. Any pesticide which is adulterated or misbranded;

5. Any pesticide in containers which have become unsafe;

(b) The provisions of (a) above shall not apply to:

1. Any carrier while lawfully engaged in transporting a pesticide within this State, if such carrier shall, immediately upon request, permit the department to copy all records showing the transactions in and movement of the pesticide;

2. Public officials of this State and Federal government while engaged in the performance of their official duties in administering State or Federal pesticide laws or rules and regulations or while engaged in pesticide research;

3. The manufacturer or distributor of a pesticide for experimental use only by or under the supervision of this State or of the Federal government; provided, that such manufacturer or distributor holds a valid experimental use permit as provided for by N.J.A.C. 7:30-1.5 or by the EPA;

4. Any pesticide which is intended solely for export to a foreign country, and is prepared or packed according to the specifications or directions of the purchaser; provided, that all provisions of this subchapter shall apply if the pesticide is not exported.

(c) The department may authorize the distribution, sale or use of any pesticide upon request by the Commissioner of the Department of Health or the Secretary of the Department of Agriculture, and when the Commissioner of the Department of Environmental Protection determines that such action will serve the interest of the public health, safety or welfare.

(d) No person shall detach, alter, deface or destroy, wholly or in part, any label or labeling provided for in the Act or rules and regulations promulgated thereunder.

(e) No person shall add any substance to, or take any substance from, a pesticide in a manner that may defeat the purpose of the Act or the rules and regulations promulgated thereunder.

(f) No person shall use for his own advantage or reveal, other than to the Commissioner or proper officials or employees of the State or Federal executive agencies, or to the courts of the State in response to a subpoena, or to physicians, or in emergencies to pharmacists and other qualified persons for use in the preparation of antidotes, any information relative to formulas of products acquired by authority of N.J.A.C. 7:30-1.3, 4 or 5 or any information judged by the department as containing or relating to trade secrets or commercial or financial information obtained by trade secrets or commercial or financial information obtained by authority of the Act or rules and regulations promulgated thereunder.

(g) No person shall refuse, upon a request in writing specifying the nature or kind of pesticide to which such request relates, to furnish or to permit any person designated by the Commissioner to have access to and to copy such records of business transactions as may be essential in carrying out the purposes of the Act or rules and regulations promulgated thereunder.

(h) No person shall hold, use, distribute, sell, or offer for sale any pesticide if part or all of its registered pesticide label or labeling is missing, obscured, altered, unreadable or otherwise damaged beyond use or recognition.

(i) No person shall handle, transport, store, display, or distribute any pesticide in a manner that may endanger man or his environment or that may contaminate food, feed, or any other product that may be transported, handled, stored, displayed, or distributed with such pesticides.

(j) No person shall make false or misleading claims through any media relating to the effects of a pesticide, the degree of certification required, or the application methods to be utilized.

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

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

(a)2vi: substituted "establishment" for "registration" and added text "and supplemental registration number, if applicable."

### 7:30-1.10 Stop sale, stop use, removal, or embargo orders

(a) When a pesticide is being held, used, distributed, sold, or offered for sale in violation of any of the provisions of the Act or this chapter, the Department may issue a stop sale, stop use, removal, or embargo order, in writing, to the owner or custodian of any such pesticide. The owner or custodian of such pesticide shall be afforded an expedited hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Rules of Practice N.J.A.C. 1:1-1 et seq.

(b) The owner or custodian of the pesticide subject to an order issued pursuant to (a) above shall comply with the requirements of such order until the provisions of the Act and this chapter have been complied with, and the Department has issued a release, in writing, to the owner or custodian of the pesticide.

New Rule R.1985 d.557, effective November 4, 1985.

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

## SUBCHAPTER 2. PROHIBITED AND RESTRICTED USE PESTICIDES

### 7:30-2.1 Definitions

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

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

"Act" means the Pesticide Control Act of 1971 (N.J.S.A. 13:1F-1 et seq.) as amended.

"Active ingredient" means any ingredient which will prevent, destroy, repeal, control, or mitigate pests, or which will act as a plant regulator, defoliant, or desiccant.

"Aerosol" means a suspension in air of fine liquid or solid particles between 0.1 to 100 microns in size which is produced by blasts of heated air, or exhaust gas, or rapid volatilization of a liquified gas or propellant, or mechanical aerosol generators.

"Agricultural crop" means a food produced by cultural treatment of land which is intended for human consumption, or for livestock the products of which are intended for human consumption.

"Aquatic pesticide" means any pesticide, except an antimicrobial agent, that contains labeling instructions indicating that the pesticide is intended for use in the waters of the State or to aquatic sites.

"Aquatic site" means those areas inundated or saturated by water at a magnitude, duration, and frequency sufficient to support the growth of hydrophytes, except that those specific areas where hydrophytes are being grown as an agricultural crop shall not be considered to be aquatic sites.

"CAS number" means the Chemical Abstract Service Registry number.

"Certified and registered responsible pesticide applicator" means any responsible pesticide applicator who is certified and registered pursuant to the provisions of either N.J.A.C. 7:30-6 (Commercial Pesticide Applicators) or N.J.A.C. 7:30-8 (Private Pesticide Applicators).

"Department" means the State Department of Environmental Protection.

"Distribute" means to offer for sale, sell, barter, ship, or otherwise supply a pesticide.

"EPA" means the United States Environmental Protection Agency.

"FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act as amended (7 U.S.C. 136 et seq.).

"Fumigant" means a substance or mixture of substances which products matter in gaseous state, not including aerosols, intended to prevent, control or destroy pests.

"Label" means the written, printed or graphic matter on, or attached to, the pesticide or any of its containers or wrappers.

"Labeling" means the label and all other written, printed, or graphic matter:

1. Accompanying the pesticide at any time; or



2. To which reference is made on the label or in literature accompanying the pesticide except that it does not include current official publications of the EPA, the United States Departments of Agriculture and Interior, the Department of Health and Human Services, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

"Person" means and shall include corporations, companies, associations, societies, firms, partnerships, and joint stock companies as well as individuals, and shall also include all political subdivisions of this State or any agencies or instrumentalities thereof.

"Pest" means any insect, rodent, nematode, fungus weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria or other micro-organisms on or in living man or other animals) which is injurious to health or the environment.

"Pesticide" means and includes any substance or mixture of substances labeled, designed or intended for use in preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances labeled, designed, or intended for use as a defoliant, desiccant, or plant regulator; provided, that the term "pesticide" shall not include any substance or mixture of substances which EPA does not consider to be a pesticide.

"Responsible pesticide applicator" means any individual who is accountable for the use of pesticide by himself or any person under his direct supervision.

"Restricted use pesticide" means any pesticide or pesticide use so classified under the provisions of N.J.A.C. 7:30-2 or so classified by the Administrator of the United States Environmental Protection Agency.

"TBT antifoulant paint" means any paint formation containing any tributyltin compounds having three normal butyl groups attached to a tin atom and with an anion such as chloride, fluoride or oxide.

"Under direct supervision of" means under the instructions and control of another person who is responsible for actions taken and who is available if and when needed, even if not physically present.

"Water" or "Waters of the State" means the ocean and its estuaries, all springs, streams, and bodies of surface or groundwater, whether natural or artificial, within the boundaries of the State or subject to its jurisdiction.

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

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

Added definition "CAS number," deleted "listed number."

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

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

Added definitions and in the definition of "CAS number", substituted "Service Registry" for "Society".

### 7:30-2.2 Prohibited pesticides

(a) No person shall distribute, sell, offer for sale, purchase, or use any pesticide which has been suspended or cancelled by the EPA, except as provided for in the suspension or cancellation order.

(b) All marine uses of free association formulations of antifoulant paints and co-polymer formulations with release rates greater than the acceptable release rate as defined in this subchapter are prohibited.

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

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

Added (b).

### 7:30-2.3 Restricted use pesticides

(a) The following pesticides are restricted use pesticides which can be purchased and/or used only by certified and registered responsible pesticide applicators or persons working under their direct supervision. Unless it is otherwise provided, all formulations and uses of the following pesticides are restricted use.

1. Any pesticide if its labeling bears any restriction which would cause any user who was not certified and registered, by virtue of the very fact that he or she was not certified and registered, to use the pesticide in a manner inconsistent with its labeling.

2. Any pesticide classified by the Administrator of the EPA for restricted use under the provisions of section 3(d)(1) of FIFRA.

3. Any fumigant except:

- i. Any pesticide containing naphthalene, ortho-dichlorobenzene, and/or para-dichlorobenzene as the sole active ingredient or in combination with another active ingredient which is not classified for restricted use if the pesticide product is used to control mosquitoes or clothes moths, or to repel warm blooded animals;

- ii. Any sulphur candle fumigator intended to control general household pests;

- iii. Any coils containing pyrethrins and/or allethrin as the active ingredient which are used to control flies and/or mosquitoes;

- iv. Any resin strips unless so classified by the EPA as provided in 2 above.

4. Any aquatic pesticide which contains labeling instructions indicating that the pesticide is intended for use in the waters of the State or on aquatic sites.

5. Any pesticide with one or more of the active ingredients listed below:

- i. Fungicides, nematicides, and other materials as follows:

CAS Number	Common Name	CAS Number	Common Name
7440-43-9	cadmium products (containing salts or metal complexes)	57-74-9	chlordane
534-52-1	DNOC, DNC	2921-88-2	chlorpyrifos (concentrations above 15%)
131-89-5	DNOCHP, dinitrocyclohexylphenol	56-72-4	coumaphos (concentrations above 5%)
22224-92-6	fenamiphos	333-41-5	diazinon (concentrations above 25%)
140-56-7	fenaminosulf (concentrations above 5%)	62-73-7	dichlorvos (concentrations above 3%) (Note 3iv. above)
7439-97-6	Any pesticide containing mercury as an inorganic or organic compound except those used as a drug as defined in N.J.S.A. 24:21-2, those used as a fungicide in the treatment of textiles and fabrics intended for continuous outdoor use, those used as an in-can preservative in water-based paints and coatings, or those used as a fungicide in water-based paints and coatings used for exterior application.	60-57-1	dieldrin
87-86-5	pentachlorophenol, PCP (concentrations above 5% for non-wood preservative uses)	60-51-5	dimethoate (concentrations above 25%)
26628-22-8	sodium azide, azide (concentrations above 0.5%)	298-04-4	disulfoton (concentrations above 2%)
297-97-2	thionazin	115-29-7	endosulfan
various	tributyltin (marine uses of formulations with acceptable release rates)	72-20-8	endrin
76-87-9	triphenyltin hydroxide (concentrations above 10%)	563-12-1	ethion (concentrations above 6% Granular and 3% other formulations)
ii. Herbicides/growth regulators as follows:		55-38-9	fenthion (concentrations above 0.5%)
94-75-7	2,4-dichlorophenoxy-acetic acid (2,4-D) (concentrations above 20%)	76-44-8	heptachlor
5742-19-18	2,4-D diethanolamine salt (concentrations above 20%)	7440-38-2	inorganic arsenicals (above 0.5 oz. active ingredient)
2008-39-1	2,4-D dimethylamine salt (concentrations above 20%)	112-56-1	lethane 384 (concentrations above 10%)
2702-72-9	2,4-D sodium salt (concentrations above 20%)	58-89-9	lindane (concentrations above 20%)
1929-73-3	2,4-D butoxyethanol ester (concentrations above 20%)	2032-65-7	mercaptodimethur, methiocarb (concentrations above 2%)
1928-45-6	2,4-D propylene glycol butyl ether esters (concentrations above 20%)	919-86-8	methyl demeton (concentrations above 7%)
1928-43-4	2,4-D 2-ethylhexyl ester (concentrations above 20%)	315-18-4	mexacarbate (concentrations above 2%)
25168-26-7	2,4-D isooctyl ester (concentrations above 20%)	311-45-5	paraoxon
533-23-3	2,4-D ethyl ester	2310-17-0	phosalone (concentrations above 12%)
94-11-1	2,4-D, isopropyl ester	732-11-6	phosmet (concentrations above 20%)
1928-38-71	2,4-D methyl ester	23103-98-2	pirimicarb (concentrations above 15%)
94-80-4	2,4-D, mixed butyl esters	23505-41-1	pirimiphos-ethyl (concentrations above 20%)
1713-15-1	2,4-D mixed isobutyl esters	114-26-1	propoxur (concentrations above 2%) (Note (a)3iv above)
93-76-5	2,4,5-T	7681-49-4	sodium fluoride
50-31-7	2,3,6-TBA and related polychlorobenzoic acids, dimethylamine salts	8001-35-2	toxaphene
15972-60-8	alachlor	52-68-6	trichlorfon (concentrations above 15%)
61-82-5	amitrole	iv. Rodenticides as follows:	
21725-46-2	cyanazine (concentrations above 30%)	86-88-4	antu (concentrations above 4%)
596-84-5	daminozide	1327-53-3	arsenic trioxide (concentrations above 1.5% in rodenticides)
88-85-7	dinoseb	504-24-5	avitrol
7784-46-5	sodium arsenite	56073-10-0	brodifacoum (concentrations above 0.005%)
7775-09-9	sodium chlorate (concentrations above 7%)	28772-56-7	bromadiolone (concentrations above 0.01%)
iii. Insecticides as follows:		369i-35-8	chlorophacinone (concentrations 0.2% and above)
390-00-2	aldrin	117-52-2	coumafuryl (concentrations above 3%)
86-50-0	azinphos-methyl	535-89-7	crimidine
22781-23-3	bendiocarb (concentrations above 15%)	82-66-6	diphacinone (concentrations above 3%)
122-10-1	bomyl (concentrations above 1%)	7723-14-0	phosphorus (yellow, white)
		83-26-1	pindone (concentrations above 3%)
		507-60-8	red squill (concentrations above 30%)
		81-81-2	warfarin (concentrations above 3%)

NOTE: Chemical Abstract Service (CAS) numbers of 7440-43-9, 7439-97-6, and 7440-38-2 are for the elemental form.

(b) Any pesticide restriction Federally imposed by the EPA shall take precedence over any restriction under the provisions of (a) above; providing, such Federal restriction is more stringent than that of (a) above.

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

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

Substantially amended.

Correction: Added text to (a)7 CAS Number 62-73-7.



See: 19 N.J.R. 466(b).

Amended by R.1987 d.309, effective July 20, 1987.

See: 19 N.J.R. 492(a), 19 N.J.R. 1925(a).

Added Alachlor and Daminozide.

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

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

Substantially amended.

#### 7:30-2.4 Amending prohibited and restricted-use pesticide lists

(a) The department may revise the list of prohibited and restricted use pesticides designated by the State of New Jersey; provided that, any change in the list shall be made in accordance with the provisions of the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq.

(b) Any persons may petition the department for modifications of the listings in N.J.A.C. 7:30-2.2 or 2.3 provided that the petitioner must supply adequate information (as determined by the department) to demonstrate that the modification is necessary.

(c) The Department shall consider the following criteria when evaluating a pesticide for placement on the prohibited or restricted use pesticide list:

1. Acute toxicity;
2. Neurotoxicity;
3. Chronic health effects, including but not limited to:
  - i. Carcinogenicity;
  - ii. Mutagenicity;
  - iii. Teratogenicity;
  - iv. Embryotoxicity;
  - v. Reproductive effects.
4. Environmental fate, including but not limited to:
  - i. Persistence;
  - ii. Bioaccumulation;
  - iii. Frequency of detection in environmental media;
  - iv. Potential for contamination of "waters of the State";
5. Pesticide use pattern(s); and
6. Pesticide regulatory history.

(d) For purposes of interpretation of (c) above, failure to evaluate all criteria or lack of definitive data in any review criterion so as to limit effective consideration in such area, shall not affect prohibition and/or restriction as determined by the department through evaluation of other criteria.

(e) When any pesticide is reclassified from general to restricted use, such restriction shall be immediate unless otherwise provided by the federal EPA for a pesticide restricted under N.J.A.C. 7:30-2.3(a)2 or unless otherwise provided by the Department in N.J.A.C. 7:30-2. The Department, at the time of reclassification, may provide a specified time period and any other condition for continued sale and/or use of the reclassified pesticide after evaluation of the criteria established in N.J.A.C. 7:30-2.4(c).

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

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

Substantially amended.

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

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

Added (c)2 and renumbered (c)2.-5 as 3.-6.

### SUBCHAPTER 3. PESTICIDE DEALERS

#### 7:30-3.1 Definitions

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

"Act" means the Pesticide Control Act of 1971 (N.J.S.A. 13:1F-1 et seq.) as amended.

"Certified" means the recognition by the State that a person has met the requirements as prescribed in section 3 of this subchapter.

"Commercial pesticide applicator" means any person (whether or not he is a private pesticide applicator with respect to some uses) who uses or supervises the use of any pesticide for any purpose or on any property other than as provided by the definition of "private pesticide applicator". Any employee of a governmental agency who engages in the use and application of pesticides as is necessary within the scope of his employment is considered a commercial applicator.

"Commercial pesticide operator" means any person who applies pesticides by equipment other than aerial under the direct supervision of a responsible commercial pesticide applicator.

"Commissioner" means the Commissioner of Environmental Protection in the State Department of Environmental Protection.

"Department" means the State Department of Environmental Protection.

"Distribute" means to offer for sale, sell, barter, ship, or otherwise supply a pesticide.

"End user" means any person who applies or supervises the application of a pesticide or any person who acquires a pesticide for the purpose of application by another person.

"EPA" means the United States Environmental Protection Agency.

"Person" means and shall include corporations, companies, associations, societies, firms, partnerships, and joint stock companies as well as individuals, and shall also include all political subdivisions of this State or any agencies or instrumentalities thereof.

"Pest" means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria or other micro-organisms on or in living man or other animals) which is injurious to health or the environment.

"Pesticide" means and includes any substance or mixture of substances labeled, designed or intended for use in preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances labeled, designed, or intended for use as a defoliant, desiccant, or plant regulator; provided, that the term "pesticide" shall not include any substance or mixture of substances which EPA does not consider to be a pesticide.

"Pesticide applicator" means any person who is required to be certified and registered pursuant to the provisions of either N.J.A.C. 7:30-6 (Commercial Pesticide Applicators) or N.J.A.C. 7:30-8 (Private Pesticide Applicators).

"Pesticide dealer" means any individual who distributes, sells, or offers for sale, or who supervises the distribution, sale, or offering for sale of, any restricted use pesticide to an end user.

"Pesticide operator" as used in this subchapter means both a commercial pesticide operator and private pesticide operator.

"Pesticide outlet" means any site, location or place at or through which restricted use pesticides are distributed to an end user. This term does not include any site, location, or place used solely for the storage of restricted use pesticides or solely as a holding area where an end user takes physical possession of a restricted use pesticide after it has been purchased.

"Private pesticide applicator" means any person who uses or supervises the use of any pesticide for purposes of producing any agricultural commodity on property owned or rented by him or her or his or her employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

"Private pesticide operator" means any person who applies pesticides by equipment other than aerial under the direct supervision of a responsible private pesticide applicator.

"Register" means the recognition by the State of New Jersey that a person has met the requirements as prescribed in N.J.A.C. 7:30-3.4 and is authorized to operate within the parameters of his registration.

"Responsible pesticide applicator" means any individual who is accountable for the use of a pesticide by himself or any person under his direct supervision.

"Responsible pesticide dealer" means any individual who is accountable for the distribution, sale, or offering for sale of a restricted use pesticide by himself or by any person who is under his direct supervision.

"Restricted use pesticide" means any pesticide or pesticide use so classified under the provisions of N.J.A.C. 7:30-2, or so classified by the Administrator of the United States Environmental Protection Agency.

"Under direct supervision" means under the instructions and control of another person who is responsible for actions taken and who is available if and when needed, even if not physically present. For the purposes of this subchapter, a person is "under direct supervision" only if the person supervising and the person supervised are employed at the same pesticide outlet.

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

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

Amended definition "commercial pesticide applicator".

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

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

Added and amended definitions.

### 7:30-3.2 General requirements

(a) No person shall distribute, sell, or offer for sale or supervise the distribution, sale, or offering for sale of any restricted use pesticide to an end user without first meeting the requirements of certification and registration as a pesticide dealer unless:

1. Such person is working under the direct supervision of a responsible pesticide dealer and where an employer-employee relationship exists between the person supervising and the person actually distributing pesticides;

2. Such person is a pesticide applicator who distributes pesticide only as an integral part of his pesticide application service when such pesticides are dispensed only through equipment used during a pesticide application;

3. Such person is a State or county agent or instrumentality thereof and is providing pesticides to its employees for its own programs;

4. Such person is a duly licensed pharmacist dispensing a prescription pharmaceutical which contains a substance which could be classified as a restricted use pesticide;

5. Such person is a veterinarian administering or dispensing a restricted use pesticide for use on animals as a part of his or her practice;

6. Such person is distributing a restricted use pesticide under the provisions of an experimental use permit issued by the EPA or the department; or

7. Such person is a scientist conducting limited educational research or experiments involving a restricted use pesticide for the purpose of gathering information about the pesticide.

(b) Persons exempt under this section from all certification requirements shall not be considered to be pesticide dealers.

(c) The department may grant a variance to any person who has shown to the satisfaction of the department that compliance with the provisions of this subchapter will result in undue hardship and that granting of the variance will not, in the opinion of the department, result in danger or financial loss to man or the environment.

As amended, R.1984 d.39, eff. February 21, 1984.

See: 15 N.J.R. 2017(b), 16 N.J.R. 368(a).

(a): effective date was July 1, 1983.

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

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

Deleted effective date from (a); added text to (a)1 "and where an ...".

### 7:30-3.3 Certification

(a) In order to become certified, an applicant must pass an examination approved or administered by the department. The examination shall include but not be limited to such areas as pesticide handling and safety, environmental considerations, symptoms of pesticide poisoning, current laws and regulations, and label comprehension.

(b) An examination fee of \$10.00 will be charged for each examination.

(c) Application for examinations must be made on a form supplied by the department which must be filed, along with the examination fee, with the department no later than midnight of the closing date for the examination as determined by the department. The examination fee will not be refunded.

Amended by R.1990 d.426, effective August 20, 1990.

See: 22 N.J.R. 1314(a), 22 N.J.R. 2571(a).

Examination fee of \$10.00 required at (b).

### 7:30-3.4 Registration

(a) Within 12 months after a person has become certified and eligible to register as a pesticide dealer, the certified pesticide dealer shall complete and file with the Department an application to register and shall include as an integral part of the application an annual registration fee of \$75.00. A fee not to exceed \$10.00 may be charged for each duplicate registration certificate issued. Any certified pesticide dealer who fails to file within the 12 month period will lose certification status and must again become certified in accordance with the provisions of this subchapter.

(b) The registration year shall expire on June 30 of each calendar year.

(c) Applications for new registrations will be accepted from certified pesticide dealers throughout the calendar year, but a full year's registration fee will be required. All such registrations will expire on June 30 following the date of application except that the department may issue a registration for an additional year when an application is initially filed during the last three months of the registration year.

(d) The certification and registration of a pesticide dealer are not transferable.

(e) A pesticide dealer must notify the department, in writing and within 30 days, if he changes any information on his application for registration or is no longer offering for distribution or sale or supervising the distribution or sale of restricted use pesticides.

(f) No person shall be eligible for registration as a pesticide dealer until reaching 18 years of age.

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

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

Added (f).

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

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

Substituted "shall" for "must"; raised annual registration fee from \$20.00 to \$30.00 in (a).

Amended by R.1990 d.426, effective August 20, 1990.

See: 22 N.J.R. 1314(a), 22 N.J.R. 2571(a).

Registration fee increased from \$30.00 to \$75.00 at (a).

### 7:30-3.5 Reregistration

(a) A certified pesticide dealer shall reregister annually with the Department and pay the reregistration fee of \$75.00.

(b) A previously certified and registered pesticide dealer who has not registered with the department for two consecutive registration years after the expiration date of his registration shall lose certification status and must again become certified and registered in accordance with the provisions of this subchapter.

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

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

Added \$30.00 to (a).

Amended by R.1990 d.426, effective August 20, 1990.

See: 22 N.J.R. 1314(a), 22 N.J.R. 2571(a).

Reregistration fee increased from \$30.00 to \$75.00 at (a).

### 7:30-3.6 Continuing certification

In order to maintain his certification, the pesticide dealer must meet the requirements for continuing certification as specified by the department. If the requirements for continuing certification are not met, the pesticide dealer must again be certified in accordance with the provisions of this subchapter.

### 7:30-3.7 Records

(a) A pesticide dealer shall keep, for each distribution or sale of restricted use pesticides with which he or she is associated, a record containing the following information:

1. The name and address of the purchaser;
2. The brand/trade name and the EPA product registration number of each restricted use pesticide distributed or sold;
3. The quantity of each restricted use pesticide distributed or sold;
4. The date of the distribution or sale;
5. The certified pesticide applicator registration number used by the purchaser at the time of sale or distribution. If any of the acceptable alternatives to a State of New Jersey pesticide applicator's registration, as specified in N.J.A.C. 7:30-3.8 below, are used, the certification or license number or other proof used shall be recorded in lieu of the certified pesticide applicator registration number.

(b) The records or copies thereof must be kept for a minimum of two years and shall be immediately available upon request by the department. These records may be kept by a pesticide dealer business pursuant to the provisions of N.J.A.C. 7:30-4.

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

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

Added text to (a)5. "If any of ...".

### 7:30-3.8 Sale of restricted use pesticides

(a) No pesticide dealer shall distribute or sell a restricted use pesticide to an end user unless the purchaser presents a valid pesticide applicator registration.

1. For the purpose of this section, the presentation of only a pesticide operator's registration is not acceptable.
2. For the purposes of this section a valid certification issued by a Federal agency shall be acceptable in lieu of a State of New Jersey pesticide applicator's registration if the purchaser is applying a pesticide on property or premises owned or rented by the Federal government, if the purchaser is a Federal employee engaged in the

performance of his official duties, and if the purchaser has been certified as an applicator of pesticides under a Federal agency plan which has been approved by the United States Environmental Protection Agency pursuant to the provisions of Section 4 of FIFRA, as amended.

3. For the purposes of this section, one of the valid operator licenses or certifications listed below is acceptable in lieu of a State of New Jersey pesticide applicator's registration for obtaining chlorine gas, a restricted use antimicrobial:

- i. Certified Pool Operator;
- ii. Public Water Treatment System license;
- iii. Public Water Distribution System license;
- iv. Public Wastewater Treatment System license;
- v. Public Wastewater Collection System license; or
- vi. Industrial Wastewater Treatment System license, except NN license.

4. For the purpose of this section, proof that the end user is a veterinarian is acceptable in lieu of a State of New Jersey pesticide applicator's registration if the veterinarian is obtaining the restricted use pesticides for use on animals as part of his or her practice.

(b) All transactions involving the sale or distribution of restricted use pesticides to end users shall be conducted by or under the direct supervision of a certified and registered pesticide dealer employed at the pesticide outlet where the transactions take place.

(c) No sales person or agent who distributes, sells, or offers for sale a restricted use pesticide to any person shall:

1. Misrepresent the degree of certification and registration required by such person to apply the pesticide being distributed, sold or offered for sale; or
2. Disseminate misinformation as to the correct use of the pesticide as provided in the Act and this Chapter.

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

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

(c) added.

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

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

Added (a)3.-4.

### 7:30-3.9 Sale of pesticides

No pesticide dealer shall sell any pesticide to a person who they know should be certified and registered under the provisions of N.J.A.C. 7:30-6 or N.J.A.C. 7:30-7 unless such person is so certified and registered.

New Rule, R.1988 d.538, effective November 21, 1988.

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

**7:30-3.10 Denial, suspension, or revocation of pesticide dealer documents**

(a) The Department, when it determines that grounds exist, may:

1. Deny an application for registration as a pesticide dealer;
2. Revoke a pesticide dealer registration;
3. Suspend a pesticide dealer registration.

(b) Each of the following acts shall constitute a ground for which any of the disciplinary actions described in (a) above may be taken:

1. Refusing or, after notice, failing to comply with provisions of the Act or this chapter, or any Order issued by the Department pursuant thereto;
2. Making false or fraudulent claims through any form of written or verbal communication, misrepresenting the effect of any pesticide or application methods to be utilized;
3. Falsifying or making misleading statements in the application for pesticide dealer registration;
4. Failing to keep or falsification of required records;
5. Allowing the dealer registration to be used by any person for any purpose which will evade or be in violation of the provisions of the Act or this chapter; or
6. Aiding, abetting, combining with, or conspiring with any person for any purpose which will evade or be in violation of the provisions of the Act or this chapter;
7. Selling or distributing a pesticide in such a manner as to cause harm, injury or damage or a significant risk of harm, injury or damage to the public health, safety or welfare or the environment.

(c) Where the Department acts pursuant to (a) above, the Department shall afford a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1 et seq.

Amended by R.1985 d.557, effective November 4, 1985.  
See: 17 N.J.R. 242(b), 17 N.J.R. 2609(b).  
Old text deleted and new text added.  
Amended by R.1988 d.538, effective November 21, 1988.  
See: 20 N.J.R. 579(a), 20 N.J.R. 2865(a).  
Recodified from 3.9.

**7:30-3.11 Reciprocity**

(a) The Department may waive initial certification testing where an applicant has previously been certified in another state or territory pursuant to a valid certification test given in that state or territory of the United States, provided that the Commissioner, by cooperative agreement, has previously recognized such state or territory as having adopted a dealer certification program substantially equivalent to New Jersey's.

(b) A New Jersey pesticide dealer registration will be issued pursuant to this section if the following conditions are satisfied:

1. The Department receives proof of a valid certification from any state or territory which has been officially recognized by the State of New Jersey as having a dealer certification program substantially equivalent to New Jersey's and which has signed a cooperative agreement with the State of New Jersey relating to the certification of pesticide dealers and the reciprocal acceptance thereof;
2. The registrant demonstrates to the department a knowledge of relevant New Jersey pesticide control laws and regulations; and
3. The department receives all applicable fees.

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

Recodified from 3.11. Old 3.10 was "Exemption from fees."  
Amended by R.1988 d.538, effective November 21, 1988.  
See: 20 N.J.R. 579(a), 20 N.J.R. 2865(a).  
Recodified from 3.10: deleted (c).

**7:30-3.12 Additional authority**

In the event of the issuance of a final order assessing a civil penalty under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) or a criminal conviction under Section 14(b), the department will review and may suspend or revoke the registration of any person so assessed or convicted.

Amended by R.1985 d.557, effective November 4, 1985.  
See: 17 N.J.R. 242(b), 17 N.J.R. 2609(b).  
Recodified from 3.12. Old 3.11 recodified to 3.10.  
Amended by R.1988 d.538, effective November 21, 1988.  
See: 20 N.J.R. 579(a), 20 N.J.R. 2865(a).  
Recodified from 3.11.

**SUBCHAPTER 4. PESTICIDE DEALER BUSINESSES****7:30-4.1 Definitions**

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

"Act" means the Pesticide Control Act of 1971 (N.J.S.A. 13:1F-1) as amended.

"Brand" or "brand name" or "trade name" means the characteristic designation by words, symbols, name, number or trademark of a specific, particular pesticide or formulation thereof under which the pesticide is distributed, sold, offered for sale, handled, stored, used or transported in the State of New Jersey.

"Commercial pesticide applicator" means any person (whether or not he is a private pesticide applicator with respect to some uses) who uses or supervises the use of any pesticide for any purpose or on any property other than as provided by the definition of "private pesticide applicator". Any employee of a governmental agency who engages in the use and application of pesticides as is necessary within the scope of his employment is considered a commercial applicator.

"Commercial pesticide operator" means any person who applies pesticide by equipment other than aerial under the direct supervision of a responsible commercial pesticide applicator.

"Commissioner" means the Commissioner of Environmental Protection in the State Department of Environmental Protection.

"Department" means the State Department of Environmental Protection.

"Distribute" means to offer for sale, sell, barter, ship, or otherwise supply a pesticide.

"End user" means any person who applies or supervises the application of a pesticide or any person who acquires a pesticide for the purpose of application by another person.

"Environmental" means water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these.

"EPA" means the United States Environmental Protection Agency.

"For resale only" means the process whereby a person is the recipient of a pesticide and sells that pesticide intact as received.

"Person" means and shall include corporations, companies, associations, societies, firms, partnerships, and joint stock companies as well as individuals, and shall also include all political subdivisions of this State or any agencies or instrumentalities thereof.

"Pest" means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria or other micro-organisms on or in living man or other animals) which is injurious to health or the environment.

"Pesticide" means and includes any substance or mixture of substances labeled, designed or intended for use in preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances labeled, designed, or intended for use as a defoliant, desiccant, or plant regulator; provided, that the term "pesticide" shall not include any

substance or mixture of substances which EPA does not consider to be a pesticide.

"Pesticide accident" means any undesirable event that adversely affects the environment or may tend to cause a threat to human health and welfare which was caused by the use, handling, transportation, storage, or distribution of any pesticide(s).

"Pesticide applicator" means any person who is required to be certified and registered pursuant to the provisions of either N.J.A.C. 7:30-6 (Commercial Pesticide Applicators) or N.J.A.C. 7:30-8 (Private Pesticide Applicators).

"Pesticide dealer" means any individual who distributes, sells, or offers for sale, or who supervises the distribution, sale, or offering for sale of, any restricted use pesticide to an end user.

"Pesticide dealer business" means any person, as defined in this subchapter, who ultimately controls the transactions conducted at and the operation of a pesticide outlet.

"Pesticide operator" as used in this subchapter means both a commercial pesticide operator and a private pesticide operator.

"Pesticide outlet" means any site, location, or place at or through which restricted use pesticides are distributed to an end user. This term does not include any site, location, or place used solely for the storage of restricted use pesticides or solely as a holding area where an end user takes physical possession of a restricted use pesticide after it has been purchased.

"Private pesticide applicator" means any person who uses or supervises the use of any pesticide for purposes of producing any agricultural commodity on property owned or rented by him or her or his or her employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

"Private pesticide operator" means any person who applies pesticides by equipment other than aerial under the direct supervision of a responsible private pesticide applicator.

"Responsible pesticide applicator" means any individual who is accountable for the use of a pesticide by himself or any person under his direct supervision.

"Responsible pesticide dealer" means any individual who is accountable for the distribution, sale, or offering for sale of a restricted use pesticide by himself or by any person who is directly supervised by him.

"Restricted use pesticide" means any pesticide or pesticide use so classified under the provisions of N.J.A.C.

7:30-2, or so classified by the Administrator of the United States Environmental Protection Agency.

“Under direct supervision” means under the instruction and control of another person who is responsible for actions taken and who is available if and when needed, even if not physically present. For the purposes of this subchapter, a person is “under direct supervision” only if the person supervising and the person supervised are employed at the same pesticide outlet.

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

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

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

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

Added and amended definitions.

### 7:30-4.2 Registration

(a) No person shall cause, suffer, allow or permit the operation of a pesticide dealer business which distributes restricted use pesticide to end users in the State of New Jersey without first registering such business with the Department, on forms provided by the Department, unless:

1. Such person is a duly licensed pharmacist dispensing a prescription pharmaceutical which contains a substance which could be classified as a restricted use pesticide;
2. Such person is a veterinarian administering or dispensing a restricted use pesticide for use on animals as a part of his or her practice;
3. Such person is a pesticide applicator who sells or distributes pesticides only as an integral part of his pesticide application service when such pesticides are dispensed only through equipment used during a pesticide application;
4. Such person is a State or county agency or instrumentality thereof and is providing pesticides to its employees for its own programs;
5. Such person is distributing a restricted use pesticide under the provisions of an experimental use permit issued by the EPA or the department; or
6. Such person is a scientist conducting limited educational research or experiments involving a restricted use pesticide for the purpose of gathering information about the pesticide.

(b) Each pesticide outlet from which restricted use pesticides are distributed, sold, or offered for sale to end users, and each name under which such outlet operates, shall be required to be registered separately. This subsection also applies to out-of-state pesticide outlets from which restricted use pesticides are distributed, sold, or offered for sale to New Jersey end users.

(c) A location, such as the home of a salesperson or agent of a pesticide dealer business, which is different from the main location of the business with which he or she is associated and from which transactions, other than those specifically excluded in the definition of a pesticide outlet, are conducted, shall be considered to be a separate pesticide outlet which must be registered with the Department as a pesticide dealer business.

(d) An annual registration fee of \$150.00 shall be paid to the Department at the time of registration for each separate registration. The registration period shall end on June 30 of each calendar year.

(e) Applications for new registrations will be accepted from pesticide dealer businesses throughout the calendar year, but a full year's registration fee will be required. All such registrations will expire on June 30 following the date of application except that the department may issue a registration for an additional year when an application is initially filed during the last three months of the registration year.

(f) Any person required to register as a pesticide dealer business shall submit to the department as an integral part of the registration the names, residences, and addresses for all salespersons or agents operating in the State of New Jersey who are authorized to solicit business and/or to enter into contracts related to restricted use pesticides sales on their behalf.

(g) The registration of a pesticide dealer business is not transferable.

(h) A pesticide dealer business must notify the department, in writing and within 30 days, if he changes any information on his application for registration or if he is no longer engaged in the business of distributing or selling restricted use pesticides.

(i) Every pesticide dealer business shall post in a conspicuous and accessible area a list of persons to contact in case of a pesticide accident. This list must include, but not necessarily be limited to, the name, address, and telephone number of the nearest poison control center, the telephone number of the department environmental action hot line, and the telephone number of the local fire department.

As amended, R.1984 d.39, eff. February 21, 1984.

See: 15 N.J.R. 2017(b), 16 N.J.R. 368(a).

(a): effective date was July 1, 1983.

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

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

(b) added text “This subsection also ... New Jersey end users.”; deleted old (c) and substituted new text; deleted (j).

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

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

Substantially amended.

Amended by R.1990 d.426, effective August 20, 1990.

See: 22 N.J.R. 1314(a), 22 N.J.R. 2571(a).

Registration fee increased from \$75.00 to \$100.00 at (d).



**7:30-4.3 Records**

(a) A pesticide dealer business shall keep, for each distribution or sale of restricted use pesticide to an end user, a record containing the following information:

1. The name and address of the purchaser;
2. The brand or trade name and the EPA product registration number of each restricted use pesticide distributed or sold;
3. The quantity of each restricted use pesticide distributed or sold;
4. The date of the distribution or sale;
5. The certified pesticide applicator registration number used by the purchaser at the time of sale or distribution. If any of the acceptable alternatives to a State of New Jersey pesticide applicator's registration, as specified in N.J.A.C. 7:30-4.4, are used, the certification or license number, or other proof used, shall be recorded in lieu of the certified pesticide applicator registration number; and
6. The name of the responsible pesticide dealer associated with the physical distribution and/or sale of restricted use pesticides.

(b) The records or copies thereof must be kept for a minimum of two years at the pesticide outlet from which the distribution and/or sale was made and must be immediately available upon request by the department.

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

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

Added text to (a)5 "If any of ...".

**7:30-4.4 Sale of restricted use pesticides**

(a) No pesticide dealer business shall distribute or sell a restricted use pesticide to an end user unless the purchaser presents a valid pesticide applicator registration.

1. For the purposes of this section, the presentation of only a commercial pesticide operator's registration is not acceptable.
2. For the purposes of this section, a valid certification issued by a Federal agency shall be acceptable in lieu of a State of New Jersey pesticide applicator's registration if the purchaser is applying a pesticide on property or premises owned or rented by the Federal government, if the purchaser is a Federal employee engaged in the performance of his official duties, and if the purchaser has been certified as an applicator of pesticides under a Federal agency plan which has been approved by the United States Environmental Protection Agency pursuant to the provisions of Section 4 of FIFRA, as amended.
3. For the purpose of this section, one of the valid operator licenses or certifications listed below is acceptable in lieu of a State of New Jersey pesticide applicator's registration for obtaining chlorine gas, a restricted use antimicrobial:

- i. Certified Pool Operator;
- ii. Public Water Treatment System license;
- iii. Public Water Distribution System license;
- iv. Public Wastewater Treatment System license;
- v. Public Wastewater Collection System license; or
- vi. Industrial Wastewater Treatment System license, except NN license.

4. For the purpose of this section, proof that the end user is a veterinarian is acceptable in lieu of a State of New Jersey pesticide applicator's registration if the veterinarian is obtaining the restricted use pesticides for use on animals as part of his or her practice.

(b) No person shall distribute or sell a restricted use pesticide for resale only to a retail dealer or distributor without first informing the purchaser that the pesticide being distributed or sold is a restricted use pesticide.

(c) All transactions involving the sale or distribution of restricted use pesticides to end users shall be conducted by or under the direct supervision of a certified and registered pesticide dealer employed at the pesticide outlet where the transactions take place except that a pesticide dealer business which had a current registration with the department as of June 29, 1983, under the former N.J.A.C. 7:30-1.8, (Dealers in restricted pesticides) which became effective on July 1, 1974 and was replaced by N.J.A.C. 7:30-4, is exempt from the provisions of N.J.A.C. 7:30-4.4(c) until February 6, 1984.

As amended, R.1984 d.39, eff. February 21, 1984.

See: 15 N.J.R. 2017(b), 16 N.J.R. 368(a).

(c): exception and exemption added.

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

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

(b) deleted "dealer pesticide business" and substituted "person"; deleted "another" and substituted "a retail".

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

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

Added (a)3.-4.

**7:30-4.5 Sale of pesticides**

No pesticide dealer business shall sell any pesticide to a person who they know should be certified and registered under the provisions of N.J.A.C. 7:30-6 or N.J.A.C. 7:30-7 unless such person is so certified and registered.

New Rule, R.1988 d.538, effective November 21, 1988.

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

**7:30-4.6 Denial, suspension, or revocation of pesticide business documents**

(a) The Department, when it determines that grounds exist, may:

1. Deny an application for registration as a pesticide dealer business;

2. Revoke a pesticide dealer business registration;
3. Suspend a pesticide dealer business registration.

(b) Each of the following acts shall constitute a ground for which any of the disciplinary actions described in (a) above may be taken:

1. Refusing or, after notice failing to comply with provisions of the Act or this chapter or any Order issued by the Department pursuant thereto;
2. Making false or fraudulent claims through any form of written or verbal communication, misrepresenting the effect of any pesticide or application methods to be utilized;
3. Falsifying or making misleading statements in the application for pesticide dealer registration;
4. Failing to keep or falsification of required records;
5. Allowing the dealer registration to be used by any person for any purpose which will evade or be in violation of the provisions of the Act or this chapter;
6. Aiding, abetting, combining with, or conspiring with any person for any purpose which will evade or be in violation of the provisions of the Act or this chapter;
7. Selling or distributing a pesticide in such a manner as to cause harm, injury or damage or a significant risk of harm, injury or damage to the public health, safety or welfare or the environment.

(c) Where the Department acts pursuant to (a) above, the Department shall afford a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1 et seq.

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

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

Deleted old text and substituted new.

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

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

Recodified from 4.5.

#### 7:30-4.7 Additional authority

In the event of the issuance of a final order assessing a civil penalty under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) or a criminal conviction under Section 14(b), the department will review and may suspend or revoke the registration of any person so assessed or convicted.

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

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

Old 4.6 deleted "Exemption from fees" and recodified 4.7 to 4.6.

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

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

Recodified from 4.6.

## SUBCHAPTER 5. PESTICIDE OPERATORS

### 7:30-5.1 Definitions

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

"Act" means the Pesticide Control Act of 1971 (N.J.S.A. 13:1F-1 et seq.) as amended.

"Agricultural commodity" means any plant or part thereof, or animal, or animal product, produced by a person (including farmers, ranchers, vinyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by man or animals.

"Commercial pesticide applicator" means any person (whether or not he is a private pesticide applicator with respect to some uses) who uses or supervises the use of any pesticide for any purpose or on any property other than as provided by the definition of "private pesticide applicator". Any employee of a governmental agency who engages in the use and application of pesticides as is necessary within the scope of his employment is considered a commercial applicator.

"Commercial pesticide operator" means any person who applies pesticides by equipment other than aerial under the direct supervision of a responsible commercial pesticide applicator.

"Commissioner" means the Commissioner of Environmental Protection in the State Department of Environmental Protection.

"Department" means the State Department of Environmental Protection.

"EPA" means the United States Environmental Protection Agency.

"Person" means and shall include corporations, companies, associations, societies, firms, partnerships, and joint stock companies as well as individuals, and shall also include all political subdivisions of this State or any agencies or instrumentalities thereof.

"Pest" means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria or other micro-organisms on or in living man or other animals) which is injurious to health or the environment.

"Pesticide" means and includes any substance or mixture of substances labeled, designed or intended for use in preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances labeled, designed, or intended for use as a defoliant, desiccant, or plant regulator; provided, that the term "pesticide" shall not include any substance or mixture of substances which EPA does not consider to be a pesticide.

"Pesticide operator" as used in this Subchapter means both a commercial pesticide operator and a private pesticide operator.

"Private pesticide applicator" means any person who uses or supervises the use of any pesticides for the purposes of producing any agricultural commodity on property owned or rented by him or his employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

"Private pesticide operator" means any person who applies pesticides by equipment other than aerial under the direct supervision of a responsible private pesticide applicator.

"Register" means the recognition by the State of New Jersey that a person has met the requirements as prescribed in N.J.A.C. 7:30-5.4 and is authorized to operate within the parameters of his registration.

"Responsible pesticide applicator" means any individual who is accountable for the use of a pesticide by himself or any person under his direct supervision.

"Restricted use pesticide" means any pesticide or pesticide use so classified under the provisions of N.J.A.C. 7:30-2, or so classified by the Administrator of the United States Environmental Protection Agency.

"Under direct supervision" means under the instruction and control of other person who is responsible for actions taken and who is available if and when needed, even if not physically present.

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

Amended definition "commercial pesticide applicator" and added definitions "pesticide operator" and "private pesticide operator".

### 7:30-5.2 General requirements

(a) No commercial pesticide operator or private pesticide operator shall engage in, cause, suffer, allow, or permit the use or application of any pesticide without first meeting the training and registration requirements of this Subchapter unless:

1. Such person is certified and registered as a commercial pesticide applicator or private pesticide applicator; or

2. Such person is working under the direct supervision of a responsible commercial pesticide applicator or private pesticide applicator who is present at the time and place of application.

(b) Notwithstanding the responsibility of any other person or the exemption from the provisions of any other section of this Subchapter, any pesticide operator may be jointly and severally responsible for any aspects of any pesticide application in which he is involved.

(c) Persons exempt under this section from all training requirements shall not be considered to be commercial pesticide operators or private pesticide operators.

(d) No commercial pesticide operator or private pesticide operator shall supervise the use or application of any pesticide.

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

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

Substantially amended. New subsection (e) to become operative January 3, 1985.

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

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

Deleted (e).

### 7:30-5.3 Training

(a) In order to meet the requirements for training, a pesticide operator must obtain instruction in and possess adequate knowledge of the proper use and application of pesticides.

1. The instruction must result in the pesticide operator having a working knowledge which shall include but not be limited to the following areas:

- i. The proper use of the application equipment;
- ii. The hazards that may be involved in applying the pesticides;
- iii. Instruction for mixing pesticides to be used in particular circumstances;
- iv. Protective clothing and safety equipment required during the handling and application of pesticides;
- v. General precautions to be followed in the disposal of containers as well as the cleaning and decontamination of the equipment which the certified pesticide operator proposes to use;
- vi. Applicable State and Federal pesticide laws and regulations; and
- vii. An understanding of how to correctly interpret pesticide label and labeling information.

2. The instructions shall include a sufficient level of practical training to allow the pesticide operator to competently perform the functions associated with any appli-

cations in which the pesticide operator is expected to be involved.

(b) The pesticide operator must undergo training no less than annually to ascertain that his knowledge reflects the proper level for satisfactory completion of his work-related duties and significant advances in the state-of-the-art in pesticide control.

(c) Subject to the approval of the Department, the person responsible for the training of a pesticide operator shall determine the appropriate level of training needed for each pesticide operator.

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

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

Deleted "commercial" from text.

#### 7:30-5.4 Registration

(a) At the completion of training, the pesticide operator shall file with the Department, on forms provided by the Department, an application to register. The application shall be co-signed by a certified and registered responsible pesticide applicator who was responsible for the training and shall indicate that the co-signer will be the responsible pesticide applicator for pesticide applications performed by the pesticide operator. An annual registration fee of \$30.00 shall be included as an integral part of the application to register a commercial pesticide operator.

(b) The registration year shall expire on September 30 of each calendar year.

(c) Applications for new registrations will be accepted from pesticide operators throughout the calendar year but, for commercial pesticide operators, a full year's registration fee will be required. All such registrations will expire on September 30 following the date of application, except that the Department may issue a registration for an additional year when an application is initially filed during the last three months of the registration year.

(d) The registration shall cease to be in force if the holder thereof or the co-signer of the application on which it was based terminates the supervisory relationship as defined by "under direct supervision."

1. Any pesticide operator whose registration has become void as a result of this subsection shall immediately be eligible to refile for another registration with a new co-signer.

i. No additional registration fee shall be required if the application is refiled during the current registration year.

ii. Any registrations issued pursuant to the provisions of (d) of this section shall expire on the same date as the original registration.

2. Any pesticide operator whose registration has become void pursuant to this subsection shall be allowed to apply pesticides in accordance with his current registration for a period of 30 calendar days from the date of cessation if the supervisory relationship of the co-signer if the pesticide operator is applying pesticides under the direct supervision of a certified and registered responsible pesticide applicator.

(e) The registration of a pesticide operator is not transferable.

(f) A pesticide operator must notify the Department, in writing and within 30 days, if he changes his name or address or if he is no longer engaged in the application of pesticides.

(g) The pesticide operator and/or the cosigner of the application for registration must notify the Department, in writing and within 30 days, of any changes in the information contained on the application for registration.

(h) The pesticide operator must maintain his registration on his person whenever a pesticide application is performed.

(i) No person shall be eligible for registration as a commercial pesticide operator until reaching 18 years of age. No person shall be eligible for registration as a private pesticide operator until reaching 16 years of age.

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

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

Substantially amended. (i) added.

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

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

Added commercial pesticide operator; raised annual registration fee from \$5.00 to \$10.00.

Amended by R.1990 d.426, effective August 20, 1990.

See: 22 N.J.R. 1314(a), 22 N.J.R. 2571(a).

Registration fee increased from \$10.00 to \$30.00 at (a).

#### 7:30-5.5 Reregistration

A pesticide operator shall re-register annually with the Department and, for commercial pesticide operators, pay the reregistration fee of \$30.00.

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

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

Deleted text "commercial".

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

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

Added commercial pesticide operators; raised annual fee from \$5.00 to \$10.00.

Amended by R.1990 d.426, effective August 20, 1990.

See: 22 N.J.R. 1314(a), 22 N.J.R. 2571(a).

Reregistration fee increased from \$10.00 to \$30.00.

#### 7:30-5.6 Records

(a) The records of each application of pesticides made by a commercial pesticide operator must be kept by the co-signer of the commercial pesticide operator's registration application in the manner delineated in N.J.A.C. 7:30-6.8.

(b) The records of each application of pesticides made by a private pesticide operator must be kept by the co-signer of the private pesticide operator's registration application in the manner delineated in N.J.A.C. 7:30-8.8.

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

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

(b) added.

#### **7:30-5.7 Denial, suspension, or revocation of pesticide operator documents**

(a) The Department, when it determines that grounds exist, may:

1. Deny an application for registration as a pesticide operator;
2. Revoke a pesticide operator registration;
3. Suspend a pesticide operator registration.

(b) Each of the following acts shall constitute a ground for which any of the disciplinary actions described in (a) above may be taken:

1. Refusing or, after notice, failing to comply with the provisions of the Act or this Chapter or any Order issued by the Department pursuant thereto;
2. Operating in such a manner so as to cause harm, injury or damage to persons, property or the environment, or a significant risk of harm, injury or damage;
3. Making false or fraudulent claims through any form of written or verbal communication, misrepresenting the effect of any pesticide or application methods to be utilized;
4. Making a pesticide application not in accordance with the pesticide label, except as allowed by the EPA, or not in accordance with administrative actions on specific pesticide(s) taken by the EPA, or not in accordance with use restrictions imposed by the Department under the authority of N.J.A.C. 7:30-10.2(a).
5. Applying any pesticide to an agricultural crop where any person other than those engaged in the application is present within the boundaries of the target site at the time of application;
6. Falsifying or making misleading statements in the application for pesticide dealer registration;
7. Aiding, abetting, combining with, or conspiring with any person for any purpose which will evade or be in violation of the provisions of the Act or this chapter.

(c) No person having a pesticide operator registration which has been revoked or suspended shall be allowed to register as a commercial pesticide applicator or private pesticide applicator or to apply pesticides under the direct supervision of a registered pesticide applicator who is physically present at the application location, during the time period in which the revocation or suspension is in effect.

(d) Where the Department acts pursuant to (a) above, the Department shall afford a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1 et seq.

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

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

Old text deleted and new text substituted.

#### **7:30-5.8 Requirement for pesticide operator certification and registration as pesticide applicators**

(a) Any person registered or required to be registered as a pesticide operator working under the direct supervision of a registered pesticide applicator, who is held to be jointly or severally responsible for a violation of the Act or regulations promulgated thereunder, may be required by the Department to become a certified and registered pesticide applicator as provided in N.J.A.C. 7:30-6 or N.J.A.C. 7:30-8.

(b) Any pesticide operator required under (a) above to become a fully certified and registered applicator shall be so notified by the Department and shall have a maximum of 30 days from the date of such notice to comply.

(c) Failure to comply with (a) and (b) above will result in the pesticide operator registration being immediately suspended pending the outcome of a hearing which shall be granted the registrant upon request. The request shall be sent to Office of Legal Affairs, ATTENTION: Adjudicatory Hearing Requests, Department of Environmental Protection and Energy, CN 402, Trenton, New Jersey 08625-0402. Such hearing shall be scheduled on an expedited basis and shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

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

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

Old text deleted and new text substituted.

Administrative correction and change in (c).

See: 23 N.J.R. 3325(b).

#### **7:30-5.9 Additional authority**

In the event of the issuance of a final order assessing a civil penalty under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) or a criminal conviction under Section 14(b), the department will review and may suspend or revoke the registration of any person so assessed or convicted.

### **SUBCHAPTER 6. COMMERCIAL PESTICIDE APPLICATORS**

#### **7:30-6.1 Definitions**

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

"Act" means the Pesticide Control Act of 1971 (N.J.S.A. 13:1F-1 et seq.) as amended.

"Agricultural commodity" means any plant or part thereof, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by man or animals.

"Agricultural crop" means a food produced by cultural treatment of land which is intended for human consumption, or for livestock the products of which are intended for human consumption.

"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.

"Brand" or "brand name" or "trade name" means the characteristics designation by words, symbols, name, number or trademark of a specific, particular pesticide or formulation thereof under which the pesticide is distributed, sold, offered for sale, handled, stored, used or transported in the State of New Jersey.

"Certified" means the recognition by the State that a person has met the requirements as prescribed in N.J.A.C. 7:30-6.4.

"Commercial pesticide applicator" means any person (whether or not he is a private pesticide applicator with respect to some uses) who uses or supervises the use of any pesticide for any purpose or on any property other than as provided by the definition of "private pesticide applicator." Any employee of a governmental agency who engages in the use and application of pesticides as is necessary within the scope of his employment is considered a commercial applicator.

"Commercial pesticide operator" means any person who applies pesticides by equipment other than aerial under the direct supervision of a responsible commercial pesticide applicator.

"Commissioner" means the Commissioner of Environmental Protection in the State Department of Environmental Protection.

"Department" means the State Department of Environmental Protection.

"EPA" means the United States Environmental Protection Agency.

"Forest" means a concentration of trees and related vegetation in non-urban areas sparsely inhabited by and infrequently used by humans; characterized by natural terrain and drainage patterns.

"Ornamental" means trees, shrubs, and other plantings in and around habitations generally, but not necessarily, located in urban and suburban areas, including residences, parks, streets, retail outlets, industrial and institutional buildings.

"Person" means and shall include corporations, companies, associations, societies, firms, partnerships, and joint stock companies as well as individuals, and shall also include all political subdivisions of this State or any agencies or instrumentalities thereof.

"Pest" means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria or other micro-organisms on or in living man or other animals) which is injurious to health or the environment.

"Pesticide" means and includes any substance or mixture of substances labeled, designed or intended for use in preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances labeled, designed, or intended for use as a defoliant, desiccant, or plant regulator; provided, that the term "pesticide" shall not include any substance or mixture of substances which EPA does not consider to be a pesticide.

"Private pesticide applicator" means any person who uses or supervises the use of any pesticide for purposes of producing any agricultural commodity on property owned or rented by him or his employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

"Private residence" means any portion of a building or structure that is occupied exclusively for residence purposes.



"Register" means the recognition by the State of New Jersey that a person has met the requirements as prescribed in N.J.A.C. 7:30-3.4 and is authorized to operate within the parameters of his registration.

"Responsible pesticide applicator" means any individual who is accountable for the use of a pesticide by himself or any person under his direct supervision.

"Restricted use pesticide" means any pesticide or pesticide use so classified under the provisions of N.J.A.C. 7:30-2, or so classified by the Administrator of the United States Environmental Protection Agency.

"Termiticide" means any pesticide labeled, designed, or intended for use in preventing, destroying, repelling or mitigating termites.

"Under direct supervision" means under the instruction and control of other person who is responsible for actions taken and who is available if and when needed, even if not physically present.

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

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

Added "agricultural crop" and "commercial pesticide operator" and added text to "commercial pesticide applicator."

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

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

Added definition "termiticide".

### 7:30-6.2 General requirements; variances

(a) No commercial pesticide applicator shall engage in, cause, suffer, allow, or permit the use or application of, or supervise the use or application of, any pesticide in any category or subcategory in which he or she has not been certified and registered unless:

1. Such person is applying a general use pesticide by equipment, other than aerial, in or around a private residence owned or rented by him and in which he resides. In multi-family private residences, (a)1 shall apply to such person only in the individual unit in which he resides.

2. Such person is applying a general use pesticide by equipment other than aerial for himself or his employer on property or premises owned or rented by him or his employer and utilized for non-residential purposes provided:

i. The application does not involve more than three acres of land;

ii. The application is not made to an area where food or food-stuffs for human consumption are prepared, served, or stored; and

iii. The property or premises to which the pesticide is applied is not utilized by an operation involving more than 10 employees.

3. Such person is applying pesticides by equipment other than aerial under the direct supervision of a responsible commercial pesticide applicator and where an employer-employee relationship exists between the person supervising the application and the person applying the pesticide;

4. Such person is applying a pesticide on property or premises owned or rented by the Federal government:

i. If such person is a Federal employee engaged in the performance of his official duties, and;

ii. If such person has been certified as an applicator of pesticides under a Federal agency plan which has been approved by the United States Environmental Protection Agency pursuant to the provisions of Section 4 of the FIFRA, as amended;

5. Such person is applying antimicrobial agent unless such agents have been classified as restricted use pesticides;

6. Such person is applying wood preserving agents unless such agents have been classified as restricted use pesticides;

7. Such person is applying antifouling paints or agents unless such paints or agents have been classified as restricted use pesticides;

8. Such person is a veterinarian, or is working under the direct supervision of a veterinarian, and is applying pesticides to animals as part of his or her practice; or

9. Such person is applying chlorine gas, a restricted use antimicrobial agent, and is a holder of, or is working under the direct supervision of a holder of, one of the valid operator licenses, or certifications listed below, provided that the operator license held is the one required for the facility where the chlorine gas is being used:

i. Certified Pool Operator;

ii. Public Water Treatment System license;

iii. Public Water Distribution System license;

iv. Public Wastewater Treatment System license;

v. Public Wastewater Collection System license; or

vi. Industrial Wastewater Treatment System license, except NN license.

(b) Notwithstanding the responsibility of any other person or the exemption from the provisions of any other section of this subchapter, any pesticide applicator may be jointly and severally responsible for any aspect of the pesticide application in which he or she is involved including acts taken by others to, at least in part, further the interests of the pesticide applicator.



(c) Persons exempt under this section from all certification requirements shall not be considered to be commercial pesticide applicators.

(d) Any person who believes that compliance with the provisions of this subchapter with respect to the requirement of N.J.A.C. 7:30-6.2(a) will result in undue hardship, may apply to the department for a variance setting forth his reasons and justifications therefor provided the proposed application is limited to general use pesticides to be applied on private property not open to the general public.

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

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

Added text in (a)3: "and where an . . . the pesticide; or".

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

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

Added (a)7.-9.; deleted old (b) and substituted new.

### 7:30-6.3 Categories

(a) Any commercial pesticide applicator who satisfactorily completes the requirements for Core certification may become certified in one or more of the following categories or subcategories:

#### 1. Agricultural pest control:

i. Plant: This subcategory includes commercial pesticide applicators using or supervising the use of pesticides in the production of agricultural crops, including, but not limited to, tobacco, peanuts, cotton, feed grains, soybeans, and forage; vegetables, small fruits, tree fruits and nuts, as well as on grasslands and non-crop; agricultural lands.

ii. Animals: This subcategory includes commercial pesticide applicators using or supervising the use of pesticides on animals, including, but not limited to, beef cattle, dairy cattle, swine, sheep, horses, goats, poultry, and livestock, and to places on or in which animals are confined.

2. Forest pest control: This category includes commercial pesticide applicators using or supervising the use of pesticides in forests, forest nurseries, and forest seed producing areas.

#### 3. Ornamental and turf pest control:

i. Ornamental: This subcategory includes commercial pesticide applicators using or supervising the use of pesticides to control pests in the maintenance and production of ornamentals.

ii. Turf: This subcategory includes commercial pesticide applicators using or supervising the use of pesticides to control pests in the maintenance and production of turf.

iii. Interior Landscaping: This subcategory includes commercial applicators using or supervising the use of pesticides to control pests in the maintenance of interior landscapes.

4. Seed treatment: This category includes commercial pesticide applicators using or supervising the use of pesticides on seeds.

5. Aquatic pest control: This category includes commercial pesticide applicators using or supervising the use of any pesticide purposefully applied to standing or running water, excluding applicators engaged in public health related activities included in (a)8 below, public health pest control.

6. Right-of-way pest control: This category includes commercial pesticide applicators using or supervising the use of pesticides in the maintenance of public roads, industrial weed control on driveways, electric power lines, pipelines, railway rights-of-way or other similar areas.

#### 7. Industrial, institutional, structural pest control:

i. General and household pest control: This subcategory includes commercial pesticide applicators using or supervising the use of pesticides to control general household pests including but not limited to roaches, ants, bees, ticks, fleas, rodents and other vertebrates.

ii. Termites and other wood destroying pests: This subcategory includes commercial pesticide applicators using or supervising the use of pesticides to control termites or other wood destroying pests.

iii. Fumigation pest control: This subcategory includes commercial pesticide applicators using or supervising the use of pesticides which may be classified as true fumigants.

iv. Food manufacturing and processing: This subcategory includes commercial pesticide applicators using or supervising the use of pesticides in good manufacturing, packaging and processing establishments including but not limited to meat packing plants, dairy product operations, canning, grain, milling, bottling, and coffee roasting plants, not including retail sales outlets.

v. Wood preserving pest control: This subcategory includes commercial pesticide applicators using or supervising the use of restricted use pesticides to control fungi, insects, bacteria, marine borers and other wood destroying pests.

vi. Antifoulants: This subcategory includes commercial pesticide applicators using or supervising the use of restricted use antifouling paints or other agents on boat hulls and other areas to control barnacles, algae, and other marine pests.

#### 8. Public health pest control:

i. General: This subcategory includes but is not limited to State, Federal, or other governmental employees using or supervising the use of pesticides in public health programs for the management and control of pests having medical and public health importance.

ii. Mosquito control: This subcategory includes commercial pesticide applicators using or supervising the use of pesticides for the management and control of mosquitos.

iii. Campground pest control: This subcategory includes commercial pesticide applicators using or supervising the use of pesticides in locations having area(s) specifically designated for the purpose of erecting temporary shelters such as tents and cabins. These locations may or may not include areas which are used for recreational activities.

iv. Cooling tower pest control: This subcategory includes commercial pesticide applicators using or supervising the use of pesticides to control microbial and other pests in cooling towers or related areas.

v. Antimicrobial pest control: This subcategory includes commercial pesticide applicators using or supervising the use of restricted use antimicrobial agents in swimming pools, for sterilization of medical supplies and instruments, for water or wastewater treatment, or for other uses.

vi. Pet grooming: This subcategory includes commercial pesticide applicators using or supervising the use of pesticides to control pests on animals normally kept as pets, including, but not limited to, fleas, ticks, or mites.

9. Regulatory pest control: This subcategory includes State, Federal, or other governmental employees who use or supervise the use of pesticides in the control of regulated pests.

10. Demonstrations and research pest control: This category includes:

- i. Individuals who demonstrate to the public the proper use and techniques of application of pesticides or supervise such demonstration; and
- ii. Persons conducting field research with pesticides.

NOTE: Included in the first group are such persons as extension specialists and county agents, commercial representatives demonstrating pesticide products, and those individuals demonstrating methods used in public programs. The second group includes: State, Federal, commercial and other persons conducting field research on or utilizing pesticides. A person applying for certification in this category will be required to pass at least two examinations in addition to the Core examination. These shall include a general examination for this category, as well as an examination in any category or subcategory which is related to the specific type of demonstration or research to be carried out by the applicant.

11. Aerial pest control: This category includes all pilots, responsible for agricultural and other pest control.

A person applying for certification in this category will be required to pass at least two examinations in addition to the Core examination. These shall include a general examination for this category, as well as an examination in any category or subcategory which is related to the specific type of aerial application to be carried out by the applicant.

(b) New categories: Whenever the department determines that a particular type of pesticide application involves concepts involved in more than one category or subcategory or concepts not addressed by an existing category or subcategory, the department may establish a special category or subcategory which will incorporate such concepts. A person may apply pesticides in the special category or subcategory without being certified in that particular category or subcategory for a period of time which does not exceed 90 days after the date that the examination for the special category or subcategory becomes available.

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

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

(a)v added.

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

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

Substantially amended.

#### 7:30-6.4 Certification

(a) In order to become certified, an applicant shall be required to pass a Core examination as well as a specific category examination, which may be written and when deemed necessary by the department may include performance testing; the examinations shall include but not be limited to all areas of required knowledge set forth in federal regulations 40 CFR 171. The Core examination shall include such areas as pesticide handling and safety, environmental considerations, symptoms of pesticide poisoning, current laws and regulations. The category or subcategory examination shall include areas of required knowledge which are specific to the commercial category or subcategory in which the applicant has applied to be certified.

(b) Certification in a category or subcategory must be obtained within 120 calendar days from the date of the most recent Core examination which was successfully completed. Any person who does not meet the requirements of this subsection must again take the Core examination and become certified in accordance with the provisions of this subchapter.

(c) An examination fee of \$10.00 will be charged for each examination.

(d) Application for the examinations must be made on a form supplied by the department which must be filed, along with the examination fee, with the department no later than midnight of the closing date for the examination as determined by the department. The examination fee will not be refunded.

(e) After certification a pesticide applicator who elects to add one or more categories or subcategories to his certification shall be required to take only the category examination for such category or subcategory, and shall file a separate application and pay the examination fee for each exam.

(f) Since there is a partial overlapping between certain categories and/or subcategories, it shall not be necessary for an applicator to become certified in certain additional categories or subcategories provided:

1. The study manual for the category or subcategory in which the applicator is actually certified covers the particular type of pesticide application in question as substantially as the manual for the category or subcategory in which the applicator would, by definition, be making the application.

2. The applicator customarily does work in the category or subcategory in which certified, with the type of application in question being supplemental to and not the sole emphasis of the work. (Example: An applicator mainly applies pesticides to forest trees for gypsy moth control and is certified in Category 2, Forest Pest Control. The applicator will not have to also be certified in Subcategory 3i, Ornamental Pest Control, when applying pesticides for gypsy moth control to ornamental trees in residential areas, since the manuals for both Category 2 and Subcategory 3i cover application for gypsy moth control similarly.)

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

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

(f) added.

Amended by R.1990 d.426, effective August 20, 1990.

See: 22 N.J.R. 1314(a), 22 N.J.R. 2571(a).

Examination fee of \$10.00 required at (c).

#### Case Notes

Applicant who attempted to cheat on examination was not entitled to certification and registration as Commercial Pesticide Applicator. *Ca-sole v. Department of Environmental Protection*. 92 N.J.A.R.2d (EPE) 54.

### 7:30-6.5 Registration

(a) Within 12 months after a person has become fully certified and eligible to register as a commercial pesticide applicator, the certified commercial pesticide applicator shall complete and file with the Department an application to register, and shall include as integral part of the application an annual registration fee of \$75.00. A fee not to exceed \$10.00 may be charged for each duplicate registration certificate issued. Any certified pesticide applicator who fails to file within the 12 month period will lose certification status and must again become certified in accordance with the provisions of this subchapter.

(b) The registration year shall expire on September 30 of each calendar year.

(c) Applications for new registrations will be accepted from certified commercial pesticide applicators throughout the calendar year but a full year's registration fee will be required. All such registrations will expire on September 30

following the date of application, except that the department may issue a registration for an additional year when an application is initially filed during the last three months of the registration year.

(d) The certification and registration of a commercial pesticide applicator are not transferable.

(e) A commercial pesticide applicator must notify the department, in writing within 30 days, if he changes any information on his application for registration or if he is no longer engaged in the application of pesticides.

(f) A commercial pesticide applicator must maintain his registration on his person whenever a pesticide application is performed.

(g) Rutgers University Cooperative Extension personnel who participate as instructors or in the preparation of subject matter for applicator certification and/or recertification training programs shall be exempt from the fee requirements as provided in (a) above and N.J.A.C. 7:30-6.6(a).

(h) No person shall be eligible for registration as a commercial pesticide applicator until reaching 18 years of age.

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

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

Subsections (g) and (h) added.

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

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

Substantially amended.

Amended by R.1990 d.426, effective August 20, 1990.

See: 22 N.J.R. 1314(a), 22 N.J.R. 2571(a).

Registration fee increased from \$30.00 to \$75.00 at (a).

### 7:30-6.6 Reregistration

(a) A certified commercial pesticide applicator shall re-register annually with the Department and pay the reregistration fee of \$75.00.

(b) A previously certified and registered commercial pesticide applicator who has not registered with this department for two consecutive registration years after the expiration date of his registration shall lose certification status and must again become certified and registered in accordance with the provisions of this subchapter.

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

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

Raised fee from \$20.00 to \$30.00.

Amended by R.1990 d.426, effective August 20, 1990.

See: 22 N.J.R. 1314(a), 22 N.J.R. 2571(a).

Reregistration fee increased from \$30.00 to \$75.00 at (a).

### 7:30-6.7 Continuing certification

(a) In order to maintain his certification, the commercial pesticide applicator must meet the requirements for continuing certification as specified by the Department in N.J.A.C. 7:30-6.4. If the requirements for continuing certification are not met, the commercial pesticide applicator must again become certified in accordance with the provisions of this subchapter.

(b) Persons registered as commercial pesticide applicators whom the Department determines are responsible for a pesticide misuse under the provisions of the Act or this chapter, may be required by the Department to provide evidence of continued competency to apply or supervise the application of pesticides by repeating the certification requirements of N.J.A.C. 7:30-6.4.

(c) Provisions of (b) above shall be directed to the responsible commercial applicator for pesticide misuse by himself and/or for pesticide misuse by commercial applicators or commercial operators under his direct supervision.

(d) Any commercial pesticide applicator required under (b) above to become recertified shall be so notified by the Department and shall have a maximum of 30 days from the date of such notice to comply.

(e) Failure to comply with (a) through (d) above will result in the commercial pesticide applicator registration being immediately suspended pending the outcome of an expedited hearing which shall be granted the applicator upon request under the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1 et seq.

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

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

Subsections (b) through (e) added.

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

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

(b) deleted text "who are held ... a pesticide misuse" and substituted "whom the Department ... a pesticide misuse".

#### 7:30-6.8 Records

(a) A commercial pesticide applicator shall keep, for each application of pesticides made by him or her or under his or her direct supervision, a record of application containing the following information:

1. The date of application;
  - i. For pesticides having a reentry time of 24 hours or more date of application shall include the hour completed.
2. The place of application;
  - i. For applications by a commercial pesticide applicator to an agricultural crop, the place of application shall be the name and address of the farm and the specific field or land area and crop that was treated with the pesticide.
3. The brand or trade name of the pesticide used or symbol representing such name, providing the applicator also keeps a list which clearly correlates the symbol used with the full and complete pesticide product names;
4. The amount of each pesticide used;
5. The dosage or rate of each pesticide used;
6. The name of the person making the application;

7. The site of the application; and

8. For applications by a commercial applicator of a termiticide, the record shall also include a diagram of the structure treated, depicting the lower level of the structure, the location of the termite infestations and visible damage, areas treated, and any significant items such as location of known wells, drainage systems and streams and ponds which may be affected by the application.

(b) In addition to the records required by (a) above, the applicator shall also keep, in writing, a listing of the names and corresponding EPA Registration Numbers of all the pesticides applied by him. This information may be kept separately from the records required by (a) above or may be integrated with such records by including on the record of each pesticide application the full name and EPA Registration Number of the pesticide(s) used.

(c) All records and information required to be kept pursuant to this section shall be kept for a minimum of three years except that all records of termiticide applications shall be kept for a minimum of five years. The records shall be immediately available upon request by the Department, and by medical personnel in emergency cases. In non-emergency cases, medical personnel may request this information through the Department. These records may be kept by a business pursuant to N.J.A.C. 7:30-7.

(d) A commercial pesticide applicator must, upon written request, provide a customer with a copy of the application record which is required to be kept pursuant to this section and which pertains to a pesticide application performed for that customer.

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

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

(a)2i added; (c) amended.

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

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

Substantially amended.

#### 7:30-6.9 Denial, suspension, or revocation of commercial pesticide applicator documents

(a) The Department, when it determines that grounds exist, may:

1. Deny an application for a commercial pesticide applicator registration;
2. Revoke a commercial pesticide applicator registration;
3. Suspend a commercial pesticide applicator registration.

(b) Each of the following acts shall constitute a ground for which any of the disciplinary actions described in (a) above may be taken:

1. Refusing or, after notice, failing to comply with the provisions of the Act or this chapter or any Order issued by the Department pursuant thereto;

2. Operating in such a manner so as to cause harm, injury or damage to persons, property or the environment, or a significant risk of harm, injury or damage;

3. Making false or fraudulent claims through any form of written or verbal communication, misrepresenting the effect of any pesticide or application methods to be utilized;

4. Making a pesticide application not in accordance with the pesticide label, except as allowed by the EPA, or not in accordance with administrative actions on specific pesticide(s) taken by the EPA, or not in accordance with the specifications of a special local need registration or not in accordance with use restrictions imposed by the Department under the authority of N.J.A.C. 7:30-10.2(a);

5. Applying any pesticide to an agricultural crop where any person other than those engaged in the application is present within the boundaries of the target site at the time of application;

6. Failing to keep or falsification of required records;

7. Falsifying or making misleading statements in the application for a commercial pesticide applicator registration;

8. Aiding, abetting, combining with, or conspiring with any person for any purpose which will evade or be in violation of the provisions of the Act or this Chapter.

(c) No person having a commercial pesticide applicator registration which has been revoked or suspended shall be allowed to apply pesticides under the direct supervision of any registered pesticide applicator during the time period in which the revocation or suspension is in effect.

(d) Where the Department acts pursuant to (a) above, the Department shall afford a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1 et seq.

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

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

Old text deleted and new text substituted.

#### Case Notes

Applicant who attempted to cheat on examination was not entitled to certification and registration as Commercial Pesticide Applicator. *Casole v. Department of Environmental Protection*. 92 N.J.A.R.2d (EPE) 54.

#### 7:30-6.10 Purchase of restricted use pesticides

No person shall purchase a restricted use pesticide unless he or she presents a valid certified pesticide applicator registration or a valid substitute as allowed in N.J.A.C. 7:30-6.2(a)4, 8, or 9.

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

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

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

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

Added text "or a valid ...".

#### 7:30-6.11 Responsibility for commercial pesticide operator training

The commercial pesticide applicator co-signing the application for registration of a commercial pesticide operator, shall be responsible for the operator having obtained adequate training in the proper use and application of pesticides as required in N.J.A.C. 7:30-5.3(a).

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

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

Old section deleted "Exemption from fees" and new section added.

#### 7:30-6.12 Reciprocity

(a) The Department may waive initial certification testing where an applicant has previously been certified in another state or territory pursuant to a valid certification test given in that state or territory of the United States, provided that the Commissioner, by cooperative agreement, has previously recognized such state or territory as having adopted a certification program substantially equivalent to New Jersey's.

(b) A New Jersey pesticide applicator registration will be issued pursuant to this section, if the following conditions are satisfied:

1. The Department receives proof of a valid certification from any state or territory which has been officially recognized by the State of New Jersey as having a certification program substantially equivalent to New Jersey's and which has signed a cooperative agreement with the State of New Jersey relating to the certification of pesticide applicators and the reciprocal acceptance thereof;

2. The registrant demonstrates to the department a knowledge of relevant New Jersey Pesticide Control laws and regulations; and

3. The department receives all applicable fees.

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

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

Deleted (c).

#### 7:30-6.13 Additional authority

In the event of the issuance of a final order assessing a civil penalty under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) or a criminal conviction under Section 14(b), the department will review and may suspend or revoke the registration of any person so assessed or convicted.

### SUBCHAPTER 7. PESTICIDE APPLICATOR BUSINESSES

#### 7:30-7.1 Definitions

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



“Act” means the Pesticide Control Act of 1971 (N.J.S.A. 13:1F-1 et seq.) as amended.

“Agricultural crop” means a food produced by cultural treatment of land which is intended for human consumption, or for livestock the products of which are intended for human consumption.

“Antimicrobial agents” mean:

1. Disinfectants intended to destroy or irreversibly inactivate infectious or other undesirable bacteria, pathogenic fungi, or viruses on surfaces or inanimate objects;
2. Sanitizers intended to reduce the number of living bacteria or viable virus particles on inanimate surfaces, in water, or in air;
3. Bacteriostats intended to inhibit the growth of bacteria in the presence of moisture;
4. Sterilizers intended to destroy viruses and all living bacteria, fungi, and their spores, on inanimate surfaces;
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.

“Brand” or “brand name” or “trade name” means the characteristic designation by words, symbols, name, number or trademark of a specific, particular pesticide or formulation thereof under which the pesticide is distributed, sold, offered for sale, handled, stored, used or transported in the State of New Jersey.

“Commercial pesticide applicator” means any person (whether or not he is a private pesticide applicator with respect to some uses) who uses or supervises the use of any pesticide for any purpose or on any property other than as provided by the definition of “private pesticide applicator”. Any employee of a governmental agency who engages in the use and application of pesticides as is necessary within the scope of his employment is considered a commercial applicator.

“Commercial pesticide operator” means any person who applies pesticides by equipment other than aerial under the direct supervision of a responsible commercial pesticide applicator.

“Department” means the State Department of Environmental Protection.

“EPA” means the United States Environmental Protection Agency.

“Person” means and shall include corporations, companies, associations, societies, firms, partnerships, and joint stock companies as well as individuals, and shall also include all political subdivisions of this State or any agencies or instrumentalities thereof.

“Pest” means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria or other micro-organisms on or in living man or other animals) which is injurious to health or the environment.

“Pesticide” means and includes any substance or mixture of substances labeled, designed or intended for use in preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances labeled, designed, or intended for use as a defoliant, desiccant, or plant regulator; provided, that the term “pesticide” shall not include any substance or mixture of substances which EPA does not consider to be a pesticide.

“Pesticide applicator business” means for the purposes of this subchapter any person who either wholly or in part holds himself out for hire to apply pesticides in the State of New Jersey.

“Private pesticide applicator” means any person who uses or supervises the use of any pesticide for purposes of producing any agricultural commodity on property owned or rented by him or his employees or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

“Place of business” means any physical location at or through which the functional operations of business, including but not limited to financial transactions, arrangement of contracts, and assignment of work, regularly occur. (This term shall not include buildings or locations used solely for storage of equipment or supplies or the offices of telephone answering services.)

“Reentry time” means the period of time that must elapse after a field is treated with a pesticide, and before farm workers are permitted to enter to engage in an activity requiring substantial contact with treated plants, as provided in N.J.A.C. 7:30-9.13.

“Register” means the recognition by the State of New Jersey that a person has met the requirements as prescribed in N.J.A.C. 7:30-3.4 and is authorized to operate within the parameters of his registration.

“Responsible pesticide applicator” means any individual who is accountable for the use of pesticides by himself or any person under his direct supervision.

“Restricted use pesticide” means any pesticide or pesticide use so classified under the provisions of N.J.A.C. 7:30-2 or so classified by the Administrator of the United States Environmental Protection Agency.

“Scope of employment” means acts carried out which are so closely connected with what a servant is employed to do and so fairly and reasonably incidental to it that they may be regarded as methods, even though improper, of carrying out the objectives of the employment and at least in part furthering the interests of the employer.

“Termiticide” means any pesticide labeled, designed, or intended for use in preventing, destroying, repelling or mitigating termites.

“TBT antifoulant paint” means any paint formulation containing any tributyltin compounds having three normal butyl groups attached to a tin atom and with an anion such as chloride, fluoride or oxide.

“Under direct supervision” means under the instruction and control of other person who is responsible for actions taken and who is available if and when needed, even if not physically present.

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

Added definitions “agricultural crop,” “commercial pesticide applicator” and “reentry time.”

Amended by R.1988 d.538, effective November 21, 1988.  
See: 20 N.J.R. 579(a), 20 N.J.R. 2865(a).

Added and amended definitions.

## 7:30-7.2 Registration

(a) No person shall cause, suffer, allow or permit the operation of a pesticide applicator business as defined by this subchapter in the State of New Jersey without first registering such business with the Department on forms provided by the Department, unless the only pesticides used are antimicrobial agents, wood preservatives, or antifouling paints or agents which are not classified as restricted use pesticides.

(b) An annual registration fee of \$150.00 shall be paid to the Department at the time of registration. The registration period shall end on September 30 of each calendar year except that the Department may issue a registration for an additional year when an application is initially filed during the last three months of the registration year.

(c) Pesticide applicator businesses having more than one place of business operating within the State must register and pay the annual registration fee for each place of business. Pesticide applicator businesses which operate under more than one name must register and pay the annual registration fee for each name separately.

(d) Each place of business must employ, for each category or subcategory in which it makes pesticide applications, at least one responsible commercial pesticide applicator who is certified and registered in that category or subcategory.

(e) Each pesticide applicator business shall prominently display on every service vehicle operated by that business the registration number assigned to that business by the department. The registration number shall be in figures at least three inches high and shall be located on at least two sides of each vehicle.

(f) A registered business must notify the department, in writing and within 30 days, of any changes in any information on its application for registration, or if the business is no longer engaged in the application of pesticides.

(g) Every unregistered pesticide applicator business found to be operating in the State of New Jersey shall be required to pay the registration fee as provided in (b) above for each year the unregistered business was in operation, as determined through investigation by the Department.

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

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

(g) added.

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

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

Substantially amended (a) and (b).

Amended by R.1990 d.426, effective August 20, 1990.

See: 22 N.J.R. 1314(a), 22 N.J.R. 2571(a).

Registration fee increased from \$75.00 to \$100.00 at (b).

## 7:30-7.3 Records

(a) Every business required to register pursuant to the provisions of N.J.A.C. 7:30-7.2 shall keep, for each application of pesticides made by that business, a record of application containing the following information:

1. The date of application:
  - i. For pesticides having a reentry time of 24 hours or more, date of application shall include the hour completed.
2. The place of application:
  - i. For pesticide applicator business applications to an agricultural crop, the place of application shall be the name and address of the farm and the specific field or land area and crop that was treated with the pesticide.
3. The brand or trade name of each pesticide used or symbol representing such name, providing the business also keeps a list which clearly correlates the symbol used with the full and complete pesticide product name;
4. The amount of each pesticide used;
5. The dosage or rate of each pesticide used;
6. The name of the person making the application;
7. The site of the application; and



8. For pesticide applicator business applications of a termiticide, the record shall include a diagram of the structure treated, depicting the lower level of the structure, the location of the termite infestations and visible damage, areas treated, and any significant items such as location of known wells, drainage systems and streams and ponds which may be affected by the application.

(b) In addition to the records required by (a) above, the business shall also keep, in writing, the following information:

1. A listing of the names and corresponding EPA Registration Numbers of all the pesticides applied by the business; and

2. The names and applicator registration numbers of all the certified and registered responsible pesticide applicators employed by the business together with a delineation of the applications for which each is responsible. (The delineation may be by type or category of application or by any other classification or grouping used to define responsibility.)

i. This information may be kept separately from the records required by (a) above or may be integrated with such records by including on the record of each pesticide application the full name and EPA Registration Number of the pesticide used and the name of the applicator responsible for the application.

(c) All records and information required to be kept pursuant to this section, or copies thereof, shall be kept for a minimum of three years except that all records of termiticide applications shall be kept for a minimum of five years at the place of business. The records shall be immediately available upon request by the Department, and by medical personnel in emergency cases. In non-emergency cases, medical personnel may request this information through the Department.

(d) A pesticide applicator business shall, upon written request, provide a customer with a copy of the application record which is required to be kept pursuant to this section and which pertains to pesticide application performed for that customer.

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

(a)2i added; text added to (c): "and by medical personnel in emergency cases".

Amended by R.1988 d.538, effective November 21, 1988.  
See: 20 N.J.R. 579(a), 20 N.J.R. 2865(a).

Added (a)7; added text to (c) "except that all ... The records shall"; and two changed to three.

#### 7:30-7.4 Financial responsibility

(a) Businesses required to register pursuant to N.J.A.C. 7:30-7.2 shall submit proof of financial responsibility with the application for registration to the Department and, upon obtaining a registration, shall maintain financial responsibility at all times while such registration is in effect. The

financial responsibility shall meet or exceed the standards set forth below:

1. For pesticide applicator businesses which do not engage in fumigation pest control:

i. Liability insurance coverage with the equivalent of a \$300,000 combined single limit of liability for bodily injury and property damage, which includes coverage for completed operations; and

ii. As part of the coverage required in (a)1i above, coverage for chemical liability is required, for the types of pesticide application performed. This chemical liability coverage shall provide coverage equivalent to that provided by the Insurance Services Office (ISO) standard endorsement GL 04 09 (which provides chemical liability coverage for the ground application of pesticides by Pesticide Applicator Businesses).

2. For pesticide applicator businesses engaged, wholly or in part, in fumigation pest control:

i. Liability insurance coverage with the equivalent of a \$500,000 combined single limit of liability for bodily injury and property damage, which includes coverage for completed operations; and

ii. As part of the coverage required in (a)2i above, coverage for chemical liability is required, for the types of pesticide application performed. This chemical liability coverage shall provide coverage equivalent to that provided by the Insurance Services Office (ISO) standard endorsement GL 04 09 (which provides chemical liability coverage for the ground application of pesticides by Pesticide Applicator Businesses).

3. As an alternative to insurance coverage, the business shall have deposited with the Department a surety bond in favor of any person who may suffer damage by reason of the operation of the pesticide applicator business. The surety bond for applicator businesses pursuant to (a)1. above shall be a minimum of \$100,000 and for applicator business pursuant to (a)2. above shall be a minimum of \$300,000, and shall be executed by a corporate surety company authorized to do business in New Jersey. The Department shall examine and approve as to adequacy all such bonds before acceptance. When the registrant ceases operation, the bond shall be returned after a period of six months following date of notice of withdrawal, provided that withdrawal shall not release the surety from liability existing hereunder at the time of the effective date of the withdrawal.

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

Old text deleted and new text substituted.

Amended by R.1988 d.538, effective November 21, 1988.  
See: 20 N.J.R. 579(a), 20 N.J.R. 2865(a).

Deleted (a)1i.-ii and (a)2i.-ii and inserted new.

**Case Notes**

Homeowners could seek recovery under policies issued in subsequent years during which migration of pesticide into other portions of house was noticed. *Gottlieb v. Newark Ins. Co.*, 238 N.J.Super. 531, 570 A.2d 443 (A.D.1990).

**7:30-7.5 Assignment of work**

No person shall require any individual to make a pesticide application in any category or subcategory in which the individual has not been certified and registered as an applicator or trained and registered as an operator pursuant to this chapter, unless the individual so assigned is applying pesticides by equipment other than aerial and is working under the supervision of a responsible pesticide applicator, certified and registered pursuant to this chapter, who is employed by the same business and is physically present at the time and place of application.

**7:30-7.6 Denial, suspension, or revocation of pesticide applicator business documents**

(a) The Department, when it determines that grounds exist, may:

1. Deny an application for an applicator business registration;
2. Suspend an applicator business registration; or
3. Revoke an applicator business registration.

(b) Each of the following acts shall constitute a ground for which any of the disciplinary actions described in (a) above may be taken:

1. Refusing or, after notice, failing to comply with the provisions of the Act or this chapter or any Order issued by the Department pursuant thereto;
2. Operating in such a manner so as to cause harm, injury or damage to persons, property or the environment, or a significant risk of harm, injury or damage;
3. Making false or fraudulent claims through any form of written or verbal communication, misrepresenting the effect of any pesticide or application methods to be utilized;
4. Making a pesticide application not in accordance with the pesticide label, except as allowed by the EPA, or not in accordance with administrative actions on specific pesticide(s) taken by the EPA, or not in accordance with the specifications of a special local need registration or not in accordance with use restrictions imposed by the Department under the authority of N.J.A.C. 7:30-10.2(a);
5. Operating faulty or unsafe pesticide application equipment;
6. Applying any pesticide to an agricultural crop where any person other than those engaged in the application is present within the boundaries of the target site at the time of application;

7. Failing to keep or falsification of required records;
8. Falsifying or making misleading statements in the application for applicator business registration;
9. Failing to submit and/or maintain adequate insurance or surety bond as provided for in N.J.A.C. 7:30-7.4; and
10. Aiding, abetting, combining with, or conspiring with any person for any purpose which will evade or be in violation of the provisions of the Act or this chapter.

(c) The Department may deny registration of a new pesticide applicator business location or pesticide applicator business name by any person whose registration to apply pesticides has been revoked or suspended, or pending the outcome of a revocation or suspension action initiated by the Department.

(d) Where the Department acts pursuant to (a) above, the Department shall afford a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1 et seq.

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

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

Old text deleted and new text substituted.

**7:30-7.7 Responsibility of pesticide applicator business for actions of employees**

Notwithstanding the responsibility of any other person or the exemption from the provisions of any other section of this subchapter, any pesticide applicator business shall be responsible for any violation of the Act committed by an employee in the scope of his or her employment. This responsibility shall be joint and several.

New rule, R.1988 d.538, effective November 21, 1988.

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

**7:30-7.8 Additional authority**

In the event of the issuance of a final order assessing a civil penalty under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) or a criminal conviction under Section 14(b), the department will review and may suspend or revoke the registration of any person so assessed or convicted.

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

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

Recodified from 7.7.

**SUBCHAPTER 8. PRIVATE PESTICIDE APPLICATORS****7:30-8.1 Definitions**

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

"Act" means the Pesticide Control Act of 1971 (N.J.S.A. 13:1F-1 et seq.) as amended.

"Agricultural commodity" means any plant, or part thereof, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by man or animals.

"Agricultural crop" means a food produced by cultural treatment of land which is intended for human consumption, or for livestock the products of which are intended for human consumption.

"Brand" or "brand name" or "trade name" means the characteristic designation by words, symbols, name, number or trademark of a specific, particular pesticide or formulation thereof under which the pesticide is distributed, sold, offered for sale, handled, stored, used or transported in the state of New Jersey.

"Certified" means the recognition by the State that a person has met the requirements as prescribed in N.J.A.C. 7:30-8.3.

"Commercial pesticide applicator" means any person (whether or not he is a private pesticide applicator with respect to some uses) who uses or supervises the use of any pesticide for any purpose or on any property other than as provided by the definition of "private pesticide applicator." Any employee of a governmental agency who engages in the use and application of pesticides as is necessary within the scope of his employment is considered a commercial applicator.

"Commissioner" means the Commissioner of Environmental Protection in the State Department of Environmental Protection.

"Department" means the State Department of Environmental Protection.

"EPA" means the United States Environmental Protection Agency.

"Person" means and shall include corporations, companies, associations, societies, firms, partnerships, and joint stock companies as well as individuals, and shall also include all political subdivisions of this State or any agencies or instrumentalities thereof.

"Pest" means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria or other micro-organisms on or in living man or other animals) which is injurious to health or the environment.

"Pesticide" means and includes any substance or mixture of substances labeled, designed or intended for use in preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances labeled, designed, or intended for use as a defoliant, desiccant, or plant regulator; provided, that the term "pesticide" shall not include any substance or mixture of substances which EPA does not consider to be a pesticide.

"Private pesticide applicator" means any person who uses or supervises the use of any pesticide for purposes of producing any agricultural commodity on property owned or rented by him or his employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

"Register" means the recognition by the State of New Jersey that a person has met the requirements as prescribed in N.J.A.C. 7:30-8.4 and is authorized to operate within the parameters of his registration.

"Responsible pesticide applicator" means any individual who is accountable for the use of pesticides by himself or any person under his direct supervision.

"Restricted use pesticide" means any pesticide or pesticide use so classified under the provisions of N.J.A.C. 7:30-2, or so classified by the Administrator of the United States Environmental Protection Agency.

"Under direct supervision" means under the instructions and control of other person who is responsible for actions taken and who is available if and when needed, even if not physically present.

"Use" means any act of handling or release of a pesticide, or exposure of man, property, or the environment to a pesticide through acts which include but are not limited to:

1. Applying a pesticide, including mixing and loading and any required supervisory action in or near the area of application;
2. Handling, transporting, or storing a pesticide or pesticide container;
3. Disposal actions for a pesticide and/or containers or equipment associated with the pesticide.

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

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

Added definitions "agricultural crop," "commercial pesticide applicator" and "use."

### 7:30-8.2 General requirements

(a) No private pesticide applicator shall engage in, cause, suffer, allow, or permit the use or application of, or supervise the use or application of, any pesticide which is classified for restricted use without first meeting the requirements

of certification and registration as a private pesticide applicator unless:

1. Such person is applying pesticides under the direct supervision of a certified and registered private pesticide applicator; or
2. Such person is a commercial pesticide applicator certified and registered in a commercial category or subcategory which completely covers the subject matter content in the private pesticide applicator certification requirements.

### 7:30-8.3 Certification

(a) In order to become certified, an applicant must pass a Core examination as well as second examination. The examinations may be written or oral, or a combination of both, and shall include but not be limited to all areas of required knowledge set forth in Federal regulations 40 CFR 171. The Core examination shall include such areas as pesticide safety and handling, current laws and regulations, understanding of label and labeling information, including the name of the pesticide, the crop, animal or site to which it will be applied, pest(s) to be controlled, when and how to apply, harvest intervals, related environmental hazards, poisoning symptoms and disposal techniques. The second examination will cover comparable topics but reflect a higher level of competency. The second examination shall also include but not be limited to pest identification and damage assessment.

(b) Satisfactory completion of the second examination must be accomplished within 120 calendar days from the date of the most recent Core examination which was successfully completed. Any person who does not meet the requirements of this subsection must again take the Core examination and become certified in accordance with the provisions of this subchapter.

(c) An examination fee of \$10.00 will be charged for each examination.

(d) Application for examinations must be made on a form supplied by the department which must be filed, along with the examination fee, with the department no later than midnight of the closing date for the examination as determined by the department. The examination fee will not be refunded.

Amended by R.1990 d.426, effective August 20, 1990.

See: 22 N.J.R. 1314(a), 22 N.J.R. 2571(a).

Examination fee of \$10.00 required at (c).

### 7:30-8.4 Registration

(a) Within 12 months after a person has become fully certified and eligible to register as a private pesticide applicator, the certified private pesticide applicator shall complete and file with the Department, on forms provided by the Department, an application to register. Any certified pesticide applicator who fails to file for registration within the 12 month period will lose certification status and must again become certified in accordance with the provisions of this subchapter.

(b) Applications for new registrations will be accepted from certified private pesticide applicators throughout the calendar year. All such registrations will expire on September 30 following the date of application, except that the Department may issue a registration for an additional year when an application is initially filed during the last three months of the registration year.

(c) The certification and registration of a private pesticide applicator are not transferable.

(d) A private pesticide applicator must notify the department, in writing and within 30 days, if he changes any information on his application for registration.

(e) No person shall be eligible for registration as a private pesticide applicator until reaching 18 years of age.

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

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

(e) added.

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

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

Substituted "shall" for "must"; deleted text in (a) "and must include ... registration of \$5.00"; and in (b) "but a full years registration fee will be required".

### 7:30-8.5 Reregistration

(a) A certified private pesticide applicator shall renew his or her registration every year on a form supplied by the Department.

(b) A previously certified and registered private pesticide applicator who has not registered with the department for two consecutive registration years after the expiration date of his registration shall lose certification status and must again become certified and registered in accordance with the provisions of this subchapter.

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

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

Deleted text in (a) "and pay a fee of \$5.00 at the time of renewal on a"; added "or her" to (a).

### 7:30-8.6 Continuing certification

(a) In order to maintain his certification, the private pesticide applicator must meet the requirements for continuing certification as specified by the Department. If the requirements for continuing certification are not met, the private pesticide applicator must again become certified in accordance with the provision of this subchapter.

(b) Persons registered as private applicators who are held to be responsible for a pesticide misuse under the provisions of the Act or regulations promulgated thereunder, may be required by the Department to provide evidence of continued competency to apply or supervise the application of pesticides by repeating the certification requirements of N.J.A.C. 7:30-8.3.

(c) Provisions of (b) above shall be directed to the responsible private applicator for misuse by himself and/or for pesticide misuse by private applicators or private operators under his direct supervision.

(d) Any private pesticide applicator required under (b) above to become recertified shall be notified by the Department and shall have a maximum of 30 days from the date of such notice to comply.

(e) Failure to comply will result in the private pesticide applicator registration being immediately suspended pending the outcome of an expedited hearing which shall be granted the applicator upon request under the provisions of the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1 et seq.

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

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

Subsections (b) through (e) added.

### 7:30-8.7 Special provisions

The department may issue special permits or limited private pesticide applicator registrations in cases that warrant deviations from the certification requirements of this subchapter. Specialized training and examinations that assure the department that competency and other necessary requirements are met may be the basis for issuance of special regulations.

### 7:30-8.8 Records

(a) A registered private pesticide applicator shall keep, for each application of a pesticide made by him or under his direct supervision, a record of application containing the following information:

1. The date of application;
  - i. For pesticides having a reentry time of 24 hours or more, date of application shall include the hour completed.
2. The place of application;
  - i. For pesticide application to an agricultural crop, place of application shall include the name and address of the farm and the specific field or land area and crop that was treated with the pesticide.
3. The brand or trade name of each pesticide used or symbol representing such name, providing the applicator also keeps a list which clearly correlates the symbols used with full and complete pesticide product names;
4. The amount of each pesticide used; and
5. The dosage or rate of each pesticide used.

(b) In addition to the records required by (a) above, the applicator shall also keep, in writing, a listing of the names and corresponding EPA Registration Numbers of all the

pesticides applied by him. This information may be kept separately from the records required by (a) above or may be integrated with such records by including on the record of each pesticide application the full name and EPA Registration Number of each pesticide used.

(c) All records and information required to be kept pursuant to this section shall be kept for a minimum of two years and must be immediately available upon request by the Department and by medical personnel in emergency cases. In non-emergency cases, medical personnel may request this information through the Department.

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

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

(a)2i added.

### Case Notes

Action alleging violations of Pesticide Control Act was not premature. State, Dept. of Environmental Protection v. Larchmont Farms, Inc., 266 N.J.Super. 16, 628 A.2d 761 (A.D.1993), certification denied 135 N.J. 302, 639 A.2d 301.

Summary proceedings to enforce agency orders; action brought for alleged violations of Pesticide Control Act. State, Dept. of Environmental Protection v. Larchmont Farms, Inc., 266 N.J.Super. 16, 628 A.2d 761 (A.D.1993), certification denied 135 N.J. 302, 639 A.2d 301.

### 7:30-8.9 Purchase of restricted use pesticides

No person shall purchase a restricted use pesticide unless he presents a valid certified pesticide applicator registration.

### 7:30-8.10 Responsibility for private pesticide operator training

The private pesticide applicator co-signing the application for registration of a private pesticide operator, shall be responsible for the operator having obtained adequate training in the proper use and application of pesticides as required in N.J.A.C. 7:30-5.3(a).

New rule, R.1985 d.557, effective November 4, 1985.

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

### 7:30-8.11 Denial, suspension, or revocation of private pesticide applicator documents

(a) The Department, when it determines that grounds exist, may:

1. Deny an application for registration as a private pesticide applicator;
2. Suspend a private pesticide applicator registration;
3. Revoke a private pesticide applicator registration.

(b) Each of the following acts shall constitute a ground for which any of the disciplinary actions described in (a) above may be taken:

1. Refusing or, after notice, failing to comply with the provisions of the Act or this chapter or any Order issued by the Department pursuant thereto;

2. Operating in such manner so as to cause harm, injury or damage to persons, property or the environment, or a significant risk of harm, injury or damage;

3. Making false or fraudulent claims through any form of written or verbal communication misrepresenting the effect of any pesticide or application methods to be utilized;

4. Making a pesticide application not in accordance with the pesticide label, except as allowed by the EPA, or not in accordance with administrative actions on specific pesticide(s) taken by the EPA, or not in accordance with the specifications of a special local need registration or not in accordance with use restrictions imposed by the Department under the authority of 7:30-10.2(a);

5. Operating faulty or unsafe pesticide application equipment;

6. Applying any pesticide to an agricultural crop where any person other than those engaged in the application is present within the boundaries of the target site at the time of application;

7. Failing to comply with reentry time requirements as provided in N.J.A.C. 7:30-9.13 and any days to harvest interval as stated on a pesticide label(s);

8. Failing to keep or falsification of required records;

9. Falsifying or making misleading statements in the application for private pesticide applicator registration;

10. Aiding, abetting, combining with, or conspiring with any person for any purpose which will evade or be in violation of the provisions of the Act or this chapter.

(c) No person having a private pesticide applicator registration which has been revoked or suspended shall be allowed to apply pesticides under the direct supervision of any registered pesticide applicator during the time period in which the revocation or suspension is in effect.

(d) Where the Department acts pursuant to (a) above, the Department shall afford a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1 et seq.

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

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

Recodified from 8.10; old text deleted and new text substituted.

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

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

Cross reference in (b)7 changed from 9.10 to 9.13.

### 7:30-8.12 Reciprocity

(a) The Department may waive initial certification testing where an applicant has previously been certified in another state or territory pursuant to a valid certification test given in that state or territory of the United States, provided that the Commissioner, by cooperative agreement, has previously recognized such state or territory as having adopted a certification program substantially equivalent to New Jersey's.

(b) A New Jersey pesticide applicator registration will be issued pursuant to this section if the following conditions are satisfied:

1. The Department receives proof of a valid certification from any state or territory which has been officially recognized by the State of New Jersey as having a certification program substantially equivalent to New Jersey's and which has signed a cooperative agreement with the State of New Jersey relating to the certification of pesticide applicators and the reciprocal acceptance thereof.

2. The registrant demonstrates to the department a knowledge of relevant New Jersey Pesticide Control laws and regulations; and

3. The department receives all applicable fees.

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

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

Recodified from 8.11.

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

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

Substantially amended.

### 7:30-8.13 Additional authority

In the event of the issuance of a final order assessing a civil penalty under section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) or a criminal conviction under Section 14(b), the department will review and may suspend or revoke the registration of any person so assessed or convicted.

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

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

Recodified from 8.12.

## SUBCHAPTER 9. PESTICIDE EXPOSURE MANAGEMENT

### 7:30-9.1 Definitions

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

"Act" means the Pesticide Control Act of 1971 (N.J.S.A. 13:1F-1 et seq.) as amended.

"Active ingredient" means any ingredient which will prevent, destroy, repel, control, or mitigate pests, or which will act as a plant regulator, defoliant, or desiccant.

"Agricultural commodity" means any plant or part thereof, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by man or animal.



"Agricultural crop" means a food produced by cultural treatment of land which is intended for human consumption, or for livestock the products of which are intended for human consumption.

"Application equipment" means any type of ground, water, or aerial apparatus or contrivance used to apply any pesticide.

"Aquatic pesticide" means any pesticide except an antimicrobial agent, that contains labeling instructions indicating that the pesticide is intended for use in the waters of the State or on aquatic sites.

"Aquatic site" means those areas inundated or saturated by water at a magnitude, duration, and frequency sufficient to support the growth of hydrophytes, except that those specific areas where hydrophytes are being grown as an agricultural crop shall not be considered to be aquatic sites.

"Brand" or "Brand name" or "Trade name" means the characteristic designation by words, symbols, name, number or trademark of a specific, particular pesticide or formulation thereof under which the pesticide is distributed, sold, offered for sale, handled, stored, used, or transported in the State of New Jersey.

"Commissioner" means the Commissioner of Environmental Protection in the State Department of Environmental Protection.

"Community or areawide" means any pesticide application performed on aggregate areas greater than three acres of land or water which is either part of a pesticide control program performed, or contracted for, by a governmental agency or is performed, or contracted for, by one person who has control over the use of the land to which the pesticide is applied.

"Department" means the State Department of Environmental Protection.

"Dispose of" means the final transfer of pesticides, pesticide containers or pesticide related equipment from the current possessor to a second party or place.

"Distribute" means to offer for sale, sell, barter, ship, or otherwise supply a pesticide.

"Emergency" means an occurrence which can impair the public health and safety or can cause harm, injury or damage to the environment or which presents a significant risk of harm, injury or damage.

"Environment" means water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these.

"EPA" means the United States Environmental Protection Agency.

"Farm worker" or "worker" means any person or persons engaged in agricultural hand labor in the field.

"Field" means any treated land area, or part thereof, upon which one or more pesticides are used for agricultural purposes.

"Flowering stage" means when plants bear any portion of a blossom as part of the blooming process associated with pollen and nectar production.

"Label" means the written, printed or graphic matter on, or attached to, the pesticide or any of its containers or wrappers.

"Labeling" means the label and all other written, printed, or graphic matter:

1. Accompanying the pesticide at any time; or
2. To which reference is made on the label or in literature accompanying the pesticide except that it does not include current official publications of the EPA, the United States Department of Agriculture and Interior, the Department of Health and Human Services, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

"Non-target site" means any location that is not a target site.

"Ornamental" means trees, shrubs, and other plantings in and around habitations generally, but not necessarily located in urban and suburban areas, including residences, parks, streets, retail outlets, industrial and institutional buildings.

"Person" means and shall include corporations, companies, associations, societies, firms, partnerships, and joint stock companies as well as individuals, and shall also include all political subdivisions of this State or any agencies or instrumentalities thereof.

"Pest" means:

1. Any insect, rodent, nematode, fungus, weed; or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria or other micro-organisms on or in living man or other animals) which is injurious to health or the environment.

"Pesticide" means and includes any substance or mixture of substances labeled, designed or intended for use in preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances labeled, designed or intended for use as a defoliant, desiccant, or plant regulator; provided, that the term "pesticide" shall not include any substance or mixture of substances which the EPA does not consider to be a pesticide.

"Private pesticide applicator" means any person who uses or supervises the use of any pesticide for purposes of producing any agricultural commodity on property owned or rented by him or his employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

"Private residence" means any portion of a building or structure that is occupied exclusively for residence purposes.

"Reentry time" means the period of time that must elapse after a field is treated with a pesticide, and before farm workers are permitted to enter to engage in an activity requiring substantial contact with treated plants.

"Reportable pesticide spill" means:

1. Any spill of a termiticide inside a structure during treatment in a quantity of more than one gallon of liquid of diluent and pesticide, or more than 50 square inches of contaminated surface area at any one injection point, or more than one square yard aggregate contaminated surface area on or at the base of any interior wall, through seepage or other cause; or

2. Any spill inside a structure of any pesticide of more than one gallon liquid of any combination of pesticide and/or diluent, or dry pesticide formulations containing one pound or more of active ingredient.

3. Any spill outside a structure of any pesticide containing one pound or more of active ingredient.

"Restricted use pesticide" means any pesticide or pesticide use so classified under the provisions of N.J.A.C. 7:30-2 or so classified by the Administrator of the United States Environmental Protection Agency.

"Service container" means any container, other than the original labeled container of a registered pesticide provided by the registrant which contains the original material, that is utilized to hold, store or transport a pesticide concentrate or a pesticide use-dilution preparation.

"Service vehicle" means any motorized conveyance owned or operated by any person registered or required to be registered by the Department to apply or supervise the application of pesticides, and used to hold and/or transport a pesticide from any place to an application location; except the following:

1. Vehicles used to hold and/or transport pesticides by private pesticide applicators providing, the vehicles are operated solely within the boundaries of property owned or controlled by the private applicator;

2. Vehicles used to hold and/or transport a pesticide to an application location which is owned or controlled by a private pesticide applicator performing or supervising the pesticide application; providing, the pesticide being held and transported is wholly contained within the final holding tank from which the application will be made; or

3. Vehicles not normally and customarily used in business operations to hold and/or transport pesticides to an application location, providing:

- i. The pesticide is transferred at the application location to a vehicle subject to the service vehicle requirements;

- ii. The person operating such vehicle making the delivery and transfer does not apply the pesticide; and

- iii. The maximum quantity of pesticide being transported is five gallons liquid or 50 pounds dry formulation.

"Significant risk of harm, injury or damage" means a potential for harm, 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 pesticide and its effects on persons, property, and the environment.

"Target site" means a specific location, including but not limited to, any crop, commodity, object, delineated field or area, or structure or part thereof, that is intended to be treated by a pesticide so that any pests therein or thereon are controlled. This term does not include any similar site which was not a part of the original agreement between the contracting parties even if such site is included on the label or labeling of a pesticide.

"Toxicity category one pesticide" means any pesticide the label for which is required by EPA to prominently display the signal word "Danger" and may be additionally required to display the signal word "Poison," and to show the skull and crossbones symbol.

"Treated area" means the target site for a pesticide application.

"Under direct supervision" means under the instructions and control of another person who is responsible for actions taken and who is available if and when needed, even if not physically present.

"Use" means any act of handling or release of a pesticide, or exposure of man, property, or the environment to a pesticide through acts which include but are not limited to:

1. Applying a pesticide, including mixing and loading and any required supervisory action in or near the area of application;

2. Handling, transporting, or storing a pesticide or pesticide container;

3. Disposal actions for a pesticide and/or containers or equipment associated with the pesticide.

“Waters” or “waters of the State” means the ocean and its estuaries, all springs, streams, and bodies of surface or groundwater, whether natural or artificial, within the boundaries of the State or subject to its jurisdiction.

“When unattended” means a situation wherein the person or a knowledgeable employee of the person possessing a restricted use pesticide or container contaminated by residues of restricted use pesticides either is not present at the storage site or is present but is so located that he cannot immediately detect and respond if any unauthorized second party enters the storage site.

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

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

Added definitions.

### 7:30-9.2 Community or areawide mosquito or fly applications

(a) No person shall apply any pesticide on a community or areawide basis for the control of larval or adult forms of mosquitoes and/or flies (in the Order Diptera) unless the application is approved under the Department's mosquito permit program.

(b) The provisions of this section do not apply to:

1. Applications for agricultural purposes; or
2. Programs conducted pursuant to the provisions of the Mosquito Extermination statutes (N.J.S.A. 26:9-1 et seq.)

(c) All mosquito and fly control applications must conform to the applicable Guidelines of the New Jersey Agricultural Experiment Station (Rutgers University).

(d) Any person administering a community or areawide mosquito control program must contact and coordinate his program with any county mosquito control agency which exists in the county in which the application is to be made.

(e) A \$5.00 fee may be charged for each permit.

### 7:30-9.3 Aquatic use permits

(a) No person shall apply an aquatic pesticide to any waters of the State or on any aquatic site without having obtained an aquatic use permit from the Department prior to the proposed date of application.

(b) An aquatic use permit shall not be required if the application is to waters of the State which are not used as a source of potable water and:

1. The application is made to waters which have no outlet and which are bounded by land wholly owned or rented, and controlled, by one person;
2. The application is made for the control of mosquitoes or flies and the application procedure requires approval pursuant to the provisions of N.J.A.C. 7:30-9.2(a)

or the application is made by the appropriate lead agency operating under the provisions of the Mosquito Extermination statutes (N.J.S.A. 26:9-1 et seq.); or

3. The application is made to drainage ditches with no water flow which are not used for any other purpose besides drainage.

(c) Applications for an aquatic use permit shall be made on forms supplied by the Department at least 21 days prior to the proposed application date.

1. Any information requested on the form must be submitted.

2. The Department may request any pertinent additional information which it deems necessary to evaluate the application.

3. The Department may require the submission of a report addressing the effectiveness of the treatment and any environmental effects as a condition for approval. The person performing the application shall submit such information to the Department at the time and in the format as specified on the approved aquatic use permit.

4. The applicant shall notify the Department of any proposed changes in the approved aquatic use permit and receive approval for such changes prior to the application.

(d) Failure to submit any requested information or the falsification of any information may result in the denial or revocation of an aquatic use permit.

(e) All conditions for approval specified in an aquatic use permit shall be fulfilled.

(f) A \$75.00 fee will be charged for each aquatic use permit.

(g) The Department may exempt any person from the formal application provisions of (c) above if the Department determines that such person has already satisfied the requirements necessary to obtain an aquatic use permit.

(h) The Department will respond to any application for an aquatic use permit within 21 days after the Department receives the information deemed necessary to evaluate the application.

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

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

Substantially amended.

Amended by R.1990 d.426, effective August 20, 1990.

See: 22 N.J.R. 1314(a), 22 N.J.R. 2571(a).

Aquatic use permit fee set at \$75.00.

### 7:30-9.4 Storage of pesticides

(a) Restricted use pesticides and containers contaminated by residues of restricted use pesticides shall, when unattended, be stored in a secure, locked enclosure. Such an enclosure shall bear prominently displayed warnings in English and any other language or languages as may be designated by the Department to reflect the ethnic majority of the local geographical area in which the storage area is located.

(b) Any person who stores any pesticide shall maintain a list of the pesticides stored or likely to be stored during the calendar year and shall annually send a copy of this list to the local fire company along with a designation of the actual location of the storage area; provided that the provisions of this subsection shall not apply to individuals who are storing pesticides for their personal use on their private residence or persons who are storing pesticides for less than seven calendar days at loading or application sites in connection with their use.

1. The list must be updated annually.
2. The list must be kept at a location which is separate from the actual storage site.

(c) No person shall store restricted use pesticides in a building wholly or partly occupied as a private residence unless:

1. The actual storage area, such as a garage, is a structurally separate room for those commonly used as living areas of the residence, and the ventilation in the storage area is sufficient to keep fumes and/or any potential fumes from intruding into the living areas of the residence; and
2. In the case of a multi-family private residence, the location of the storage area does not present a significant risk of harm, injury or damage to residents in the building and the ventilation in the storage area is sufficient to keep fumes and/or any potential fumes from intruding into the living areas of the residence.

(d) No person shall store restricted use pesticides in a building wholly or partly occupied as a commercial establishment or institution unless:

1. The actual storage area is a structurally separate room from those occupied as work areas and the ventilation in the storage area is sufficient to keep fumes and/or any potential fumes from intruding into the occupied areas of the building; and
2. In the case of a multi-unit commercial establishment or institution, the location of the storage area does not present a significant risk of harm, injury or damage to occupants or employees in the building and the ventilation in the storage area is sufficient to keep fumes and/or any potential fumes from intruding into the occupied areas of the building.

(e) The storage of any restricted use fumigant as specified in N.J.A.C. 7:30-2.3(a)3. in a multi-family private residence, or multi-unit commercial establishment or institution is considered to present a significant risk of harm, injury or damage and is prohibited.

(f) No person shall store or transport pesticides in any service vehicle unless:

1. The service vehicle has posted thereon prominently displayed signs on at least two sides of the vehicle, which clearly identify the vehicle as containing pesticides or which clearly identify the vehicle as being a pest control service vehicle. Lettering on signs shall be a minimum of three inches high;
2. All containers smaller than five gallons are securely stored in such a manner as to be resistant to being spilled or directly bumped by other containers;
3. Glass containers of any size are securely padded to avoid breakage;
4. Five gallon or larger containers are tightly braced or secured to a structural part of the service vehicle such as to the side, to prevent or reduce movement resulting from a sudden stop;
5. The service vehicle is provided with a supply of an absorbent material to soak up spills which may occur and a shovel to help contain the spill;
6. The service vehicle is equipped with a proper fire extinguisher;
7. The pesticides are stored in a compartment separate from the driver, such as the bed of a pick-up truck or a van equipped with a partition to limit movement of the pesticide containers.
8. All pesticide containers or any pesticide contained in portable application equipment, such as hand-held pressurized tank sprayers, are locked or secured to the vehicle in such a manner as to prevent removal by unauthorized persons, when such container or application equipment is located at an open, accessible area on the service vehicle when unattended; and
9. The hatch or door on any service vehicle tank containing a pesticide is equipped with a cover that will prevent spillage when the vehicle is in motion.

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

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

Substituted "shall" for "must"; added text to (b); Deleted text from (b)7 "Provisions of N.J.A.C. ...".

#### 7:30-9.5 Containers and container labeling

(a) No person shall store, transport, or otherwise possess any pesticide if part or all of its registered label or labeling is missing, obscured, altered, unreadable or otherwise damaged beyond use or recognition. The provisions of this subsection shall not apply to pesticides in service containers, pesticides contained in application equipment, pesticides in the process of manufacturing or formulating, or pesticides in the possession of public officials of this State or Federal government while engaged in the performance of their official duties in administering State or Federal pesticide law.

(b) No person shall store, transport, or otherwise possess any pesticide in any service container unless the service container has attached to it a copy of the registered label that represents the pesticide contained therein or a readable label with the following information:

1. Brand or trade name;
2. EPA Registration Number;
3. Name and percentage of active ingredients in the service container; and
4. Appropriate signal word; that is, Danger-Poison, Warning, or Caution.

(c) No person shall place or keep any pesticide in any container commonly used for food, drink, or household products.

(d) No person shall use or otherwise possess any pesticide in any rodent control box unless:

1. The bait box is secured against tampering when placed in areas accessible to pets or persons under 18 years of age;
2. The bait box has attached to it or contained therein as part of the actual packaging of the pesticide, a copy of the registered label of the pesticide; or
3. The bait box has attached to it a readable label with the following information about the pesticide contained therein:
  - i. Brand or trade name;
  - ii. EPA Registration Number;
  - iii. Name and percentage of active ingredients in the bait box; and
  - iv. Appropriate signal word; that is, Danger-Poison, Warning, or Caution.

(e) For purposes of interpretation of (d) above, a bait box shall be considered secured against tampering when:

1. It has met the standards for tamper proof/tamper resistant bait boxes used by the EPA;
2. The bait box containing the pesticide is in a secure storage area; or
3. The bait box is at the actual physical location and under the direct observation of a pesticide applicator.

#### 7:30-9.6 Disposal

(a) No person shall dispose of pesticides, pesticide containers, or equipment that holds or has held a pesticide in a manner that causes harm or injury to persons or the environment, or a significant risk of harm, injury or damage.

(b) No person shall dispose of pesticides, pesticide containers, or equipment that holds or has held a pesticide in a manner that is in violation of State or Federal law.

#### 7:30-9.7 Pesticide application and safety equipment

(a) No person shall apply a pesticide unless the application equipment is properly maintained.

(b) No person shall apply a pesticide unless the application equipment is properly calibrated.

(c) All persons having employees who use, apply, transport, or otherwise handle any pesticide shall make available to such employees any necessary or appropriate safety equipment in good working order and shall train such employees in the proper operation of such safety equipment.

(d) No person shall mix or load any 2,4-D compound unless the appropriate safety equipment is worn, a minimum of which shall be gloves and eye protection.

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

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

Added (d).

#### 7:30-9.8 Notification: community or areawide applications

(a) No person shall apply any pesticide on a community or areawide basis unless prior notification of the proposed application has been given to persons residing in the vicinity of the proposed target site.

1. The notification shall be made through advertisement in at least two newspapers having the greatest likelihood of informing the public within the area of application. The notice shall be placed in the legal advertisement section.

2. The newspaper notification shall be given a maximum of 30 days and a minimum of seven days prior to the proposed application date.

3. The notification shall contain at least:

- i. The proposed application date(s);
- ii. The location of the application;
- iii. The name, address, and registration number of the applicator business or the responsible pesticide applicator associated with the application;
- iv. The brand name and active ingredients of the pesticide(s) to be used;
- v. Application equipment to be used;

vi. The name, address and phone number of a person who may be contacted and is responsible for supplying updated information on the advertised pesticide applications to those persons requesting it; and

vii. The New Jersey Poison Information and Education System telephone number for emergencies and the New Jersey Department of Health telephone number for routine health inquiries.

4. Upon the request by a person residing in the vicinity of the proposed target site, to a person designated pursuant to (a)3vi above, such designated person shall provide, at a minimum, the following information at least 12 hours prior to the application, except that if a reasonable attempt to provide notice is unsuccessful, an attempt to notify such person, by telephone, shall be made immediately prior to the application.

- i. The actual time and date of application;
- ii. The actual pesticide to be applied including the EPA registration number; and
- iii. Any precautionary statement(s) on the product's Federal registered label relating to homeowner or general public safety.

5. The person designated pursuant to (a)3vi above shall maintain a record of all telephone calls, attempted and completed, with persons requesting information referred to in (a)4 above, and a file of related correspondence. Such records and files shall be made available to the Department upon request. The minimum information required to be kept on the call record shall include:

- i. Name and phone number of the person contacted; and
- ii. The time and date of the call.

6. The person making the application subject to the notification requirements shall keep a record of the newspaper in which the advertisement was placed and the dates published. This information shall be made available to the Department upon request.

(b) The provisions of this section shall not apply to any pesticide application which is made for the purpose of producing an agricultural commodity, mosquito larviciding applications, or the application of granular formulations in nonresidential areas.

(c) A waiver from the provisions of this section may be granted by the Commissioner, at his discretion, for the purpose of controlling emergency outbreaks of pests.

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

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

Substantially amended.

### 7:30-9.9 Notification to apiarists (beekeepers)

(a) No person shall make an outdoor application of a pesticide product which has information on its label or labeling noting that the product is toxic to bees unless such person first notifies, at least 36 hours prior to the application, each apiarist who:

1. Desires notification;
2. Maintains an apiary which is located within one mile of the target site; and
3. Has been registered with the Department by March 1 of the calendar year in which the applications subject to the notification requirements of this section will occur.
  - i. The Department may charge a \$5.00 fee to offset its registry cost.

(b) The notification must include the following information:

1. The intended date of the application;
2. The approximate time of the application;
3. The brand name and active ingredient of the pesticide to be applied;
4. The location of the land on which the application is to be made; and
5. The name and certified pesticide applicator registration number of the responsible pesticide applicator.

(c) The Department may alter the interval of time needed for notification if any person can demonstrate to the satisfaction of the Department that an emergency situation has occurred and an immediate application is required to control a sudden and unexpected pest infestation, but time does not reasonably allow the giving of an advance 36-hour notice; provided, however, that notice of emergency applications shall be given to the apiarist himself as soon as reasonably possible before or after the application.

(d) If the owner or operator of an apiary does not choose to move, cover, or otherwise protect the apiary, the application may be made without delay; provided that such application complies with the pesticide labeling and any provisions of the Act or any rules and regulations promulgated thereunder.

(e) The provisions of this section shall not apply to any person using a pesticide on an aggregate area less than three acres; provided that the application is not made with hydraulic spraying equipment capable of operating at a rate greater than 300 psi and 10 gpm, airblast sprayers, or aerial equipment.

(f) Any person required to notify apiarists pursuant to the provisions of (a) above shall not be responsible for notifying any apiarist who cannot be notified because:

1. The Department failed to provide information deemed necessary by the Department for such notification; provided, that the person required to notify the apiarist requested the information from the Department at least two weeks prior to the application date; or



2. The person required to notify the apiarist was unable to contact the apiarist, providing at least three attempted telephone contacts were made between the hours of 9:00 A.M. and 10:00 P.M., at least one of which shall be made after 6:00 P.M., the calls being a minimum of one hour apart, on the last day before the 36-hour notification limit.

(g) If the applicant date is changed so that the application will not occur on the intended date specified in the original notification of application but will be conducted during the next consecutive day, notification must be given to the individual apiarist as soon as reasonably possible but not later than 10:00 P.M. the night prior to the new application date.

(h) The provisions of this section shall not apply to any pesticide application which is made for agricultural purposes, except to the following crops within the dates stated below or when in the flowering stage:

1. Apples	April 15 to May 15
2. Pears	April 15 to May 15
3. Strawberries	April 15 to May 15
4. Peaches	April 15 to May 15
5. Blueberries	April 15 to May 15
6. Cranberries	June 15 to August 15
7. Holly	June 1 to June 30
8. Vine Crops (Cucurbits)	June 1 to August 31
9. Sweet Corn	Flowering Stage

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

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

(a)2 substituted "one mile" for "one-half mile" added (h)4 and deleted (i).

### 7:30-9.10 Notification; household or structural pest control

(a) At single family residences, no commercial application of pesticides shall be made for the control of household or structural pests without the following provisions being carried out:

1. No application shall be made until the residents of the property are given the opportunity to review the following information which shall be provided by the applicator business in writing:

- i. The proposed dates of the application;
- ii. The pesticides to be used (brand name and common chemical names, if available, of the active ingredients);
- iii. Label instructions relating to resident or general public safety, including precautions;
- iv. A copy of a Consumer Information Sheet which shall contain, at a minimum, the following:

(1) The name, address and telephone number of the applicator or applicator business;

(2) The telephone number of the New Jersey Department of Health for general health information and the New Jersey Poison Information and Education System telephone number for emergency situations;

(3) A statement, in writing, that a copy of the labels for the pesticides used will be available, if requested by the contracting party; and

(4) The statement: "Pesticides are chemical substances used to control living organisms and vary in degree of toxicity. Pesticides may be a part of a good pest control program. Sanitation, as well as physical and biological control measures, should be considered as another part of a good pest control program."

2. If the customer requests prior notification of the specific date of the application, such notification shall be provided by the applicator business.

(b) At multiple family residences, no commercial application of pesticides shall be made for the control of household or structural pests without the following provisions being carried out:

1. At least 48 hours prior to the proposed date of the application, the applicator or applicator business shall provide a notice to each occupied unit to be treated, containing the information listed in (b)2i-iv below. If a tenant signs a waiver and requests pest control service, this will serve as compliance with the 48 hour notice. The 48 hour notice requirement is also waived if the local public health agency declares a health emergency requiring immediate pest control.

i. The applicator or applicator business shall be responsible for distributing the notices, but may delegate the distribution to the contracting party, in writing, in order to expedite the distribution;

ii. If the application is postponed, a new notice shall be issued prior to the next proposed date.

2. No application shall be made until the contracting party has been given the opportunity to review the following information which shall be provided by the applicator business in writing:

- i. The proposed dates of the application;
- ii. The pesticides to be used (brand name and common chemical names, if available, of the active ingredients);
- iii. Applicable label instructions including precautions;
- iv. A copy of a Consumer Information Sheet which shall contain, at a minimum, the following:

(1) The name, address and telephone number of the applicator or applicator business;

(2) The telephone number of the New Jersey Department of Health for general health information and the New Jersey Poison Information and Education System telephone number for emergency situations;

(3) A statement, in writing, that a copy of the labels for the pesticides used will be available, if requested by the contracting party and his or her tenants; and

(4) The statement: "Pesticides are chemical substances used to control living organisms and vary in degree of toxicity. Pesticides may be a part of a good pest control program. Sanitation, as well as physical and biological control measures, should be considered as another part of a good pest control program."

(c) At institutions, commercial or public buildings, no commercial application of pesticides shall be made for the control of household or structural pests without the following provisions being carried out:

1. No application shall be made until the contracting party has been given the opportunity to review the following information which shall be provided by the applicator business in writing:

- i. The proposed dates of the application;
- ii. The pesticides to be used (brand name and common chemical names, if available, of the active ingredients);
- iii. Label instructions relating to building user or general public safety, including precautions;
- iv. A copy of a Consumer Information sheet which shall contain, at a minimum, the following:

(1) The name, address and telephone number of the applicator or applicator business;

(2) The telephone number of the New Jersey Department of Health for general health information and the New Jersey Poison Information and Education System telephone number for emergency situations;

(3) A statement, in writing, that a copy of the labels for the pesticides used will be available if requested by the contracting party; and

(4) The statement: "Pesticides are chemical substances used to control living organisms and vary in degree of toxicity. Pesticides may be a part of a good pest control program. Sanitation, as well as physical and biological measures, should be considered as another part of a good pest control program."

2. If the customer requests prior notification of the specific date of the application, he or she may obtain this from the applicator business.

3. The applicator or applicator business shall post permanent notices as specified below, such notice to include the date of latest application, the pesticide used (brand name and active ingredient), the name of a contact person and a telephone number for additional information, and the proposed date of next application. The Department will allow removal of the notice *after 60 days* if no further treatments are projected.

i. At health care facilities, the notice shall be permanently posted at the nurse's station adjacent to the areas treated;

ii. At restaurants, the notice shall be permanently posted next to the Health Department inspection card;

iii. At hotels and motels, the notice shall be permanently posted at the main desk;

iv. At schools, places of worship and public meeting places, the notice shall be prominently posted at the central bulletin board; and

v. At commercial work places, the notice shall be posted in a prominent place for the benefit of the employees.

4. At malls, stores, airports and other large public places, the applicator or applicator business shall post signs during the application, where the public may come in contact with the treated area, and the posting shall remain until the pesticide has settled or dried. This does not apply to crack and crevice treatments.

i. The signs shall bear the following information in letters at least one inch high "Pesticide Treated Area" and the signs shall contain a three inch or greater diameter circular illustration, in standard international signage, depicting an adult and a child walking. The illustration shall indicate by a diagonal line across the circle, that this action is prohibited.

ii. The signs shall be placed at the entrance to the treated areas.

(d) The use of aerosol generators in structures which are attached to or adjoining other occupied structures, or structures which have a common air handling system, shall require the notification of the occupants of those adjoining structures in the manner prescribed by (b) above. Crack and crevice applications and flushing agents are exempt from this requirement.

(e) Public health officials are exempt from the notification requirements, during the normal course of their duties.

New rule, R.1988 d.538, effective November 21, 1988.  
See: 20 N.J.R. 579(a), 20 N.J.R. 2865(a).

**7:30-9.11 Notification; turf or ornamental applications**

(a) At single family residences, no commercial application of pesticides shall be made for the control of turf or ornamental pests on residential properties without the following provisions being carried out:

1. Signs shall be posted on the treated property, at the start of the application and for at least 24 hours following the application, or longer if required by re-entry directions on the label;

- i. The signs shall bear the following information in letters at least one-half inch high: "Pesticide Treated Area";

- ii. The signs shall also contain a minimum two inch diameter circular illustration, in standard international signage, depicting an adult and a child on a lawn walking a dog on a leash. The illustration shall depict, with a diagonal line across the circle, that this action is prohibited;

- iii. The signs shall be placed in such a manner that they are clearly legible from all streets fronting the treated property and principal accesses to the property; and

- iv. The applicator business shall be responsible for posting and removing the signs; however, the applicator business may delegate to the contracting party, in writing, the removal of the signs.

2. No application shall be made until the contracting party has been given the opportunity to review the following information which shall be provided by the applicator business in writing:

- i. The proposed dates of the application;

- ii. The pesticides to be used (brand name and common chemical names, if available, of the active ingredients);

- iii. Label instructions relating to contracting party or general public safety, including precautions;

- iv. A copy of a Consumer Information Sheet which shall contain, at a minimum, the following:

- (1) The name, address and telephone number of the applicator business;

- (2) The telephone number of the New Jersey Department of Health for general health information and the New Jersey Poison Information and Education System telephone number for emergency situations;

- (3) A statement, in writing, that a copy of the labels for the pesticide used will be available if requested by the contracting party; and

- (4) The statement: "Pesticides are chemical substances used to control living organisms and vary in degree of toxicity. Pesticides may be a part of a

good pest control program. Sanitation, as well as physical and biological control measures, should be considered as another part of a good pest control program.

3. If the customer requests prior notification of the specific date of the application, such notification shall be provided by the applicator business.

(b) At multi-family residences and commercial buildings, no commercial application of pesticides shall be made for the control of turf or ornamental pests without the following provisions being carried out:

1. Signs shall be posted on the treated property at the start of the application and for at least 24 hours following the application, or longer if required by re-entry directions on the label.

- i. The signs shall bear the following information in letters at least one-half inch high: "Pesticide Treated Area";

- ii. The signs shall also contain a minimum two inch diameter circular illustration, in standard international signage, depicting an adult and a child on a lawn walking a dog on a leash. The illustration shall depict, with a diagonal line across the circle, that this action is prohibited;

- iii. The signs shall be placed in such a manner that they are legible from the principal access points to the treated area; and

- iv. The applicator shall be responsible for posting and removing the signs; however, the applicator may delegate to the contracting party, in writing, the removal of the signs.

2. No application shall be made until the contracting party has been given the opportunity to review the following information which shall be provided by the applicator business in writing:

- i. The proposed date of the application;

- ii. The pesticides to be used (brand name and common chemical names, if available, of the active ingredients);

- iii. Label instructions relating to contracting party or general public safety, including precautions;

- iv. A copy of a Consumer Information Sheet which shall contain, at a minimum, the following:

- (1) The name, address and telephone number of the applicator or applicator business;

- (2) The telephone number of the New Jersey Department of Health for general health information and the New Jersey Poison Information and Education System telephone number for emergency situations;

(3) A statement, in writing, that a copy of the labels for the pesticides used will be available if requested by the contracting party; and

(4) The statement: "Pesticides are chemical substances used to control living organisms and vary in degree of toxicity. Pesticides may be a part of a good pest control program. Sanitation, as well as physical and biological control measures, should be considered as another part of a good pest control program."

3. If the customer requests prior notification of the specific date of application, such notification shall be provided by the applicator or applicator business.

(c) At golf courses, no commercial application of pesticides shall be made for the control of turf or ornamental pests on golf courses without the following provisions being carried out:

1. Signs shall be posted at the starting tees so that the signs are visible to persons using the course.

i. The signs shall bear the following information in letters at least one inch high: "Pesticide Treated Area"; and

ii. The signs shall also include the following information which shall be changed as necessary:

(1) The dates of last application;

(2) The areas treated;

(3) The pesticides used (brand name and common chemical names, if available, of the active ingredient);

(4) The proposed dates of next application; and

(5) The name and telephone number of the person to contact for additional information.

2. If the golf course owner desires prior notification of the specific date of application, such notification shall be provided by the applicator business.

(d) At schools, institutions, parks and similar sites, no commercial application of pesticides shall be made for the control of turf or ornamental pests without the following provisions being carried out:

1. Signs shall be posted at the start of the application and remain for at least 24 hours following the application. The signs shall be posted in such a manner that they are legible from the principal access points to the treated areas such as athletic fields, play grounds and recreation areas.

i. The signs shall bear the following information in letters at least one-half inch high: "Pesticide Treated Area";

ii. The signs shall also contain a minimum two inch diameter circular illustration, in standard international signage, depicting an adult and a child on a lawn, walking a dog on a leash. The illustration shall depict with a diagonal line across the circle that this action is prohibited;

iii. The signs shall be posted for at least 24 hours following the application, or longer if required in re-entry directions on the label; and

iv. The applicator or applicator business shall be responsible for posting and removing the signs; however, the applicator may delegate to the contracting party, in writing, the removal of the signs.

2. No application shall be made until the contracting party has been given the opportunity to review the following information which shall be provided by the applicator business in writing:

i. The proposed dates of the application;

ii. The pesticides to be used (brand name and common chemical names, if available, of the active ingredients);

iii. Label instructions relating to building or site user or general public safety, including precautions;

iv. A copy of a consumer information sheet which shall contain, at a minimum, the following:

(1) The name, address and telephone number of the applicator or applicator business;

(2) The telephone number of the New Jersey Department of Health for general health information and the New Jersey Poison Information and Education System telephone number for emergency situations;

(3) A statement in writing that a copy of the labels for the pesticides used will be made available, if requested, by the contracting party; and

(4) The statement: "Pesticides are chemical substances used to control living organisms and vary in degree in toxicity. Pesticides may be a part of a good pest control program. Sanitation, as well as physical and biological measures, should be considered as another part of a good pest control program."

New rule, R.1988 d.538, effective November 21, 1988.  
See: 20 N.J.R. 579(a), 20 N.J.R. 2865(a).

#### 7:30-9.12 Additional notification

(a) The following applies to all applications covered by the household, structural, turf and ornamental notification rules at N.J.A.C. 7:30-9.10 and 9.11:

1. No person shall make a commercial application of pesticides for household, structural, turf or ornamental pest control without complying with (b) below where a person not previously notified requests to be notified of such an application or conditions indicate that notification in addition to that specified in this subchapter is necessary to prevent a significant risk of harm, injury or damage.

(b) When such need for notification is identified, notification shall be made and reasonable precautions taken, including the allowance of sufficient time for those notified to take appropriate precautions, before application may commence.

New rule, R.1988 d.538, effective November 21, 1988.

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

### 7:30-9.13 Farm worker safety

(a) Unless exempted from such requirements as provided in (l) below or, a longer reentry time is designated by this section or stated on the pesticide label, any farm worker shall not be permitted to enter any field treated with a pesticide until the pesticide sprays has dried or the pesticide dust has settled.

(b) Pesticides classified as EPA toxicity category one pesticides shall have a reentry time of at least 24 hours, except as otherwise provided in this section.

(c) A 48-hour reentry time applies after each application of a pesticide containing one of the following ingredients:

Bidrin	Metasystox-R
Carbophenothion	Methidathion (Supracide)
(Trithion)	Methyl Parathion
Demeton (Systox)	Mevinphos (Phosdrin)
Disulfoton (Di-Syston)	Parathion
Endosulfan (Thiodan)	Phorate (Thimet)
Endrin	Phosphamidon
Ethion	TEPP

(d) When more than one pound active ingredient per acre of parathion, methyl parathion, or EPN is applied singly or in combination to any plant, a 14 day reentry time applies.

(e) Any restriction against workers entering treated fields which appears on a label for a pesticide or any reentry time for a pesticide established by the EPA, providing such restriction or reentry time is more stringent than those of this section, shall take precedence over the provisions of this section.

(f) Workers who might reasonably be anticipated to unknowingly enter an area being treated or which has been treated with a pesticide for which the reentry time has not expired shall be warned orally in English. When workers do not understand English, the oral warning shall be in the primary language of such workers.

(g) When any pesticide having a reentry time greater than seven days is applied to a field, the posting of warning signs is required as follows:

1. Warning signs shall be posted at the usual points of entry to the field.

2. When treated fields requiring posting are adjacent to a public right-of-way and are unfenced, warning signs shall be posted at each corner of the field and at intervals not exceeding 600 feet in addition to the normal points of entry.

(h) The warning signs posted under the provisions of (g) above shall:

1. Be of such durability and construction that they will remain clearly legible for the duration of the reentry time.

2. Be of such size that the word "Danger" is readable and clearly visible at a distance of 25 feet and will be printed in English and a second language of the ethnic group usually employed as farm workers, substantially as follows:

Danger  
(name of pesticide)  
Treatment date  
Reentry date

3. Not be posted unless a pesticide application has begun or is scheduled within the next 24 hours.

4. Not be removed during the reentry time.

5. Be removed within five days after the end of the reentry time and before workers are allowed to enter to engage in an activity requiring substantial contact with treated plants.

(i) No person shall apply pesticides on a farm, in connection with the growing of an agricultural crop or commodity, without complying with the following provisions:

1. The following application information shall be posted at a central location, or at various assembly points throughout the farm, or at any other location to ensure that the information is visible and accessible to all farmworkers employed by the farm:

- i. The crop;
- ii. The brand or trade name, and common chemical name for the pesticide(s) applied to that crop;
- iii. The date and time for safe reentry by farmworkers;
- iv. The date of application; and
- v. The location of application, to be shown on the map required in (i)3 below.

2. The posted information shall have the following column headings printed in English and in the native

language(s) understood by farmworkers employed by the farm:

- i. Crop;
- ii. Name of Pesticide;
- iii. Safe Reentry Time;
- iv. Application Date;
- v. Application Location.

3. A map of the farm shall be posted at the same location as the written information designated in (i)1 and 2 above and shall be used to clearly designate the fields treated with pesticides.

4. The Department will develop and make available an example format for proper posting of written information. This example will be made available through agriculture-related organizations including the New Jersey Department of Agriculture, Rutgers Cooperative Extension, and the New Jersey Farm Bureau, and from the Department by mail at the following address:

Pesticide Control Program  
Farmworker Information  
CN 411  
Trenton, N.J. 08625

i. In lieu of the example format developed by the Department, a farm owner or lessee may use a different format if it conforms to the requirements of this subsection.

5. The posted information and map required in this subsection shall be updated by the end of the day of treatment, or before farm workers are permitted to enter the treated area, whichever comes first. This information shall remain posted for a minimum of 30 days after the restricted entry interval expires, as specified by the label of the pesticide product(s) used, or by New Jersey Law, whichever is more stringent.

i. As used in this paragraph (i)5, the term farm worker shall not include the owner, lessee, registered pesticide applicator, or registered pesticide operator, who applied or is in the process of applying a pesticide to the area, if protected by the proper personal protective equipment, as specified by the label of the pesticide product(s) used or by New Jersey Law, whichever is more stringent.

6. The provisions of this subsection shall not apply when there are no farm workers employed during the period specified in (i)5 above.

i. As used in (i)6 above, the term farm worker shall not include the owners or lessees themselves or members of their immediate family while they are performing tasks related to the production of agricultural crops or commodities, either on their own or their leased agricultural establishment.

(j) The persons responsible for compliance with the provisions of (a) to (i) above shall be:

1. The owner or lessee of the field being treated; and
2. The responsible private pesticide applicator for the application of the pesticide, providing the application is made by an applicator licensed or required to be licensed under the provision of N.J.A.C. 7:30-8.

(k) Any commercial pesticide applicator and pesticide applicator business performing any application of a pesticide having a reentry time subject to the provisions of this section, except (a) above shall, prior to the application, notify the owner or lessee responsible for the field being treated of the reentry time.

(l) The provisions of this section shall not apply to:

1. Mosquito abatement treatments and related public pest control programs;
2. Greenhouse treatments which are applied in accordance with labeling directions and restrictions;
3. Livestock and other animal treatments which are applied in accordance with labeling directions and restrictions;
4. Treatment of golf courses and similar non-agricultural areas which are applied in accordance with labeling directions and restrictions; and
5. Applications incorporated in the soil by mechanical means and in accordance with labeling directions and restrictions.

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

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

Recodified from 9.10 and deleted (m).

Amended by R.1992 d.509, effective December 21, 1992.

See: 24 N.J.R. 2776(a), 24 N.J.R. 4526(b).

Repealed and replaced (i); expanded pesticide application notice requirements.

#### 7:30-9.14 Reporting of pesticide spills

(a) Any registered pesticide applicator, or any registered pesticide applicator business, or any person required under the provisions of the Act and subchapters 6, 7, or 8 to be a registered applicator or applicator business, shall notify the Department of any reportable pesticide spill occurring under such person's direct supervision and/or direct observation and shall provide the following information:

1. The name of the pesticide applicator;
2. The name of the applicator business, if any;
3. The name of the property owner or operator;
4. The location of the incident;
5. The name and EPA registration number of the pesticide;
6. The estimated amount of pesticide involved; and



## 7. The corrective action taken.

(b) The report shall be made to the Department immediately and may be made by telephone to the Bureau of Pesticide Control or the Department Hotline at 609-292-7172. A written report of the pesticide spill, by the person responsible for the report pursuant to (a) above, shall be mailed to the Department within 10 days of the date of occurrence.

(c) The Department shall maintain a log dedicated to recording reports made pursuant to (a) and (b) above and shall immediately enter such reports upon receipt.

(d) Any pesticide applicator and/or pesticide applicator business shall be jointly and severally responsible for the reporting of a pesticide spill as required by this section.

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

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

Recodified from section 9.11 and changed "Office" to "Bureau".

**7:30-9.15 Accidental pesticide misapplications and spills**

(a) When, during the application of a pesticide, an accidental reportable pesticide spill has occurred, or if movement of a pesticide to a non-target site within a structure has occurred, no violation of this chapter shall be cited provided:

1. The person responsible for the application reports the spill or movement of the pesticide to the Department in accordance with N.J.A.C. 7:30-9.14;

2. Necessary procedures to cleanup the pesticide to a level deemed acceptable by the Department are immediately implemented to reduce or remove resultant contamination at the non-target site. The Department may, at its discretion, extend the time period of initiation of the cleanup; and

3. It can be adequately demonstrated to the Department that the following conditions relevant to the application were met:

i. No injury to persons or the environment resulted from the incident or the presence of the pesticide at the non-target site;

ii. All persons involved in the application were properly licensed under the provisions of this chapter;

iii. Equipment used during the application was properly maintained and/or calibrated;

iv. The record of pesticide application contains all mandated information; and

v. The application was performed in a manner consistent with the provisions of the Federal registered

label of the pesticide used and other restrictions as contained in the Act or this chapter.

**SUBCHAPTER 10. PESTICIDE USE****7:30-10.1 Definitions**

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

"Act" means the Pesticide Control Act of 1971 (N.J.S.A. 13:1F-1 et seq.) as amended.

"Active ingredient" means any ingredient which will prevent, destroy, repel, control, or mitigate pests, or which will act as a plant regulator, defoliant, or desiccant.

"Aerosol" means a suspension in air of fine liquid or solid particles between 0.1 to 100 microns in size which is produced by blasts of heated air, or exhaust gas, or rapid volatilization of a liquified gas or propellant, or mechanical aerosol generators.

"Agricultural aircraft operation" means the operation of an aircraft for the purpose of applying any pesticide directly affecting agriculture, horticulture, forest preservation, or for any other pest control operation.

"Agricultural commodity" means any plant or part thereof, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption propagation, or other use by man or animal.

"Agricultural crop" means a food produced by cultural treatment of land which is intended for human consumption, or for livestock the products of which are intended for human consumption.

"Aircraft" means a weight-carrying structure for navigation of the air that is supported either by its own buoyancy or by the dynamic action of the air against its surfaces and includes either fixed wing or rotary-wing aircraft.

"Application equipment" means any type of ground, water, or aerial apparatus or contrivance used to apply any pesticides.

"Basement" means any accessible space under a structure, wholly or partly below the surface of the ground, that is greater than six feet in height and contained by foundation walls.

“Brand” or “brand name” or “trade name” means the characteristic designation by words, symbols, name, number or trademark of a specific, particular pesticide or formulation thereof under which the pesticide is distributed, sold, offered for sale, handled, stored, used or transported in the State of New Jersey.

“Commercial boat yard” means any facility which engages for hire in the construction, storage, maintenance, repair, or refurbishing of vessels or any licensed independent marine maintenance contractor who engages in such activities.

“Commissioner” means the Commissioner of Environmental Protection in the State Department of Environmental Protection.

“Community or areawide” means any pesticide application performed on aggregate areas greater than three acres of land or water which is part of a pesticide control program administered by a governmental agency or which is contracted for or performed by one person who has control over the use of the land to which the pesticide is applied.

“Crawlspace” means any space under a structure that is six feet or less in height and contained by foundation walls.

“Department” means the State Department of Environmental Protection.

“Distribute” means to offer for sale, sell, barter, ship, or otherwise supply a pesticide.

“Drift” means the movement of a pesticide during or immediately after application or use through air to a non-target site.

“Emergency” means an occurrence which can impair the public health and safety or can cause harm, injury or damage to the environment or which presents a significant risk of harm, injury or damage.

“Environment” means water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these.

“EPA” means the United States Environmental Protection Agency.

“F.A.R.-137” means Federal aviation regulations relating to agricultural aircraft operations, Title 14 Code of Federal Regulations part 137.

“Fumigant” means a substance or mixture of substances which produces matter in a gaseous state, not including aerosols, intended to prevent, control, or destroy pests.

“Heating unit” means a furnace and any associated duct work.

“Inaccessible crawlspace” means any space under a structure which is not open to normal ingress from within and/or without the structure.

“Label” means the written, printed or graphic matter on, or attached to, the pesticide or any of its containers or wrappers.

“Labeling” means the label and all other written, printed, or graphic matter:

1. Accompanying the pesticide at any time; or
2. To which reference is made on the label or in literature accompanying the pesticide except that it does not include current official publications of the EPA, the United States Department of Agriculture and Interior, the Department of Health and Human Services, State experiment stations, state agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

“Low pressure injection” means the minimum amount of pressure required for the termiticide to clear the hose at the nozzle.

“Non-target site” means any location that is not a target site.

“Operation SAFE” means Self-regulating Application and Flight Efficiency, a program sponsored by the National Agricultural Aviation Association to improve agricultural aircraft operation by analysis of aerial spray deposition patterns and use of this information to calibrate such aircraft for the most effective placement of pesticides on a target site.

“Ornamental” means trees, shrubs, and other plantings in and around habitations generally, but not necessarily, located in urban and suburban areas, including residences, parks, streets, retail outlets, industrial and institutional buildings.

“Persistent pesticide” means any pesticide, or its metabolites of equal or greater toxicity, which will be present in the environment beyond one year from the date of application.

“Person” means and shall include corporations, companies, associations, societies, firms, partnerships, and joint stock companies as well as individuals, and shall also include all political subdivisions of this State or any agencies or instrumentalities thereof.

“Pest” means:

1. Any insect, rodent, nematode, fungus, weed, or
2. Any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria or other micro-organisms on or in living man or other animals) which is injurious to health or the environment.

"Pesticide" means and includes any substance or mixture of substances labeled, designed or intended for use in preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances labeled, designed, or intended for use as a defoliant, desiccant, or plant regulator; provided, that the term "pesticide" shall not include any substance or mixture of substances which EPA does not consider to be a pesticide.

"Pesticide spill" means any intentional or unintentional action or omission resulting in the releasing, discharging, leaking, pumping, pouring, emitting, emptying, or dumping of any pesticide to any location which is not a labeled and *intended site*.

"Plenum air space" means any space under a structure which acts as an air circulation chamber for air circulated throughout the structure.

"Private applicator" means any person who uses or supervises the use of any pesticide for purposes of producing any agricultural commodity on property owned or rented by him or his employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

"Psi" means pounds per square inch.

"Reportable pesticide spill" means:

1. Any spill of a termiticide inside a structure during treatment in a quantity of more than one gallon liquid of diluent and pesticide, or more than 50 square inches of contaminated surface area at any one injection point, or more than one square yard aggregate contaminated surface area on or at the base of any interior wall, through seepage or other cause; or

2. Any spill inside a structure of any pesticide of more than one gallon liquid of any combination of pesticide and/or diluent, or dry pesticide formulations containing one pound or more of active ingredient.

3. Any spill outside a structure of any pesticide containing one pound or more of active ingredient.

"Restricted use pesticide" means any pesticide or pesticide use so classified under the provisions of N.J.A.C. 7:30-2, or so classified by the Administrator of the United States Environmental Protection Agency.

"Retreatment" means the reapplication of a pesticide, whether or not it is the same concentration or formulation as applied initially, to a structure or any part thereof, provided the application is for the control of the same pest as initially treated.

"Right of way" means the surface of a paved or unpaved road and its adjacent shoulders, whether paved or unpaved.

"Rodding" means the application of a pesticide by means of the vertical or horizontal insertion of section treating rods or subslab injectors into the soil to a depth of at least four inches when the injection site is visible, beneath the soil surface when the injection site is not visible to the applicator, as when treating an inaccessible sub-floor area from the outside, and beneath slab on grade construction.

"Sandy soil" means soil containing 70 percent or more of sand particles and 0-30 percent of any combination of silt, clay, and/or other soil material.

"Service container" means any container, other than the original labeled container of a registered pesticide provided by the registrant which contains the original material, that is utilized to hold, store or transport a pesticide concentrate or a pesticide use-dilution preparation.

"Structure" means any building or part thereof, including outside extensions such as patios, which are included as sites to which a pesticide is to be applied.

"Subterranean application" means the placement of any pesticide:

1. Under or adjacent to structures by trenching;
2. Under slabs or under or within six inches of foundation walls by rodding; or
3. Within the interior voids of foundation walls.

"Target site" means a specific location, including but not limited to, any crop, commodity, object, delineated field or area, or structure or part thereof, that is intended to be treated by a pesticide so that any pests therein or thereon are controlled. This term does not include any similar site which was not a part of the original agreement between the contracting parties even if such site is included on the label or labeling of a pesticide.

"TBT antifoulant paint" means any paint formulation containing any tributyltin compounds having three normal butyl groups attached to a tin atom and with an anion such as chloride, fluoride or oxide.

"Termiticide" means any pesticide labeled, designed, or intended for use in preventing, destroying, repelling or mitigating termites.

"Trench" or "Trenching" means the application of a pesticide by means of the excavation of a narrow ditch and the application of the pesticide into the ditch. It may also mean treatment of successive layers of the excavated soil as it is replaced into the trench. A trench shall be as wide as necessary to effectuate treatment, but in no case may the layer of pesticide treated soil extend more than 10 inches horizontal linear distance from the structural wall.

"Use" means any act of handling or release of a pesticide, or exposure of man, property, or the environment to a pesticide through acts which include but are not limited to:

1. Applying a pesticide, including mixing and loading and any required supervisory action in or near the area of application;
2. Handling, transporting, or storing a pesticide or pesticide container;
3. Disposal actions for a pesticide and/or containers or equipment associated with the pesticide.

"Vessel" means every description of watercraft, other than a seaplane, used or capable of being used as a means of transportation on the water, whether self-propelled or otherwise, and includes barges and tugs.

"Waters" or "waters of the State" means the ocean and its estuaries, all springs, streams, and bodies of surface or groundwater, whether natural or artificial, within the boundaries of the State or subject to its jurisdiction.

"When unattended" means a situation wherein the person or a knowledgeable employee of the person possessing a restricted use pesticide or container contaminated by residues of restricted use pesticides either is not present at the storage site or is present but is so located that he cannot immediately detect and respond if any unauthorized second party enters the storage site.

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

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

Substantially amended.

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

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

Substantially amended.

### 7:30-10.2 Restriction of pesticide use

(a) Upon determination that a specific use of any pesticide or group of pesticides consistent with the Federal registered label or labels presents a significant risk of harm, injury or damage, the Department may place restrictions on such use of the pesticide or group of pesticides as deemed necessary by the Department.

(b) All applications performed with any pesticide on which the Department has imposed restrictions as authorized by (a) above, must be done in accordance with both the pesticide label directions and any additional restriction. If the Federal registered label is revised by EPA to be more stringent than the restrictions imposed by the Department, then such amended more stringent label shall take precedence, consistent with effective dates of such more stringent requirement as may be provided by the EPA.

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

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

Deleted old section "Community or areawide mosquito or fly applications".

### 7:30-10.3 Pesticide use and/or application

(a) No person shall use or apply a pesticide in a manner inconsistent with its Federal or State registered label or labeling or restrictions as provided for in this chapter.

(b) No person shall transport, handle, store, mix or load any pesticide or pesticide container in a manner that causes harm, injury or damage to persons, property or the environment, or a significant risk of harm, injury or damage.

(c) No person shall apply pesticides in a manner that causes harm, injury or damage to persons, property or the environment, or a significant risk of harm, injury or damage.

(d) No person shall directly apply any pesticide to a non-target site.

(e) No person shall make any application of a pesticide unless he takes reasonable precautions, before, during and after the application, to minimize exposure of individuals to the pesticide and insure the safety of any individuals necessarily exposed. Such precautions shall include, but not be limited to transmittal from the applicator to the exposed and/or potentially exposed individual of precautionary label statements relevant to such individuals.

(f) No person shall make an application of a pesticide to a target site in such a manner or under such conditions that drift or other movement of the pesticide, which is avoidable through reasonable precautions, infringes on a non-target site.

(g) No person shall clean or rinse containers or application equipment which holds or has held a pesticide in a manner that causes harm, injury or damage to persons, property or the environment, or a significant risk of harm, injury or damage.

(h) No person shall add water to any pesticide handling, storage, or application equipment via a hose, pump, or other equipment unless such hose, pump, or other equipment is fitted with an effective valve or device to prevent backflow of pesticides or liquids containing pesticides into water supply systems, streams, lakes, other sources of water or other areas.

(i) No person shall mix or apply or use a pesticide unless a readable copy of the registered label for the pesticide which is being mixed or applied is available at the application or mixing site.

(j) No person shall apply or use pesticides on a field or any other area used for agricultural purposes when persons other than those involved in the application or evaluation of the applied pesticide are within the boundaries of the target site to which the pesticide is being applied; unless such persons have appropriate protective clothing and/or equipment as required by the labels or labeling of the pesticides being applied.

(k) No person shall perform a community or areawide pesticide application for gypsy moth control during normal student commuting times, as determined by the local school district, within two miles of a school including part or all of grades K through 8 and within two and one-half miles of a school including part or all of grades 9 through 12. Provisions of this subsection shall not apply on those days when a school is not in session.

(l) No person shall apply a community or areawide application of a pesticide product, which has information on its label or labeling noting that the product is toxic to bees, on hardwood tree species within one mile of a commercial blueberry field during the period April 15 through May 31 unless:

1. The applicator has received written permission to perform the application from all blueberry growers located within the one mile distance.

(m) No person shall make an application of a fumigant unless at least one applicator certified and registered in the fumigation subcategory as described in N.J.A.C. 7:30-6.3(a)7iii or the food manufacturing and processing subcategory as described in N.J.A.C. 7:30-6.3(a)7iv is present at the application location for the duration of the application.

(n) No person shall make an application of a pesticide containing diazinon to sod farms, golf courses, or other turf areas greater than three acres, or to other general turf areas of three acres or less that evidence indicates are frequented by waterfowl.

(o) No person shall make an application of any pesticide, except for rodenticides, roach baits and antimicrobial agents, in or around a school in grades preschool through 12, during normal school hours, as set by the school administration. After normal school hours, applications can be made in areas where students will not contact treated areas until sufficient time is allowed for the pesticide to dry or settle or longer if the label requires. This subsection is not applicable to the application of pesticides for student instructional purposes and to public health officials during the normal course of their duties.

(p) No person shall make an application of a TBT anti-foulant paint unless applied:

1. Within a commercial boat yard; and
2. To vessels which exceed 25 meters (82.02 feet) in length or which have aluminum hulls.

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

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

Old section was "Aquatic use permits".

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

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

Deleted text from (h) "except that such . . ."; deleted text from (k) "between 7:30 and 8:30 A.M." and added "during normal student . . . local school district"; added (m)-(p).

#### Case Notes

Action alleging violations of Pesticide Control Act was not premature. *State, Dept. of Environmental Protection v. Larchmont Farms, Inc.*, 266 N.J.Super. 16, 628 A.2d 761 (A.D.1993), certification denied 135 N.J. 302, 639 A.2d 301.

Summary proceedings to enforce agency orders; action brought for alleged violations of Pesticide Control Act. *State, Dept. of Environmental Protection v. Larchmont Farms, Inc.*, 266 N.J.Super. 16, 628 A.2d 761 (A.D.1993), certification denied 135 N.J. 302, 639 A.2d 301.

#### 7:30-10.4 Restrictions on use of termiticides

(a) No person shall make an application of a pesticide for control of termites unless at least one applicator certified and registered in the termite subcategory as described in N.J.A.C. 7:30-6.3(a)7ii is present at the application location for the duration of the application.

(b) No person shall apply any termiticide without first pressurizing the application equipment and inspecting for leaks, including but not limited to observation of the tank, pump, hose, fittings, and injection apparatus. Any leak detected during this inspection shall be repaired prior to starting the application. If any leaks are detected during the application, the application shall immediately cease until the leak has been repaired and the spill soaked up with an absorbent material. Provisions of N.J.A.C. 7:30-9.15 shall also apply.

(c) All pressurized termiticide application equipment must be equipped with a properly operating pressure gauge, accurate to within plus or minus 5 p.s.i. Provisions of this subsection do not apply to hand-held pressurized tank type sprayers which may be used for control of swarming termites with pesticides labeled for this use.

(d) No person shall add water to any termiticide application equipment unless adequate provision is made for prevention of backflow as stated in N.J.A.C. 7:30-10.3(h).

(e) When treating a structure with a termiticide, hoses acting as the conduit between the tank holding the termiticide and the injection apparatus shall be routed through the structure in the manner most likely to minimize the potential for contamination should a hose rupture during treatment. Whenever possible, keep hoses outside of the structure being treated.

(f) No organo-chlorine termiticide may be sprayed onto any interior surface exposed to the air or injected into wood structural elements in any post-construction termite application.

(g) No person shall make a subterranean application of a termiticide to soil along the exterior of a foundation wall by rodding or trenching unless:

1. The surface of the treated soil is covered with at least one-half inch of untreated soil, except in the erosion prone areas as provided in 4 below.

2. When backfilling a trench with soil removed prior to starting the application, the final layer of backfill is not added until all the termiticide puddles have been absorbed into the bottom of the trench.

3. Visible holes, cracks, and other above grade surface openings in the foundation wall which extend below the level of the outside grade are filled with mortar or other suitable material to the extent feasible prior to the application to prevent infiltration of pesticides into basements or crawlspaces.

4. Soil in areas along a foundation obviously prone to erosion, such as soil immediately adjacent to a gutter down-spout, shall have treated soil covered with enough untreated soil to prevent the erosion from reaching the treated layer, but in no case less than two inches of untreated soil.

5. Provisions of this subsection shall not apply when the soil removed by trenching is treated away from the site as provided in (p)5iv below except coverage with at least one-half inch or two inches of untreated soil is required as in (g)1 and 4 of this subsection.

(h) Voids in foundation walls may be left untreated when deemed appropriate, in the experience of the applicator and after review of the structure and evidence of damage or infestation therein, to effect a successful treatment. Upon selection of this option, with subsequent discovery of continued infestation necessitating treatment of the voids, treatment shall be performed consistent with label directions and the provisions of (i) below.

(i) No person shall make an application of a termiticide into voids of foundations unless done pursuant to the following restrictions listed by foundation type:

1. Hollow block, brick, and tile foundations shall:

i. Be capped at the top of the foundation with cement, mortar, or other suitable material in such a manner as to completely seal the opening;

ii. Have all visible holes, cracks, and other openings sealed to the extent feasible prior to treatment; and

iii. Have any paneling or other wall covering, as in the case of (i)1ii above or, have a member of the termite application crew inside the basement during treatment observing for evidence of leaks. If a leak is observed by such crew member, application shall immediately cease, the spill be absorbed, the paneling or other wall covering removed, and any visible holes or cracks sealed prior to continuing treatment. If this second option is selected, other clean-up procedures, to be determined by the Department when discovered or reported pursuant to N.J.A.C. 7:30-9.14, may be required in addition to absorption of the termiticide.

2. Rubble and stone foundations shall:

i. When the mortar is in good condition, have test holes drilled, any of which reaching voids may be treated as consistent with label directions. Test holes not reaching voids shall be left untreated and must be sealed along with the treated holes after application;

ii. When the mortar is in poor condition as determined by inspection or test application using water only, the inside wall must be sealed with cement or equivalent covering prior to treatment, or the voids injected with a pesticide, other than an organo-chlorine, which is federally registered for this use;

iii. Be injected only with low pressure injection; and

iv. Be injected only in conjunction with positive ventilation using fans inside the basement and/or crawlspace to remove solvent and pesticide vapors from the treated structure.

(j) No person shall treat the void behind a brick, stone, or other veneer on the exterior of a structure with an organo-chlorine termiticide unless the injections hole is below the top of the foundation. If treatment is required above the foundation, application must be made with a pesticide, other than organo-chlorine, which is Federally registered for use at this site.

(k) No person shall make a subterranean application of any termiticide to a basement floor, unless applied pursuant to the following restrictions listed by structural floor type and/or condition:

1. Exposed soil basement floors shall be treated by shallow trenching adjacent to the foundation, rodding or flooding the trench and backfill or covering with at least two inches of untreated soil.

2. Wood basement floors over soil shall be treated by removal of the wood floor and treating the perimeter consistent with label directions and 1 above. Treated soil shall be covered with at least two inches of untreated soil or the entire soil floor covered with a concrete slab.

3. Concrete slab floors with an expansion joint more than 1/4 inch wide shall be treated by first sealing the expansion joint with cement, mortar, or equivalent material and then treating consistent with label directions.

4. Concrete slab floors with a French drain system shall be treated by low pressure injection beneath the slab and/or expansion joint with a pesticide, other than an organo-chlorine, labeled for this site.

5. Basement floors which are very wet and the source of the water is a high local water table which is known to the person contracting for the termite treatment and communicated to the applicator, or basement floors which have a sump pump pit in which there is standing water, or basement floors which are wet and the proximate cause is readily identifiable to a person using reasonable care in inspecting the premise to be treated, shall not be treated unless it can be determined that the site of injection is above the level of the surrounding water table.



(l) No person shall make a subterranean application of a termiticide to a crawlspace unless applied pursuant to the following restrictions listed by structural type and/or other conditions:

1. Accessible crawlspaces with no heating unit present and with exposed soil shall be treated by shallow trenching adjacent to the foundations, application consistent with label directions for trenching and then coverage of the treated soil with a minimum of two inches of untreated soil.

2. Accessible crawlspaces with no heating unit present and with the soil covered with a thin grout or equivalent material shall be treated consistent with label direction for treatment of slabs, unless the grout or equivalent material breaks up upon drilling, whereupon these areas shall be sealed with concrete or equivalent material in such a manner as to adequately close all holes, cracks, or seams resultant from the treatment. Coverage of the treated surface with a minimum of two inches of untreated soil is also acceptable.

3. Accessible crawlspaces with a heating unit present shall be treated consistent with (l)1 or 2 of this subsection, any air intakes in the heating unit which draw air from the crawlspace shall be ducted to the exterior of the building and seams on the ducts inspected for tightness of fit and taped or equivalently sealed as necessary. In addition, adequate cross-ventilation must be present or shall be provided prior to treatment with a minimum total ventilation opening size requirement of 1/150th of the square footage of the crawlspace surface. As an alternative, this crawlspace may also be treated as in (l)4 below.

4. Accessible plenum crawlspaces shall be treated consistent with (l)1 or 2 above, but only with a termiticide other than an organo-chlorine which is labeled for this site and only in conjunction with positive ventilation during and for 24 hours following the end of the plenum crawlspace treatment. Only low pressure injection shall be used and the point of termiticide injections shall be at least four inches beneath the crawlspace floor. Immediately following treatment, cover treated soil with at least 4 mil polyethylene or equivalent sheeting as may be approved by the Department. Occupants of the treated structure shall be advised to vacate during treatment and for the 24 hour aeration period.

(m) No person shall make a subterranean application of a termiticide to an inaccessible crawl space unless applied pursuant to the following restrictions:

1. Access shall be created to permit visual inspection of the area to be treated.

2. If there is a minimum of two feet of clearance between the soil surface and the bottom of the floor joists, treatment shall be made consistent with label directions using the access point in 1 above.

3. If there is less than two feet of clearance and if entry can be made into the area to be treated, remove soil to obtain adequate clearance and treat consistent with label directions, or;

- i. If the ceiling of the space is concrete, drill through the foundation walls from the exterior at an angle and rod beneath the soil surface or drill vertically through the top of the concrete and rod beneath the soil surface; or

- ii. If the ceiling of the space is wood, apply as in 3.i. above, but only with a termiticide other than an organo-chlorine.

(n) No person shall make a subterranean application of a termiticide to a slab unless applied in accordance with the following restrictions by slab type and/or other conditions:

1. Prior to treatment, inspect the structure containing the slab to determine the location of utility lines, sewer waste lines, water shut-off valves, radiant heat and hot water baseboard heat lines and any other conduits or ducts that may be contained therein.

2. When slabs are drilled from the inside, a device such as a drill stopper must be used.

3. Each hole drilled through the slab shall be plugged immediately following treatment by sub-slab injector. Such plug may be temporary, until permanently sealed following completion of the job, with mortar or equivalent material.

4. Wood on slab construction shall be drilled and treated as in (n)2 and 3 above, except only low pressure injection shall be used and the quantity of termiticide pumped into each hole shall not be great enough to cause excess termiticide to emerge from adjacent holes.

5. Slabs covering or containing air ducts may be treated with an organo-chlorine termiticide if the treatment is limited to outdoor trenching or rodding on the exterior of the foundation, or the air circulation ducts are securely and permanently filled at the duct openings with a concrete or equivalent plug, any visible cracks or seams in the slab surface sealed, and the slab then treated consistent with label directions.

6. Slabs covering or containing air ducts may be treated with a termiticide, other than an organo-chlorine, without sealing of the duct openings and installation of an alternative air circulation/heating system provided:

- i. There is evidence of an existing termite infestation in the structure;

- ii. The exact location of the air ducts can be determined;

- iii. Application under the slab is limited to gravity or low pressure injection;

iv. At least one member of the termite application crew is familiar with initial duct decontamination procedures;

v. Equipment necessary to facilitate initial clean-up, should accidental contamination occur, shall be present at the application location. The equipment shall include, but not be limited to, a wet/dry vacuuming system, spill absorbent material, five gallons of sodium hypochlorite and filters of charcoal or comparable efficacious material sized for or capable of being readily adapted for use in the type ducts and/or heating system present; and

vi. The applicator obtains a signed statement from the contracting party for whom the termite treatment is to be performed, requesting such treatment, and stating that the contracting party understands the potential for contamination of the air ducts and resultant possible required modifications to the heating system.

(o) Accidental duct contamination resultant from an application performed in strict accordance with (n)6i-vi above shall be subject to reporting and review under the provisions of N.J.A.C. 7:30-9.14.

(p) No person shall make a subterranean application of a termiticide to a property on which wells and/or related water sources are located unless applied pursuant to the following restrictions:

1. If the well or other water source is within the linear distance of the treatment site as provided in (p)4 below and if a connection is made to a public water supply system the well shall be sealed according to the specifications of the Division of Water Resources at N.J.A.C. 7:9-9.9.

2. Do not treat any structure if a well, cistern, or spring, currently in use or capable of being used, is located within the foundation walls, except subterranean application around the perimeter of the foundation.

3. If a well is down grade (at a lower elevation) from the application site, and there is a structural conduit, such as a paved driveway between the well and the application site, provision must be made to block the conduit or dike the area around the well to prevent movement of the termiticide to the well should a spill occur.

4. If the well or other water source is more than 20 feet from the treatment site in sandy soil, or more than 100 feet in other soils, treatment shall be consistent with label directions.

5. If the well or other water source is located closer to the treatment site than as stated in 4 above, treat as follows:

- i. The foundation wall voids shall not be treated;

- ii. The soil outside the foundation within two feet of the water or septic lines shall not be treated, except as provided in iv below.

- iii. To treat the soil adjacent to the foundation within the linear distance specified in 4 above, other than that through or adjacent to which water or sewer lines run, dig a shallow trench adjacent to the foundation and flood it with termiticide. Allow the termiticide to seep downward with gravity. Do not rod under pressure; or

- iv. Remove soil from grade to top of footing, place it on polyethylene sheeting, mix the termiticide with it, permit to dry a minimum of 15 minutes, and replace the soil into the trench.

- v. Soil within two feet of the water or sewer lines must be treated as provided in iv above; and not by trenching or gravity treatment, unless left intentionally untreated as in ii above.

- vi. Soil adjacent to the foundation which is covered by a concrete or other soil covering shall be treated by drilling through the covering surface at a maximum of one foot intervals and using a funnel to gravity feed the correct quantity of termiticide into each hole. Do not apply the termiticide under pressure.

- vii. If the soil beneath the basement floor must be treated, space treatment holes a maximum of one foot apart and apply using a funnel as in vi above.

(q) Retreatments with termiticides are allowed only when there is evidence of reinfestation subsequent to the initial treatment, or if there is a disruption of the pesticide barrier in the soil due to construction, excavations, or landscaping. In cases of disruption of the soil barrier, only those locations where this occurred may be retreated. In cases of evidence of termite infestations, the entire premises may be treated if:

1. The history of treatment of the structure is not known and cannot be readily determined, or

2. Live termites are found on or within the structure.

(r) For purposes of interpretation of (q)1 above, retreatment by the same person as originally performed the initial treatment shall presume knowledge of the history of treatment.

(s) Prior to entering into any contract to apply a termiticide, the applicator shall provide the contracting party with a copy of the Federal registered label of the pesticide to be used and a copy of this section (N.J.A.C. 7:30-10.4). The applicator may provide a summary in lieu of a copy of N.J.A.C. 7:30-10.4, subject to the approval of the summary by the Department.

(t) A diagram of the structure to be treated, depicting the lower level of the structure, the location of termite infestations and visible damage, areas treated and any significant items such as location of known wells, drainage systems, streams and ponds which may be affected by the application shall become a part of the termite application records and shall be maintained by the applicator for a minimum of five years.

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

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

Originally "Storage of pesticides".

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

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

Substantially amended.

### 7:30-10.5 Aerial application of pesticides

(a) All agricultural and aircraft operations in New Jersey shall comply with those parts of F.A.R.-137 not covered in this section. In the case of conflict, a regulation of F.A.R.-137 shall take precedence over any of this section.

(b) The pilot of an agricultural aircraft shall, prior to any pesticide application, learn and confirm:

1. The boundaries and exact location of the target area(s); and
2. The identity of non-target areas and safety hazards located on or adjacent to the target area.

(c) Spray and spreading equipment shall be thoroughly rinsed after each agricultural aircraft operation, except when the next application will be made using the same pesticide or, if another pesticide is to be used, it is compatible with that previously in the equipment and will not result in illegal residues or significant risk of injury or damage when applied to the new target site.

(d) During pesticide application, the flow and mixture of the pesticide(s) shall be uniform and applied with spray or spreading equipment suited for the pesticide(s) used. Application equipment shall be properly calibrated, according to the manufacturers' specification for the equipment utilized, for the specific type of pesticide application being performed and proof of this proper calibration shall be maintained by the aerial pesticide applicator business and be available, upon request, to the Department.

(e) For interpretation of (d) above, participation of the individual aircraft in the Operation SAFE program shall presume proper equipment calibration; providing, the type of application(s) for which it is calibrated remains the same and the equipment set-up is not modified from that determined to be the most efficient under Operation SAFE.

(f) Participation of each aerial pesticide applicator business in the Operation SAFE program shall be mandatory; providing, the program addresses the type of application to be performed and providing the program is offered within New Jersey and for a sufficient time period to allow this participation.

(g) Aircraft of the exact type and conformation, including but not limited to the application equipment utilized, shall also be considered to be properly calibrated if set up to the specification determined from Operation SAFE to be the most efficient for that type aircraft; provided, this extension provision shall only apply to aircraft owned and operated by the aerial pesticide applicator business that has calibrated at least one of each type of aircraft under Operation SAFE.

(h) The Department may require full participation of all aerial application aircraft if experience in working with the Operation SAFE program shows the need, as determined by the Department, to require the participation of each aircraft regardless of sameness of conformation.

(i) All aerial spray or spreading equipment shall be free of leaks and shall have a positive shutoff system to prevent leaking and dissemination of pesticide on any non-target areas over which the flight is made.

(j) The shape of the tank or hopper of the spray or spreading equipment shall be such as to allow the complete drainage during flight and on the ground.

(k) Any emergency or accidental release of pesticide(s) from the aerial application or auxiliary equipment shall be subject to the reporting provisions of N.J.A.C. 7:30-9.11.

(l) All pesticides applied aerially as liquids, in liquid carriers, or as dusts shall be released within 15 feet above the target, except for applications to forests and/or trees, such application height shall be within 50 feet above the target, and except where obstructions in or adjacent to the target would endanger the safety of the pilot while applying pesticides at that altitude.

(m) All pesticide applied aerially as dry granules or pellets shall be released within 40 feet above the target, except where obstructions in or adjacent to the target would endanger the safety of the pilot while applying pesticides at that altitude.

(n) No aerial pesticide application for non-agricultural purposes and using rotary wing aircraft shall be performed on a target site less than three contiguous acres in size.

(o) No aerial pesticide application for non-agricultural purposes and using fixed-wing aircraft shall be performed on a target site less than ten contiguous acres in size.

(p) Aerial pesticide application to an agricultural commodity may be performed on any size field; providing, the field being sprayed is part of a larger property of five or more acres wholly owned or controlled by the person contracting for the application.

(q) No pesticide shall be applied by aircraft within 300 feet horizontally of the premises of schools, hospitals, nursing homes, houses of religious worship, or any building, other than a private residence, which is used for business or social activities, if either the premise or the building is occupied by people, except:

1. Pesticide application within 100 feet of a building used for an agricultural business shall be allowed; providing, only a general use pesticide is applied and warning is given prior to application so that doors and/or windows on the building are closed and the occupants thereof allowed time to vacate the building.

(r) No pesticide shall be directly sprayed by aircraft on the right-of-way of a public road, except when the right-of-way is included as the target site.

(s) No pesticide shall be deposited by aircraft within 100 feet of any private residence unless the aerial pesticide applicator and/or applicator business has written consent of an inhabitant of said private residence of legal age. The aerial pesticide applicator and/or applicator business shall obtain the written consent, or the party who is contracting for the services of an aerial pesticide applicator and/or applicator business shall obtain the written consent and forward it to the aerial pesticide applicator and/or applicator business for record keeping purposes. The consent agreement shall include:

1. The date of agreement;
2. The time period for which the consent is valid;
3. The location or designation of the private residence; and
4. The signature of the consenting inhabitant of the private residence.

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

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

1. During an emergency proclaimed by the Commissioner, specific aerial applicators may be exempted from all, or from specific regulations as deemed necessary by the Department to handle the emergency situation.
2. Any State, Federal, or public agency or aerial applicator under contractual agreement with such an agency when conducting a pest control operation shall be exempted from (l) through (n) and (g) through (s) above.
3. The provisions of (s) above shall not apply to any private residence that is occupied by the person contracting to have the spray performed and which is located on a property which includes the target site.

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

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

Originally "Containers and container labeling".

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

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

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

#### 7:30-10.6 Pesticide contamination cleanup

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

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

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

1. Any application and/or spill or a persistent pesticide to a non-target site, as determined by review of the product's Federal registered label or other use restrictions adopted under the authority of N.J.A.C. 7:30-10.2(a); or
2. Any application of a pesticide to a non-target site where evaluation of the pesticide use pattern in conjunction with properties of the pesticide in addition to persistence, are deemed by the Department to present a significant risk of harm, injury or damage.

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

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

Originally "Pesticide use and/or application".

#### 7:30-10.7 Assessment of fees for sample analysis

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

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

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

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

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

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

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

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

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

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

Originally "Disposal".

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

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

Added (b)-(f).

### 7:30-10.8 Submission of data on pesticide use

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

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

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

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

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

Originally "Notification: community or areawide applications".

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

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

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

## SUBCHAPTER 11. EMERGENCY CONTAINMENT AND DISPOSAL OF PESTICIDES

### Subchapter Historical Note

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

### 7:30-11.1 Pesticides in water

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

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

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

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

### 7:30-11.2 Disposal of pesticides

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

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

See: 3 N.J.R. 176.

**7:30-11.3 Plan of disposal**

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

1. That such disposal will not result in the contamination of the air or of any surface waters, ground waters, potable waters or any other waters of this State.

2. That such disposal will not result in the incineration or placement in any landfill, dump or refuse disposal area of any pesticide, except as may be approved in writing by said Department; and

3. That such disposal will not endanger the public health, safety or welfare.

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

See: 3 N.J.R. 176.

**7:30-11.4 Disposal defined**

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

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