

PUBLIC HEARING

before

SENATE ENERGY AND ENVIRONMENT COMMITTEE

on

SENATE BILL 1342

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

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

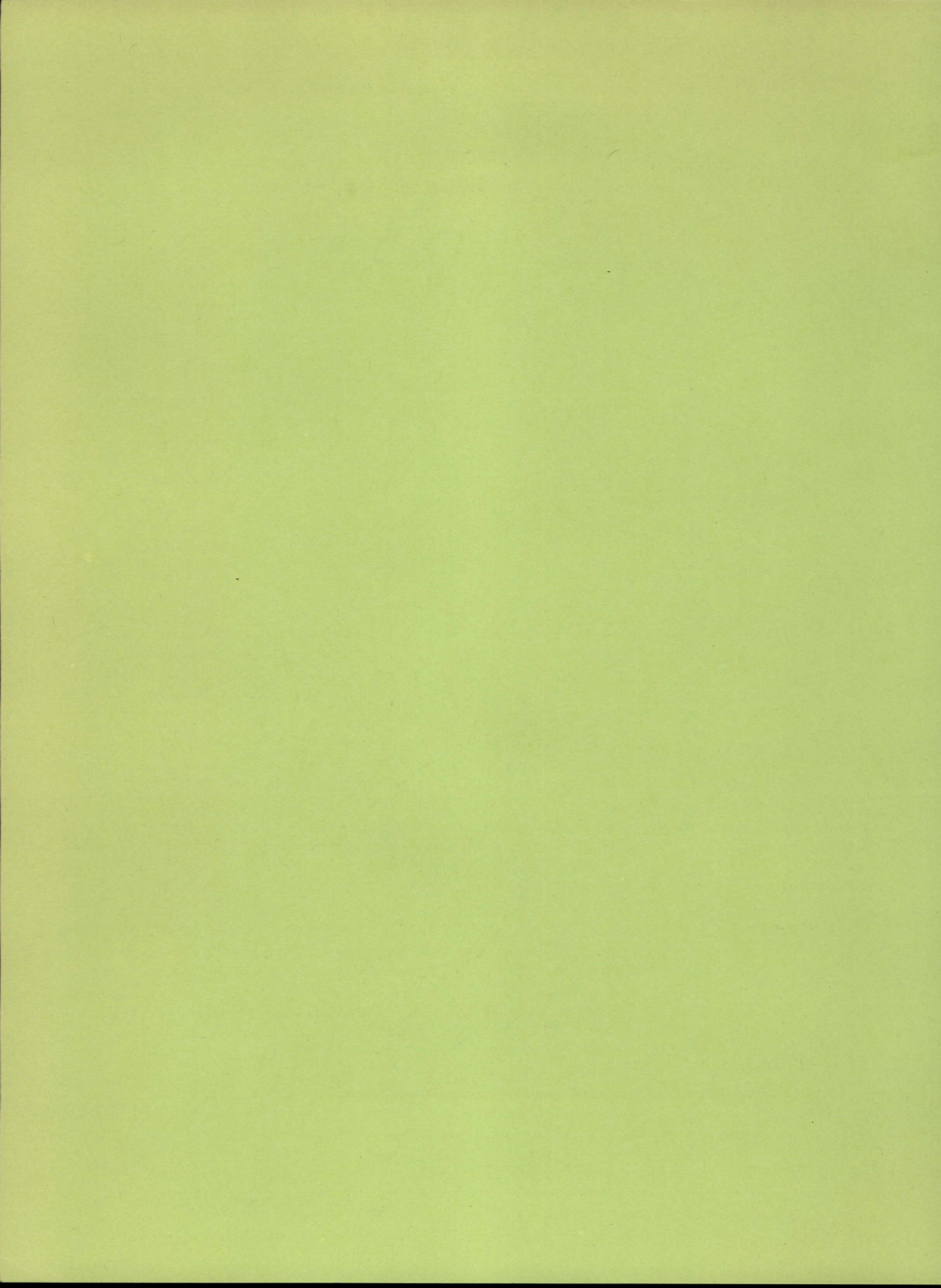
MEMBERS OF COMMITTEE PRESENT:

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

ALSO PRESENT:

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

New Jersey State Library



SENATE, No. 1342

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 23, 1984

By Senator LESNIAK

Referred to Committee on Energy and Environment

AN ACT concerning pesticides, amending and supplementing P. L. 1971, c. 176, amending P. L. 1981, c. 538 and supplementing chapter 7 of Title 4 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 3 of P. L. 1971, c. 176 (C. 13:1F-3) is amended to read
2 as follows:

3 3. For purposes of this act, unless the context clearly requires
4 a different meaning:

5 a. "Person" means and shall include corporations, companies,
6 associations, societies, firms, partnerships and joint stock com-
7 panies as well as individuals, and shall also include all political
8 subdivisions of this State or any agencies or instrumentalities
9 thereof.

10 b. "Pesticide" means and includes any substance or mixture of
11 substances labeled, designed, intended for or capable of use in
12 *controlling by* preventing, destroying, repelling, sterilizing or miti-
13 gating any insects, rodents, nematodes, predatory animals, fungi,
14 weeds and other forms of plant or animal life or viruses, except
15-16 viruses on or in living man or other animals. The term "pesticide"
17 shall also include any substance or mixture of substances labeled,
18 designed or intended for use as a defoliant, desiccant or plant
19 regulator.

20 c. "Commissioner" means the Commissioner of Environmental
21 Protection in the State Department of Environmental Protection.

22 d. "Department" means the State Department of Environmental
23 Protection.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.
Matter printed in italics thus is new matter.

24 e. "Council" means the Pesticide Control Council.

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

28 g. "Target site" means a specific location, including but not
29 limited to any crop, commodity, object, demarcated field or area, or
30 structure or part thereof, that is intended to be treated by a pesti-
31 cide so that any pests therein or thereon are controlled. No site
32 included on the label or labeling of the pesticide may be considered
33 a target site unless the site is specifically intended to receive such
34 application of the pesticide.

1 2. Section 4 of P. L. 1971, c. 176 (C. 13:1F-4) is amended to read
2 as follows:

3 4. The commissioner shall [have the power to formulate and
4 promulgate] **adopt**, amend and repeal orders, rules and regulations
5 prohibiting, conditioning [and] or controlling the sale, purchase
6 transportation, labeling, use and application, or any combination
7 thereof, of pesticides which cause or may tend to cause adverse
8 effects on man or the environment by any person within this
9 State. *These regulations shall be designed to eliminate the adverse*
10 *effects of pesticides within the limits of technical feasibility. Upon*
11 *a determination that, with respect to a particular pesticide the*
12 *elimination of adverse effects is not feasible and that no less*
13 *harmful procedure or substance is available of comparable effec-*
14 *tiveness, the department shall adopt regulations designed to mini-*
15 *mize the adverse effects of that pesticide. State rules and regula-*
16 *tions with respect to the labeling of any pesticide, the labeling of*
17 *which is prescribed by federal law and regulations, shall [to the*
18 *extent practicable] conform to the federal requirements.*

1 3. Section 3 of P. L. 1981, c. 538 (C. 13:1F-15) is amended to
2 read as follows:

3 3. a. Every pesticide which is held, used, distributed, sold, or
4 offered for sale within this State or delivered for transportation or
5 transported in intrastate commerce or between points within this
6 State through any point outside this State shall be registered
7 annually with the department. All [registration] *registrations* of
8 products shall expire on December 31, following date of issuance,
9 unless such registration shall be renewed annually, in which event
10 the expiration date shall be extended for each year of renewal reg-
11 istration, or until otherwise terminated; provided, that within the
12 discretion of the commissioner, or his authorized representative, a
13 change in the labeling or [formulas] *formula*, of a pesticide may be
14 made within the current period of registration, without requiring a

15 re-registration of the product. *The commissioner shall develop a*
16 *program for the continuous evaluation of the effectiveness and the*
17 *safety of the pesticides registered with the department. Prior to*
18 *the initial registration of any pesticide, and prior to each renewal*
19 *thereof, the department shall conduct a thorough evaluation, in*
20 *accordance with this section. The department shall place appro-*
21 *priate restrictions upon the use of any pesticide including, but not*
22 *limited to, limitations on the quantity, area, and manner of its*
22A *application if the department finds that this use or application will*
23 *cause, or may tend to cause, adverse effects;*

24 b. Each registrant, before selling or offering for sale a pesticide
25 in this State, shall register each brand of pesticide with the depart-
26 ment upon forms furnished by the department and shall provide
27 the department with the information it may deem necessary;

28 c. The department **[may]** shall require the complete formula,
29 the *Environmental Protection Agency* registration number and
30 common name of **[any]** all pesticides;

31 d. If it does not appear to the department that the product is
32 such as to warrant the proposed claims for it or if the product and
33 its labeling and other material required to be submitted **[to]** do
34 not comply with the provisions of this act or the rules and regula-
35 tions issued thereunder, the registrant shall be notified of the
36 manner in which the product, labeling, or other material required
37 to be submitted fail to comply with **[the]** this act or the rules and
38 regulations issued thereunder, so as to afford the registrant an
39 opportunity to make the necessary corrections. If, after receipt of
40 such notice, such corrections are not forthcoming, the department
41 shall deny registration;

42 e. The department is authorized **[and empowered]** to refuse to
43 register, or to **[cancel]** *revoke* the registration of, any brand of
44 pesticide as herein provided, upon satisfactory proof that the
45 registrant has been guilty of fraudulent and deceptive practices in
46 the evasion or attempted **[evasions]** *evasion* of the provisions of
47 this act or any rules and regulations promulgated thereunder;
48 provided, that no registration shall be revoked or refused until the
49 registrant shall have been given a hearing by the department;

50 1. *The department shall refuse to register, or shall revoke the*
51 *registration of, any pesticide which it finds, in writing, after any*
52 *adjudicatory hearing that may be conducted:*

53 (1) *Has been demonstrated to cause adverse effects on man and*
54 *the environment when used in accordance with generally accepted*
55 *pesticide application procedures;*

56 (2) *Has a reasonably effective and practical alternative demon-*
57 *strably less harmful to the environment;*

58 (3) Is of little or no value in serving the purpose for which it is
59 intended; or

60 (4) Has been the subject of any false or misleading statement or
61 implication by the registrant or his agent, either verbally or in
62 writing.

63 At any hearing that may be conducted the commissioner may
64 require any practical demonstrations he deems necessary to estab-
65 lish the facts. Interested parties shall be granted the right to inter-
66 vene in hearings held pursuant to this section.

67 [f.] g. Nothing in this act shall be construed to restrict or pro-
68 hibit sales or exchanges of pesticides to each other by importers,
69 manufacturers, or manipulators who mix pesticide materials for
70 sale or as preventing the free and unrestricted shipment of pesti-
71 cides to manufacturers or manipulators, who have registered their
72 brands as required by the provisions of this act[.];

73 h. No person shall use or sell any pesticide the registration of
74 which has been revoked pursuant to the provisions of this section.

1 4. (New section) No person shall be authorized to apply any
2 pesticide commercially without having received certification from
3 the department therefor. Application for certification shall be
4 made to the department, on forms prescribed by the department,
5 and shall provide such information as the department may require.
6 The department shall not grant this certification unless it deter-
7 mines that the applicant is knowledgeable concerning the toxic
8 nature and adverse effects of pesticides, and is adequately trained
9 with respect to the precautions necessary to minimize human
10 exposure to any potentially hazardous pesticide.

1 5. (New section) a. No person shall apply any pesticide without
2 taking all necessary precautions including, but not limited to, the
3 notification requirements set forth in section 7 of this amendatory
4 and supplementary act, within the limits of practicability and
5 feasibility, both prior to and during the application, to eliminate
6 human exposure to the pesticide. Particular care shall be taken to
7 avoid exposing children and other persons known or suspected to
8-9 be especially susceptible to adverse effects from pesticide exposure.

10 b. No person shall intentionally apply any pesticide to property
11 knowing, or having reason to know, that the property owner does
12 not wish that property to be exposed to that pesticide.

13 c. No person shall apply any pesticide to a target site in a manner
14 or under conditions that cause the pesticide to infringe on a non-
15 target site beyond that which is avoidable through reasonable
16 precautions.

17 d. No person shall apply any pesticide within a school building
18 during which time children occupy the premises.

1 6. (New section) With respect to aerial application of pesticides:

2 a. The commissioner shall adopt the rules and regulations neces-
3 sary for the protection of public health, safety and welfare; aquatic
4 and animal life; and public and private property, governing:

5 (1) The type of aircraft to be used;

6 (2) The hours during which the aircraft may be so used;

7 (3) The wind and weather conditions under which the spraying
8 or dusting of pesticides may be performed by the aircraft;

9 (4) The minimum surface area on which this spraying or dusting
10 may be performed but not less than 10 contiguous acres;

11 (5) The kind and amount of pesticides permitted for application
12 by aircraft but in no case shall the aerial application of broad-
13 spectrum pesticides on non-agricultural lands be permitted;

14 (6) The amount of public liability and property damage insur-
15 ance to be carried by the aircraft applicator.

16 b. Permits for aircraft spraying in congested areas, as defined
17 by the department pursuant to regulation, shall be issued only
18 with the approval of the local health officer or governing body of
19 the municipality in which the operation is to be conducted.

20 c. The Department of Health may provide by regulation for an
21 exemption for mosquito control activities to subparagraph (5) of
22 subsection a. of this section in the event of a health emergency.

1 7. (New section) a. No person shall apply any pesticide on a
2 community or areawide basis unless prior notification has been
3 given to persons residing at the proposed target site and within a
4 radius of 1000 feet of the proposed target site. The Department of
5 Health may, by regulation, provide for an exemption from this
6 subsection in the event an emergency exists. Notification shall be
7 accomplished by:

8 (1) Two separate insertions in each of at least two newspapers
9 of general circulation in the affected area. The two insertions shall
10 appear at least seven days apart, the first of which shall not be
11 more than 21 days prior to the proposed date of the application,
12 the second of which shall be no later than seven days prior to
13 the proposed date thereof. Notice shall include time, date, and
14 location of the application; name, address, telephone number and
15 registration number of the applicator business or the responsible
16 pesticide applicator associated with the application; the brand
17 name, United States Environmental Protection Agency product
18 registration number, complete formulation and list of label pre-
19 cautions and known health effects not included on the label; pest or
20 pests to be controlled; and alternative application dates should the
21 initially proposed application be postponed; and

22 (2) A notice by regular first class mail or by hand delivery in-
23 cluding the information described in subparagraph 1 of this sub-
24 section to the occupant of each affected parcel of property no
25 fewer than 10 days prior to the proposed date of application.

26 b. No person shall perform an outdoor ornamental pest applica-
27 tion utilizing hydraulic spraying equipment operating at a rate
28 greater than 300 pounds per square inch (psi) and 10 gallons per
29 minute (gpm), air blast sprayer, or aerial application equipment
30 unless all persons owning or renting the property within the radius
31 of a 1000 feet of the application are notified by regular first class
32 mail or hand delivery between seven and 10 days in advance of the
33 application as to the time, date, and location of the application;
34 name, address, telephone number, and registration number of the
35 applicator business or the responsible pesticide applicator asso-
36 ciated with the application; the brand name, United States Environ-
37 mental Protection Agency product registration number, complete
38 formulation, and list of label precautions and known health effects
39 not included on the label; pest or pests to be controlled; alternate
40 application dates should the initially proposed application be post-
41 poned; and any other information which would enable persons
42 who may be adversely affected to take any actions necessary to
43 avoid or minimize exposure to the pesticide applied. Two warning
44 signs shall be posted during the application, the contents of which
45 shall be prescribed by the department by rule or regulation and
46 which shall include a telephone number where interested persons
47 may obtain additional information concerning the pesticide used.
48 As used in this section, "ornamental" means the trees, shrubs, and
49 other plants in and around habitations generally, whether or not
50 these plants are located in urban or suburban areas, including resi-
51 dences, parks, streets, retail outlets, industrial and institutional
52 buildings.

53 c. No person shall perform an indoor pest control application
54 unless all persons occupying the premises are notified by regular
55 first class mail or hand delivery at least three days in advance of
56 the application as to the time, date, and location of the application;
57 name, address, telephone number, and registration number of the
58 applicator business or the responsible pesticide applicator asso-
59 ciated with the application; the brand name, United States En-
60 vironmental Protection Agency product registration number,
61 complete formulation, and list of label precautions and health
62 effects not included on the label; pest or pests to be controlled;
63 alternate application dates should the initially proposed application
64 be postponed; and any other information which would enable per-

65 sons who may be adversely affected to take any actions necessary
66 to avoid or minimize exposure to the pesticide applied. Notification
67 shall be accomplished by regular first class mail or by hand delivery.
68 The Department of Health may, by regulation, provide for an
69 exemption from the deadline imposed in this subsection in the
70 event that an emergency exists. Applications of pesticides used in
71 conjunction with inspections conducted by the Department of
72 Health and by local boards of health pursuant to R. S. 24:3-1 et seq.
73 shall be exempt from the notice requirements of this subsection.

74 d. No person shall perform an outdoor pest control application
75 for mosquito control within 200 feet of an outdoor recreational
76 facility unless the governing body of the municipality has been
77 notified no fewer than two days in advance of the application.
78 The municipality shall post warning signs one day in advance,
79 during, and one day following the application, the contents of
80 which shall be prescribed by the department by rule or regulation
81 and which shall include a telephone number where interested per-
82 sons may obtain additional information concerning the pesticide
83 used.

84 e. Any person who performs his own pest control application
85 shall be responsible for satisfying the relevant notification require-
86 ments in the primary or native language of the occupant or resident
87 enumerated in subsections a., b. and c. of this section.

1 8. (New section) a. The commissioner shall, by rule or regulation,
2 establish a mechanism for the reporting or pesticide accidents or
3 incidents to the department and the Department of Health.

4 b. The Department of Health shall develop and implement, in
5 cooperation with local health officers and State and local medical
6 associations, a program of medical education to alert physicians
7 and other health care professionals to the symptoms, diagnosis,
8 treatment, and reporting of cases of acute pesticide poisoning and
9 chronic pesticide-related health effects, and to the known or sus-
10 pected acute and chronic health effects of pesticides on children and
11 other persons known or suspected to be particularly susceptible to
12 adverse effects of pesticide exposure. In conjunction with the med-
13 ical education program, the Department of Health shall develop
14 a farmworker pesticide incident report and shall, by rule or regula-
15 tion, require physicians to report incidents of pesticide exposure
16 to the Department of Health.

1 9. (New section) a. The department shall carry out a program of
2 testing in order to determine the nature and extent of pesticides
3 in the environment to which man and animals may be exposed.
4 Portions of the environment to be monitored shall include, but not

5 be limited to: fresh and salt waters of the State; crops intended
6 for human or animal consumption; places where food for human
7 or animal consumption is handled, stored, transported, prepared
8 or processed; and wildlife.

9 b. Results of the testing program shall be transmitted to the
10 Department of Health and shall be reviewed at least annually by
11 the Pesticide Control Council established under section 6 of P. L.
12 1971, c. 176 (C. 13:1F-6), and included in the report required
13 pursuant to section 12 of this amendatory and supplementary act.

14 c. In carrying out the provisions of this section, the commissioner
15 may enter into agreements with public or private agencies to secure
16 such technical assistance as may be necessary.

1 10. Section 6 of P. L. 1971, c. 176 (C. 13:1F-6) is amended to read
2 as follows:

3 6. a. There is **[hereby]** created in the department a Pesticide
4 Control Council which shall consist of **[nine]** 15 members, three of
5 whom shall be the Secretary of Agriculture, the Commissioner of
6 Health, the Dean of the College of Agriculture and Environmental
7 Science at Rutgers, The State University, or their designees, who
8 shall serve as ex officio, and **[six]** 12 citizens of the State repre-
9 senting the general public to be appointed by the Governor, *with*
10 *the advice and consent of the Senate*, to serve at his pleasure, of
11 whom **[one]** *two* shall be **[a farmer.]** *farmers, one utilizing inte-*
12 *grated pest management; two pest control research specialists, one*
13 *specializing in biological control; one a medical doctor; one a toxi-*
14 *cologist [and]; one an ecologist; two farmworkers or farmworker*
15 *representatives; and one a representative from a recognized en-*
16 *vironmental organization. The Governor shall designate a chair-*
17 *man and a vice chairman of the council from the public members*
18 *who shall serve at the [will] pleasure of the Governor.*

19 b. Of the six members first to be appointed, two shall be appointed
20 for terms of two years, two for terms of three years and two for
21 terms of four years. *Of the seven members first to be appointed*
22 *pursuant to this amendatory and supplementary act, three shall be*
23 *appointed for terms of one year, two for terms of two years, and*
24 *two for terms of three years. Thereafter all appointments shall*
25 *be made for terms of four years. All appointed members shall*
26 *serve after the expiration of their terms until their respective*
27 *successors are appointed and shall qualify, and any vacancy occur-*
28 *ring in the appointed membership of the council shall be filled in*
29 *the same manner as the original appointment for the unexpired*
30 *term only, notwithstanding that the previous incumbent may have*
held over and continued in office as aforesaid.

31 c. Members of the council shall serve without compensation, but
32 shall be entitled to reimbursement for expenses in attendance at
33 meetings of the council and in performance of their duties as
34 members thereof.

1 11. Section 7 of P. L. 1971, c. 176 (C. 13:1F-7) is amended to read
2 as follows:

3 7. The Pesticide Control Council shall be the advisory body in
4 the Department of Environmental Protection in matters relating
5 to the control, regulation and use of pesticides and is empowered
6 to:

7 a. Request from the commissioner such information concerning
8 pesticides as it may deem necessary;

9 b. Study and consider any matter relating to the improvement
10 of pesticide control programs and advise the commissioner thereon;

11 c. From time to time submit to the commissioner such recom-
12 mendations and reports which it deems necessary for the proper
13 conduct and improvement of pesticide control programs;

14 d. Study the use, application and disposal of pesticides and
15 advise the commissioner thereon;

16 e. Study pesticide control programs and make reports and
17 recommendations thereon to the commissioner as it may deem
18 necessary;

19 f. Study any regulations promulgated by the department or any
20 other governmental entity in regard to the control of pesticides
21 and make such recommendations thereon to the commissioner as
22 it may deem appropriate;

23 g. Study and investigate the state of the art and the technical
24 capabilities and limitations of regulations concerning use and
25 control of pesticides and their relation to the environment and
26 ecology and report its findings and recommendations thereon to
27 the commissioner;

28 h. Study and investigate the need for programs for long range
29 technical support of pesticide control programs and report its
30 findings and recommendations thereon to the commissioner; [and]

31 i. Hold periodic public hearings concerning the use and applica-
32 tion of pesticides and upon the state of the art and technical
33 capabilities and limitations in pesticide control and report its
34 recommendations thereon to the commissioner; and

35 j. Study the alternatives to, and the environmental and health
36 effects of, chemical pesticides.

1 12. (New section) The council shall prepare and submit an
2 annual report to the Governor, and to the Natural Resources and
3 Agriculture Committee of the Senate and the Agriculture and

4 Environment Committee of the General Assembly, or their desig-
5 nated successors, summarizing its activities and making any recom-
6 mendations for legislative or administrative action it deems
7 appropriate and a separate annual report, submitted as specified
8 above, regarding agricultural worker exposure.

1 13. Section 9 of P. L. 1971, c. 176 (C. 13:1F-9) is amended to
2 read as follows:

3 9. The department shall have power, in addition to those granted
4 by any other law, to

5 a. Conduct and supervise research programs for the purpose of
6 determining the effects and hazards of the use and application of
7 pesticides on man and his environment; and in furtherance of this
8 research effort the commissioner shall consider the School of
9 Agriculture of Rutgers, The State University and the University of
10 Medicine and Dentistry of New Jersey, as [a] primary [source]
11 sources of assistance;

12 b. Conduct and supervise Statewide programs of pesticide con-
13 trol education including the [prepaartion] preparation and distri-
14 bution of information relating to pesticide control which incor-
15 porates integrated pest management;

16 c. Enter and inspect any building or place, except private resi-
17 dences, for the purpose of investigating an actual or suspected
18 violation of law relating to pesticides and ascertaining compliance
19 or noncompliance with any rules, regulations or orders of the
20 department;

21 d. Receive or initiate complaints of violations of applicable laws,
22 rules, regulations and orders relating to pesticides and institute
23 legal proceedings for the prevention of such violations and for the
24 recovery of penalties, in accordance with law;

25 e. With the approval of the Governor, cooperate with, and receive
26 money from, the federal government, the State government, or
27 any county or municipal government or from private sources for
28 the study and control of pesticides;

29 f. Declare as a pest any form of plant or animal life or virus
30 which is injurious to plants, man, domestic animals, articles, or
31 substances;

32 g. Determine whether pesticides are highly toxic to man;

33 h. Determine standards of coloring or discoloring for pesticides;

34 i. [Subject pesticides to the requirements of 13:1F-11 (a) (6)
35 of the Revised Statutes] (*Deleted by amendment, P. L.*
36 *c.*);

37 j. Cooperate with, and enter into agreement with, any other
38 agency of this State, or the United States, and any other state or

39 agency thereof for the purpose of carrying out the provisions of
40 this act and securing uniformity of regulations, in order to avoid
41 confusion endangering the public health, resulting from diverse
42 requirements, particularly as to the labeling and coloring of pesti-
43 cides, and to avoid increased costs due to the necessity complying
44 with such diverse requirements in the manufacture and sale of such
45 pesticides;

46 k. Have the power, in accordance with a fee schedule adopted as
47 a rule or regulation in accordance with the "Administrative Pro-
48 cedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), to establish
49 and charge fees for any of the services it performs, which fees shall
50 be annual or periodic as the department shall determine. The fees
51 charged by the department pursuant to this section shall reflect the
52 actual or projected expense incurred by the department in the per-
53 formance of the service for which the fee is charged. All fees
54 collected pursuant to this section shall be deposited in the Environ-
55 mental Services Fund created pursuant to P. L. 1975, c. 232 and
56 kept separate from other receipts deposited therein and appro-
57 priated for the operation of the Pesticide Control Program in the
58 Department of Environmental Protection;

59 l. *After public hearing, the commissioner may adopt rules and*
60 *regulations governing the disposal of any pesticide, or any con-*
61 *tainer therefor, to prevent pollution of any waterway and to pro-*
62 *tect plant and animal life and to insure that this disposal will not*
63 *cause or tend to cause adverse effects on man or the environment.*
64 *These rules and regulations shall be consistent with section 19 (a)*
65 *of the "Federal Insecticide, Fungicide and Rodenticide Act," Pub.*
66 *L. 92-516 (7 U.S.C. 136g), and the regulations promulgated*
67 *thereunder.*

1 14. (New section) With respect to pesticides and agricultural
2 worker safety:

3 a. The Department of Environmental Protection, within 90 days
4 of the effective date of this amendatory and supplementary act and
5 pursuant to the "Administrative Procedure Act," P. L. 1968,
6 c. 440 (C. 52:14B-1 et seq.), shall adopt rules and regulations not
7 inconsistent with applicable federal law regarding pesticides and
8 worker safety concerning, but not limited to:

9 (1) Worker reentry into fields treated with pesticides;

10 (2) Appropriate protective clothing and other current health or
11 safety device or equipment to be worn or used when working with
12 or during exposure to pesticides which shall be provided by em-
13 ployer, agent or employer representative, at no cost to the worker;

14 (3) Warnings, issued both orally and by posted signs, that

15 inform workers of areas or fields which should not be entered with-
16 out protective clothing, the period of time the area or field should
17 remain vacated, actions to take in the event of accidental exposure,
18 information concerning the symptoms of exposure and first aid
19 procedure, and notice of the right to obtain a pesticide fact sheet,
20 information which shall be provided in the primary or native lan-
21 guage of each worker;

22 b. A pesticide fact sheet shall be prepared by the Department of
23 Environmental Protection for each registered pesticide and pesti-
24 cide exempted from registration. Fact sheets shall be issued, in
25 advance of exposure, to each worker on the farm where there is a
26 reasonable likelihood that the worker will be exposed to pesticides,
27 and shall include the brand name, United States Environmental
28 Protection Agency product registration number, complete formula-
29 tion, list of label precautions and known health effects not included
30 on the label, pest or pests to be controlled by that pesticide, the
31 period of time the area or field should remain vacated during and
32 after application, and symptoms of exposure and actions to be
33 taken in case of exposure using the National Institute of Occupa-
34 tional Safety and Health (NIOSH) as the primary source of assis-
35 tance and information;

36 c. The Department of Environmental Protection shall provide
37 training to workers likely to be exposed to pesticides in the most
38 effective practices, procedures, equipment, and clothing to minimize
39 this exposure. The Department of Health shall provide training
40 concerning the health effects of exposure and appropriate pre-
41 ventative and remedial actions to minimize exposure. Upon request,
42 the Department of Health shall make available a list of health care
43 providers trained to identify and treat cases of pesticide exposure.

44-50 d. Farmers shall maintain and make available to the Department
51 of Environmental Protection, records of pesticides used. These
52 records shall be retained for two years and shall be available to
53 workers and the public through the Department of Environmental
54 Protection.

55 e. The Department of Environmental Protection shall adopt
56 rules and regulations regulating the storage of pesticides, but in no
57 case shall allow the storage of pesticides within 500 feet of worker
58 living quarters.

59 f. No person shall apply or use pesticides on a field or any other
60 area used for agricultural purposes when persons other than those
61 involved in the application or evaluation of the applied pesticide
62 are within the target site.

1 15. (New section) a. The department shall investigate, in coordi-

2 nation with the Department of Health which may direct local health
3 officials to investigate, each complaint received by the department
4 alleging a violation of the provisions of this act, P. L. 1971, c. 176
5 or P. L. 1981, c. 538 within the period of time determined by the
6 department to be adequate to insure the collection of evidence to
7 determine if a violation has occurred.

8 b. The department shall adopt pursuant to the "Administrative
9 Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), rules and
10 regulations necessary to implement the provisions of this section.

1 16. (New section) a. The governing body of a municipality shall
2 certify to the Department of Agriculture that proper notifications
3 required pursuant to R. S. 4:7-39 have been accomplished before
4 any pesticide treatments are made.

5 b. A municipality proposing to treat with pesticides property,
6 such as a reservoir, it owns but which is located within the bound-
7 aries of another municipality shall notify, in writing, the governing
8 body of that municipality no later than 10 days prior to carrying
9 out the pesticide treatment program.

10 c. A municipality proposing to apply pesticide on property
11 within its boundaries where such application may infringe upon
12 property within the boundaries of another municipality, shall so
13 notify the governing body of that municipality in writing no later
14 than 21 days prior to the date of the pesticide application;

15 d. Any municipality receiving notice pursuant to this section
16 shall notify those persons living within the affected area as pro-
17 vided in R. S. 4:7-39.

1 17. (New section) Any person may bring a civil action in law or
2 equity on his own behalf against any person for a violation of any
3 provision of this act or any rule and regulation promulgated pur-
4 suant thereto, or against the Department of Environmental Pro-
5 tection for failure to enforce the provisions of this act or any rule
6 or regulation promulgated pursuant thereto. The Superior Court
7 shall have jurisdiction of these actions, and it shall not be necessary
8 to the maintenance of the action that the person bringing the action
9 prove that he has suffered or will suffer personal loss or damage.
10 The court may award, whenever it deems appropriate, costs of
11 litigation, including reasonable attorney and expert witness fees.

1 18. (New section) The court, upon finding violations of this act,
2 shall award compensatory damages or \$500.00 for each violation,
3 whichever is greater, to complainants. If the violation is of a con-
4 tinuing nature, each day during which it continues shall constitute
5 an additional, separate and distinct offense. It shall also award such
6 equitable relief as is necessary and appropriate to effectuate the
7 purposes of this act.

1 19. (New section) a. No employer shall discharge, cause to be dis-
2 charged, or otherwise discipline, penalize, or discriminate against
3 any employee because the employee or his employee representative
4 has exercised any right established in this act.

5 b. Any employee who believes that he has been discharged, or
6 otherwise disciplined, penalized, or discriminated against by an
7 employer in violation of subsection a. of this section may, within
8 30 days of the violation, or within 30 days of obtaining knowledge
9 that a violation occurred, file a complaint with the Commissioner
10 of the Department of Labor alleging the violation. Within 30 days
11 of the receipt of a complaint, the commissioner shall conduct an
12 investigation of the complaint. If after the investigation the com-
13 missioner determines that there is probable cause that the com-
14 plaint is valid, he may refer the complaint to the Office of Adminis-
15 trative Law, which, upon the referral, shall commence an adjudi-
16 catory proceeding on the complaint, to be conducted as a contested
17 case pursuant to the "Administrative Procedure Act," P. L. 1968,
18 c. 410 (C. 52:14B-1 et seq.), and P. L. 1978, c. 67 (C. 52:14F-1 et
19 seq.). If the Commissioner of Labor or the employee introduces
20 evidence that prior to the alleged violation the employee exercised
21 any right provided in this act, the employer shall have the burden
22 to show just cause for his action by clear and convincing evidence.
23 Within 45 days of the receipt of the recommendations of the ad-
24 ministrative law judge, the commissioner shall adopt, reject, or
25 modify the recommendations. The final decision of the commis-
26 sioner shall be considered the final agency action thereon for the
27 purposes of the "Administrative Procedure Act" and shall be
28 subject only to judicial review as provided in the Rules of Court.

1 20. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to strengthen the State's program for controlling the use of pesticides. The bill extends responsibilities and authority of the Department of Environmental Protection, and expands the scope of the "Pesticide Control Act of 1971," P. L. 1971, c. 176 (C. 13:1F-1 et seq.) to promote the safe use of chemical pesticides and protect the public health and the environment.

Specifically, the bill clarifies the "adverse effects" standard which the department is to apply in formulating regulations affecting pesticides. The measure also expands the grounds for refusing or revoking pesticide registrations to incorporate consideration of efficacy and less harmful, yet reasonably effective and practical alternative substances or procedures.

This bill would further require certification by the Department of Environmental Protection of all persons commercially applying pesticides, the certification conditioned upon a finding that the applicant is knowledgeable concerning the nature and effects of pesticides and trained in their safe use and control. Notification of potentially affected residents and occupants before application is made is also required. This bill further requires the securing of evidence for investigations of any violations of its provisions in a timely manner.

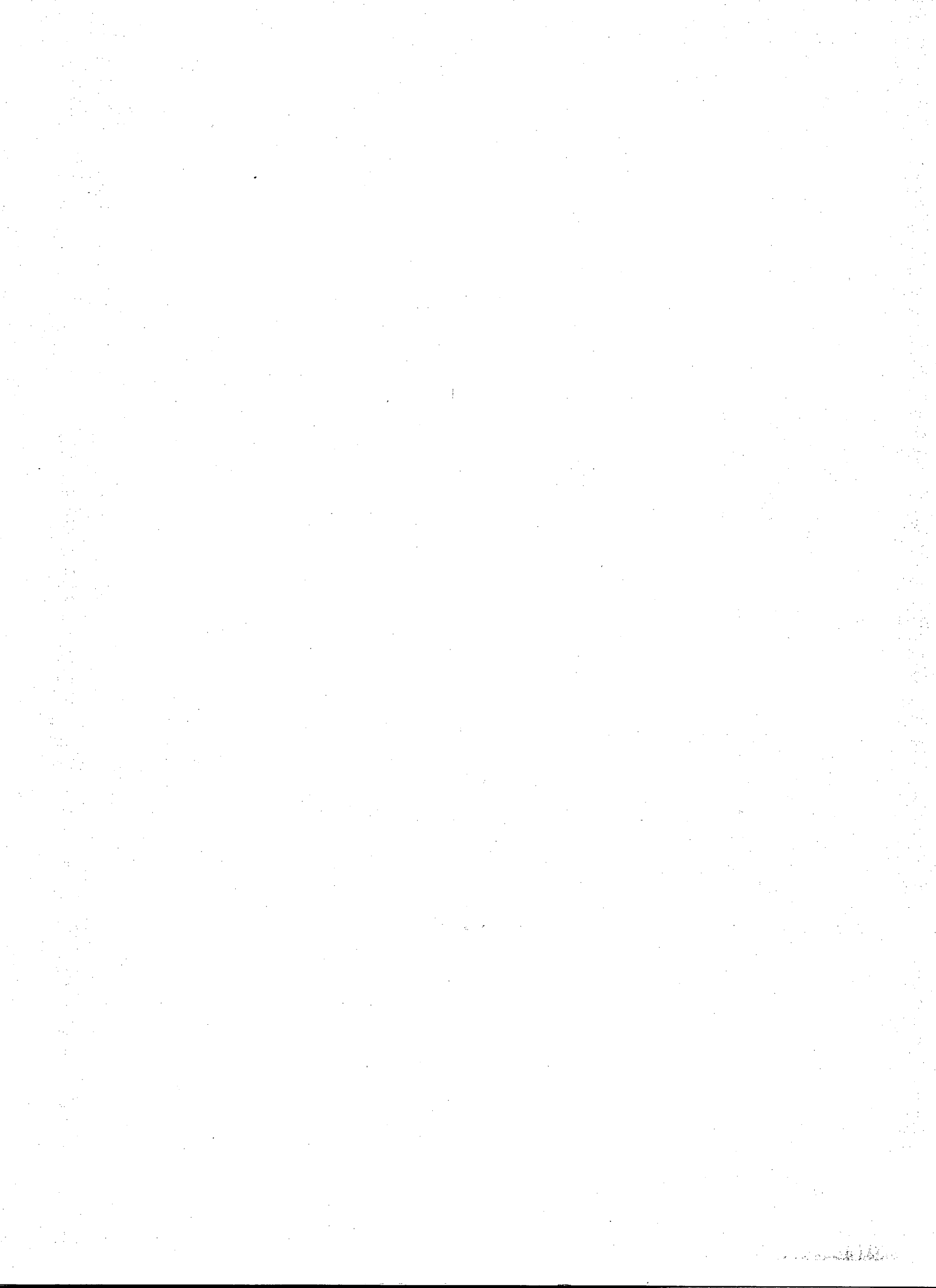
This bill also mandates the reporting of significant pesticide accidents or incidents, the development and implementation of a medical education program concerning pesticide poisoning by the Department of Health, development of data with respect to the extent and nature of pesticides in the environment, and the adoption of rules and regulations regarding conditions governing aerial pesticide application. Specifically, the bill prohibits the aerial application of broad-spectrum pesticides on non-agricultural lands. The bill also empowers the Commissioner of the Department of Environmental Protection to adopt rules and regulations to prevent water pollution and other adverse effects which may be caused by the disposal of any pesticide.

This bill provides for additional expertise on the Pesticide Control Council in alternative pest control methods, and in the environmental and health effects of chemical pesticides, empowers it to study alternatives to, and the environmental health effects of, chemical pesticides, and requires the council to submit an annual report.

The bill gives specific attention to the safety of agricultural workers, who are particularly adversely affected by the use of pesticides. The bill requires the disclosure and dissemination of information about pesticides to agricultural workers through training, warnings and literature concerning pesticides to which they are exposed. The bill also mandates the adoption of rules and regulations regarding appropriate protective clothing or equipment and reentry into treated fields and other actions necessary to protect workers' safety.

The bill supplements the gypsy moth suppression program of the Department of Agriculture by clarifying the notification requirements governing this program.

Finally, the bill makes a number of technical corrections of existing law.



Proposed Senate Committee Substitute

for

Senate Bill Number 1342

AN ACT concerning pesticides, amending and supplementing P.L. 1971, c. 176, amending P.L. 1981, c. 538, and amending and supplementing R.S. 4:7-39.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 3 of P. L. 1971, c. 176 (C. 13:1F-3) is amended to read as follows:

3. For purposes of this act, unless the context clearly requires a different meaning:

a. "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.

b. "Pesticide" means and includes any substance or mixture of substances labeled, designed, intended for or capable of use in controlling by preventing, destroying, repelling, sterilizing or mitigating any insects, rodents, nematodes, predatory animals, fungi, weeds and other forms of plant or animal life or viruses, except viruses on or in living man or other animals. The term "pesticide" shall also include any substance or mixture of substances labeled, designed or intended for use as a defoliant, desiccant or plant regulator.

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

d. "Department" means the State Department of Environmental Protection.

e. "Council" means the Pesticide Control Council.

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

g. "Target site" means a specific location, including but not limited to any crop, commodity, object, demarcated 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. No site included on the label or labeling of the pesticide may be considered a target site unless the site is specifically intended to receive such application of the pesticide.

h. "Broad-spectrum pesticide" means any nonspecific pesticide toxic to a wide-range of target and non-target organisms.

2. Section 4 of P. L. 1971, c. 176 (C. 13:1F-4) is amended to read as follows:

4. The commissioner shall [have the power to formulate and promulgate] adopt, amend and repeal orders, rules and regulations prohibiting, conditioning [and] or controlling the sale, purchase transportation, labeling, use and application, or any combination thereof, of pesticides which cause or may tend to cause adverse effects on man or the environment by any person within this State. These regulations shall be designed to eliminate the adverse effects of pesticides within the limits of technical feasibility. Upon a determination that, with respect to a particular pesticide the elimination of adverse effects is not feasible and that no less harmful procedure or substance is available of comparable effectiveness, the department shall adopt regulations designed to minimize the adverse effects of that pesticide. State rules and regulations with respect to the labeling of any pesticide [the labeling of which is prescribed by federal law and regulations], shall [to the extent practicable] conform to the federal requirements.

3. Section 3 of P. L. 1981, c. 538 (C. 13:1F-15) is amended to read as follows:

3. a. Every pesticide which is held, used, distributed, sold, or offered for sale within this State or delivered for transportation or transported in intrastate commerce or between points within this State through any point outside this State shall be registered annually with the department. All [registration] registrations of products shall expire on December 31, following date of issuance, unless such registration shall be renewed annually, in which event the expiration date shall be extended for each year of renewal registration, or until otherwise terminated; provided, that within the discretion of the commissioner, or his authorized representative, a change in the labeling or [formulas] formula, of a pesticide may be made within the current period of registration, without requiring a re-registration of the product. The commissioner shall develop a program for the continuous evaluation of the effectiveness and the safety of the pesticides registered with the department. The department shall conduct a thorough evaluation of any pesticide for which substantive preliminary data indicate that the pesticide, as presently used, will cause, or may tend to cause, adverse effects on man or the environment, or that claims made by the

registrant to the United States Environmental Protection Agency in the registration application relative to the sale, distribution, use, or effects of the pesticide are substantially unsupported by experience, or the name of which has been submitted for evaluation by the Pesticide Control Council or the Department of Health. The department shall place appro-

appropriate restrictions upon the use of any pesticide including, but not limited to, limitations on the quantity, area, and manner of its application if the department finds that this use or application will cause, or may tend to cause, adverse effects;

b. Each registrant, before selling or offering for sale a pesticide in this State, shall register each brand of pesticide with the department upon forms furnished by the department and shall provide the department with the information it may deem necessary;

c. The department ~~may~~ shall require the complete formula, the Environmental Protection Agency registration number and common name of [any] all pesticides;

d. If it does not appear to the department that the product is such as to warrant the proposed claims for it or if the product and its labeling and other material required to be submitted ~~to~~ do not comply with the provisions of this act or the rules and regulations issued thereunder, the registrant shall be notified of the manner in which the product, labeling, or other material required to be submitted fail to comply with ~~the~~ this act or the rules and regulations issued thereunder, so as to afford the registrant an opportunity to make the necessary corrections. If, after receipt of such notice, such corrections are not forthcoming, the department shall deny registration;

e. The department is authorized ~~and empowered~~ to refuse to register, or to ~~cancel~~ revoke the registration of, any brand of pesticide as herein provided, upon satisfactory proof that the registrant has been guilty of fraudulent and deceptive practices in the evasion or attempted ~~evasions~~ evasion of the provisions of this act or any rules and regulations promulgated thereunder; provided, that no registration shall be revoked or refused until the registrant shall have been given a hearing by the department;

f. The department shall refuse to register, or shall revoke the registration of, any pesticide which it finds, in writing, after any adjudicatory hearing that may be conducted:

(1) Has been demonstrated to cause adverse effects on man and the environment when used in accordance with generally accepted pesticide application procedures;

(2) Has a reasonably effective and practical alternative demonstrably less harmful to the environment;

d. If it does not appear to the department that the product is such as to warrant the proposed claims for it or if the product and its labeling and other material required to be submitted ~~to~~ do not comply with the provisions of this act or the rules and regulations issued thereunder, the registrant shall be notified of the manner in which the product, labeling, or other material required to be submitted fail to comply with ~~the~~ this act or the rules and regulations issued thereunder, so as to afford the registrant an opportunity to make the necessary corrections. If, after receipt of such notice, such corrections are not forthcoming, the department shall deny registration;

e. The department is authorized ~~and empowered~~ to refuse to register, or to ~~cancel~~ revoke the registration of, any brand of pesticide as herein provided, upon satisfactory proof that the registrant has been guilty of fraudulent and deceptive practices in the evasion or attempted ~~evasions~~ evasion of the provisions of this act or any rules and regulations promulgated thereunder; provided, that no registration shall be revoked or refused until the registrant shall have been given a hearing by the department;

1. The department shall refuse to register, or shall revoke the registration of, any pesticide which it finds, in writing, after any adjudicatory hearing that may be conducted:

(1) Has been demonstrated to cause adverse effects on man and the environment when used in accordance with generally accepted pesticide application procedures;

(2) Has a reasonably effective and practical alternative demonstrably less harmful to the environment;

(3) Is of little or no value in serving the purpose for which it is intended; or

(4) Has been the subject of any false or misleading statement or implication by the registrant or his agent, either verbally or in writing.

At any hearing that may be conducted the commissioner may require any practical demonstrations he deems necessary to establish the facts. Interested parties shall be granted the right to intervene in hearings held pursuant to this section.

[f.] g. Nothing in this act shall be construed to restrict or prohibit sales or exchanges of pesticides to each other by importers, manufacturers, or manipulators who mix pesticide materials for sale or as preventing the free and unrestricted shipment of pesticides to manufacturers or manipulators, who have registered their brands as required by the provisions of this act[.];

h. No person shall use or sell any pesticide the registration of which has been revoked pursuant to the provisions of this section.

1. Any pesticide for which the registration has been reclassified from general to restricted-use, including quantities in stock prior to the reclassification, may be sold only to certified and registered pesticide applicators.

4. (New section) No person shall be authorized to apply any pesticide commercially without having received certification from the department therefor. Application for certification shall be made to the department, on forms prescribed by the department, and shall provide such information as the department may require. The department shall not grant this certification unless it determines that the applicant is knowledgeable concerning the toxic nature and adverse effects of pesticides, and is adequately trained with respect to the precautions necessary to minimize human exposure to any potentially hazardous pesticide. Persons otherwise permitted to apply pesticide as of the effective date of this act shall be accorded 60 days to comply with the certification requirements of this section. For the purposes of on-the-job training prior to application for certification, a person may apply pesticide for the first 30 days of his employment provided that a certified applicator is present at the target site during application.

5. (New section) a. No person shall apply any pesticide without taking all necessary precautions including, but not limited to, the notification requirements set forth in section 7 of this amendatory and supplementary act, within the limits of practicability and feasibility, both prior to and during the application, to eliminate human exposure to the pesticide. Particular care shall be taken to avoid exposing children and other persons known or suspected to be especially susceptible to adverse effects from pesticide exposure.

b. No person shall intentionally apply any pesticide to property knowing, or having reason to know, that the property owner does not wish that property to be exposed to that pesticide.

For the purposes of this subsection "intentionally apply" shall not include instances in which drift from the target site occurs.

c. No person shall apply any pesticide to a target site in a manner or under conditions that cause the pesticide to infringe on a non-target site beyond that which is avoidable through reasonable precautions.

d. No person shall apply any pesticide for the control of termites within a school building during which time children occupy the premises.

6. (New section) With respect to aerial application of pesticides:

a. The commissioner shall adopt the rules and regulations necessary for the protection of public health, safety and welfare; aquatic and animal life; and public and private property, governing:

- (1) The type of aircraft to be used;
- (2) The hours during which the aircraft may be so used;
- (3) The wind and weather conditions under which the spraying or dusting of pesticides may be performed by the aircraft;
- (4) The minimum surface area on which this spraying or dusting may be performed but not less than 10 contiguous acres;
- (5) The kind and amount of pesticides permitted for application by aircraft but in no case shall the aerial application of broad-spectrum pesticides on non-agricultural lands be permitted;
- (6) The amount of public liability and property damage insurance to be carried by the aircraft applicator.

b. Permits for aircraft spraying in congested areas, as defined by the department pursuant to regulation, shall be issued only with the approval of the local health officer or governing body of the municipality in which the operation is to be conducted.

c. The Department of Health may provide by regulation for an exemption for mosquito control activities to subparagraph (5) of subsection a. of this section in the event of a health emergency.

7. (New section) a. No person shall apply any pesticide aerially, or by means of an airblast sprayer, on agricultural lands except in accordance with the following procedure:

(1) A general notification shall be given to persons residing within 500 feet of the proposed target site by first class mail or by hand delivery at least 14 days but not more than 45 days prior to the first application of the calendar year in which the application subject to notification will occur, worded as follows:

"Pesticides will be applied to agricultural land in the vicinity of your residence during my growing season which extends from _____ to _____. The following are possible pesticide products that may be utilized during these applications:

(Common name and EPA registration number of pesticide or pesticides)

These pesticides contain toxic substances and may cause adverse effects on man and the environment. For further information on these products including but not limited to health and safety information, call the New Jersey 'Pesticide Hotline.'

I am not required to further notify you if I maintain a 500 foot buffer on my property on which no pesticide is applied aurally or by means of airblast sprayers. Notification is required to people residing within 400 feet if a buffer not less than 100 feet is maintained, and within 300 feet if a buffer not less than 200 feet is maintained.

If I do not maintain a buffer as described above, I am required to notify persons residing within 500 feet of the target site who desire notification. To request notification, send a letter with your name, address and telephone number to me by certified mail. Persons requesting notification will receive detailed information by mail or hand delivery, or by telephone as soon as practicable but not later than 24 hours prior to the application. This notice shall include, in addition to any information required by the Department of Environmental Protection, the following:

Proposed time and date of the pesticide application;
Brand name, United States Environmental Protection Agency product registration number, and the complete formulation of the pesticides to be used;

List of label precautions and known health effects not indicated on the label;

State Poison Control Center 800 Telephone Number;

EPA Pesticide Hotline Telephone Number;

Pest to be controlled; and

Alternative application dates in the event that the initially proposed application is postponed."

(2) Detailed information, described in subparagraph (1) of subsection a. of this section, shall be provided as soon as practicable, but not later than 24 hours prior to application by mail or telephone or hand delivery. Participants in an integrated pest management program certified by Rutgers, the State University, are exempted from the deadline requirement imposed in this subparagraph. However, the participant must make a reasonable attempt to communicate the contents of the notice to persons requesting notification.

(3) During the application of restricted-use pesticides on agricultural land within 500 feet of a public road, signs must be posted every 200 feet and at every principal entrance fronting on a public road stating: "CAUTION! RESTRICTED-USE PESTICIDES IN USE."

b. No person shall cause or allow an outdoor ornamental pest control application utilizing hydraulic spraying equipment operating at a rate greater than 300 pounds per square inch (psi) and 10 gallons per minute (gpm), airblast sprayer, or aerial application equipment on property owned or controlled by him unless the following procedures have been implemented:

(1) Any person desiring notification of outdoor ornamental pesticide applications may register with the town clerk or other designated municipal agent by April 1 of the calendar year in which the applications subject to notification will occur.

(2) The owner of the property which includes the target site who contracts for an aerial or airblast sprayer pesticide application shall obtain from the town clerk or other designated municipal agent, or through other available resources such as personal contact with nearby residents, the names and addresses of persons requesting notification residing within 500 feet of the proposed target site, and shall provide notice thereof by mail or hand delivery to these residents at least 24 hours prior to the proposed application. If the property owner contracts for a pesticide application using ground equipment only, he shall be required to notify only residents adjacent to the target site who request notification. In either case, the notice shall include the following:

Proposed time and date of pesticide application;

Brand name, United States Environmental Protection Agency product registration number, and the complete formulation of the pesticides to be used;

List of label precautions and known health effects not indicated on the label;

State Poison Control Center 800 Telephone Number;

EPA Pesticide Hotline Telephone Number;

Pest to be controlled; and

Alternative application dates in the event that the initially proposed application is postponed.

As used in this section, "ornamental" means the trees, shrubs, and other plants in and around habitations generally, whether or not these plants are located in urban or suburban areas, including residences, parks, streets, retail outlets, industrial and institutional buildings not otherwise regulated under this section.

(3) Detailed information, described in subparagraph (2) of subsection b. of this section, provided as soon as practicable but not later than 24 hours prior to application by mail, telephone or hand delivery.

c. No person shall perform an outdoor pest control application for mosquito control except in accordance with the following procedure:

(1) An advertisement, at least 14 days prior to the beginning of the spray season, in at least two newspapers of general circulation in the affected area that informs the public that mosquito control treatment will take place, and that potentially affected persons may request specific information from the county mosquito control commission.

(2) County mosquito control commissions shall, as soon as practicable but not later than 24 hours prior to application, by mail, telephone, or hand delivery, provide to the persons requesting further information, the following:

Proposed time and date of pesticide application;

Brand name, United States Environmental Protection Agency product registration number, and the complete formulation of the pesticides to be used;

List of label precautions and known health effects not indicated on the label;

State Poison Control Center 800 Telephone Number;

EPA Pesticide Hotline Telephone Number;

Pest to be controlled; and

Alternative application dates in the event that the initially proposed application is postponed.

The Department of Health may, by regulation, provide for an exemption from the deadline imposed in this subsection in the event that a health emergency exists.

(3) Immediately prior to a mosquito control application, announcements shall be given via megaphones alerting persons in the vicinity of the operation.

(4) No person shall perform an outdoor pest control application for mosquito control within 200 feet of an outdoor recreational facility unless the governing body of the municipality has been notified no fewer than two days in advance of the application.

The municipality shall post warning signs one day in advance, during, and one day following the application, the contents of which shall be prescribed by the department by rule or regulation and which shall include a telephone number where interested persons may obtain additional information concerning the pesticide used.

Larvicidal and granular applications over non-residential areas are exempt from this subsection.

d. No person shall perform a pest control application on municipally-owned or county-owned shade trees or within municipal, county, or State parks or forests except in accordance with the following procedure :

(1) A general notification shall be mailed to persons residing within 500 feet of the proposed target site in the case of a proposed aerial application or use of an airblast sprayer or 200 feet of the target site in the case of a proposed application using other ground spraying equipment at least 14 days prior to the spray season of the calendar year in which the applications subject to notification will occur worded as follows:

"Pesticides will be applied in the vicinity of your residence one or more times _____ to _____ in this calendar year. The following are possible pesticide products that may be utilized during these applications:

(Common name and EPA registration number of pesticide or pesticides)

These pesticides contain toxic substances and may cause adverse effects on man and the environment. For further information on these products including, but not limited to health and safety information, call the New Jersey 'Pesticide Hotline.'

If the application is performed either aurally or using an airblast sprayer, notification of persons residing within 500 feet of the target site is required, and within 200 feet in the case of other ground-spraying equipment. To request notification, send a letter with your name, address and telephone number to your municipality by certified mail. Persons requesting notification will receive detailed information by mail, telephone or hand delivery as soon as practicable but not later than 24 hours

prior to the application. This notice shall include, in addition to any information required by the Department of Environmental Protection, the following:

- Proposed time and date of pesticide application;
- Brand name, United States Environmental Protection Agency product registration number, and the complete formulation of the pesticides to be used;
- List of label precautions and known health effects not indicated on the label;
- State Poison Control Center 800 Telephone Number;
- EPA Pesticide Hotline Telephone Number;
- Pest to be controlled; and
- Alternative application dates in the event that the initially proposed application is postponed."

(2) Detailed information, described in subparagraph (1) of subsection d. of this section, provided as soon as practicable but not later than 24 hours prior to application by mail, telephone or hand delivery.

e. No gas, electric, telephone or other utility company or railroad licensed to do business in the State shall perform a pest control application except in accordance with the following procedure:

(1) A general notification shall be mailed to persons residing within 500 feet of the target site in the case of a proposed aerial application or use of an airblast sprayer or 200 feet of the target site in the case of a proposed application with other ground-spraying equipment prior to the spray season of the calendar year in which the applications subject to notification will occur, worded as follows:

"Pesticides will be applied in the vicinity of your residence one or more times _____ to _____ in this calendar year. The following are possible pesticide products that may be utilized during these applications:

(Common name and EPA registration number of pesticide or pesticides)

These pesticides contain toxic substances and may cause adverse effects on man and the environment. For further information on these products, including but not limited to health and safety information, call the New Jersey 'Pesticide Hotline.'

If the application is performed either aerially or using an airblast sprayer, notification of persons residing within 500 feet of the target site is required, and within 200 feet in the case of other ground-spraying equipment. To request notification, send a letter with your name, address and telephone number to _____ by certified mail. Persons requesting notification will receive detailed information by mail, telephone, or hand delivery as soon as practicable but not later than 24 hours prior to the application. This notice shall include, in addition to any information required by the Department of Environmental Protection, the following:

- Proposed time and date of the pesticide application;
- Brand name, United States Environmental Protection Agency product registration number, and the complete formulation of the pesticides to be used;
- List of label precautions and known health effects not indicated on the label;
- State Poison Control Center 800 Telephone Number;

EPA Pesticide Hotline Telephone Number;
Pest to be controlled; and
Alternative application dates in the event that the initially proposed application is postponed."

(2) Detailed information, described in subparagraph (1) of subsection e. of this section, shall be provided as soon as practicable, but not later than 24 hours prior to application by mail or telephone or hand delivery.

f. No person shall perform an indoor pest control application except in accordance with the following procedure:

(1) In the case of private residences, a person occupying the residence shall be notified at least 24 hours prior to the application of the following:

Proposed time and date of pesticide application;
Brand name, United States Environmental Protection Agency product registration number, and the complete formulation of the pesticides to be used;

List of label precautions and known health effects not indicated on the label;

State Poison Control Center 800 Telephone Number;

EPA Pesticide Hotline Telephone Number;

Pest to be controlled; and

Alternative application dates in the event that the initially proposed application is postponed.

(2) In the case of rental units, a person occupying the residence receiving treatment, shall be notified by the landlord at least 24 hours prior to the application of the following:

Proposed time and date of pesticide application;

Brand name, United States Environmental Protection Agency product registration number, and the complete formulation of the pesticides to be used;

List of label precautions and known health effects not indicated on the label;

State Poison Control Center 800 Telephone Number;

EPA Pesticide Hotline Telephone Number;

Pest to be controlled; and

Alternative application dates in the event that the initially proposed application is postponed.

In the event of an emergency, occupants may waive the deadline requirement imposed in this subparagraph.

(3) In the case of schools, barriers restricting entrance to treated areas shall be placed for the period of time prescribed by regulation by the Department of Environmental Protection in accordance with reentry times indicated on the pesticide label.

(4) In the case of commercial buildings, including but not limited to, hotels, restaurants, airports, offices and non-commercial buildings routinely visited by the general public, a notice shall be posted for at least 24 hours, unless a longer period of time is recommended by the Department of Environmental Protection which will state: "Warning! Pesticides Recently Applied" and will include the brand name of the actual pesticides used and the State poison control center toll free number.

g. During the application of pesticides to lawns, a sign shall be posted along every 75 feet of frontage stating:

"This lawn chemically treated. Keep children and pets off!" which sign shall not be removed for 72 hours.

h. During the application of pesticides for weed control in lakes, a sign shall be posted stating:

"This lake was treated with _____
(Brand Name of pesticide)

For further information, contact _____"

which sign shall not be removed for 72 hours. The Department of Environmental Protection shall, by rule or regulation, prescribe the placement of the sign so as to alert the greatest number of people.

i. Any person who performs his own pest control application shall be responsible for satisfying the relevant notification requirements enumerated in subsections a., b., c., d., e., f., g., and h. of this section.

8. (New section) a. The commissioner shall, by rule or regulation, establish a mechanism for the reporting of pesticide accidents or incidents to the department and the Department of Health.

b. The Department of Health shall develop and implement, in cooperation with local health officers and State and local medical associations, a program of medical education to alert physicians and other health care professionals to the symptoms, diagnosis, treatment, and reporting of cases of acute pesticide poisoning and chronic pesticide-related health effects, and to the known or suspected acute and chronic health effects of pesticides on children and other persons known or suspected to be particularly susceptible to adverse effects of pesticide exposure. In conjunction with the medical education program, the Department of Health shall develop a farmworker pesticide incident report and shall, by rule or regulation, require physicians to report incidents of pesticide exposure to the Department of Health.

c. The Department of Health shall establish, by rule or regulation, a toll free "pesticide hotline" to respond to public questions concerning health and safety of pesticide use and exposure.

9. (New section) a. The department shall carry out a program of testing in order to determine the nature and extent of pesticides in the environment to which man and animals may be exposed. Portions of the environment to be monitored shall include, but not be limited to: fresh and salt waters of the State; crops intended for human or animal consumption; places where food for human or animal consumption is handled, stored, transported, prepared or processed; and wildlife.

b. Results of the testing program shall be transmitted to the Department of Health and shall be reviewed at least annually by the Pesticide Control Council established under section 6 of P. L. 1971, c. 176 (C. 13:1F-6), and included in the report required pursuant to section 12 of this amendatory and supplementary act.

c. In carrying out the provisions of this section, the commissioner may enter into agreements with public or private agencies to secure such technical assistance as may be necessary.

10. Section 6 of P.L. 1971, c. 176 (C. 13:1F-6) is amended to read as follows:

6. a. There is ~~hereby~~ created in the department a Pesticide Control Council which shall consist of ~~nine~~ members, ~~three of whom~~ ¹⁵ shall be the Secretary of Agriculture, the Commissioner of Health, the Dean of the College of Agriculture and Environmental Science of Rutgers, The State University, or their designees, who shall serve as ex officio, and ~~six~~ ¹² citizens of the State representing the general public to be appointed by the Governor, to serve at his pleasure, of whom one shall be a farmer, one a toxicologist and one an ecologist. Of these members, one shall be

appointed from persons with training and experience in farming recommended by recognized organizations of farmers; one from persons participating in the integrated pest management program at Cook College at Rutgers, The State University, recommended by recognized organizations of farmers utilizing integrated pest management; two from persons recommended by recognized organizations of farmworkers; one from persons holding an M.D. degree and trained in occupational safety and health, recommended by the department of community medicine at the University of Medicine and Dentistry of New Jersey; one from persons with training and experience in toxicology, recommended by recognized research or academic organizations; one from persons with training and experience in ecology, recommended by recognized research or academic organizations; one from persons with training and experience in pest control research, recommended by recognized research or academic organizations; one from persons with training and experience in biological pest control research, recommended by recognized research or academic organizations; one from persons recommended by organizations of pest control applicators; one from persons recommended by recognized organizations of local public health officers; and one from persons recommended by recognized environmental organizations. The Governor shall designate a chairman and a vice chairman of the council from the public members who shall serve at the ~~will~~ ^{-----pleasure} of the Governor.

In the event that no recommendations for a particular category of membership are made to the Governor three months prior to the effective date of this amendatory and supplementary act in the case of the initial appointments, or within 60 days of the date of the expiration of the term of office of any member or the occurrence of any vacancy in the case of subsequent appointments, the Governor shall appoint as a member for that category of membership a person whom he believes will be representative thereof.

b. Of the six members first to be appointed, two shall be appointed for terms of 2 years, two for terms of 3 years and two for terms of 4 years. Of the six members first to be appointed

pursuant to this amendatory and supplementary act, two shall be appointed for terms of one year, two for terms of two years, and two for terms of three years. Thereafter all appointments shall be made for terms

of ~~4~~ ^{four} years. All appointed members shall serve after the expiration of their terms until their respective successors are appointed and shall qualify, and any vacancy occurring in the appointed membership of the council shall be filled in the same manner as the original appointment for the unexpired term only, notwithstanding that the previous incumbent may have held over and continued in office as aforesaid.

c. Members of the council shall serve without compensation, but shall be entitled to reimbursement for expenses in attendance at meetings of the council and in performance of their duties as members thereof.

11. Section 7 of P. L. 1971, c. 176 (C. 13:1F-7) is amended to read as follows:

7. The Pesticide Control Council shall be the advisory body in the Department of Environmental Protection in matters relating to the control, regulation and use of pesticides and is empowered to:

a. Request from the commissioner such information concerning pesticides as it may deem necessary;

b. Study and consider any matter relating to the improvement of pesticide control programs and advise the commissioner thereon;

c. From time to time submit to the commissioner such recommendations and reports which it deems necessary for the proper conduct and improvement of pesticide control programs;

d. Study the use, application and disposal of pesticides and advise the commissioner thereon;

e. Study pesticide control programs and make reports and recommendations thereon to the commissioner as it may deem necessary;

f. Study any regulations promulgated by the department or any other governmental entity in regard to the control of pesticides and make such recommendations thereon to the commissioner as it may deem appropriate;

g. Study and investigate the state of the art and the technical capabilities and limitations of regulations concerning use and control of pesticides and their relation to the environment and ecology and report its findings and recommendations thereon to the commissioner;

h. Study and investigate the need for programs for long range technical support of pesticide control programs and report its findings and recommendations thereon to the commissioner; [and]

i. Hold periodic public hearings concerning the use and application of pesticides and upon the state of the art and technical capabilities and limitations in pesticide control and report its recommendations thereon to the commissioner;

j. Study the alternatives to, and the environmental and health effects of, chemical pesticides ; and

k. Recommend to the department specific pesticides which, in its judgment, require further testing and evaluation in accordance with section 3 of this amendatory and supplementary act.

12. (New section) The council shall prepare and submit to the Governor, and to the Natural Resources and Agriculture Committee and Energy and Environment Committee of the Senate and the Agriculture and Environment Committee of the General Assembly, or their desig-

nated successors, an annual report summarizing its activities and making any recommendations for legislative or administrative action it deems appropriate and a separate annual report, submitted as specified above, regarding agricultural worker exposure.

13. Section 9 of P. L. 1971, c. 176 (C. 13:1F-9) is amended to read as follows:

9. The department shall have power, in addition to those granted by any other law, to

a. Conduct and supervise research programs for the purpose of determining the effects and hazards of the use and application of pesticides on man and his environment; and in furtherance of this research effort the commissioner shall consider the School of Agriculture of Rutgers, The State University and the University of Medicine and Dentistry of New Jersey, as [a] primary [source] sources of assistance;

b. Conduct and supervise Statewide programs of pesticide control education including the [prepaartion] *preparation* and distribution of information relating to pesticide control *which incorporates integrated pest management*;

c. Enter and inspect any building or place, except private residences, for the purpose of investigating an actual or suspected violation of law relating to pesticides and ascertaining compliance or noncompliance with any rules, regulations or orders of the department;

d. Receive or initiate complaints of violations of applicable laws, rules, regulations and orders relating to pesticides and institute legal proceedings for the prevention of such violations and for the recovery of penalties, in accordance with law;

e. With the approval of the Governor, cooperate with, and receive money from, the federal government, the State government, or any county or municipal government or from private sources for the study and control of pesticides;

f. Declare as a pest any form of plant or animal life or virus which is injurious to plants, man, domestic animals, articles, or substances;

g. Determine whether pesticides are highly toxic to man;

h. Determine standards of coloring or discoloring for pesticides;

i. [Subject pesticides to the requirements of 13:1F-11 (a) (6) of the Revised Statutes] (*Deleted by amendment, P. L. _____, c. _____*);

j. Cooperate with, and enter into agreement with, any other agency of this State, or the United States, and any other state or

agency thereof for the purpose of carrying out the provisions of this act and securing uniformity of regulations, in order to avoid confusion endangering the public health, resulting from diverse requirements, particularly as to the labeling and coloring of pesticides, and to avoid increased costs due to the necessity complying with such diverse requirements in the manufacture and sale of such pesticides;

k. Have the power, in accordance with a fee schedule adopted as a rule or regulation in accordance with the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), to establish and charge fees for any of the services it performs, which fees shall be annual or periodic as the department shall determine. The fees charged by the department pursuant to this section shall reflect the actual or projected expense incurred by the department in the performance of the service for which the fee is charged. All fees collected pursuant to this section shall be deposited in the Environmental Services Fund created pursuant to P. L. 1975, c. 232 and kept separate from other receipts deposited therein and appropriated for the operation of the Pesticide Control Program in the Department of Environmental Protection;

l. After public hearing, the commissioner may adopt rules and regulations governing the disposal of any pesticide, or any container therefor, to prevent pollution of any waterway and to protect plant and animal life and to insure that this disposal will not cause or tend to cause adverse effects on man or the environment. These rules and regulations shall be consistent with section 19 (a) of the "Federal Insecticide, Fungicide and Rodenticide Act," Pub. L. 92-516 (7 U.S.C. 136q), and the regulations promulgated thereunder.

14. (New section) With respect to pesticides and agricultural worker safety:

a. The Department of Environmental Protection, within 90 days of the effective date of this amendatory and supplementary act and pursuant to the "Administrative Procedure Act," P. L. 1968, c. 440 (C. 52:14B-1 et seq.), shall adopt rules and regulations not inconsistent with applicable federal law regarding pesticides and worker safety concerning, but not limited to:

- (1) Worker reentry into fields treated with pesticides;
- (2) Appropriate protective clothing and other current health or safety device or equipment to be worn or used when working with or during exposure to pesticides which shall be provided by employer, agent or employer representative, at no cost to the worker;
- (3) Warnings, issued both orally and by posted signs, that

e. The Department of Environmental Protection shall adopt rules and regulations regulating the storage of pesticides, but in no case shall allow the storage of pesticides within 500 feet of worker living quarters.

f. 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 target site.

g. The Department of Health shall coordinate health care services for agricultural workers between migrant health clinics and hospital serving agricultural areas and insure access to medically necessary services. The department shall also provide education and training in the health problems of agricultural workers, including those which may result from pesticide exposure, to workers and medical personnel.

h. An employee shall have the right to refuse to work in a field when instructed to enter before the minimum reentry time has elapsed or if the information to which he is entitled under this act has not been provided.

15. (New section a. The department shall investigate, in coordination with the Department of Health which may direct local health officials to investigate, each complaint received by the department alleging a violation of the provisions of this act, P. L. 1971, c. 176 or P. L. 1981, c. 538 within the period of time determined by the department to be adequate to insure the collection of evidence to determine if a violation has occurred.

b. The department shall adopt pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), rules and regulations necessary to implement the provisions of this section.

16. R.S. 4:7-39 is amended to read as follows:

4:7-39. Before entering any lands and premises and starting the work of abating and suppressing the gipsy moth in its preliminary stages and protecting surrounding vegetation or plant life therefrom, the department shall cause a notice to be given to the occupants of all affected lands and premises, setting forth the nature of the action that it is proposed to take and fixing a time therefor, in the following manner:

a. By two separate insertions in a newspaper qualified to accept legal notices published in the county of the proposed treatment or other action and circulating in the affected area. The two insertions shall appear at least 7 days apart, the first of which shall be not earlier than 21 days prior to the proposed date of treatment or other action and the second of which shall be not later than 7 days prior to the proposed date thereof, and

b. By mailing a notice by regular first class mail to the occupant of each affected parcel of property) persons residing within

500 feet of the proposed target site in the case of a proposed aerial application or use of an airblast sprayer or 200 feet of the target site in the case of a proposed application using other ground spraying equipment no later than 10 days prior to the proposed date of treatment or other action. This notice shall include,

in addition to any information required by the Department of Environmental Protection, the following:

Proposed time and date of pesticide application;

Brand name, United States Environmental Protection Agency product registration number, and the complete formulation of the pesticides to be used;

List of label precautions and known health effects not indicated on the label;

State Poison Control Center 800 Telephone Number;

EPA Pesticide Hotline Telephone Number;

Pest to be controlled; and

Alternative application dates in the event that the initially proposed application is postponed .

(2) Detailed information, described in subparagraph (1) of subsection a. of this section, provided as soon as practicable but not later than 24 hours prior to application by mail, telephone or hand delivery.

17. (New section) a. The governing body of a municipality shall certify to the Department of Agriculture that proper notifications required pursuant to B. S. 4:7-39 have been accomplished before any pesticide treatments are made.

b. A municipality proposing to treat with pesticides property, such as a reservoir, it owns but which is located within the boundaries of another municipality shall notify, in writing, the governing body of that municipality no later than 10 days prior to carrying out the pesticide treatment program.

c. A municipality proposing to apply pesticide on property within its boundaries where such application may infringe upon property within the boundaries of another municipality, shall so notify the governing body of that municipality in writing no later than 21 days prior to the date of the pesticide application;

d. Any municipality receiving notice pursuant to this section shall notify those persons living within the affected area as provided in B. S. 4:7-39.

18. (New section) Any person whose property or person is exposed to a pesticide resulting from a violation of this act may bring a civil action in law or

equity on his own behalf against any person for a violation of any provision of this act or any rule and regulation promulgated pursuant thereto, or against the Department of Environmental Protection for failure to enforce the provisions of this act or any rule or regulation promulgated pursuant thereto. The Superior Court shall have jurisdiction of these actions, and it shall not be necessary to the maintenance of the action that the person bringing the action prove that he has suffered or will suffer personal loss or damage. The court may award, whenever it deems appropriate, costs of litigation, including reasonable attorney and expert witness fees.

19. (New section) The court, upon finding violations of this act, shall award compensatory damages or \$500.00 for each violation, whichever is greater, to complainants. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. It shall also award such equitable relief as is necessary and appropriate to effectuate the purposes of this act.

20. (New section) a. No employer shall discharge, cause to be discharged, or otherwise discipline, penalize, or discriminate against any employee because the employee or his employee representative has exercised any right established in this act.

b. Any employee who believes that he has been discharged, or otherwise disciplined, penalized, or discriminated against by an employer in violation of subsection a. of this section may, within 30 days of the violation, or within 30 days of obtaining knowledge that a violation occurred, file a complaint with the Commissioner of the Department of Labor alleging the violation. Within 30 days of the receipt of a complaint, the commissioner shall conduct an investigation of the complaint. If after the investigation the commissioner determines that there is probable cause that the complaint is valid, he may refer the complaint to the Office of Administrative Law, which, upon the referral, shall commence an adjudicatory proceeding on the complaint, to be conducted as a contested case pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), and P. L. 1978, c. 67 (C. 52:14F-1 et seq.). If the Commissioner of Labor or the employee introduces evidence that prior to the alleged violation the employee exercised any right provided in this act, the employer shall have the burden to show just cause for his action by clear and convincing evidence. Within 45 days of the receipt of the recommendations of the administrative law judge, the commissioner shall adopt, reject, or modify the recommendations. The final decision of the commissioner shall be considered the final agency action thereon for the purposes of the "Administrative Procedure Act" and shall be subject only to judicial review as provided in the Rules of Court.

21. (New section) There is appropriated from the General Fund to Cook College of Rutgers, the State University, the sum of \$75,000.00 for the purpose of expanding the integrated pest management program.

22. This act shall take effect immediately.

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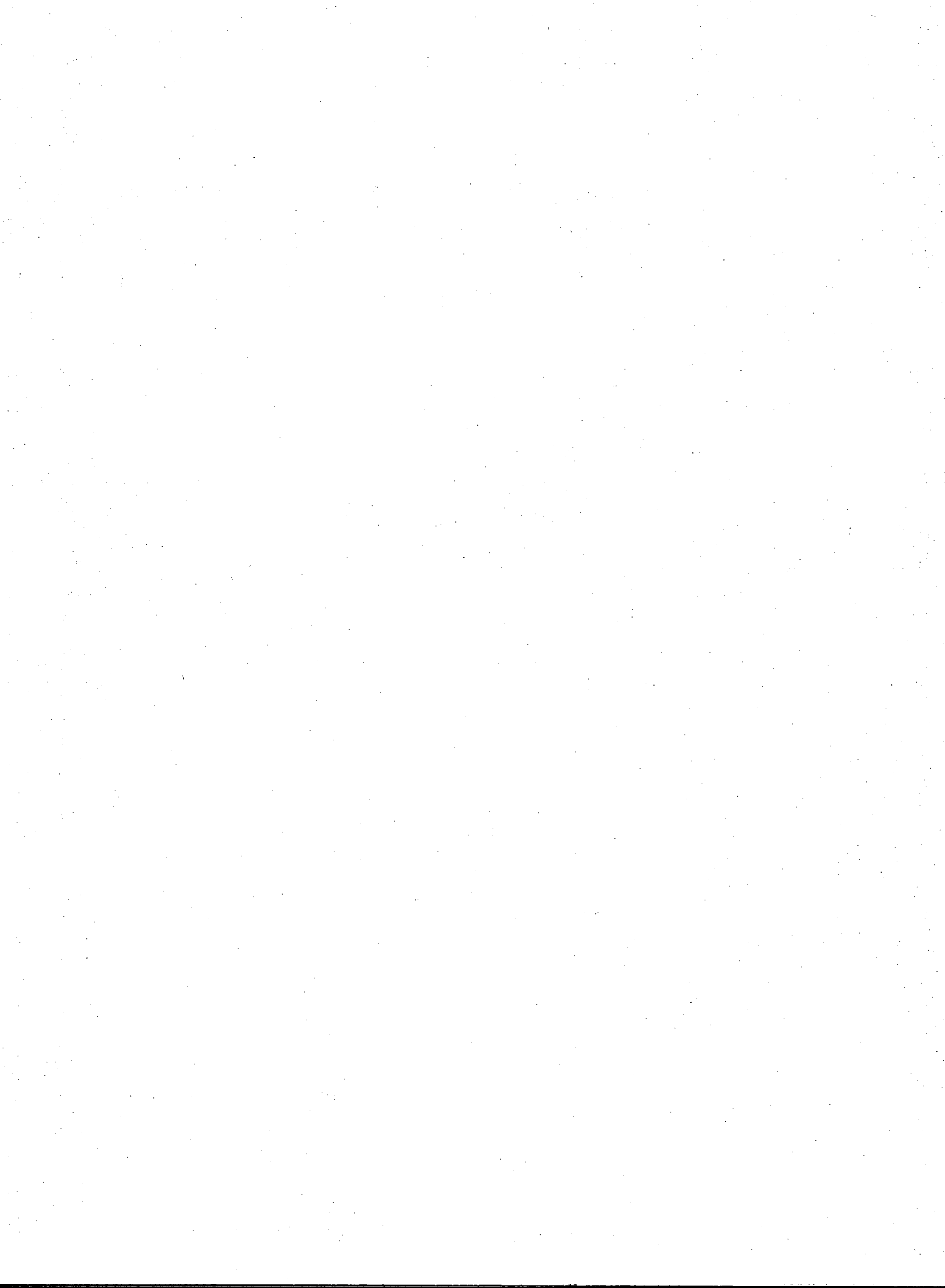
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SENATOR DANIEL J. DALTON (Chairman:) We would like to get started.

This is a public hearing on a proposed Committee Substitute to Senate Bill S-1342. The Committee is the Senate Energy and Environment Committee. To my extreme left is Senator Paul Contillo from Bergen County; to my immediate left is Senator Catherine Costa from Burlington County; and, I am Dan Dalton.

The hearing will be conducted as follows: The first speaker we will hear from is the sponsor of the bill, Senator Lesniak. Then we will hear from those executive departments that are present to testify on the bill. We will then call on a list of people who previously signed up to testify, and who will keep their remarks between eight and ten minutes.

Additionally, I would encourage you to involve yourself in panels if you could. That is, instead of each and everyone of you coming up to testify on the bill, whether you are a proponent or an opponent, if you want to come up in a group, we would encourage that. We want to discourage redundancy -- that is, hearing the same thing over and over again. We realize that the feelings relative to this bill held by the proponents and opponents run very deep. What this Committee needs to know is, if you object to the bill, where those specific objections are. If we hear that once or twice, believe it or not, we will probably remember it. Additionally, this is being transcribed for us, so we will have that to review.

The bill will not be voted on today. There will be no vote. I suspect the Committee is going to be considering this bill, not only at this public hearing, but at a regular scheduled Committee meeting as well.

The Committee will attempt to conclude its work today at approximately 2:30. What is going to happen is, there are going to be a lot of folks out there who are going to be very mad because they have come to Trenton in hopes of testifying. Some of you aren't going to testify. I have a list of 60 people already who would like to testify. As a result, we are going to hold the hearing record open for two weeks. Up until two weeks from today, you will have the

opportunity to include your written comments in the record of this public hearing. The way you will do that is, you will obviously write or type -- preferably type -- those comments and mail them to: Mark Connelly. Mark is to my immediate right. That is spelled C-O-N-N-E-L-L-Y. Mark is with the Office of Legislative Services, Room 305, State House Annex, Trenton, New Jersey 08625. Again, we are going to try to get through as many of you as possible, but at approximately 2:30, we will end this public hearing. Those people who have testimony available may present it to Mark at that time, but as I indicated, you will still have two weeks in order to submit your written testimony. That testimony will be reviewed by the members of the Committee before any vote is taken on this bill.

You should be aware that this Committee is not going to be breaking for lunch. We are going to go right through. So, if you see us walking into the back from time to time, it is because there is going to be soda and sandwiches set up for the Committee members and staff so that we can go right through.

With those ground rules set up, we would like to start the hearing by hearing from Senator Ray Lesniak, the sponsor of this bill. Senator Lesniak, welcome.

SENATOR RAYMOND LESNIAK: Thank you, Mr. Chairman and Senators of the Committee. Since I am the first speaker on the bill, I have the distinct advantage of not being redundant, unless I repeat myself. First of all, I want to thank the Committee, Mr. Chairman. I know you have a heavy schedule concerning other vital issues affecting the economy and energy. Thank you for scheduling this public hearing on this legislation.

As you said, there are many people here -- citizens, experts, proponents, and opponents of S-1342 and the proposed Committee Substitute -- so, I will limit my remarks to the general purpose of the bill and a brief outline of its major provisions.

The basic purpose of these proposed amendments to the Pesticide Control Act are: (1) to ensure that toxic pesticides are not used when there exists a safer practical alternative; (2) to ensure that when pesticides are used, adequate practical measures are taken to

reduce the possibility of human exposure; (3) to give basic right-to-know protection to farm workers who are excluded from New Jersey's historic Right to Know law; (4) to establish a balanced representation on the Pesticide Control Council; (5) to establish a mechanism for the reporting of pesticide incidents to the Department of Environmental Protection and the Department of Health; (6) to establish an educational program to alert physicians, health care professionals, and the public about the effects and treatment of pesticide exposure; and, (7) to ensure that all pesticide applicators are adequately trained and certified.

Since the introduction of S-1342, Mr. Chairman, I have had over 15 meetings with responsible representatives from organizations and individuals affected by this bill -- farmers, farm workers, chemical companies, environmentalists, pesticide applicators, persons exposed to pesticides, mosquito commissions, public health officers, and other interested parties. As a result of those meetings, I have proposed a Committee Substitute for S-1342, which has been available and widely distributed since the Friday before last.

The major changes in this Committee Substitute involve the notice provisions, as well as some clarifying language regarding other parts of the bill, which quite frankly, during the initial debate over the bill have been, to a certain extent, and in some instances to a great extent, distorted by the opponents.

First of all, the proposed Committee Substitute changes the directive to DEP to develop a program for the continuous evaluation of registered pesticides. There is a need for a certain type of evaluation by DEP over and above what EPA is doing, since the National Academy of Sciences recently issued a report that more than 60% of the pesticides currently registered have been inadequately tested. We do not know whether carbaryl, malathion, parathion, or any other pesticide will be our next EDB, and we certainly cannot trust EPA to make those decisions for us.

The proposed Committee Substitute, in place of requiring a continuing evaluation, takes language which we plagiarized from a Florida statute, requiring them to conduct a thorough evaluation for

pesticides for which substantive preliminary data indicate that the pesticide which is presently used will cause or may tend to cause adverse effects on man or the environment, or that claims made by the registrant to the U. S. EPA are substantially unsupported by evidence, or whose name has been submitted for evaluation by the Pesticide Control Council or the Department of Health.

The second area which has been substantially changed, of course, is the notice provisions. We have carved out eight different types of notice provisions, depending upon the type of application.

For agricultural lands, we only deal with aerial or airblast spraying notice provisions. We put the burden on the person who wants to be notified if they are within 500 feet of the target site and allow the grower to give notice within 24 hours of the application of the pesticide, if they are in an IPM program, anytime prior to the application of the pesticide.

We make the same effort in terms of outdoor ornamental spraying in terms of, again, putting the burden on those people who want to be notified. One thing I want to make clear, because this part of the bill has been incredibly distorted by some opponents saying, "If you use a can of Raid in your household, or if you do some spraying on your own property, you are going to have to notify," what formally had read "1000 feet" in the bill. Yes, if you did your own spraying using hydraulic equipment operating at a rate greater than 300 pounds per square inch, or 10 gallons per minute, you would still have to give notice. Of course, if you use that type of equipment on your property, you are going to get pesticide on your neighbor's property, and they should be notified if they wish. I doubt if very many individuals have this type of equipment for doing their own spraying on their property.

We take the same type of approach in mosquito spraying, shade tree spraying, and indoor pest control. I don't want to burden you with the details about the provision. It is in the bill, and I'm certain it will be addressed further on in testimony.

The other thing we clarified in terms of the liquidated damage clause -- the right to sue aspect of the bill -- against something which wasn't in the bill and which we didn't include in the

original bill, was a standing requirement-- The reason why it wasn't included in the original bill was because our jurisprudant system requires a doctrine of standing, which was specifically stated in the bill. In order to bring suit for damages under this law, you would have to be exposed, or your property exposed, to pesticides. Of course, it would have to be for a violation of the law which caused an exposure. So, we clarified that provision.

We don't have any funding in the bill currently, except for \$75,000 provided for the IPM program. Really, we just put that amount of funding in to boost up that program, about which I want to make a particular statement now. That program has been in existence, I guess, for about 12 years. In 12 year's time, there have only been 200 growers in that program -- less than 10% of those in the State of New Jersey. Yet, the experience of that program has been an average of a 36% reduction in pesticide use, with a saving of \$150 to \$200 an acre. So, I think anything that the Department of Agriculture and we, as the Legislature, can do to encourage participation in the IPM program will not only be a great benefit to the farming community, but also a great benefit to the residents of the State of New Jersey.

We are waiting for funding estimates for our budgetary estimates from DEP and the Department of Health. That will be the subject of either additional supplemental appropriation or an amendment to this bill in the future.

Lastly, I want to emphasize that the people of South Jersey where most of the farming, although not all of the farming, takes place in the State of New Jersey have to be particularly concerned about this legislation. The water system in South Jersey, as you very well know, is primarily underground, and over 90% of it is particularly susceptible to contamination. We're finding pesticide contamination in our water supplies now, and in addition, in fish in the State of New Jersey and throughout the country.

The new EPA Superfund site list contains an agricultural site that had pesticide applications.

So, this is a serious problem and one that I'm sure we are going to be dealing with in a serious and dedicated nature in the

months to come. As always, I've been willing, just as the Chairman and other members of this Committee have been, to discuss amendments and suitable provisions, if they are justified. I'm sure your efforts in this regard, as well as mine, will continue.

I want to thank you again for this opportunity, Mr. Chairman, and I will respond to any questions you wish to ask.

SENATOR DALTON: Thank you, Senator Lesniak. Are there any questions from the members of the Committee? Senator Costa?

SENATOR COSTA: Just one. There is a great deal of activity right now on the Federal level that changed the FIFRA, which is the Federal Insecticide, Fungicide, and Rodenticide Act. They are supposed to have started already. Are you familiar with that and where it stands? Would that help in this situation?

SENATOR LESNIAK: Well, the only thing, Senator, that I am familiar with is, there always seems to be a substantial amount of activity going on in the Federal government when New Jersey legislators introduce legislation. (laughter) We have had the same thing with Senator Dalton's Right to Know law, the same arguments with my water bill, and the same arguments going back to the Spill Fund amendments I passed. Generally, I would say that if we had to wait for EPA to act, the State of New Jersey would be in dire straits in terms of environmental protection.

SENATOR DALTON: Does that answer your question, Cathy?

SENATOR COSTA: I guess that is the best he is going to do on that.

SENATOR LESNIAK: I can't address myself any more specifically to what EPA may or may not do in the future.

SENATOR DALTON: Paul, do you have any questions?

SENATOR CONTILLO: Yes. Ray, you mentioned that there is-- It must be an agricultural site that is now listed as hazardous -- it can't be hazardous waste; what would you call it?

SENATOR LESNIAK: It is contaminated with pesticide, which is a hazardous waste.

SENATOR CONTILLO: Can you identify that site?

SENATOR LESNIAK: It is in Hawaii.

SENATOR CONTILLO: Hawaii?

SENATOR LESNIAK: Yes. (laughter)

SENATOR DALTON: Ray, I have a couple of questions. First of all, could you tell the Committee of any other states that have moved in a similar way relative to the regulation of pesticides, and also notification to farm workers and area residents?

SENATOR LESNIAK: Sure. Of course, this is a very comprehensive bill, and many sections of it have been generated by looking at other states, including Connecticut, Massachusetts, California, and Florida. I think a Committee for Alternatives to Pesticides would be better able to give you the specific instances because I don't know what aspect of the bill was taken from what jurisdiction. There are similar controls and varying aspects in those states.

SENATOR DALTON: Okay. One of the concerns of the people who have contacted the members of the Committee has been the notification provisions. Again, for the record, why don't you go over how this Committee Substitute treats those notification provisions?

SENATOR LESNIAK: Okay, thank you, Mr. Chairman. For agricultural lands-- First of all, the only type of spraying that will require a notice is aerial or airblast spraying. The grower would have to give a general notice, prior to the spraying season, to anyone residing within 500 feet of his target site on the property. For instance, if there was a 100-foot or a 200-foot buffer established where there would be no spraying -- no aerial or airblast spraying -- the notice would only have to go to those people within 300 feet. The reason 500 feet was selected was because there is EPA documentation that drift from aerial or airblast spraying travels at least 500 feet. There is some evidence that it goes up to 1,000 feet, but primarily, the drift goes up to 500 feet. The general notice would have to be by mail or hand-delivered 14 to 45 days prior to the first application of pesticides.

If the resident wanted notification of spraying in the future, he would have to send -- the burden would be on the resident -- by certified mail to the grower, his name, address, and telephone number. If he sent that notice out to the grower, the grower would be responsible to give a 24-hour notice of the application.

Any grower in the IPM program would be exempted from the 24-hour deadline. He would only have to make a reasonable attempt, and that would have to be defined by the regulations as other reasonable attempts are made.

Lastly, if they use a restricted-use pesticide -- those pesticides which are the most dangerous and which are registered -- they will have to post signs if it is going to be applied within 500 feet of a public road during the time that the application was taking place. That is because there are people who travel along these areas -- joggers, children walking, human beings walking. If there is a restricted-use pesticide being used, the sign should warn them. They should not be traveling or walking in those areas.

That is basically the notice provision for agricultural spraying.

For outdoor ornamental spraying -- strawberries, bushes -- if you are using hydraulic equipment, the kind of equipment I explained earlier, again, we adopted sections of the model ordinance which DEP has for this type of spraying. If you register by April 1 with your municipality, if it is aerial or airblast spraying, and if you are within 500 feet of the application, you would have to be notified within 24 hours. If there is any other type of spraying, you would only have to notify the adjacent property, so you would have to notify your neighbors if you are using a pesticide with hydraulic equipment. If you are using aerial or airblast spraying, you would have to notify those neighbors within 500 feet who wanted to be notified -- neighbors who had registered with your municipal registry.

In terms of mosquito spraying, larvicide spraying is exempted from any notice requirement.

SENATOR DALTON: Can you repeat that, Ray? I'm sorry.

SENATOR LESNIAK: Larvicide spraying is exempted from any notice requirement. Len, if I say anything wrong, will you shake your head? It is pretty complex.

As far as adulticide is concerned, the Mosquito Commission would have to advertise in two newspapers 14 days prior to their spray season, notifying the residents that there will be spraying going on

and that they may request notification. If they request notification, then they would have to be notified 24 hours prior to the spraying. Larvicide and granular applications over nonresidential areas are exempted from that notice requirement.

Shade tree spraying is basically treated the same way as outdoor ornamental spraying. It is the same thing with utility companies and railroad spraying.

With regard to indoor pest control, there would have to be 24-hours' notice given to the person occupying the premises to be treated. There are instances, and there have been instances, where people's apartments have been treated without their knowing about it. In schools, the area treated would have to be blockaded for the reentry time as established by DEP. For the area sprayed in commercial buildings, there would have to be 24-hours' notice. For instance, if a kitchen in a restaurant was sprayed or treated, there would have to be a notice of 24 hours on the entrance and exit of that area of the restaurant, alerting people that pesticides had been applied. There are many people who have allergies to certain types of pesticides, and they should be alerted if pesticides have been used.

There are provisions for a posting notice for chemicals used on lawns and lakes. In terms of the lawn provision, I'm leaning toward authorizing a municipality to adopt certain regulations, if they wish. There is an ordinance requiring chemically-treated lawns to be posted to warn children and animals to keep off. Although the bill makes that a requirement, I would be willing to consider leaving that provision up to the municipality.

Lastly, there is a notice provision on posting of lakes that have been treated with pesticides.

Again, there are people here to testify in terms of their exposures to each of these types of pesticide applications. These notice provisions are designed to avoid that.

SENATOR DALTON: Okay. Senator Costa?

SENATOR COSTA: Senator, are you saying that larvicidal spraying by air is exempted?

SENATOR LESNIAK: Larvicidal spraying -- any type of larvicidal spraying is exempted.

SENATOR COSTA: There is something else in the bill that says that the storage of pesticides within 500 feet of living quarters of agricultural workers is prohibited. I think you need a threshold there because it doesn't state whether it could be a quart or 500 gallons.

SENATOR LESNIAK: Yes, that is not on the notice provision; that is on the farm workers' provision. That is well-noted, and we will certainly give a lot of thought to that.

SENATOR DALTON: Senator, thank you very much for at least providing this Committee with a comprehensive review of that specific portion of the bill. I found that helpful, particularly in light of the people who are going to be coming up now. I wanted to have the members of the Committee feel comfortable with that before we moved forward.

SENATOR CONTILLO: Could you just run one specific example past me, because you gave us a lot to think about? How does a municipality deal now with spraying of shade trees in the town?

SENATOR LESNIAK: There is a-- How do they deal with them now?

SENATOR CONTILLO: No, under your bill -- under your substitute bill.

SENATOR LESNIAK: Oh, okay. They would have to notify people who had registered with the municipality by April 1 that they want to be notified. A municipal register would have to be maintained. This type of municipal register, by the way, is currently in effect for those municipalities that wish to maintain this registry. This bill would require municipalities to maintain this registry.

For those people who have registered because they want notification, if there is aerial or airblast spraying of shade trees, they would have to, within 24 hours of the application, notify the people within 500 feet of the target area of aerial or airblast spraying. For any other type of spraying, you would have to notify only those people who have requested it within 200 feet of the area to be sprayed.

SENATOR CONTILLO: Within 24 hours?

SENATOR LESNIAK: Within 24 hours.

SENATOR CONTILLO: A newspaper advertisement in a local town would not suffice because it might be two or three days ahead?

SENATOR LESNIAK: Well, more importantly, the notice provision generally given-- legal notices are certainly overlooked and provide very little notice. I think it would actually be more cumbersome for a municipality to deal with, rather than 24 hours' notice for people who requested it personally. They could call them up and tell them. It is a lot simpler than the expensive advertising in newspapers, and it is certainly more effective.

SENATOR CONTILLO: Could it be done two or three days ahead?

SENATOR LESNIAK: At least 24 hours ahead.

SENATOR CONTILLO: At least 24 hours, so it could be two or three days ahead. They could plan and hope--

Is an individual who sprays his backyard for mosquitos because he is going to have a picnic included in this?

SENATOR LESNIAK: He doesn't have to notify anybody.

SENATOR DALTON: Senator Lesniak, if you are to be the rule of thumb, by 2:30 we should have reviewed the testimony of at least two or three other people. (laughter)

SENATOR LESNIAK: Especially since I was going to be very brief.

SENATOR DALTON: Thank you very much, Senator. You are welcome to come up and join us -- whatever you would like to do.

SENATOR LESNIAK: I'll hang around. Thank you, Mr. Chairman.

SENATOR DALTON: The next person to testify is the Secretary of Agriculture, Arthur Brown. Secretary Brown?

SECRETARY ARTHUR R. BROWN, JR.: Good morning, Mr. Chairman. Mr. Chairman and members of the Senate Energy and Environment Committee, may I take this opportunity to commend and thank you for conducting this public hearing. The issue at hand can have an extremely broad impact on business and many citizens. It demands discussion and evaluation.

After a comprehensive evaluation, in all good conscience, I am obliged to oppose this bill.

The basis for our opposition strikes at the economic core of one of our State's most important industries -- may I say, the largest industry in the world. After many weeks of study, we at the Department have concluded that passage of this bill would severely cripple the \$500 million farm industry, creating overwhelming financial and bureaucratic burdens that most New Jersey farmers would be unable to bear.

The proposal fails to recognize existing pesticide safety and control measures exercised by Federal and State agencies. At this time, there appears very limited evidence of harmful effects of those pesticides that have been approved by the Environmental Protection Agency when used according to the label. The existent Department of Environmental Protection regulations for applicators are slated for review this fall, and the Department will also have input at that time.

What is the problem? In the 17th century, London physician Bernard Mandeville described nature as too often "a scene of voracity, cruelty, slaughter, and meaningless waste." Farmers can understand that observation. Witness the famines and plagues of the past, the recent Mediterranean fruit fly invasion, and the current citrus canker outbreak in Florida.

Man responds to such adversities with research. Agricultural research by this nation's universities and private entities is unsurpassed. While this nation has relinquished its leadership in many technologies and productivities based on our balance of payment, so our nation's agri-business continues to dominate and reign as the world's food basket. Cook College will be addressing their role in agricultural production and research later on today.

I am obliged to ask that the problem first be defined. If we are simply going to act on emotions or the pursuit of a risk-free existence, I would suggest we promptly close our educational institutions and discard the vast libraries of basic and applied research findings.

This is not to infer that caution should be thrown to the winds. Very positive controls already exist at the national and State levels. EPA requires extensive testing prior to registration.

Products must be appropriately labeled. Our Department of Environmental Protection requires that applicators be certified. Certification is based upon the successful completion of formal instruction and examination.

Are the current regulations being violated? Many of the pesticide complaints received by the State Department of Environmental Protection from the general public reflect problems associated with pesticide drift. And, I might add, less than 10% of these complaints are agriculturally-related. We at the Department are in favor of maintaining a knowledgeable, well-trained group of pesticide applicators throughout the State, and we support the DEP's plans to include tougher pesticide applicator regulations in its revised pesticide code, which should be available for public comments before year's end.

Farmers do not enjoy applying pesticides any more than you and I enjoy getting immunization shots. Pesticides are costly to purchase and apply; however, like immunizations, they are essential.

Temperature, humidity, prevailing winds, and the mechanical transport of insect and disease vectors are factors which impact crop conditions. To successfully abate an infestation, remedial action must be prompt. When I say prompt, it is sometimes within the 24-hour period that was already talked about. Farmers must be free to act. That means treating the crop, not processing paperwork.

Let's be realistic. New Jersey farms and the nation's farms are almost entirely family operations. Many are incorporated for business purposes, but they are family corporations. A farmer's expertise is in the field of monitoring his crops. How much of a burden can be placed on those folks for a highly questionable and speculative goal?

As the bill is written, farmers must notify in writing all persons within 500 feet of the proposed target site at least two weeks before treatment. If requested, he must then provide additional information on the complete formulation of the pesticide, a list of label precautions and known health effects not listed on the label, telephone numbers of the State Poison Control Center, the Federal

Environmental Protection Agency pesticide hot line number, and alternate dates for spray treatment no later than 24 hours before he plans to spray. If weather or other emergencies force him to delay spraying on the specified date or alternate dates, he must repeat the entire process all over again.

The above requirements are unrealistic, impractical, and unworkable. This bill would place farmers at a severe economic disadvantage with other states, jeopardize our farm industry, and undermine our preservation efforts. Agriculture cannot survive without adequate pest controls and the ability to address pest infestations swiftly and efficiently. Damage by pests can cost farmers thousands of dollars each year, cut into food supplies, and drive up consumer prices. The proper use of pesticides can, and does, prevent full-scale destruction, and in so doing, allows us to maintain an adequate supply of high-quality food and preserve one of our State's most vital industries.

Farmers are not cavalier with pesticides. They and their families have as much or greater exposure to these materials than most farm workers. To believe that farmers, in general, have a disregard for their workers is not supported by facts. On the other hand, I have no compassion for any farmer who fails to abide by existing control standards.

The Department supports informing workers about the materials used in the workplace, providing notification is reasonable. In fact, I recently convened a meeting with a leading farm worker representative and others where agreement was reached on an efficient procedure for transmitting such information.

In deference to time, I cannot address all aspects of this legislation. Hopefully, others will. However, I must comment on Section 18, which appears to recreate the bounty-hunter system.

It appears that any person who even believes his property was exposed to a pesticide as a result of a violation of the act could file suit and collect \$500, plus litigation fees. It is also noted that it is not necessary to the maintenance of the action that the person prove he has suffered, or will suffer, personal loss or damage.

New Jersey has embarked upon a farmland preservation program for environmental, economic, and aesthetic benefits and to help secure a nearby food supply. Our farmers must compete in the open markets. They cannot absorb unique costs associated with programs of questionable benefits.

There is an old Byzantine proverb that states, "Those who have bread may have many problems. Those who lack it will have only one."

I humbly and sincerely suggest that the agricultural industry has served this State and the nation well. This bill implies that the industry is unreliable and suspect in its pursuit of a plentiful supply of wholesome foods. Nothing is further from the truth.

The Department of Environmental Protection has conducted a safe and realistic control program on pesticide usage. If improvement can be made on those regulations, fine. However, S-1342 is not in the best interest of the people of this State.

In conclusion, I would suggest that the bill be discarded in its entirety. Department of Environmental Protection regulations can be amended to further accommodate farm-worker protection. Coincidentally, funding should be provided to medical facilities to maintain farmer and farm-worker pesticide monitoring programs. Should there be difficulties related to the use of pesticides, such clinics would be in a position to identify problem areas, provide treatments, and recommend corrective action.

Mr. Chairman and other members of the Committee, I want to thank you for this opportunity to present testimony before you. Thank you.

SENATOR DALTON: Thank you, Secretary Brown. Are there any questions from any members of the Committee?

Secretary, I have just a couple of questions. Presently, how does DEP deal with the issue of notification regarding the regulations that they have promulgated relative to pesticide control?

SECRETARY BROWN: There is no notification at this point.

SENATOR DALTON: Okay. Do you find that that perhaps is a gap in the present regulations?

SECRETARY BROWN: We feel that in the farming community -- and, if you are familiar with what goes on in the farming community -- notification, when spraying for pesticides, whether it is restricted or nonrestricted, is almost an impossible task because of the climate we are dealing with. Twenty-four hours, as I mentioned earlier, can mean the loss of a crop when you get into a situation where you have very serious disease pressures. It is the same with insects, but disease is more of a problem.

SENATOR DALTON: I think that was one of the things about the farms I visited during the past several months. They pointed out that in the initial bill, the notification provisions were perhaps too broad and too inclusive. What they were basically saying was, "If I, in fact, have to run around and notify all of these people, I'm not going to be doing any application."

In light of the present Senate Committee Substitute, the question now becomes regarding the 24-hour notification provision: Do you presently feel that that is too broad also?

SECRETARY BROWN: There is no question in my mind.

SENATOR DALTON: Okay.

SECRETARY BROWN: I've seen actual cases where as soon as the rain stopped -- it may have been raining for two days or five days -- you had to go in and apply the pesticide.

This is the most stringent piece of legislation, as far as notification is concerned, in the country. That is without a doubt.

SENATOR DALTON: I think I want to dwell on that, Secretary, if I may and with your indulgence.

As I understand the notification provision as it relates to agricultural lands, there is a general notification provision. A general notification provision shall be given to persons residing within 500 feet of the proposed target site by first-class mail or by hand-delivery at least 14 days, but not more than 45 days, prior to the first application. That is once a year. That is presently how the bill reads.

Can you confine your remarks to that provision and tell me what your objections are?

SECRETARY BROWN: In the area where I live, there is no problem. That is what the Senator said about South Jersey. But, there are areas in South Jersey where some farmers may have 150 people within a buffer of 500 feet; this is when you get into town houses and apartments. I think it is nearly impossible to get out there and notify these people. If they are not home, you have to make a second trip or a third trip. You have to either notify them by mail or in person, and I don't know how we could possibly do it. It is putting one more regulation upon the farmer. The farmers in the State of New Jersey and in the country are in such bad shape that it doesn't take much to push them right out.

SENATOR DALTON: First of all -- don't get me wrong -- I'm not trying to understate the problems that farmers presently have. What I am trying to determine is, would the effect of this provision--

What you are saying then is that within this provision, once a year there will be a general mailing done for people residing within the 500-foot buffer zone. As I understand it, those persons may respond and ask to be placed on a list for specific spraying. That is my understanding as to how the bill reads.

Then, as I understand it, those persons who do respond are then put on a list so that they will be notified within 24 hours of specific spraying by a farmer during the growing season.

What you are saying is that perhaps the general provision may not, in fact, be the problem. Don't let me put words in your mouth, but the specific notification is the real problem. You are saying that within 24 hours, a specific number of people would have to be notified.

SECRETARY BROWN: Yes, that is right, plus the fact that if it rains and you can't spray, you then have to go through the entire process again. There is no way a farmer is going to stay in business in New Jersey or any other state if he has to comply with that type of regulation. If we could sell a blemished product in this country, it would be fine, but we would be at a very distinct disadvantage with our neighbors.

SENATOR DALTON: Just to see if we understand each other, if it rains, and as a result an application couldn't be made, then it is

not the entire process that starts all over. It would be just those people who asked for specific notification. That is the way the bill reads.

Again, I am not trying to understate it; I am trying to clarify it so that I understand it, and perhaps help some other people in the audience understand it.

That concludes my comments. I just wanted to get involved in the notification provision.

Let me just ask one other question, Secretary. You indicated that--

(At which time unidentified person from audience brings up a bag of apples to show to Secretary Brown)

SENATOR DALTON: Miss? Excuse me, miss? We're trying to have a hearing.

One of the things that I wanted to focus in on is your characterization of the paperwork that would be created through this bill. That was my understanding of one of your remarks in your testimony. Could you embellish upon that? What paperwork would it create for farmers?

SECRETARY BROWN: I assume that if you indebted to notify, you would have to keep paperwork of the people who were notified just to cover yourself. What we are concerned about is, if some people are not home and they come home after you personally tried to contact them, they can then file suit. The whole area of what a person can do as far as filing suit is concerned is a very great concern to the agricultural community. We feel it is almost completely impossible to contact everyone in that particular area and to abide by the given structure that is set up.

SENATOR DALTON: In other words, you are saying that once the general notification is sent out prior to the first application, then the farmer has to have the people on a list, and they have to be notified. That is what I want to focus on because the list is the actual paperwork you are talking about.

SECRETARY BROWN: The list -- in sending out notices every time you are going to spray -- is just one more operation that

may not seem costly on the outside, but I'll tell you, eventually when you get into crops, such as in an orchard where you have to spray 12 or 14 times per season -- I can see where the advent of this regulation could end up costing our environment more because of the notification.

At the beginning of a season, a farmer may say, "I'm going to spray every seven days," even if it doesn't need it. We would like to go on a prohibitive program rather than a preventative program; it is more expensive, and there isn't a farmer in the audience or in New Jersey who wants to go on a preventative program. It's expensive.

SENATOR DALTON: That is not the question, Secretary. I don't think anyone is working -- at least on this Committee -- under the apprehension or misconception that farmers would like to cut down the use of pesticides. I think we recognize that. Cathy and I are from South Jersey, and we are trying to educate Senator Contillo. We realize that pesticides cost money. As a result, when you keep those pesticides down to a minimum, it keeps costs down to a minimum. We recognize that.

What I am trying to get from you is your characterization relative to creating more paperwork. Let's go back to the point where it rains, and that farmer then has to postpone his spraying. Is it your understanding that, at that time, the farmer has to send out an additional notice to each and every person on that list?

SECRETARY BROWN: My understanding is that if you notify them that you are going to be spraying within 24 hours, and you go past that because of rain, you have to send out a seven-day notification again. If you don't get it done within that seven days, you are going to end up sending out another seven-day notice.

SENATOR DALTON: I don't see any place in the bill that says anything about seven days.

SECRETARY BROWN: It is 14 days.

SENATOR DALTON: Fourteen days is the general notification. I'm talking about the specific notification. The general notification happens once; the specific notification, which may occur sometime later, is what I am focusing on.

Your understanding is that the bill indicates that once a farmer has the list of people who want to be notified, and he plans to do a spraying the next day -- an application -- it rains, and as a result, that application has to be postponed-- Your understanding of the bill is that everyone must be notified again.

My understanding of the bill is that that is not necessarily the case. There are provisions made within the bill, within the specific notification provision, which allow you to use alternative dates. You can indicate, "If there is a problem on this day, then we're going to be spraying on this day." I want to be accurate about what the bill does. I understand your concern that farmers may not know when they are going to have to spray after it rains. That might entail another mailing. At least the bill doesn't indicate that the whole process has to start over again, so I think we should understand what the bill says.

SECRETARY BROWN: Well, I was under the assumption-- Let's say you made notification saying that after 24 hours, you are going to spray. Now it rains for three days. You are saying that we don't have to make any further notification.

SENATOR DALTON: No, this is what I am saying, sir: Page 7 of the bill. I'm telling you what the bill indicates. It says, "Alternative application dates, in the event the initially proposed application is postponed..." That can be listed within the notification -- alternative dates.

SECRETARY BROWN: I'm saying that when you send out the notice and you think you are going to spray within 24 hours, suppose it does rain for three days? You don't have any alternative dates on there, so what do you do then?

SENATOR DALTON: What I am getting into, sir, is that-- What I don't want to have is anyone coming up here and misrepresenting the bill. The bill says you can use alternative application dates within the initial notice. You initially said you couldn't do that.

SECRETARY BROWN: I was confused about the seven-day notice.

SENATOR DALTON: Let's understand that there is a general notice and a specific notice. We are saying that under the specific

notice, there are alternative application dates that can be listed without going back and doing the 24-hour notice again.

SENATOR CONTILLO: Dan, regarding the notice, may I add one more thing?

SENATOR DALTON: Yes, sure.

SENATOR CONTILLO: It would seem to me that you have a dual problem. The notice, which you feel you can't apply, seems to be mostly because of the problem of rain. Why can't the notice say -- of course, the sponsor would have to be part of this -- on such and such a date, or as soon thereafter as the rain ceases? If you are in a rainy period, and you say, "My goodness, I'm going to have to spray within a day or two or three, as soon as this rain stops," then say that. Maybe we are too bound up with what the lawyers want us to say. If that is a problem, we can direct ourselves to it.

SECRETARY BROWN: Well, rain is a funny thing. It can rain on half of your farm and not on the other half. That is well-known; it happens all the time. You may think it is funny, but it is not. That is the truth. Rain is very sporadic.

SENATOR DALTON: Is there ever a situation, Secretary, where after three days of rain, or several days of rain-- For instance, say I am a farmer. I intend to make an application on a Saturday. It has rained for several days and it finally abates on Tuesday -- late Tuesday afternoon. Is there ever a situation where I then don't want to go out and make an application on Wednesday? Do you understand my question?

SECRETARY BROWN: Yes, it depends on the weather after the rain and the type of disease you are talking about.

SENATOR DALTON: Right. Perhaps it would depend upon the impact of that rain on the disease and/or pesticides. Is that correct?

SECRETARY BROWN: It could change; there is no question about that.

SENATOR DALTON: I don't want to oversimplify it either, Secretary, and I don't want to oversimplify the whole notification issue. Again, I want to make sure we state it factually.

SECRETARY BROWN: We are talking primarily about rain being one factor, but there are many other factors involved. It can be too windy; there can be extreme winds; or it can be too hot. Some pesticides are not effective above certain temperatures or below certain temperatures. The temperature and the climate are very, very essential when applying pesticides.

SENATOR COSTA: Secretary Brown, to further clarify this notification: At one time, farmers had plenty of land around them, and there weren't very many houses close by. Your concern also seems to be for the apartment dwellings that have sprouted up, as well as a lot of developments throughout the State. Therefore, the farmers are usually farming from hedgerow to hedgerow, rather than having a buffer right there. Notification, I believe, is what you are addressing. It is quite a problem because you are not notifying three or five houses; in any large development, there are a number of houses. In the case of apartment houses, you have quite a number of people you have to notify. I don't know how we can ameliorate this condition as far as the bill is concerned. As far as apartment houses are concerned, there might be some proviso where one notification on a billboard in a building might take care of all the residents in the building. How would you address it otherwise?

SECRETARY BROWN: That is a hard one to address. In the agricultural community, it is very difficult to come up with a solution that fits all the needs. We've talked about that with farm labor -- like posting it in a barracks so people will know it is being used. If people read it, fine. If they don't, what happens?

SENATOR COSTA: The bottom line is, notification is haphazard as far as farming is concerned because you depend so much upon weather conditions. Is that correct?

SECRETARY BROWN: That is correct.

SENATOR COSTA: I think what you have before you there is one apple that wasn't sprayed and one that was. (Referring to bag of apples put on witness table by unidentified person from audience) Is that correct?

SECRETARY BROWN: It probably had spray on it, but it didn't get it at the right time. That is the problem with apple scabbing. That is what is before you here.

SENATOR DALTON: I thought you were having lunch up there.
(laughter)

Mr. Secretary, I have no further questions. Thank you very much, Secretary Brown.

SECRETARY BROWN: Thank you very much.

SENATOR DALTON: The next speaker will be Assistant Commissioner George Tyler of the Department of Environmental Protection.

ASSISTANT COMMISSIONER GEORGE TYLER: Good morning, Senator Dalton and members of the Committee. With me this morning is Ray Farrarin, who is Chief of our Bureau of Pesticide Control.

As you said, my name is George Tyler, Assistant Commissioner of the Department of Environmental Protection. I appreciate this opportunity to comment on behalf of the Department on Senate Bill 1342.

My comments will address six areas. First, there are recent regulatory changes adopted by the Department, which already address some of the provisions in this bill. Second, there are provisions in the bill which would be difficult to implement and enforce by the Department. Third, we will offer comments regarding some of the new provisions in the bill, including the need to better identify certain regulatory and functional responsibilities with different State agencies. Fourth, we will offer comments on the effects of elimination of aerial applications for broad-spectrum pesticides and suggest several amendments. Fifth, the resources required to implement this bill have been estimated, and the need for funding is noted. Sixth, we will offer support with suggestions for change for some of the bill's provisions.

In the interest of time, I will not go through all of those comments in detail. I'll try to hit on them in summary fashion, Senator, and then I'll go through a few points specifically. Then we will submit detailed comments for the record.

Last year, the Department substantially restructured, revised, and upgraded our regulations dealing with pesticides. Our revisions clarified and improved the enforceability of the pesticide regulations based on the operating experience of our Bureau of Pesticide Control. These revisions were comprehensive in nature, and were a major step forward in preventing pesticide misuse and reducing the potential hazards of pesticides to the public.

Sections of S-1342 cover activities which the Department now regulates in nearly an identical fashion. Examples include the provisions prohibiting drift and the spraying of non-target areas; insurance requirements for aerial applicators and for other kinds of applicator businesses; and, continuing education programs. We suggest that these provisions be deleted in light of the fact that they are already in effect in New Jersey.

The bill also requires extensive public notification requirements prior to various types of pesticides being applied. Testimony received during our public hearing process showed this area would be extremely difficult to legislate or regulate. The Department has implemented some notification requirements in our pesticide regulations, and we have also included such provisions in a model ordinance following this public hearing process. In our opinion, the new notification regulations ought to be given more time before further changes are decided upon. One particularly difficult area, as you have already heard, will be the notification requirements imposed on New Jersey's agricultural community. Because agricultural land use is preferable to industrial, commercial, or residential development, from an environmental viewpoint, our Department has consistently endeavored to simplify the means we employ to bring agricultural operators in compliance with environmental law.

In this case, S-1342 seems to place the burden resulting from development and growth on the farmer, and somewhat unfairly. One suggestion this Committee might consider is a statutory requirement of notice to homeowners by municipalities or by real estate interests at the time of sale. It would indicate that the property being purchased or owned was in an area zoned for agricultural use, or assessed as

farmland. This would alert the farmer's neighbor in advance that pesticides would be periodically applied in the area. It could possibly serve as the basis for a tailored local telephone or mail notification system carried out by a municipality.

Also, the Department is currently preparing additional amendments to our pesticide rules to further upgrade the control scheme in New Jersey. Again, the revisions are based on our experience in working with the pesticide code and will set extensive regulatory requirements where they are needed. This would include misuse of termiticides and contamination of homes. In addition, the regulatory revisions will address certain concerns and issues reflected in the bill, such as further regulating aerial application or mandatory reporting of a pesticide exposure instance.

We urge the Committee to consider that instead of covering this with legislation at this time, that they be handled in a regulatory development process by the Department.

There are a number of provisions in this bill which the Department agrees would improve the regulation of pesticide users, although some additional clarification is required. In a number of provisions, the bill assigns responsibility to two or more State agencies. For example, incident reporting requirements address a number of problems. Examples would be pesticide misuse, occupational exposure, and health effects -- both acute and chronic. Departmental responsibilities for these functions should be clearly assigned. Examples would be to assign pesticide misuse to the DEP, occupational exposure to the Labor Department, and health effects to the Health Department.

The bill also contains a number of innovative measures which extend certain protections and rights to both farm workers and the public, which we support. Section 18 can provide additional support for persons affected by improper pesticide use.

Department investigators have become increasingly involved as witnesses in civil actions to recover damages due to the misuse of pesticides. The financial responsibility requirements of the current pesticide regulations have been instrumental in these cases by requiring insurance which may cover such claims.

Provisions related to worker safety should be reassigned to the Department of Labor, which has the primary responsibility for such functions.

We believe the pesticide fact sheet required in Section 14 b. should be the responsibility of the Department of Health, similar to the requirement under the Worker and Community Right-to-Know Act. Worker training requirements, we believe, should be assigned to the Department of Labor, although we believe Rutgers University, through their Cooperative Extension Service, should be called upon for technical assistance in this area.

The Department currently regulates use records, and they are an integral part of our investigative process. This bill would require them to be made available automatically by the Department to anyone who is interested in such records. We suggest that the Department be a court of last resorts, so to speak, so that records are first made available by either the user of the pesticide or the applicator, and then the Department, if all other means fail.

With respect to resources, this bill could require at least a significant increase in the resources, including manpower, equipment, and laboratories necessary to carry out the pesticide program. Particularly, the technical review and evaluation of suspect pesticides as determined by the Department, the Department of Health, or the Pesticide Council, under Section 3, may require substantially increased funding for technical staff resources. The costs are somewhat difficult to estimate at this time because the number of reviews are unpredictable. The Federal program, I should note, for evaluation of such products costs EPA approximately \$16 million annually. Much of the resources necessary for that program would be needed by the Department to carry out this new task.

The extensive product analysis now mandated by Section 3 could, in reality, require several years to put in place. A better alternative might be to push for changes in Federal law and at a speed with which EPA is handling the new product registration phase on the Federal program.

We also need a significant increase in enforcing staffing based on the mandatory, regulatory-type requirements included in S-1342. In that regard, we suggest that the Committee consider the model used in the recently enacted Community and Worker Safety Right-to-Know law, where initially a lion's share of the provisions were to fall on State agencies. But, in the legislative development process, as Senator Dalton well knows, a lot of those functions became a suitable role, we think, for county and local governments.

Finally, I should note, the bill does not authorize any appropriations by the Department, and our position on all recent legislation has been that we do not accept additional responsibility without the resources to carry it out.

In conclusion, the enactment of sound legislation, complemented by responsive regulations, will enable State government to provide more effective service in this area. The objective of protecting human health and the environment from pesticide misuse is one I think we all share. The Department looks forward to continuing work with the Legislature toward this goal.

Thank you again for this opportunity to comment and to answer any questions you might have at this time.

SENATOR DALTON: Senator Contillo or Senator Costa, do you have any questions?

SENATOR COSTA: I would like to listen to the other gentleman first.

ASSISTANT COMMISSIONER TYLER: Ray is with me just in case you had questions, Senator.

SENATOR COSTA: Oh, all right. Commissioner Tyler, you talked about the resources not being in this bill, and there is quite a bit that will be asked of the Department of Environmental Protection. Do you have any idea what the costs would be based upon the amended version?

ASSISTANT COMMISSIONER TYLER: I don't want to throw out a number at this hearing. We had a fiscal note prepared, but there is a large variable in it. The most extensive part of this bill would be the provisions that require us to evaluate pesticide products. In

other words, under this bill we must find that there is no other effective alternative. I may have overstated that a bit, but that is about what it requires of us. It is something that would apply to all pesticides, but then the more expensive phase of product safety testing is something, if I'm reading the bill correctly, that I think happens at the election of any party by petition to the Pesticide Council, the Health Department, or the Department directly. If we have information which would lead us to believe that a pesticide should be reevaluated, we must do it. Right now, there are only 20 chemicals on the Federal list which would trigger that kind of review automatically.

The fact that an interest group or the Public Advocate could petition the Department on each and every pesticide that is licensed makes the cost variable. We can provide the Committee with that information, which would be a sliding scale depending on the number of products we had to evaluate in any given year.

SENATOR COSTA: It seems you are saying that if this bill is passed, it would-- You could not follow through with what has to be done as far as the DEP's part is concerned.

ASSISTANT COMMISSIONER TYLER: We would need--

SENATOR COSTA: (interrupting) Yet, at the same time, from what I heard you say, you have new regulations and there have been additional amendments added to the pesticide code which, in essence, would take care of what this bill is trying to do.

ASSISTANT COMMISSIONER TYLER: I have a few thoughts, if I may. With respect to product registration and safety, we are not planning on instituting that type of program on our own. That is the area I was referring to in terms of the increased costs to the Department, which are substantial.

In terms of pesticide misuse and misapplication, field enforcement type of regulations-- Those are regulations we have just recently revised in a dramatic way, and we will again be revising them this fall.

SENATOR COSTA: That part of the bill then is already being taken care of, according to what you are saying?

ASSISTANT COMMISSIONER TYLER: The comment we made was, because of our regulations, or because of this bill -- and, this will be in our written comments to the Committee -- we will probably need to double our enforcement staff. Right now, we have about 12 inspectors, and we think we could handle some of the provisions in this bill with up to 24 inspectors. We have also recommended delegating some to local government, so they are not in that calculation. It is a little difficult to give you a precise number in the legislative process at this point, but we will try.

SENATOR DALTON: Do the DEP regulations deal with everything now? I mean, the wide spectrum of applications, George.

ASSISTANT COMMISSIONER TYLER: There are areas that are not covered by the DEP.

SENATOR DALTON: Such as?

ASSISTANT COMMISSIONER TYLER: For example, notification by agricultural applicators is something that is exempt from the current DEP regulations.

SENATOR DALTON: Has the Department taken a position on notification yet?

ASSISTANT COMMISSIONER TYLER: Well, we limited the statewide control of notification in our recently revised regulations to legal notice or some other notice in newspapers for commercial applicators. Then, after a public hearing, we adopted a model ordinance for local municipalities to consider. I think what I'm saying today is consistent with that approach, that is, that kind of intense level of notification ought to be carried out by a local level of government.

SENATOR DALTON: I'm not suggesting that it shouldn't. What I am asking is, do your present regulations deal with all types of applications of pesticides?

ASSISTANT COMMISSIONER TYLER: Yes.

SENATOR DALTON: They do, okay. One of the provisions, as I recall in reading the bill, initially dealt with who shall receive the training or education needed to make application. Could you contrast the bill as it speaks to that issue as opposed to the present DEP regulations?

ASSISTANT COMMISSIONER TYLER: I think so. I'll try. Originally, under the Federal program adopted by most states in the early 1970's, applicators were certified to apply pesticides commercially. Under that Federal law, and then subsequently in New Jersey, applicators could supervise non-trained, non-certified applicators carrying out pesticide applications.

Our recent regulatory changes mandated that everyone who applied pesticides be registered with the Department and trained in a certain fashion. The bill would go one step further and require that anyone who applied pesticides be certified as an applicator. I think there is a small difference in that area in New Jersey. In other states, a certified applicator can still "supervise" -- I'll put quotes around that because they can supervise from quite a distance -- untrained applicators.

We are close to where the bill is, and I think the bill and New Jersey rules are both currently ahead of 49 other states in this regard.

SENATOR DALTON: The issue relative to your opposition-- Why don't you summarize the components that make up your opposition to the bill? You talked about different things, but I want to try to--

ASSISTANT COMMISSIONER TYLER: (interrupting) Actually, I would have to say that our Department's position is, we support some of the provisions of the bill, and we oppose some of them as currently drafted. But, we think the purposes are valid and ought to be addressed. In particular, I suggested that in the area of farmers' notification, the purpose is laudable. In fact, it is something that ought to happen. Putting the burden, however, on farmers of encroaching development, I think, is something we would all like to avoid. I was suggesting that perhaps in either real estate transactions or through municipal government -- perhaps through the tax system -- notification could be made so that the farmer would be burdened. There could be a phone call to one person in municipal government before the farmer applies pesticides, and then that person in municipal government could distribute notification to anyone who wanted it in the community.

SENATOR DALTON: Okay, but that doesn't answer my question, George. What I am trying to get at is the heart of your opposition. The funding, I know, is a problem.

ASSISTANT COMMISSIONER TYLER: If you want to label that "opposition," I would say it is a proposed modification, rather than opposition.

Secondly, I would rather see the provisions that we already have in effect in our regulations handled by regulations and not listed in the bill. If a change is necessary because of circumstances that are unforeseen, I think the regulatory process is more flexible, and I hope, as responsive as the legislative process would be.

In addition to those we already have on the books, there is a series of regulations that we are about to propose, which the bill covers, and would fall in the same area -- that is, where the legislation becomes somewhat detailed in specificity. Again, our written testimony will spell that out.

SENATOR DALTON: Okay, thank you very much.

SENATOR COSTA: I have just one thing more. From what you have said, you say the regulations could take care of part of the bill.

ASSISTANT COMMISSIONER TYLER: Yes.

SENATOR COSTA: The other part where you speak about the farmers not being hurt by the growth that is happening, I think, is a good idea. Perhaps that could be an amendment -- where the farmer has one phone call to make, and that is about it. The burden would be upon the municipality, since it is not the farmer's fault that other people are building houses around him. He was there first.

SENATOR DALTON: Now we're assured of getting the League of Municipalities in here to testify. (laughter)

ASSISTANT COMMISSIONER TYLER: I knew they weren't here today.

SENATOR COSTA: Commissioner Tyler, why do you say you agree that should be in the bill?

ASSISTANT COMMISSIONER TYLER: The provisions of the farm worker Right-to-Know, on fact sheets of pesticides, on notification--

We suggest a modification to the Labor Department of worker grievances, and to the Health Department for health instances, the health hot line. Those types of provisions are new, different, and probably require legislation. I don't think we could do that by regulation.

SENATOR COSTA: Thank you.

ASSISTANT COMMISSIONER TYLER: Okay, thank you, Senator.

SENATOR DALTON: The next speaker is Dr. Ronald Altman, Assistant Commissioner of the Department of Health. My understanding is that Dr. Altman is being accompanied by David Adams from the Biological Services Program of the Department of Health.

DR. RONALD ALTMAN: Actually, I have two people here.

SENATOR DALTON: Oh, okay.

DR. ALTMAN: Thank you, Senator Dalton and members of the Committee. I am Dr. Ronald Altman, and I am the Assistant Commissioner in charge of epidemiology and disease control for the Health Department. On my left is Dr. Terry Schulze, who is an entomologist with our Department. He does special projects related to vector-borne diseases. He used to be the Chief of our Pesticide Control Program, when we had such a program, with the U.S. EPA. On my far left is Mr. David Adams, who is in charge of our Vector Control Program at the Department.

We appreciate the opportunity to comment on this bill. This is, to us, a very detailed, complicated bill. Again, we must echo our colleagues in the Department of Environmental Protection in saying that there are parts of this bill that we think are very good and necessary, but we have some reservations about other parts.

We would like to concentrate very specifically on the parts of the bill that affect the Health Department, both as written in the bill and where we think they should perhaps be written in the bill. The areas are a little bit afield from our general area of expertise, and we would like to offer more general comments about the other areas of the bill.

Again, to echo our friends in DEP, this bill and the changes we are going to recommend involve a substantial resource drain on the Department in terms of personnel and other equipment. We don't quite

see how we can do this effectively without some sort of funding. I'll talk about the details of that in a minute. We want to do these things correctly, but without funding, we cannot do so.

Specifically, the law gives the Health Department certain responsibilities. One is to exempt County Mosquito Control Commissions from certain notification requirements, which means a declaration of an emergency. We have a problem with that. We have to require the reporting of pesticide accidents and incidents, develop a farm worker incident reporting system, and create a system of pesticide reporting. We have to develop a system of medical education to educate physicians and health care workers, and we also have to develop a system of farm worker education. We have to establish a toll-free pesticide hot line, and we have to review the results of environmental testing programs done by DEP. We also have to provide training to workers who are waiting to be exposed to pesticides, and we have to coordinate health care services for farm workers or others who might be involved in pesticide accidents.

We feel that we ought to have certain other responsibilities in addition to these, which we accept and which we feel are important. We feel that the setting up of guidelines and provisions for worker reentry into the fields, personal protective clothing, and warnings related to reentry are a proper role for the Health Department.

We have a large occupational health program in the Department, which is staffed by industrial hygienists. For example, even under the Public Employees Occupational Health and Safety Act, the health aspects, which these would be, rather than safety aspects, are the responsibility of the Health Department. We feel that is appropriately an extension of work that we are already doing, and we would welcome that.

The other part -- perhaps, you might call it the Right-to-Know provisions of this Act -- in essence, establishes a requirement to develop fact sheets on the various pesticides to which people might be exposed. It gives the responsibility to the DEP, but we think this ought to be in the Health Department. We are now developing fact sheets under the Right-to-Know Act, and, again, this is

an extension of the work that is already going on in the Health Department. It is not happening in the DEP, and more properly, it belongs with us.

We have one very, very serious problem with the fact sheet generation, and that is, as we read the legislation now, it really talks about developing fact sheets on every pesticide. We calculate that there are 7,000 registered pesticides now, and even under the Right-to-Know law, we are having problems and a lot of controversy in developing fact sheets on 2,000 substances. This would be a major extension for our or anybody else's work, and we think perhaps no modification is in order. I might add that we feel it takes about \$100 worth of work to generate a fact sheet, so it would cost us \$700,000. Perhaps it should be related to restricted pesticides -- pesticides to which there is a certain degree of exposure. I think there probably could be modification to get the 7,000 number down to a more reasonable estimate.

In terms of responsibilities, if you take all these fact sheets for the 7,000 pesticides, we have done an estimate of what it would cost the Department -- a very rough estimate -- and, I think it would cost us about \$400,000 to \$500,000 to do what is in the bill and what is being proposed, if it is given to the Health Department rather than the DEP.

SENATOR DALTON: Is that a yearly figure?

DR. ALTMAN: Yes. It will change, obviously, because the fact sheets-- The big push will be at the beginning, yet, as the program goes on, there will be more actually going into the fields and more working with the workers. It will be a little bit different.

SENATOR DALTON: So, we're talking about a yearly figure of approximately, at least initially, \$1.2 million?

DR. ALTMAN: If we had to do 7,000 fact sheets. I don't think it is feasible, Senator Dalton, to talk about doing that.

SENATOR COSTA: Is that only your Department you are addressing?

DR. ALTMAN: Yes, that is correct, but again, I am saying that would be transferring certain functions to us that would have been

under DEP. It is an expensive proposal, and as I said before, we feel that if you ask us to do it, we ought to do it well, and not try to do a job that we don't have the resources for.

We would like to make some comments on the notification proposal and what we think is a very difficult situation in this bill regarding any type of aerial spraying, particularly as it affects certain health effects. I mentioned the mosquito control provision before, which is of great concern to our Department. This provision, in a sense, bans all adulticiding for mosquitoes because you use broad-spectrum pesticides for this purpose, which virtually cannot be used for non-agricultural purposes. It does give the Department the option, in case of an emergency, to lift that ban, but we don't think this is feasible. For example, when we encephalitis control as we did this year, and as we try to do every year, we use certain parameters of viruses in mosquitoes that we collect, and sometimes in birds. We think the control is needed long before there is an emergency. When there is an emergency, everybody gets excited and you spin your wheels, but you don't do very much. The effective control-- We think we may have cut down outbreaks of encephalitis by using intensive control long before there is actually an emergency. We do this when we begin to see the virus in the mosquitoes in New Jersey, not after they have become sick. Even as written, to declare an emergency before lifting is not a feasible matter. There has to be something else.

In addition, we feel that it is just too all encompassing. Aerial spraying has problems in drift and in spraying areas where one does not want to spray.

The substitute for aerial spraying is ground spraying perhaps by homeowners and untrained people, and in that situation, very often you use much more pesticide at much greater exposure than by aerial spraying.

We think it is admirable in the sense that this bill tries to limit the amount of pesticide to which people are exposed. We are a little concerned that some of the notification provisions in here -- some of the bans of aerial spraying -- might result in more spraying and more exposure because of much more intense ground spraying.

We would just like to express a sense about the notification provisions because, as I said earlier, many of those are beyond our area of immediate expertise. Some of them are very complicated. We wonder about the feasibility of some of them. Some of them, we think, are important. We think there ought to be more notification, particularly within buildings where pesticides are sprayed. As a generalization, we feel this could probably be done better by regulation and by having all the details. I think there could be satisfactory legislation written which would express the intent of the Legislature to have more vigorous notification regulations under the DEP, if that is where it belongs.

If you use these details, you don't allow for any type of technical change that might occur. We feel that some of the mail regulations -- having a trespass letter go out to everyone -- may just not be feasible. At the same time, one could devise a suitable method of notification of the community through a variety of immediate techniques to get the message across. We think this is much better done by regulations than by all the details in this legislation.

We would like to send the Committee a detailed report pertaining to this bill. We feel there are some sections of the bill that are good, but we have reservations about others. We feel essentially that the Right-to-Know provisions and the provisions of improved reporting and education are important, and we are in favor of them.

Regarding the provisions for notification, we would like to see some improved notification, but we think that that is better done by regulation than by the details in the bill. There must be some sort of funding, or else we, DEP, or anyone else will be unable to effectively carry out the provisions of the bill. Thank you.

SENATOR DALTON: Thank you, Assistant Commissioner. Are there any questions?

SENATOR CONTILLO: You implied that there is a very good possibility that you will end up with more pesticides being sprayed because of the provisions of this bill as it deals with mosquitoes.

DR. ALTMAN: Not so much mosquitoes, but as they apply to gypsy moth control. We think it is going to be very difficult under some of these provisions to aerial spray for gypsy moths, and this does have problems. I don't want to minimize them. However, some of the alternatives we have seen happen are with individual homeowners doing their own spraying. They do ground spraying, which provides much, much more pesticide to the area sprayed. There is certainly much more exposure around the home that is being sprayed than there is with an aerial spray. So, we would like to see better regulation. We have seen instances where there was spraying we didn't like. We have seen instances where school children were sprayed as they were waiting for the bus. We think there is a need for tightening, but we do not want to see what gets to be a virtual ban on a lot of the aerial spraying.

SENATOR CONTILLO: I have another short question. I notice in the bill that they will not allow spraying for termites, or the treatment of termites, while children are in a school building. Why just termites? Aren't there other things that are sprayed in school buildings? If you can't spray or treat for termites, you really should not be able to treat for anything while children are in a building.

DR. ALTMAN: I think the purpose of the bill, obviously, is to cut the exposure of people to pesticides, and we applaud that.

SENATOR CONTILLO: As a health officer, is there something specific whereby only certain chemicals are used for termites? Is that possibly the reason?

DR. ALTMAN: Well, chlordane is used for termites, and that is a highly restricted pesticide. It is not banned for that use, but it is banned for virtually everything else. That is a particular problem.

SENATOR CONTILLO: It's when we use chlordane then--

DR. ALTMAN: (interrupting) However, I don't think anyone would want kids exposed to pesticides in schools. You're saying that perhaps it is too narrow.

SENATOR CONTILLO: In that vein, yes.

DR. ALTMAN: Yes.

SENATOR COSTA: With regard to the gypsy moth, the bill itself eliminates seven as a use against the gypsy moth. Can you tell me if we could really take care of our problems with gypsy moths throughout the State without using seven?

DR. ALTMAN: Again, that is a little bit beyond our area of expertise. There are alternatives to seven. We have never come out as a Department and said that we should never use seven.

SENATOR COSTA: They tell me this is just the aerial use of seven.

DR. ALTMAN: Well, that is the problem. As I mentioned before, if you use seven with an applicator, you really pour it on much more than does an airplane going overhead. Our Department has not taken a stand against the use of seven. We have recommended that whenever feasible alternative methods be used. However, there is not an outright ban on it.

SENATOR COSTA: Not an outright ban, okay.

DR. ALTMAN: There are many cases where it is feasible. If we got into a situation, for example, where we had a very heavy infestation, that would do it. Very often you need two applications, of BT for example.

SENATOR COSTA: We had a problem in our area where they stopped the use of seven and everyone had to go out with an umbrella because the gypsy moths were falling on everyone and people were slipping all over the place.

DR. ALTMAN: We have actually seen health problems from the gypsy moths themselves. One of the things which is obviously in the bill because of the funding given to Rutgers, is to enhance integrated pest management. We are certainly in favor of that.

SENATOR COSTA: Is that done through your Department?

DR. ALTMAN: Do you mean the integrated pest management?

SENATOR COSTA: Yes.

DR. ALTMAN: It really comes out of Cook College.

SENATOR COSTA: I see; thank you.

SENATOR DALTON: Thank you, Assistant Commissioner. May we now have Deputy Public Advocate Ed Tetelman. Ed will be the last speaker from the Executive Branch.

EDWARD H. TETELMAN: I will try to cut my comments a little short because I think it is important that the citizens of the State have a shot at speaking to you. You already have my written comments. Thank you for allowing me this time.

The Public Advocate supports this legislation with some reservations, particularly in the notification area and in the tightening down of the right-to-sue provisions.

We have been involved in a number of incidents involving toxic exposure and this is an extension of that interest, specifically asbestos recently. I think the training portion of this bill goes to similar types of concerns.

We also reviewed extensively the Department of Environmental Protection's regulations. It is clear from the current regulatory scheme that on both the Federal and statewide levels, these fail to sufficiently protect persons from exposure to pesticide, or to substantially limit inappropriate pesticide use. In contrast, S-1342 is a welcome step in the right direction. It is preventive and protective. This legislation will address many of the problems and regulatory inadequacies that we have repeatedly raised to the Department of Environmental Protection.

For a moment, let me just review some of the problems and concerns of our Department. The first problem that needs to be addressed is the serious risk of health damage from pesticide exposure. There is no question that pesticides are toxic. Exposure to even small amounts of pesticides may make a person extremely ill. I have given you a copy of the parathion notice that comes with the pesticide to demonstrate one of the pesticides which is used extensively in this State. In fact, many witnesses at DEP's 1983 pesticide regulatory hearings testified that a number of children, and allergic and elderly individuals became seriously ill after being exposed to pesticides. This testimony, and our experience, highlight the particular need for strong regulatory controls on pesticide use to ensure that children and the elderly, who are especially susceptible to the toxic effects of pesticides, are adequately protected, specifically young children. There was one example last year where a young child was sprayed with parathion and came close to dying.

Additionally, pesticides do, in fact, cause cancer, the second leading cause of death in New Jersey, and reproductive damage. For this reason, we also think this bill is necessary.

Another problem with the current regulatory system governing pesticide use in New Jersey and in the United States is that individuals who are exposed and become ill have almost no way of explaining to their physicians what exactly they have been exposed to, so that he or she can appropriately treat them. To delay treatment seriously endangers these people and the ability of medical personnel to help them.

Another important concern is the unnecessary exposure of agricultural workers to pesticides. For years we have been hearing about the problems of these workers and their families. Unfortunately, the working and living conditions of these individuals have not significantly improved since Edward R. Murrow broadcast "Harvest of Shame," over 20 years ago, which revealed the deplorable conditions of agricultural workers in this country. Agricultural workers continue to suffer from a series of problems, which are exacerbated unnecessarily when they are exposed to pesticides.

Moreover, agricultural pesticides are generally of greater toxicity and are applied in greater volume than pesticides used in residential areas. Farm workers are at an even greater risk because they are more exposed than other people. A study last year by the Sa-Lantic Health Clinic revealed that agricultural workers had been sprayed with pesticide while working in the fields, and that workers had been required to reenter the fields after they had been sprayed. The farmers had not abided by the proper reentry times. In addition, these workers were never provided with necessary information, nor with protective clothing. The report demonstrated that there were a number of incidents of illness, including skin rash, headaches, shortness of breath, and weakness. These are typical symptoms.

This summer there was also testimony at a farm worker public hearing down in Glassboro which reconfirmed this year's exposure.

Finally, there are a number of environmental impacts that occur from pesticide exposure. Pesticide leaches into the water

systems and causes the water to become contaminated. We have seen a pesticide which contained dioxin sprayed in Newark around a swimming pool area. This contamination required restriction of the area, and it is very expensive to clean up.

Therefore, the damage from pesticide use poses a serious threat to indispensable national resources, as well as human resources. S-1342 includes some strong preventative and protective provisions and addresses many of the problems I have just detailed. These provisions include a risk assessment process, agricultural worker protections, a ban on aerial spraying of broad-spectrum pesticides in residential areas, the establishment of buffer zones, the training requirements and certification of applicators, and notice of indoor and agricultural pesticide application.

Section 3 of this bill is the Risk Assessment Program. I think what we have heard here today is an interest in implementing that Program. Maine has such a program. I do not think it is as costly as the Departments have indicated. They have an ongoing program to see if, in fact, a pesticide is extremely toxic or extremely dangerous to health effects, and to see if, in fact, there is some other alternative that can be used rather than using the more toxic pesticides.

Likewise, the protections offered to agricultural workers in this bill are imperative, and our Department strongly supports them. Section 14 requires DEP and the Department of Health to establish regulations concerning: reentry; provisions for protective clothing and safety equipment; oral and written warnings on pesticides, including health information in English and Spanish; a system of communication, finally, with local organizations which work with agricultural workers; storage prohibitions; education and training; and, coordination of health services, which is sorely lacking.

This section also gives agricultural workers the right to refuse to work, similar to the Right-to-Know law, until the proper reentry time has elapsed or until workers have received the proper information. I think it is very important -- and that is the reason I emphasize going through this -- that these workers have these protections. These workers are truly a voiceless minority in our

society. The provisions of this bill will put them on a more equal footing with other workers in this State who are already provided with many of the same protections under the Worker and Community Right-to-Know Act.

Another commendable feature in this bill is the certification requirement for pesticide applicators. In DEP's testimony on their regulations, it was revealed that high school and college students were just going around spraying off the backs of trucks -- shade tree and mosquito spraying. I think this will require some certification prior to a person working, so that he knows what he needs to do to protect himself.

Additionally, the banning of aerial spraying of broad-spectrum pesticides in residential areas and the creation of buffer zones is a welcome preventative measure established in this bill. For many years, broad-spectrum toxic pesticides have been applied. Now that there are safer alternatives which are equally effective, we recommend that they be followed so that toxicity is reduced.

Buffer zones, which are used in other states, are equally commendable. They will keep people away from the drift and, in fact, if they are used under this bill, the notification provisions will not even be required in some areas.

SENATOR DALTON: Excuse me, Ed. Could you start wrapping it up now? I think we are over the time allotted.

MR. TETELMAN: All right. Let me just talk about, for a minute, the things that we do oppose. We oppose: the failure to provide for timely, adequate notification procedures; the inappropriate exemption from notification for integrated pest management; the lack of notification procedures for noncommercial ornamental applicators; the pesticide application at schools when children are on the premises; and, the unwarranted restrictions on citizen lawsuits.

I would like to just focus on two major things. Section 7 of the bill provides notification to persons living and working in areas where different types of pesticide applications take place. Unfortunately, this particular section perpetuates DEP's pesticide

regulations. Ironically, these are some of the reasons why community groups in our Department thought this bill was needed. The present DEP regulations are convoluted and unworkable for individuals to obtain specific information, such as the date and time that pesticides are going to be applied. By failing to provide this basic information to individuals living and working near sites, we think that there is a serious risk of health and property damage.

As you go through this bill, almost every category relating to notification has a different type of requirement. Some use the mail, some use newspaper notifications, and still others use registries. The likely result to the public is confusion. Moreover, the notice provided in almost every category is general. It only informs the individual that a pesticide is going to be sprayed sometime. It does not tell you when. Then it requires the individual to send a certified letter. I think the certified letter is quite burdensome. Assuming that the certified letter is sent, one might expect that the specific information would be provided to the public as soon as possible. Many people spray on a schedule and could easily provide a notice more than 24 hours ahead. During testimony at DEP's hearings, one of the overwhelming things that people said was that 24 hours was not enough time.

We recommend that something that exists already in the State of New Jersey be implemented here. The Department of Agriculture's gypsy moth spraying program already requires a first-class letter to be sent out 10 days before spraying. This is already in place and it is a workable system. We also recognize that there may be some exceptions, such as IPM. IPM reduces the amount of pesticide sprayed, but it does not reduce the toxicity of that pesticide. People deserve to have equal notice under the IPM Program.

Let me turn to the last thing we are really very opposed to, and that is Section 18 of the bill, which allows only persons whose property or person has been exposed to pesticide in violation of this Act to file a lawsuit. By severely limiting an individual's standing to sue, this section undermines the public's right and opportunity to enforce the health, safety, and environmental protections of this

legislation. Thus, this bill could very easily become a paper tiger, rather than a readily enforceable piece of preventative legislation. Obviously, there are serious limitations with this.

First, you have to prove actual exposure, and it is extremely difficult to do so. Second, traditional legal doctrines concerning standing only require an interest or injury in order to bring an action. The New Jersey Supreme Court has adopted a liberal standing rule to assure that individuals have their day in court. The limited "right to sue" provision is contrary to both the letter and spirit of the law. Third, this limitation on the public's access to the courts is completely inconsistent with Federal and State environmental laws, which acknowledge and encourage citizen lawsuits as essential enforcement mechanisms.

Finally, requiring persons to prove actual injury will severely limit actions to enforce the important provisions of this Act. For example, if DEP fails to provide education and training or fact sheets, an agricultural worker could not bring a lawsuit to compel compliance unless he could demonstrate exposure. Obviously, Section 18 would divest the public of any means of ensuring that critical requirements of the Act are satisfied. Recent experience has demonstrated that without such broad citizen oversight, there is no assurance that the mandate of this Legislature will be carried out.

We think that Section 18 should be changed to allow any person to bring a lawsuit. From our experience with other lawsuit provisions, we are confident that the courts will carefully scrutinize a person's right to bring such a suit, which is what is traditional in this area.

In conclusion, we are in support of some parts of the bill. We feel very strongly about the agricultural section of the bill and the notification, and we hope the Committee will make some changes in the notification time.

I am available for any questions.

SENATOR DALTON: Thank you, Ed. Are there any questions from the Committee?

SENATOR CONTILLO: I just don't understand. It seems clear to me that you have to be notified as soon as practical, not less than 24 hours, and then it says you have to list the proposed time and date of the application.

MR. TETELMAN: Which provision are you talking about?

SENATOR CONTILLO: Well, I'm talking about the one for the agricultural lands.

MR. TETELMAN: Twenty-four hours is not sufficient notice for people to get their families out, to get their dog off the lawn, etc. People have said at the hearings that certainly where there was scheduled spraying, the notices could be going out earlier. What ends up happening is, if you put a limit of 24 hours, guess what people are going to try to do? They are going to wait until the last minute. What we want to encourage is that the notice actually be sent out at the earliest possible time. We think, and people testified to this at the hearings before DEP, that a 72-hour or a 48-hour time period is much more realistic in terms of people making arrangements to get out of the area and to take protective action.

SENATOR DALTON: How do you balance that though, Ed? How do you balance that notification -- what you feel is the need for notification -- with the farmers' ability to go in to eradicate a pest or a disease?

MR. TETELMAN: Well, for one thing, everyone is monitoring what is happening to their crops, according to previous testimony and from our understanding. Where, in fact, they see there is infestation or problems, they should act immediately and begin notification.

SENATOR DALTON: How about if you can't see it within 72 hours?

MR. TETELMAN: Well, then there should be perhaps an emergency exemption for that.

SENATOR DALTON: I mean, one heavy rain and they might have to go in.

MR. TETELMAN: It says in here "alternative dates can be set up." So, they can put in the alternative dates for that kind of thing. I think that is very reasonable.

SENATOR DALTON: Cathy, you might have some comments.

SENATOR COSTA: How do you respond to the agricultural community when you have heard that they are so dependent upon the elements which they have no control over -- the heat, the rain, the drought, or whatever else may be happening? They have no control over these, and they have to respond immediately or they will be using twice as much pesticide. How do you respond to the agricultural community?

MR. TETELMAN: The way we respond is to tell people to monitor their crops. For instance, the use of the IPM Program would almost mandate that they monitor them so that they use less pesticide.

SENATOR COSTA: They can use it only if they know exactly that the elements are going to be a certain way.

MR. TETELMAN: Well, you have the alternative dates in there as far as the elements are concerned. As far as the pests are concerned, the monitoring should reveal early on that things are happening to their fruits.

SENATOR DALTON: How about disease?

MR. TETELMAN: That is what I mean. You can tell.

SENATOR DALTON: You can tell?

MR. TETELMAN: I think people from Cook College, and other people, should testify on the technical aspects of that, because I think they are certainly more capable than we are. We think, in terms of people living around that area, that they should be no less protected than other people.

SENATOR COSTA: May I ask the Public Advocate's representative, are you an attorney?

MR. TETELMAN: Yes.

SENATOR COSTA: Is everyone in the Public Advocate's office an attorney?

MR. TETELMAN: Not everyone.

SENATOR COSTA: Just about. Do you have any farmers?

MR. TETELMAN: Farmers? Well, I garden a little bit, but I am not a farmer.

SENATOR COSTA: Okay. That answers my question. (laughter)

SENATOR DALTON: You don't have any tree sprayers or people who go around and eradicate pests from buildings either in the Public Advocate's office.

MR. TETELMAN: Well, we did have an incident at the Justice Complex where they came around and sprayed durisban without telling anyone, and durisban is dangerous.

SENATOR CONTILLO: From a non-farmer to a non-farmer, without understanding the technicalities of it, it seems obvious to me that if you must spray at an inopportune time, you will probably spray more often and more heavily. So, it seems counterproductive to not allow them to spray at the most opportune time. It seems to go against what we want to do, which is to eliminate the excessive use of pesticides.

MR. TETELMAN: I think you are correct, and that is why I think the bill is very good in one aspect. It really encourages people to use the IPM Program, which monitors the pests as they come on line. In that way, you use less pesticides overall and you are monitoring the pests at the earliest time possible. We are certainly in favor of seeing that happen.

SENATOR DALTON: Thank you, Ed. The next speaker will be the former Secretary of the Department of Agriculture, Mr. Phillip Alampi.

Again, let me just remind the speakers that the time allotted is eight to ten minutes. In the next two hours, we have to try to hear from as many people as possible. Additionally, I want to hear -- and I think the Committee wants to hear -- from farmers, from people in the lawn care business, and from people who have some practical knowledge, as well as from some of the proponents of the bill. So, let's try to help each other out.

Welcome, Mr. Secretary.

PHILLIP ALAMPI: Good afternoon, Chairman Dalton and distinguished members of the Senate Committee on Energy and Environment. Thank you for allowing me to testify before you today because, as many of you know, I was New Jersey's Secretary of Agriculture for 26 years, serving under five Governors of both parties.

Today, I am here as a spokesman for the Alliance for Environmental Concern, a broad-based coalition of pesticide users, applicators, agriculturists, individual homeowners, lawn and tree care experts, indoor pest control specialists, sanitation supply companies, golf course people, small businessmen, and manufacturers. Today, this

Committee is hearing testimony concerning the further control of pesticide usage. I feel it is important to thrust the word further. Pesticide use in New Jersey does not operate in a void. We have a thorough Federal registration system and our New Jersey regulations, administered by our Department of Environmental Protection, are the most comprehensive in the country.

In 1982, our Department of Environmental Protection conducted public hearings on the pesticide code. These hearings lasted 18 months, and involved over 500 pieces of testimony. The new regulations which took effect in January of this year were challenged in Superior Court as not going far enough in protecting the public interest. In March, 1984, the Superior Court, in a succinct opinion, ruled that the case was "clearly without merit."

In considering pesticides, we must understand what they are. Pesticides are used in almost all facets of our lives. For example, bleach, mildew resistant paints, and toilet bowl cleaners which are used in our homes are all pesticide products. Sanitary supplies used to disinfect hospitals, restaurants, hotels and motels, camp grounds, schools, offices, and all public facilities are pesticide products. Farmers use pesticide products to control weeds, harmful insects, and fungus. Mosquito control personnel use pesticide products to protect us from disease and our pets from heart worms. The Department of Agriculture's gypsy moth program preserves our forests and woodlands utilizing pesticide products. Lawn and tree care experts use pesticide products to maintain and protect our shrubbery, trees, and lawns from unwanted weeds, insects, and disease. Indoor pest control applicators use pesticide products to control termites, roaches, lice, fleas, and rodents.

We are all concerned that these products be used judiciously with respect to our environment and our human safety, and a manufacturer has to prequalify a product to be considered for registration by the Environmental Protection Agency, which requires, on the average, seven years of research at an average expense of \$40 million per product.

We believe these controls are adequate. When I was born, the average life expectancy at birth in North America was 47 years. A child born today has a life expectancy of 70 years. Advances in chemical technology account for much of this change. We are not experiencing an epidemic of chemical poisoning. Rather, we are enjoying the benefits of scientific discoveries.

Let me put this in perspective. We often read that such and such a chemical has been detected in fish at a concentration of 27 parts per trillion. This makes the headlines. In reality, let's consider what a part per trillion really is. One part per trillion is the equivalent of a human hair compared to the distance around the world. In time, it is one second in 320 centuries. In weight, it is a pinch of salt in 10,000 tons of potato chips. In volume, it is one drop of vermouth in 250 barrels of gin. In money, it is one cent in \$10 billion. I mention these figures to indicate that scientific methods of detection have gotten extremely sophisticated. That's good. We support more research, more knowledge. We feel that the benefits which result from proper pesticide usage improve our health and the environment.

What do our present pesticide regulations cover? I have already mentioned the seven-year, \$40 million research process that a product must undergo to be considered for registration by the Environmental Protection Agency. I mentioned that our New Jersey regulations are extensive. They require DEP certification of commercial applicators. They set strict rules on application techniques and conditions, such as weather restrictions on wind and time of day, specification of target sites, and notification requirements. All pesticide products available for use in New Jersey are registered with the Department of Environmental Protection. The Commissioner of the Department of Environmental Protection has broad regulatory, investigatory, and enforcement powers. We support this system. Our present system is open to public input. Our present system can adapt to new research. Our present system is flexible enough to respond to new methods and technologies. As an example of this, DEP plans public hearings in November on revision to existing

regulations which are germane to Senate Bill 1342. Do we need additional legislation in our State? No. We feel this bill is unnecessary, duplicative, expensive, and onerous. It is unnecessary in that we have legislation and regulations to properly administer pesticide usage. Our present system can address any public concern.

We feel that this legislation is duplicative of the Federal registration process, and it would cost an estimated \$16 million a year to enact this duplicative registration process in New Jersey. We feel that the negative impact this bill would have on mosquito control, lawn, tree, and shrub treatment, pest control in residential, commercial, and municipal areas, sanitary control in hospitals, nursing homes, schools, restaurants, and offices, agriculture production, rodent control in urban areas, tourism that could be threatened by impaired control of annoying mosquitoes, and, more severely, on the increased threat of encephalitis outbreaks and highway utility clearing, would be devastating. To what purpose?

Senate Bill 1342 is either knowingly duplicative of existing law or the result of special interests which believe that more law is better law. New Jersey has enough laws and regulations to cover pesticide usage, and we believe that the current pesticide code has been arrived at through extensive public hearings. Proposed revisions to the code are being deliberated at present, indicating that the regulatory process is responsive to protecting the public interest and has the flexibility to react to our new research properly and effectively.

As of today, there are over 60 organizations which are opposed to Senate Bill 1342. I will share this list with the Committee and for the record.

I want to thank you very much for your consideration of this testimony.

SENATOR DALTON: Thank you very much, Mr. Secretary. We do not have any questions; but we appreciate the time you spent here with us and, also, the time you spent on correspondence and other forms of communication. Thank you very much.

The next speaker will be Jane Nogaki from the Coalition Against Toxics. What we are going to try to do now is go proponent, opponent, proponent, opponent. There are some neutral categories in there, so we will throw them in arbitrarily too.

JANE NOGAKI: I knew this would happen; as soon as I came up to speak, someone would go out to lunch. (laughter) I wanted to give you my greetings in the other room, Senator Dalton, Senator Costa, and Senator Contillo. I used to live in Senator Contillo's district, so I have a warm feeling for Bergen County.

My name is Jane Nogaki; I live in Evesham Township, Burlington County. I am a member of the Coalition Against Toxics, and a broader organization called the New Jersey Campaign Against Toxic Hazards. The goal of our group, which is composed of people from labor organizations, church organizations, citizen groups, environmental groups, and farm worker groups, is to reduce human exposure to toxic substances wherever we can. We realize that zero risk is not achievable, but we think it makes good sense to reduce our exposures where we can. Therefore, we work on national issues, such as the Clean Water Act and the Reauthorization of Superfund. In New Jersey, our priority this year is the implementation of the Right-to-Know Act and the extension of Right-to-Know to this pesticide legislation. The groups which support the bill are listed in the letter which I gave you earlier.

Some people have been saying we do not need the bill because we already have strong regulations and that the bill is duplicative, onerous -- I'm giving a lengthy speech now -- will have a negative impact on farming, and so forth. We feel that through our testimony today, we will provide an answer for every objection. We do not feel that the current regulations afford people protection. Over 100 people requested notification for ground spraying, which is known as ornamental spraying, and aerial gypsy moth spraying during testimony which was heard at the DEP public hearings two years ago. The only notification we receive under the regulations is a small newspaper notification which appears seven days to a couple of weeks before. We had over 100 people asking for notification who had been sprayed by

ground spraying or aerial spraying. The request for notification was very evident then, two years ago. We just did not get what we wanted.

From gypsy moth spraying, we started to investigate other kinds of spraying, other kinds of pesticide exposures, and we realized that whenever a pesticide application takes place there is a need for the person who is going to be involved in it, not only the applicator, but the person who is going to be exposed, to know what the name of the pesticide is and what precautions to take so that they can take those precautions. There is a dual nature in this, and that is, information needs to be passed from the person who is doing the spraying to the person who is going to contract for it or receive it.

We also heard, "Well, gee, there aren't really many documented instances of exposure. I mean, how many accidents do you see in the newspaper? Aren't these things grossly exaggerated? Isn't the record of safety in New Jersey for pesticides really high?" While we know there are a lot of very reputable applicators in New Jersey, we also know that there are a lot of very serious exposures going on. What about the documentation of these exposures? Is it good? Is it adequate? In the investigation we did, talking to emergency room personnel and family physicians, we found that most of them did not know how to recognize nor how to treat pesticide poisoning symptoms. That is one part of the bill which we feel is very important, training to emergency room personnel and family physicians, so they can recognize and treat the symptoms. Of course, we want to prevent the symptoms; we want to prevent the exposures. Notification is the answer to how to do that.

We also found that documentation for farm worker violations was very poor for several reasons, such as the lack of transportation for farm workers to a medical facility and the lack of telephones. You know, you don't see telephones along the highways near the farms. Also, there is a language barrier. Many of the farm workers speak Spanish rather than English, and they would not be able to communicate their problems even if they had a telephone or a car to do so.

We are establishing that there are some incidents happening, and some health groups will be testifying today to tell you about

them. We are not happy that they are happening. We think that the Right-to-Know part and the farm worker part of the bill will prevent those incidents from happening again. We have had some positive feedback from farmers, and we have some farmers here today to support the bill also.

You will also hear that the New Jersey environment is not suffering from the use of pesticides. While I do not want to assign blame because with a lot of these things we do not know where the blame lies, there have been instances of temac in wells in South Jersey, and we also heard of one instance of carbaryl, which I will submit to you. We have also heard of chlordane in wells. The level of chlordane that has been found in fish in some lakes, streams, and river waters of New Jersey exceeds the Food and Drug Administration's level for eating. Therefore, some of you may have seen signs posted in South Jersey lakes saying: "Pesticide contamination; do not eat fish caught in this lake." The bodies of water involved are the Cooper River, the Pennsauken Creek, the Strawbridge Lake, the Woodbury Lake, and the Stewart Lake.

We also know that at least eight of the Superfund sites in New Jersey have pesticides listed as eminently dangerous to ground water contamination, for example, Lone Pine in Freehold, Diamond Alkali in Newark, the Vineland State School, the Peppy Field in Boonton, the Brick Township Landfill, and Chemical Control in Elizabeth. A further ground water study that was done by DEP in 1981 showed that of 670 wells tested for contamination throughout the State, 31% showed low levels of pesticides. These are the persistent kinds of pesticides that last for a long time. There has not been wide-scale testing for short-term pesticides, things like carbaryl or temac. Just starting to test, the Department of Health has run a few tests in Salem County. But, one of the good parts of the bill is that it will provide for the monitoring of ground water. We do not have that right now. A lot of us in South Jersey have private wells. We do not know if there are pesticides in our water or not. Once and for all, we think we should determine, are they there, or are they not there? This is one of the parts of the bill we feel is very important.

When you hear about parts per billion and parts per trillion, the implication is that the parts are so small that they will not hurt you. However, this is a false assumption. We will have testimony regarding this fact today. Some scientists feel there is no safe low level of carcinogen, mutagen, or terrategan. Any amount is considered a danger, even if it is a part per billion or a part per trillion. We will have some scientific evidence of this today. Dr. Tucker in his ground water study, states that conclusion also.

We know that some of the pesticides in current use are known or suspected carcinogens or mutagens, or cause birth defects and mutations. We think the public has a right to know which ones these are, especially if they are ones which might be used around the house, or rather the household. This information is not generally on labels. Sometimes it comes from other locations and, therefore, there is a need for the development of fact sheets by the Department of Health. Labels are not now required to tell whether a pesticide is a carcinogen, a mutagen, or a cause of birth defects. That is not on the label. A lot of times the information is known, but it doesn't get out to the general public, nor does it get to the farmer and the applicator.

We talked about the costs to farming and how we do not want this notification system to be burdensome. We want it to be able to be implemented. However, we also feel that the cost of prevention is minimal compared to the cost of cleaning up a contaminated well, cleaning up a contaminated house that has had chlordane misuse -- which might cost up to \$10,000 for cleanup -- or the cost of medical bills for exposure victims. We realize this bill is going to cost money, but we think that the protection it will give people and resources in New Jersey is worth it.

Today you will hear -- if we have time -- from victims of mosquito spraying, ornamental spraying, aerial spraying, indoor spraying, and agricultural spraying. You will hear from people whose exposure could have been prevented if they had been notified. You will hear from some township officials who are grappling with pesticide use in their towns, trying to come up with ordinances, and you will hear from representatives of some health groups and technical experts who

support the bill. To save time, I am presenting written testimony for ten witnesses. One is Peggy Backal, who is an attorney for Camden Regional Legal Services, Farm Workers Division. She has some affidavits of farm worker exposures. Others are Judy Albert, a Paramus resident -- that is for Senator Contillo back there eating his lunch -- Laurie Knies, another Paramus resident who tried to get a local ordinance about ground spraying but failed, and Michelle Chiosso and Joan Eustace from Maple Shade, who live right next to a farm. These are young mothers who did day care in their homes. All they want to know is when the farmer is going to spray so they can bring in the kids, put the toys in the shed, and close their windows. You know, we have to work out a way. They do not object to the farmers spraying. They knew when they moved there that the farmer would be spraying his crops, and they do not object to that. They just want to know when so they can pull in the kids.

We have testimony from Charlotte Cohen from West Berlin, Lucy Burk from Hainesport, and Shirley Himeback from Sicklerville, in Dan's district. She and her eight neighbors witnessed an aerial spraying when they first moved to the area. They didn't know that they should not stand outdoors when the farm next to them was being sprayed. They cannot put a certain connection to it, but eight of her neighbors suffered miscarriages or still births that spring. That seems an uncanny number of incidents. It was through lack of information. They did not know that you should not be exposed to the spraying. There was no way to communicate that information. Other persons are Laura Allison and Bob and Maureen Brown from Gibbsboro, New Jersey, and Marlene Jaffe. I am also going to give you the DEP Toxics in Ground Water Study, because I feel that every resident in New Jersey should be familiar with this study. It shows that there is documented contamination by pesticides and by volatile organics. We cannot take this ground water situation lightly; it is very important.

I cannot help but say that the controversy this bill has aroused is really incredible. I was not prepared for the amount of resistance we would get to the issue of notification. It seems so simple to me. I feel confident that there will be a way to work it

out. I feel very positive about that. I also feel it is in the farmers' best interest and industry's best interest, because I read the trade journals. I hear screams of alarm from pesticide control operators through their magazines saying, "Oh my God, we have something to fear. The Legislature is in session. What restriction is going to come down the pike next?" I also read articles which say that public access to information is the wave of the future. Don't wait for people to ask questions; supply information. Tell them what precautions you are using to make the application safe. Tell them the benefits and risks of two chemicals they can choose between and ask them to make a choice. I see this as a very positive sign of public involvement.

I think that placing these issues back into regulation is going to mean that they are going to be buried once again. I think the only way we are going to get this openness and this commitment for access to information is going to be in the Legislature, because you are people representatives, not industry representatives. Too often, the departments feel intense pressure from industry when they are developing regulations. This is a social issue, this pesticide exposure issue, and, therefore, I think it is in the right place -- right here. Thank you very much.

SENATOR DALTON: Thank you. Next we will have Mr. Walt Ellis, President of the New Jersey Farm Bureau. Mr. Ellis?

WALTER ELLIS: Good afternoon, Senator. I'm Walter Ellis, and I am President of the New Jersey Farm Bureau. First of all, I am a farmer -- first and lastly, I guess, a farmer -- and I am as proud of that title as any title I might ever get. I am the son of a farmer, the grandson of a farmer, and I presently have a son who is a farmer. I hope we can keep reason in the farming community and in the regulatory community, and that people will continue to farm.

This legislation would dictate a series of changes to the State pesticide code that would directly and indirectly affect the practice of farming in this State. Farmers throughout the State have been greatly concerned since the bill was first introduced last fall and reintroduced in February. The sponsor released an amended version on September 14, just a few days ago, which changed some of the

specific details. We have reviewed the proposed Committee Substitute, and we remain opposed to the bill. We believe the changes being proposed for the pesticide code in this bill are prompted by fears and suspicions, rather than documented evidence. The existing regulatory process is, in our opinion, flexible and responsive enough to address questions about pesticide use in New Jersey. As an example of this, both DEP and EPA are developing regulations regarding further precautions for farm worker safety. You have heard about some of that already this morning. We think this illustrates how the current process can address changing circumstances and why this bill is not necessary.

We are greatly concerned about the prenotification section of the bill because of the burden it will impose on growers, and the likelihood that such notices will create a sense of danger where none really exists. Direct contact on people or property of pesticide material is presently prohibited by State regulations. Most, if not all, of the persons to be notified under this section of the bill are really not affected by the farm use of pesticides. Thorough and vigorous enforcement of existing regulations should be the means of isolating target areas from any undesired misapplication of pesticide material.

Furthermore, we believe that we in agriculture have a good track record with the use of these materials when all things are considered. Only 5% of the complaints of code violations received by the Bureau of Pesticide Control last year dealt with agriculture, and most of those were quickly rectified. There is always room for improvement, of course, and we support the efforts of the Extension Service in promoting the safe use of these products, which are vital to produce high quality crops for a very competitive marketplace. This bill, by proposing new controls, would, in effect, be penalizing all farmers who apply pesticides by air or airblast sprayer, regardless of their experience. This also shows how the existing rules are more equitable, since they investigate complaints to hear both sides of the argument before recommending fines or license suspension.

In addition to what we see in this bill as unnecessary duplication and a lack of justification, we urgently petition this Committee to consider how these new requirements would be interpreted by the farming community, and I think this is a very important thing. Now is not the time to heap regulations on New Jersey farmers. Agriculture in the State and throughout the nation is facing a crisis of declining net income. Many really good farmers are struggling just to make ends meet. Because of poor commodity prices, high interest rates, and other things, they are having a very difficult time. What kind of a future do they face in New Jersey if they see more and more controls being instituted as they work long hours just to pay their bills, particularly when we feel that these regulations are not really necessary? This type of legislation flies in the face of the State Right-to-Farm Act, and the Farmland Preservation Program as well, both of which ask farmers to hang in there -- there is a future in this State for farmers. At least that is what we have been told. We are not suggesting that pesticide rules should be reviewed because of this, or that farming will cease if this bill passes, although that probably is true to some degree. Rather, it is a matter of sending the wrong signal at the wrong time.

Let me close these opening remarks by stating that we support the regulation of pesticides and pesticide use. We agree with research and the development of biological controls and are proud of the State's Integrated Pest Management Program. I have participated in that Program on my farm for at least seven years. Farmers know the cost and toxicity of the materials they use. Discussion of alternatives to pesticides is a fine and laudable goal, but please bear in mind that abrupt changes in either the availability of certain products or the manner in which they are used can have very adverse economic consequences in farming. We sincerely believe the proponents of this bill have not made their case, and we suggest that their energies be channeled into the existing regulatory structure.

Regarding pesticide use in New Jersey, please permit me to offer a few comments from my perspective about pesticide use in farming. Pesticides, which can also be termed crop protection

chemicals, are to agriculture what medicines are to human health. I do not think anyone thinks about that. Used according to prescription, they cure or control; used to excess, they may cause injury.

Every aspect of pesticide use and regulation has changed significantly in the past 30 years. By comparison to the 1950's, today's pesticides are: less persistent, breaking down much more readily into non-toxic substances; more effective in smaller quantities -- where we used to use pounds and pounds per acre, we now use ounces, or even portions of ounces on a per-acre basis; applied with much more diligence and concern for safety; and, more strictly regulated by Federal and State laws.

A number of the positive changes are the result of constant research and a desire to improve the risk/benefit relationship of all agricultural chemicals. There are risks to those who handle these materials, as farmers well know, because they and some members of their families are most often the people who handle them. The picture is often painted that I, as a farmer, send someone else out to do all of this work, then just sit back in an office or an easy chair. That is not the case. Most of my life I have spent-- Of all the chemicals put on my farm, I have probably applied more of them than anyone who has ever worked for me.

The decision to use crop protection chemicals to control insects, disease, and weeds is not made by the farmer alone. Probably the most significant single factor is consumer demand. Growers must meet the standards of the marketplace at competitive prices, or risk letting the crop go to waste without being paid. The profit margin for farmers today is so slim they cannot afford to apply pesticides unless they are certain the increased productivity or quality of produce will pay for the costs. A farmer has no control over weather or the market, but technology has provided a tool that can be useful in curtailing crop loss and, hence, help to improve his profitability.

We are concerned about a number of areas in the bill, some of which we would like to call to your attention:

First, Section 7 a., prenotification: The sponsor shocked the farming community with the original terms of the prenotification

section -- a seven-day minimum to all persons within 1,000 feet. The revised version remains objectionable for a variety of reasons. Currently, it is a violation to expose any non-target site property and, certainly, any person to a pesticide spray. The farm use of pesticides does not affect these residents. Receiving a notice of spraying may arouse fears unnecessarily, rather than promote understanding. Notifying surrounding residents may be costly and impractical as well. Furthermore, rural area residents are familiar with farm practices. A serious drawback to this requirement is that it represents a new chore of questionable benefit, which may itself become the basis of a lawsuit later against the farmer, and the associated costs of legal defense would soon eat him up.

The posting responsibility has similar defects. Beyond those drawbacks, we do not want people near farm fields anyway. Farmers in New Jersey already face serious problems from farm trespass and vandalism. Legislation was approved earlier this year which makes it unlawful for anyone to be present in farm fields, orchards, bogs, or fenced pastures. Any obligation to have a sign posted, at the pain of a \$500 fine per day, suffers from the problem of having the signs deliberately torn down. Since this bill makes the fines payable to the complainant, real incentive would exist to remove these signs. Our experience with "No Trespassing" signs has proved this.

Second, Section 6 a.(4), aerial application: This section would ban the aerial application of pesticides in areas having less than 10 contiguous acres, which we have to assume includes farm fields as well. We have many fields that are less than 10 acres, and it would be a real hardship on many farmers not to have that opportunity.

SENATOR DALTON: Mr. Ellis, excuse me. You're running over the limit now. I let Jane run over a couple of minutes, and I have allowed you to run over about an equal amount of time. Can you summarize for the Committee?

MR. ELLIS: Okay. I would say in conclusion that we believe the bill lacks justification. There is no supporting documentation nor analysis of pesticides used in New Jersey to accompany the bill. We recognize that some people have concerns about pesticide use, but any

change of current regulations must be based on fact and experience. Thank you.

SENATOR DALTON: Thank you. Are there any questions from the Committee?

SENATOR COSTA: Yes. Mr. Ellis, I received a statement on the proposed amendments to the pesticide code by Peter Furey, and there is one part of it I just don't understand. Maybe you can clarify it for me. It says that the bill would interfere with the Department of Agriculture's highly successful Integrated Pest Management Program, a Program which has attracted the participation of hundreds of farmers in the State and reduces the usage of costly pesticides. Why would that be?

MR. ELLIS: Well, this is one thing I can speak to from experience because, as I have mentioned, I have been a participant in the Integrated Pest Management Program. My principal crop is sweet corn, that good New Jersey sweet corn. Prior to the Integrated Pest Management Program, we had no way of knowing what the pest population was at any particular time. Consequently, I applied sprays according, almost, to the calendar date. The corn bore was supposed to be here at a particular time, so we began spraying for the corn bore. We just didn't know if it was there, or if it was not there, so we started to spray. Once the sweet corn showed any silk at all, we necessarily had to keep that silk literally covered with an insecticide to keep the corn ear worm from invading it and laying its eggs in the silk. Once it laid eggs in that silk, there was no way of ever killing the ear worm. So, this resulted in my spraying sweet corn probably eight to ten or eleven times.

Since I became a participant in the Integrated Pest Management Program, I now have a light trap. I have a scout who comes out to check that light trap and he tells me how high or how low the population is of any particular insect at any particular time. Then I can spray accordingly. I have reduced the number of sprays, on the average, by about half.

SENATOR COSTA: In other words, what you are saying here is that the bill itself, because of notification problems, would indicate that you would be spraying less often.

MR. ELLIS: Yes. I cannot notify someone of when I am going to have to spray if I do not know what the pest population is.

SENATOR COSTA: Thank you.

SENATOR DALTON: I have just one last point, Mr. Ellis. Your general summary was that you are casting a doubt on the whole justification of the bill. When you say that the proponents have not made their case for a bill of this kind, what are you suggesting would be needed by way of evidence?

MR. ELLIS: Well, for the most part, we believe that the bill was written in response to allegations that have been made in the press, on radio and television, and so on, of pesticide poisonings when, in fact, no one really knows how many of these are truly pesticide poisonings or whether, in fact, any of them are. There have been a lot of cases made for a lot of stories regarding these kinds of things, but really there is no scientific proof that these are really pesticide poisonings. In fact, whenever we have had any programs which we knew were scientifically run, the opposite has been true. This Integrated Pest Management Program that I referred to-- A couple of years ago, Cook College at Rutgers University kept very exhaustive records on, I guess, all of the scouts in that Integrated Pest Management Program who, in fact, would have been exposed to pesticides, I believe, on a far greater frequency than a normal worker in a field, or anyone else for that matter. The results of those tests showed that their exposure was really very minimal. I do not think there were any adverse effects shown on those people.

Whenever we have had a testing of a scientific program, it has shown that we were doing a very good job.

SENATOR DALTON: May I assume what you are saying then is that your basic premise is, if there is no scientific proof that something does or doesn't hurt you, you need not know?

MR. ELLIS: No, I don't think I would go that far certainly.

SENATOR DALTON: What standard are you using? I mean, you're holding these people up to a standard. You're saying, "You haven't met the standard for proving that the bill is needed." What I am trying to determine is, what is your criteria?

MR. ELLIS: You know, there is an old farmers' saying, "If it ain't broke, don't fix it," and I think that is true. We have a program that is working. I think Mr. Alampi testified to the fact that DEP conducted exhaustive hearings with regard to the program we presently have. A challenge was made to the results of that. That challenge was found to be without merit. Then we turn around and have another bill that essentially flies in the face of all that testimony and everything that went before. It seems like, "I didn't get my way so, by golly, I am going to keep coming back until I do get my way, regardless of the fact that none of the allegations have really been substantiated."

SENATOR DALTON: I think your whole point relative to the court case is probably my fault. I think I should have delved into that a little bit earlier so that everyone on the Committee and the people in the audience could have understood what that court case was all about. I suspect I don't know that much about it. I don't know if Cathy and Paul know that much about it either.

I guess what I am saying is that there are gaps within the present regulations. There is no notification component, as I understand it. There is no Right-to-Know component for farm work. There are a lot of different things this bill does. What you are suggesting, I suspect, is a legitimate request. You are saying, "Do it by regulation, instead of legislation." I suppose the point I have a problem with is your saying that if, in fact, it doesn't hurt you, then you don't need to know. What I am translating from your statement is that many of these pesticides do not hurt you and, as a result, why should we have to broadcast or inform people of their application because that is just going to increase suspicion? And, I suspect that from suspicion, other things may happen.

MR. ELLIS: I would agree with your interpretation of that, yes.

SENATOR DALTON: Then, obviously, as the sponsor of the New Jersey Community and Worker Right-to-Know, we have a basic fundamental difference of opinion on that, because that is the premise of the Right-to-Know.

MR. ELLIS: May I suggest, Senator, that, at least in my interpretation of your bill -- the original Right-to-Know bill -- it was aimed principally at people in industrial environments. I think to try to compare an industrial environment with the open fields in agriculture -- they are not quite the same thing.

SENATOR DALTON: I guess we could go on forever about this. I just wanted to clarify that, Mr. Ellis. I certainly appreciate the time you have taken, not only today, but in the past, to bring this information to our attention. Thank you very much.

MR. ELLIS: Thank you very much, Senator.

SENATOR DALTON: The next speaker will be Dr. Raymond Singer. Dr. Singer is a Neurotoxicologist at the Mount Sinai School of Medicine. Dr. Singer, first of all, thank you for appearing before our Committee. We were just talking about standards we are holding people up to. One of those standards is the length-of-time standard. So, if you would, please proceed. What we are going to try to emphasize to everyone is that they make their point, get to their point, as rapidly as possible. Thank you, Dr. Singer.

DR. RAYMOND SINGER: I would like to open my comments by stating that I am here speaking as a private consultant and, although I have an appointment at the Mount Sinai School of Medicine as an adjunct instructor, my views do not necessarily reflect any views that might be held by the faculty of the Mount Sinai School of Medicine. I am here strictly as a private consultant.

I would like to present my credentials. I received my Ph.D. in Research Psychology from Washington State University. I was then awarded a National Institute of Mental Health postdoctoral fellowship in Biological Psychiatry at New York University Medical Center, where I studied the effects of chemicals on the brain and other topics. Upon completion of my studies at NYU, I was invited to join the Environmental Sciences Laboratory at the Mount Sinai School of Medicine, and accepted a Ph.D. fellowship in Environmental Epidemiology from the National Institute of Environmental Health Sciences.

Since that time I have been researching the effects of toxic hazards on human health, specifically the human nervous system. I have

studied the problems of low level pollution among groups located all over North America, such as PBD contamination in Michigan State, lead toxicity in automobile assembly workers, herbicide and dioxin exposure of chemical workers, and brain disfunction in shipyard painters. Specifically, I have applied experimental and research approaches to the evaluation of nerve damage from toxic chemical exposure. In my practice, I have seen a number of cases of pesticide poisoning, but the patients I see are those with chronic health problems occurring years after exposure. I don't see people who are in acute distress, but rather I work to diagnose the problems of people with chronic health conditions.

Three days ago, the New Jersey Coalition for Alternatives to Pesticide called me and asked if I could be available today to share my expertise with you on these topics. When informed about the bill in question-- I see that the bill is a little more extensive than what I originally prepared my remarks for. I was concerned about the neurotoxicity and the problems associated with gypsy moth spraying in residential areas. I consider that to be a matter of urgency and, on the short notice, I decided to put my previously-scheduled matters aside to be here at this hearing.

Let me define what a neurotoxicologist is. I am a neurotoxicologist and environmental health specialist. A neurotoxicologist studies the effects of toxic chemicals on the nervous system. You have probably heard that pesticides can cause cancer. Of course, cancer takes a long time to develop, and it may not be easy to see the relationship between a little pesticide and cancer developing many years later. However, I don't think many of you know that pesticides cause brain and nerve damage. Many of the pesticides in use today were derived from compounds developed during and prior to World War II by German scientists for nerve gas warfare. So, it is pretty clearly documented that given it was developed to kill people, many pesticides can kill people, since that is what they were developed for in the first place.

What remains a question is the lowest amount that a human needs to get before brain and nerve damage result. Humans are born

with a limited number of brain cells, which, when damaged, do not regenerate much, if at all. That means that anytime brain cells are lost, they are not replaced. You can't grow any more. So, every time there is some damage to the brain that causes brain cell loss, the ability of the central nervous system to function is diminished.

You may hear experts say that the amounts of pesticides people are exposed to have no effect on the brain or nerves. Ask them what studies they have done, or what studies any scientist has published to determine this. You will be surprised. You will probably be referred to some studies on rats or guinea pigs to determine at what dosage 50% of the animals died. In some cases, they may have looked for specific abnormalities in the brains or nervous systems, but it is very unlikely that you will be presented with studies where: (1) humans were tested; (2) where subjects were dosed more than once; and, (3) where brain and nerve tests were performed. Aren't these the types of tests you would expect to be available to experts when they say that a pesticide is safe? It is even less likely that tests were done even on rats where the chemical in question was tested in conjunction with other toxic chemicals, which is how humans are exposed in the real world. Probably studies were not done on products in the condition that they would be applied. Often within periods, intoxicant contaminants can, unfortunately, result during the manufacture and storage of pesticides.

What happens when a person is affected by a pesticide? The nerves slow down and become less coordinated. The memory starts to lapse, and a person finds it hard to learn new things. There are personality changes. A person could find himself or herself losing their temper over trivial matters. Interest in marital relations and ability to perform start to decrease. All the organs in a body to keep a person healthy start to degenerate, and mental and physical illness can ensue. With the mass spraying of pesticides, the dose that people will be exposed to tends to be small enough so that changes in the brain and its function are usually not noticed by those people. Yet, there are groups of people especially vulnerable to pesticide poisoning, such as the elderly, the sick, people with respiratory

problems, children who play in the grass and get dirt in their mouths, and those who, because of genetic factors or prior exposure, will be more affected.

People who are more susceptible to the toxic effects of a particular chemical are often not aware of their susceptibility until after they are exposed and become sick. When we decide to allow the use of such substances, we must weigh the benefits and risks. I don't believe there will be one child or one adult in the entire State of New Jersey who will die from gypsy moths. How many children and adults will be affected by mass spraying? How many will suffer brain and nerve damage without knowing why? How many children will be born into a life of mental retardation? How many of us will suffer the frightening consequences of brain degeneration in our middle and late years? It is one matter for an individual to choose to risk the health and safety of his own family, but to expose other families to these potential hazards, especially without warning, is just not fair.

You who are elected to protect the health and safety of the people of New Jersey must weigh the benefits of mass spraying against sickness and disease of generations alive today and, perhaps, generations to come.

SENATOR CONTILLO: Thank you very much, Doctor. The next speakers on the list are Mary Ann Thompson and Katie Darlington from the American Cranberry Growers Association, Vincentown, New Jersey.

MARY ANN THOMPSON: We are the second string, because the rest of the cranberry growers are all in the beginning of their harvest. I would like to introduce Katie Darlington, who will testify. I will testify after her.

KATIE DARLINGTON: My husband, who has just begun his cranberry harvest, asked me, and our one-year-old Laura, to come today to tell you all how strongly he and other cranberry growers oppose this bill.

We recognize that there are indeed hazards in using chemicals to control insect pests. So, we constantly look for ways to reduce our use of chemicals and to substitute other means of control. We do care about whether or not the general public, and we ourselves, are exposed to great hazard. However, this bill goes too far in its attempt to

protect. It contains a combination of unreasonable requirements about notification before spraying, the encouragement of nuisance suits against farmers, the creation of duplicate bureaucracies in State government, and regulations that already exist in other legislation.

The notification requirements and nuisance suits are the most threatening to us. We really feel that they literally have the potential to put farmers like us out of business. But, first things first.

I would like to tell you a little bit about our cranberry and blueberry business, and I mean just a little bit, and then I would like to explain in detail why we oppose this bill.

Our farm is called J.J. White, Inc. It has been in business for over 100 years. We are one of the oldest and largest cranberry farms in the State, and ours was the very first blueberry farm in the country. My husband's great-aunt domesticated the wild blueberry in the early 1900's and cultivated it for commercial production. My husband is the fifth generation of his family to run the farm. We currently employ about 20 people all year around, and about another 20 seasonal and temporary employees.

Since the farm is located in the Pinelands Preservation Area, the zoning restricts us to agriculture. The Pinelands Commission recognizes cranberry and blueberry growing as beneficial. They actively encourage cranberry and blueberry growing in the Pines because they see the environmental benefits that agriculture brings. And, they place no restrictions on our use of pesticides.

I want to tell you now why we think this bill is unnecessary and why we think this bill is punitive to farmers. First of all, why is it unnecessary? It is unnecessary because there is no data that farm workers or nearby residents are being sprayed indiscriminantly. We do not spray any workers or nearby residents on our farm. As far as we know, there were no instances of farm workers getting sprayed in all of Burlington County this summer. Also, it is unnecessary because current laws and common practices already adequately protect the public. Current regulations already cover the training and licensing of pesticide applicators. On our farm, as on Walter Ellis' farm, my

husband, his father, and his brother are licensed applicators and they do the application. They have the most exposure to the chemicals, and they are the ones who are going to suffer if they are misused.

There are other current practices that make us believe that this bill is unnecessary. We get expert advice from the Rutgers Experiment Stations and from the Cooperative Extension Service. We are members of blueberry and cranberry cooperatives which test the berries before harvest and, after harvest, they test to make sure that there are no chemical residues that would endanger the public. This is enormously important. If there are any such residues, the fruit is rejected. It does not go to market. Again, the bill is unnecessary because it creates a duplicative bureaucracy. You have already heard a lot about this today. We think this is a needless expense to taxpayers.

Now, here is why it is punitive to farmers. First of all, the acreage requirements for aerial spraying are too strict. About half of our blueberry fields are less than 10 acres and they are not contiguous, even though they are in the same area. So, we would have to use ground spraying for those fields. Ground spraying would be slower and more costly. We could never spray the wild areas around our bogs to prevent insect predators from coming onto them and destroying our harvest. We think, also, that the bill is punitive because the buffer is too big. The 500-foot buffer is extreme. We don't think we need to protect from spray drift 400 or 500 feet. We think that 50 feet would be adequate during normal spraying conditions.

Mainly, the notification procedure is also lengthy, expensive, and inflexible. If we were to have a new pest which invaded our crops and threatened our entire harvest, we would be required to give at least 14 days' notice before we could use a new pesticide. We would watch our crop being destroyed in that length of time. That would put us out of business.

You have heard about the sign procedure before. We estimate that we would need 300 signs on our property. It would be very expensive and time-consuming to put them up and to take them down, and we could count on vandals destroying the signs.

Providing an isolated building for pesticide storage is unreasonable for us. Again, we have a severe vandalism problem. We expect that that building would probably be vandalized. It would be a real target for thieves and vandals.

Finally, the resolutions would encourage monetary suits against farmers, even when no damage had been done. This is very threatening to us. People who would like to put farmers out of business, for whatever reason, could bring nuisance suits against us. They could bring action without having to show any damages, and they could be awarded fines for doing so. It is conceivable that such people might even tear down our signs and then bring action against us for this quite minor violation, and for our failure to notify the public, though we tried to do so in good faith.

Again, we think the regulation could force farmers to rehire unsatisfactory employees. Any disgruntled employee could easily claim that the reason he was discharged was because he had tried to exercise his rights as defined in this bill. Then the farmer would have to rehire that person.

We like the Integrated Pest Management Program part of the bill. There is no Integrated Pest Management Program for cranberries and blueberries, however.

In summary, we strongly oppose this bill. If it is enacted, New Jersey growers will be put at a disadvantage compared to farmers in other states. They will have to bear the substantial extra expenses required by this bill, or they will have to farm without the help of pesticides. What this would mean for us would be lower yields and less good quality crops. We do not think the public is going to accept that. Therefore, we do not think there is sufficient value to this bill to warrant trying to save it, and we strongly recommend voting against it.

SENATOR CONTILLO: Ms. Thompson, are you going to take the balance of Katie's time?

MS. THOMPSON: Yes, I will use the balance of her time. I am Mary Ann Thompson and I serve as Assistant Manager of the Birches Cranberry Company. The Birches Cranberry Company has been in existence

for over 110 years and is the largest independent grower in New Jersey. I am also an attorney who has volunteered services many times to obtain the Pine Barrens Protection Act Superfund moneys, and I directed the New Jersey field office of Friends of the Earth for several years. Furthermore, I worked as a blueberry picker from grade school through high school.

Under the Pinelands Protection Act, cranberry lands are restricted to farming. Having spent several years obtaining the passage of the Pinelands Act based on the belief that New Jersey wanted to encourage and help preserve farming, it is with great dismay that I testify against the passage of S-1342, since it endangers the economic viability and future of all cranberry farms.

First of all, cranberry growers support integrated pest management. For over 10 years, we have done experiments trying to do weed control without pesticides. However, we have been unsuccessful because there is something very deadly to the cranberry business called false blossom. False blossom is caused by a virus which is carried by the leaf hopper. In the 1940's, it destroyed-- We went from about 12,000 to about 4,000 acres of cranberries. The entire industry was almost wiped out, until we began to use pesticides. Since we have been using pesticides, the acreage has begun to come back. We have never made up for that lost acreage.

The suit provisions of the bill providing that no damages be shown, and that there are liquidated damages, cause special concern. In many cases, cranberry farmers have created many enemies by ejecting trespassers from their fragile bogs and dams. Many of these trespassers live around and within the 500-foot buffer range. They would love a chance to hassle us and make money while doing it.

Our notification would involve over 30 houses. The Pinelands Commission keeps approving waivers for more houses abutting the bog areas. All the houses near us in the Pine Barrens were built after we began aerial spraying. We have no irrigation and we have no ground equipment. We rely on aerial spraying. Determining 500-foot buffer areas from target areas requires costly and time-consuming surveying. The language in the bill still does not provide enough flexibility for

weather conditions. I believe I heard some discussion about rain regarding weather conditions. It is not only rain, it is humidity and wind. You may know the day that you plan to spray, but when the temperature changes, when the wind changes, you say, "Well, maybe the next day, or the next day," but you cannot be that specific. When you finally do get a good day, you have to go.

Road notification is of great concern to the people in the Pines. We have become a general recreation area around all the bogs; people are attracted by the water. Road notification for us involves posting over two miles of roads, including State highway Route 70, county roads, and fire lanes. We are a very small operation. We do not have a lot of manpower. Even if we put permanent signs up all year around, there is a game in the Pine Barrens called, "Knock the Sign Down." In fact, just the other night I put a sign up for a cranberry festival at 7:00 p.m., and by 4:00 a.m., that sign was run over by three pick up trucks. Now, I can't see putting the hassle and all the complaints and expense on the farmer. He puts the signs up, the trespassers take them down, they go out in the field, and then they immediately start suing. He would have to be in court the whole time, and he would have no time for farming.

Storing pesticides 500 feet from workers' housing should be looked at. There may be a better way to store pesticides than with just a 500-foot buffer. Many cranberry farms are surrounded by water and bog areas. There is not much land area for housing. The houses for the workers, for the people who own the farm, and for the production are close together, so the 500-foot buffer, in this case, would put it way out in the bog or off the farm. I guess we could use a balloon or something up in the air. Keeping pesticides off the farm, if we then have to bring them in, would interfere with the management and flexibility needed for the application, and also the security of the pesticide application.

Cranberry growers have been exceedingly conscientious in protecting their workers. We often try to hire families that we can get all year around. It appears that the provisions in the farm workers' section may be duplicative, but we do not have any problem.

The bill as written expects the farmer to forecast the weather, run a perfect operation, have no one living around the farm, expend large sums of money, and spend all his spare time in court. For this reason, we would like you to address the things we have pointed out as problems. Thank you.

SENATOR CONTILLO: Thank you, Ms. Thompson. We appreciate the information you ladies have brought to us today.

I would like to ask any future speakers to try not to be redundant by repeating what the other advocates of this position have said. We are getting to the point now where certain details are being brought up repeatedly. As the Chairman mentioned, after three or four times even this panel becomes cognizant of those details.

The next person to testify from a farm workers' organization will testify with a panel of four farm workers. That would be Angel Domingues. Is there someone here from a farm workers organization?

FROM AUDIENCE: He is outside.

SENATOR CONTILLO: Okay; we will go on to someone else. Is Jacqueline Warren, the attorney for the Natural Resources Defense Council, here? (affirmative response) Would you please come forward to use your allocated eight to ten minutes of nonrepetitious testimony? (laughter)

JACQUELINE WARREN, ESQ.: I would like to accommodate your request for nonrepetitious testimony, but since I just arrived, you are going to have to tell me if I become repetitious.

I would like to say a few words by way of explanation of what the Natural Resources Defense Council's interest is in this proceeding. NRDC is a national environmental organization with three offices around the country, and a staff of lawyers and scientists who are working for the improvement and protection of the country's human and natural resources. I am a staff attorney; I am the Director of the NRDC's Toxic Substances Project, and for the last 11 years I have -- as an attorney for both the Environmental Defense Fund, another national organization, and the NRDC -- worked on many toxic substances' problems, including the Federal pesticide law and efforts to improve State-level pesticide programs.

I am very strongly supporting the measure that is before the Committee today. The reason is that the length of time I have worked on the Federal Pesticide Program has disclosed that the national program cannot provide the kind of protection that the public is entitled to from involuntary exposures to hazardous substances. The past decade has shown disclosure after disclosure of pesticide contamination of food chains and ground waters, and people injured by a large number of different kinds of pesticide exposure situations. In fact, the EPA pesticide incident recording system has documented 55,000 pesticide injuries over the last many years. The numbers have been growing every year in relation to the increase in pesticide use.

The Federal program, as the General Accounting Office and the House Agriculture Committee investigations have recently shown, is very much in disarray. Budgeting resources have been cut back. There have been disclosures of irregularities in the agency's review of health and safety studies supporting many registered pesticides. There have been serious problems resulting from the disclosure of data falsification by a major pesticide testing laboratory, which was responsible for a large number of health and safety data underlying the registrations of many pesticides.

EPA is trying to get its house in order. There are major amendments pending in the Federal pesticide law right now. They are not going to pass in this session; they may not pass in the next session. The thing that is becoming apparent is that the states have to develop the capability to provide protection to their citizens against involuntary exposures to pesticides. This means they have to find the resources to do an independent review of the pesticides that are being registered and used in their states. They have to maintain an arm's length relationship with the companies which promote the use of pesticides in their states. They should enforce, if they are operating as most states are under a cooperative enforcement agreement with the Environmental Protection Agency, the pesticide restrictions in a meaningful way.

I think this bill goes a long way toward achieving some of those goals. The one goal which I think it is most primarily designed

to achieve, although there is some concern that it actually will, is the provision of timely and adequate information to citizens who may be exposed, so that they can take appropriate self-help actions.

Regarding provisions for a State evaluation and monitoring program, we strongly support the restriction on aerial spray pesticides in nonagricultural areas. The creation of a pesticide hot line is very important. There are very few places where citizens can go to get information on pesticides in a way that would enable them to take appropriate action if they need to.

We also strongly support the revocation of registrations where they have been shown to be false, where safer substitutes exist, or where either inefficacy or serious hazard has been documented. Similarly, we also support provisions for medical education about pesticide injuries, the reporting of exposures, and other comparable health and environmental protection measures.

I would like to address myself to the issues that we think should really be further addressed by this Committee before this legislation is enacted. The first of these is the public notification provision. Clearly, timely informative public notification is very important. However, this legislation appears to place the burden on an individual to ascertain where he is going to be exposed. I mean, we are talking about chemicals which are designed to be poisons, to kill. They are not just any old innocuous chemical. When other types of dangerous situations arise, we do not wait for people to ask to be told. We post "Thin Ice" signs; we sound fire alarms. The golfer shouts "Fore" on the golf course whether the people in front of him ask to be informed of the danger or not, yet with respect to exposure to possibly life-threatening chemicals, we are asking people to say first, "I want to be told," and then to go through, in some situations, what I consider to be quite an onerous burden of having to register that interest on an annual basis. The annual basis registration is particularly onerous to us because what happens to people who move in after April 1, or people who are just forgetful? I would think that persons who wish to be informed would wish to be informed all the time, not just in the year that they happen to mention it. But, as a general

matter, I think that since the resources to protect the public against these types of exposures are not available to any state to the degree that they are desirable, certainly the least that can be offered to individuals is enough information for them to find out whether they want to either absent themselves from the situation, or perhaps take advantage of their right to prevent their property from being exposed if such an exposure would necessarily occur.

For this reason, we question the utility of having a general modus provision as opposed to giving people a specific notice in a timely enough manner to allow them to take action about it. The Federal law, at its very finest, would not provide that kind of protection. The Federal government is trying to provide a floor with review of the toxicity and potential environmental effects of pesticides, but it can't be operating at a level which tells an individual down at the grass roots level when there is going to be a spray and what is involved. That is a State function, and I think it is appropriate for the State to look at enacting those provisions. I think this is something that the Federal government could not do even if it were in a better situation than it presently is.

In short, we would urge you to reconsider the notification provisions and provide more than just 24 hours. I'm sure you are aware that integrated pest management programs, while they are barred from advancing the use of prophylactics for preplanned broad-spectrum pesticides, do involve, in many cases, the use of toxic pesticides, and there can be drift and involuntary exposure just as there are from other types of pesticide applications. For this reason, we would caution against exemption from the notification deadlines for integrated pest management. We would urge you to enact a provision that would give people adequate time. Twenty-four hours seems, to me, to be a very inadequate amount of time for a person who perhaps desires to do more than simply absent himself or herself from the premises, but who wishes to take advantage of the opportunity to prevent the spray if the exposure to their property or person is otherwise necessarily going to occur even if it isn't intended.

The second major problem we see with the provisions here deals with the mandatory requirements for pesticide evaluation and monitoring. New Jersey has a fine Toxic Substances Division in the Department of Environmental Protection. It has prepared some excellent reports about chemical hazards, and it seems to me from my experience with them that they have the capability of evaluating pesticides for the Commissioner.

The question I have arises from my ten years of working with EPA in their Federal program. What should trigger the review of a pesticide that is currently in use or a pesticide that is being asked to be introduced in this State? The criterion that is stated in this bill to initiate a thorough review of substantive preliminary data, if warranted, raises many questions to me as an attorney as to what constitutes "substantive preliminary data." EPA has had some problems over what it is that should trigger their review of pesticides. I would say that to avoid litigation over whether or not the determination to review a pesticide is based on sufficiently substantive information, it would be wise to simply delete that standard and authorize the Commissioner to initiate a thorough review where in his judgment there is either an absence of data or where available data suggests that that would be appropriate. The very judgmental terms should be left out because they can lead to litigation and possibly delay the review which might lead to reductions in exposure to that pesticide at the end of the line.

We have the same question about the second criterion, which is substantially unsupported by experience. In my experience, pesticide manufacturers, users, and those who are interested in keeping various registrations on the market very often say, "We have seen by experience that these pesticides are not hazardous." Very often common experience would indicate that because the ecological studies had not been done. The data may simply be available from animal studies. For that reason, we would urge you to amend that provision for triggering a thorough review to include "unsupported by substantial data or experience," and not leave it strictly as experience, because experience can be the experience of ignorance with a "see no evil"

approach to correcting environmental problems. If you haven't looked, you haven't seen a problem. Those kinds of phrases can lead to litigation when the judgment that really is an issue is whether we should review something that might be hazardous.

Other provisions, just to go through this very briefly, that we have some concern about-- I sit on the New York State Department of Environmental Conservation Pesticide Advisory Council. New York State, the State of California, and now hopefully New Jersey, will be the only three states which are really moving to strengthen their state pesticide programs in a meaningful way. New York has just begun a process to remove the cyclodiene termicides from the market after many home contamination situations resulting from treatment with cyclodiene and similar products. Your provision here to protect school children against involuntary exposure deals only with termite control applications. While there have been problems with termite control applications, particularly in New York -- although in other places as well -- termite control pesticides are ordinarily subsurface applications, and they are very infrequent. The more common pesticides being applied in schools are for cockroaches and other indoor pests. Those can also be very toxic, and certainly the children should not be in school when those pesticides are being applied. For that reason, we would urge you to expand the coverage of that section to cover pesticide applications during school hours, rather than simply for termite control, which is the least likely to be a problem of all the different types of pesticide applications that I can think of.

SENATOR DALTON: We are going to ask you to wrap it up now, okay?

MS. WARREN: All right. Actually there are two brief points I would like to make. One has to do with using pesticide brand names on signs. In order to put the brand name down, we would have to look at the container. The container shows the EPA registration number as well. If your objective is to give people the immediate ability to get more information, the pesticide registration number is something they should have in order to make inquiries.

The last point is, we very much support the creation of a private right of action. Because of the absence of adequate enforcement resources, self-help is really the essence of a private right of action and, since government regulatory enforcement has been documented to be declining, it is only fair to give private citizens the right of self-protection. With respect to the provision that has been proposed, I would say that the way it is worded, it sounds as if a person has to have been exposed before they can have the private right of action. That would be to wait until you have been injured. I'm sure your intention must be that if a person notes that he or she will be exposed, they should have the ability to go to court to get equitable injunctive relief. Under this wording, it seems to me that they might not have the standing to do that. Therefore, I would urge you to include a phrase such as: "Any person whose property or person is or is likely to be exposed to a pesticide resulting from a violation of this Act," to ensure their right to get that injunctive relief beforehand, not only after the fact.

Thank you very much.

SENATOR DALTON: Thank you very much. Now we would like to call on Mr. Jeffrey Peterson, Manager of State Legislative Affairs at Economics Laboratory, Inc.

JEFFREY PETERSON: Mr. Chairman and members of the Committee, my name is Jeff Peterson. I am Manager of State Legislative Affairs at Economics Laboratory, Inc. I would also like to associate my comments with the Chemical Specialty Manufacturers Association. I have consolidated some of the things that would have appeared in other testimony, but I will be succinct and attempt to be nonredundant.

Briefly, Economics Laboratory, Inc. is primarily engaged in the developing, manufacturing, and marketing of products, programs, services, and systems for scientific cleaning, environmental and food processing sanitation, and pollution control. A wide variety of these products and systems are for commercial and consumer cleaning and sanitizing, and a number are utilized in the industrial and institutional markets. These markets include schools, hotels, restaurants, and hospitals. They also include dairy farms and other

food processors. Many of the products used in these particular environments have pesticidal claims and are, therefore, subject to Environmental Protection Agency jurisdiction pursuant to Federal FIFRA, as amended.

I should note that we have -- I am just speaking for our company -- several thousand accounts in New Jersey, many of them small businesses and institutions which use the products that would be covered by this bill.

Economics Laboratory is also a member of the Chemical Specialty Manufacturers Association. This is a voluntary nonprofit membership Association composed of some 400 companies engaged in the manufacture, distribution, and marketing of chemical specialty products which include disinfectants and sanitizers, home, lawn, and garden insecticides, and a wide variety of other pesticides for home, industrial, and institutional use. This is, to a large extent, the non-agricultural pesticide industry.

When most people think about pesticides, they all too frequently think only of agricultural pesticides. These people usually do not realize that many of the common and useful household products that consumers use on a daily basis to enhance the quality of their lives and assist in the preservation of public health are pesticides and are classified as pesticides, and, therefore, would also be subject to pesticide rules such as the legislation you are considering here today.

Both agricultural and non-agricultural pesticides are registered and regulated by the EPA under the authority of FIFRA. In fact, about 52% of all the pesticides registered at EPA are consumer and household products. These non-agricultural products include the disinfectants and sanitizers that I referred to earlier, toilet bowl cleaners, bleaches, cleansers, and other similar products necessary to preserve our high sanitary standards and to prevent disease. Any pesticide legislation should recognize the distinction between these pesticides, and should take such differences in use into consideration. Unfortunately, S-1342 fails in this regard and, in fact, its provisions are inappropriate and unnecessary for these and

other home, garden, industrial, and institutional products. From that standpoint, we respectfully request that the Committee not report this bill.

There is much misunderstanding concerning the regulation of pesticides and the types of products such regulations actually affect. There is in place already at the Federal level, the national statute, FIFRA, and this State, in addition to that, has its own statute and regulations which enable the Department of Environmental Protection to adequately further regulate the sale and use of pesticides.

I would also like to reference the lawsuit that was discussed earlier, and just suggest that we think, as a company and as an organization, that ample time should be given for the revised DEP regulations to begin to function. As was stated earlier, there will be additional hearings on the regulatory arena.

Turning now to the reasons why we feel this bill should not be passed from Committee, we offer the following viewpoints:

First, we believe that any law proposing to regulate the sale and use of pesticides should take into account the differences I mentioned in environmental risk and the appropriate data for evaluating such risk between agricultural and non-agricultural pesticides. As a matter of fact, under Section 25 (a)(1) of FIFRA, the Administrator is required to "take into account the difference in concept and usage between various classes of pesticides and the differences in environmental risk and the appropriate data for evaluating such risk between agricultural and non-agricultural pesticides."

The U.S. House Report of October 5, 1978 on this subject recognized the importance of the non-agricultural portion of the industry and directed the Agency to develop expertise among its scientific and regulatory staff with respect to the non-agricultural pesticide industry.

The failure of S-1342 to follow the lead of FIFRA in this regard constitutes a fundamental flaw which runs consistently throughout the legislation, which we will further illustrate.

There are several specific concerns. Section 2 of S-1342 alters the historic balance of FIFRA, requiring an assessment of risks

and benefits. Senate Bill 1342 specifically states that, "These regulations shall be designed to eliminate the adverse effects of pesticides within the limits of technical feasibility." Nowhere is there a single mention of economic feasibility. Nowhere is there a single mention of the benefits side of the equation.

FIFRA currently provides for the weighing of both the human and environmental costs and the benefits of pesticide regulation. This bill's approach to consider only the adverse effects on man or the environment eliminates the regulatory judgment of whether the human risk is reasonable relative to the benefits. Under the provisions of Section 2 of FIFRA it states that the Administrator should take into consideration "unreasonable adverse effects on the environment," meaning -- and I am still quoting -- "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide." If the New Jersey Department of Environmental Protection is going to evaluate the "adverse effects," it should also evaluate the benefits side of the issue.

In testifying before the Committee on Agriculture of the U.S. House of Representatives on November 2, 1983, William D. Ruckelshaus clearly assessed the need to balance risks and benefits. He said, "I cannot stress strongly enough my belief that risks must be balanced against benefits and that statutes, such as FIFRA, whose heart is risk/benefit balancing, are fundamentally the most sound."

Another portion of Section 2 allows the Department to compare the effectiveness of various products and adopt regulations to minimize the alleged adverse effects of a particular pesticide. This provision is opposite from the one contained in Section 3(c)(5) of FIFRA, which directs that, "The Administrator may not make any lack of essentiality a criterion for denying registration of any pesticide." The statute goes on to specifically state that: "Where two pesticides meet the requirement of this paragraph, one should not be registered in preference to the other." In addition, "The Administrator may waive data requirements pertaining to efficacy."

A provision in Section 3 of S-1342 would reimpose a significant burden on the Department to reevaluate the efficacy of the thousands of products registered in New Jersey, would interfere substantially with the registration process, would divert the State resources away from other programs, and would not result in the performance of more efficacy testing than is already performed in response to market conditions and competition. Currently, FIFRA language does not relieve manufacturers from efficacy requirements, only from submission of such data for EPA review.

Section 4 of S-1342 provides that: "No person shall be authorized to apply any pesticide commercially without having received certification from the Department therefor." This provision is far too broad and does not provide for a distinction between "certified applicators," "private applicators," or "commercial applicators," for those working "under the direct supervision of a certified applicator," as included in FIFRA, or even those persons who perform common sanitization functions in restaurants, hospitals, or food processing establishments.

Since pesticides are applied commercially by salaried personnel in institutional, industrial, or commercial establishments, the ramifications of this loosely defined section could affect every person -- and I think this is important -- who washes dishes, cleans food processing equipment, or does cleaning and maintenance work. It is nonsensical to require these individuals to obtain certification from the State to apply these disinfectant and sanitizer type pesticides; yet this bill actually seems to go that far.

We believe that Section 9 of this bill goes too far in mandating that the Department "carry out a program of testing in order to determine the nature and extent of pesticides in the environment to which man and animals may be exposed." Such testing at the State level is unnecessary. Each product registered at the State level has already been registered at the Federal level through EPA, and has undergone extensive testing.

SENATOR DALTON: May I ask you to wrap it up now, sir?

MR. PETERSON: Sure. I think it is important to note that Section 7 f. appears to be directed at those certified applicators who apply pesticides in private residences and rental units, schools, and commercial buildings. However, the language is vague and unclear. Section 7(1) states that: "Any person who performs his own pest control application shall be responsible for satisfying the relevant notification requirements in Subsections a. through h. Consequently, these provisions collectively apply to anyone who applies or uses a pesticide in any location enumerated under Section 7.

Getting back to the distinction that really hasn't been made between agricultural use, non-agricultural restricted use, and non-agricultural nonrestricted use pesticides, the Federal law has established definitions under FIFRA, and defines the general use classification to include those products which are generally considered to be practically non-toxic or slightly toxic, and which will not generally cause unreasonable adverse effects on the environment. We think that should be an important part of your consideration of this.

SENATOR DALTON: Thank you very much. The next speaker will be Mr. Angel Domingues from a farm workers' organization. Mr. Domingues is going to be accompanied, I understand, by a panel. Is that correct, Mr. Domingues?

ANGEL DOMINGUES: Yes, sir, that is correct. I would like to thank the Committee for inviting us to attend this hearing today. As you are aware, over 400 farm workers came to Trenton today to testify in favor of Senator Lesniak's bill.

I do not want to give you a lot of technical talk about the problems of the bill. We want to bring you the human position relative to this bill, the human suffering of the farm workers. Here today we have a panel of farm workers. All of them were sprayed by pesticides last year and this year. It is a reality; workers get sprayed with chemicals during the harvest season every year.

I would like to introduce-- Next to me is Mrs. Torres. She will be translating during the testimony. I will be very short. We do not believe in taking up a lot of your time. Mrs. Torres worked with Rutgers University on a private project -- it was a migrant farmer

project -- and she is quite aware of the problems of the farm workers. I would also like to introduce a farm worker, Ramon Ramirez. He has quite a story to tell you today.

MRS. TORRES: Please bear with us because this is going to be a simultaneous translation.

SENATOR DALTON: Excuse me, but I think you might want to move that mike a little closer to you. That way we can try to accommodate everyone.

RAMON RAMIREZ (through interpreter, Mrs. Torres): I, Ramon Ramirez, present myself in front of you to bring you some information about the problems on the farms. I have been a farm worker for eight years. I have six children, and I am obligated to come here to New Jersey to work on the farms. This year, I had a very bad experience. I came to work at the Adam Lucy Farm in New Jersey. Working on the peach farm, I was sprayed by pesticides on three different occasions, not only myself, but also the other workers who were working in the field.

One of my friends who was a worker got so sick that he became swollen. His skin became irritated and he had scabs. Even to this day I am critically affected by the pesticides. I can't even sleep with all the itching that occurs during the night.

The farmers express a lot of abuse toward the Puerto Ricans when we come here to work on the farms. They put us in housing which is inadequate for living. I lived in labor-camp housing that only had one stove and one refrigerator, and eight plates for 14 people to eat from. In order to go to the bathroom, we had to leave and go outside to the field because there was only one bathroom, and everyone had to use it.

One day I was resting on the farm and I was sprayed by an airplane. We are humans, not animals to be sprayed over by pesticides.

On the farm there are no receptacles for garbage, and there are millions of flies. We have to eat outside of the camp because of the flies all over our food. I want you Senators who, like us, eat the food that we pick to help us, because we came here to work to be able to support our families. I have taken a lot of punishment,

and I have also seen my friends take a lot of abuse. Today, I went to see a doctor to obtain medication to take away the itching and the irritation from my skin.

I hope you can do something to resolve this problem which is affecting the Puerto Rican farm workers. Thank you.

MR. DOMINGUES: The next person will be Mr. Victor Colondres. He is also a farm worker who was sprayed on several occasions while he was working in the field.

VICTOR COLONDRES (through interpreter, Mrs. Torres): My name is Victor Colondres. I have been a farm worker for eight years. On various occasions while driving a tractor in the field, a plane sprayed pesticides on me and the spray reached my skin. When I felt the itching from the spray, I had to get off the tractor and cover myself by going under the tractor, because the airplane was about 50 feet away from me. I had to abandon working in the field, go to the camp, take a bath, and return to work.

When I returned to the field, the farmer was already looking for me. He asked me why I had abandoned my work. I replied that I had been hit by the spray of pesticide and had gone to take a bath. He had not advised me they were going to spray that field. As soon as I told him that the spray had drizzled on my skin, he suspended me and I lost a week's pay because I was supposed to have been doing my job. For a week he only gave me an hour and a half of work per day. Pesticide was also sprayed on co-workers in the cherry fields on various occasions.

I ask you, Senators, to please help us resolve this so that what happened to us will not happen to other workers. The farmers are supposed to notify the farm workers when they are going to spray the fields, and they are not doing it.

MR. DOMINGUES: The next person to speak will be Fernando Guzman, another farm worker who was also sprayed while working on a peach farm.

FERNANDO GUZMAN (through interpreter, Mrs. Torres): My name is Fernando Guzman. I had an experience on a peach farm in Gloucester County. A tractor came by spraying pesticide, and the spray hit

various co-workers and me while we were working together. We were sprayed with pesticide on our faces and on our clothes. I was sick for two weeks, with vomiting, fever, itching on my skin, and fatigue. I could hardly breathe for those two weeks. Even to this day I feel the symptoms of fatigue.

The foreman brought us our lunch, and we had to eat it without washing our hands. There was no water there. One of us got sick in the throat and couldn't eat. This man had to leave and return to Puerto Rico, without work and without medical help. This made me very angry because it was as though one did not value life.

We ask you, our legislators, to listen to us, the migrant agricultural workers, who pick the fruits which you also eat. You are the ones who can help us to eliminate the abuse of pesticides on the farms of New Jersey. Thank you.

MR. DOMINGUES: Our last speaker will be Trinidad Lopez, who is a worker from the blueberry fields in Hammonton, New Jersey.

TRINIDAD LOPEZ (through interpreter, Mrs. Torres): Good afternoon, my name is Trinidad Lopez. I work on the blueberry farms. When I went to pick the blueberries, all the plants were completely sprayed with pesticide. I worked on that farm for three months; then I couldn't work anymore because my whole body, my face and the rest of my body, became swollen, irritated, and itchy. Later I had to seek medical assistance. I went to a hospital, and the doctor told me that what I had, a lot of people had because the condition came from the pesticides on the farms. He prescribed some medicine for me which did not do anything. Then I had to go to another doctor. The second doctor also told me it was due to the pesticides on the farm. My hands looked as though I had leprosy. They were so disgusting that not even my family wanted to eat my food because they looked so horrible.

I hope my words are not in vain, because something like this could possibly happen to others; maybe something even worse than what happened to me. It was more or less three months, and no doctor, nor anyone else, could cure my hands. I do not believe, even today, that any doctor could remove the scars from my body. There is a lot of suffering on a farm, and many people have experienced the same thing as I have, although probably not as severely.

The farm workers work very hard, and the farmers give them very few opportunities. There is no place to take a bath nor to wash your hands on the farms. That is probably the reason that this happened to me because, you know, with our hands full of germs and pesticide, we have to eat our food that way.

I want to thank you. I would like you to listen to us and consider what we say, not only for myself, but for all the other Puerto Rican agricultural workers. Thank you.

SENATOR DALTON: We thank all of you for coming.

MR. DOMINGUES: Just to make a short summary, I think it is about time that we put profit on the side and give the farm workers all the help we can. I do not think that is asking too much. Thank you very much.

There is one more affidavit from a farm worker who has been sprayed, and I will submit it to you, Senator Dalton. We have plenty more people who would like to testify, but we do not have much time. We have to go back home. Thank you, again.

SENATOR DALTON: Thank you, Mr. Domingues, and thank you to all the rest of you who have testified. (applause)

Next we would like to call on Mr. Ted Hart from the New Jersey Pest Control Association, Inc.

TED W. HART: Thank you, Mr. Chairman. We find ourselves in the difficult position of having to follow a very emotional plea. Rest assured, Mr. Chairman, that we will be very brief in our remarks. I do not propose to take the entire eight minutes which you have allotted to us.

My name is Ted Hart; I am the President of the New Jersey Pest Control Association. To my left is Mr. Norman Cooper, Vice President of the National Pest Control Association, who will also make a statement.

Our Association and the South Jersey Pest Control Association represent more than 365 member firms here in New Jersey, which account for about 90% of the structural pest control work which is done in the State of New Jersey.

With regard to the proposed Senate Committee Substitute for Senate Bill 1342, our Association has many concerns, some of which include the following: The bill, as substituted, is unnecessary and duplicative. As an example, the new Section 8, Paragraph c. on Page 16 of the bill states that, "The Department of Health shall establish by rule or regulation a toll-free pesticide hot line to respond to public questions concerning the health and safety of pesticide use and exposure."

The New Jersey Poison Information and Education System, under the direction of Dr. Steven Marcus, and its hot line have been in place for some time. The number, which has received wide exposure in the media, is 1-800-962-1253. The New Jersey Pest Control Association and the New Jersey Poison Information and Education System have prepared a brochure on pesticide information, the first of its kind anywhere. I have copies of that brochure here with me today. I have made them available to you, and they are available to the general public.

The bill, as substituted, would result in unjustified increases in costs to implement, to the taxpayers of New Jersey.

The bill, as substituted, would expand the pesticide Council to 15 members and would result in an very unwieldy Council. Several sections of the bill are unworkable and unenforceable.

For these reasons and many others that time will not allow us to discuss, the Board of Directors of the New Jersey Pest Control Association has directed me to inform you that our Association is in opposition to the proposed Senate Committee Substitute to Senate Bill 1342. We urge this Committee to refer it back to the Committee for further study and review.

I think that is well within the eight minutes, Mr. Chairman, and I thank you for your courtesy. I would now like to introduce Mr. Norman Cooper, Vice President of the National Pest Control Association, who will give his statement.

NORMAN COOPER: The quality of life in New Jersey has been greatly enhanced through the efforts of the professional pest control industry.

Our food sources and our agricultural industry have been effectively protected from the ravages of insect pests. Our homes,

which to most citizens represent their single biggest lifetime investment, have been protected from structural damage by pests. Our very health, in fact, has been protected from disease through professional structural pest control efforts in homes, hospitals, hotels, restaurants, manufacturing plants, offices, schools, casinos, and institutions, in fact, in everyplace where New Jerseyites live, work, and play. Our structural pest control industry probably uses less than 6% of the pesticides used in the State.

As modern medical chemistry can supply materials that can alleviate suffering and effect cures for various diseases, so too has the science of pest control produced various materials that have proven to be beneficial to the well-being of the public. In each case it is imperative that the benefits be weighed along with the possible risks, and that these materials be properly applied in an intelligent manner under professional control. Regulations, too, can be over-reactive and can prove to be counterproductive, unless the fine balance between benefits and risks is properly assayed.

The benefits of pest control are academic. The question is, how do we regulate the proper use of pesticides? How do we allow for the continuance of effective pest control to protect our health, our food, and our property, while at the same time being sure to take all reasonable precautions to avoid the indiscriminate or improper use of pesticides?

Many of the requirements essential to effective safeguards are already in place in New Jersey. For example, the current system of registration of pest control technicians already provides that "the applicant is knowledgeable concerning the toxic nature and adverse effects of pesticides and is adequately trained with respect to the precautions necessary to minimize human exposure to any potentially hazardous pesticide." All commercial pest control applicators in New Jersey already meet this criterion.

Some requirements in this proposed bill are duplicative. Proper procedures, ingredients, restrictions, hazards, and potentially negative effects are already listed on the pesticide label in accordance with Federal law. Wouldn't these proposed provisions merely

be making New Jersey taxpayers pay again for the same protection they have already paid for as Federal taxpayers?

Isn't it wasteful and unnecessary to provide every dwelling occupant with a warning statement unless they request it? Isn't supplying this data when not requested an unnecessary and implied indictment of pesticides in general? Wouldn't a "WARNING" statement like this (witness holds up a copy of the statement) be an implied indictment in a commercial establishment? Wouldn't it discourage you from going into a restaurant, a hotel, or a casino? Would you feel at ease if a building was sprayed yesterday and this sign were on it today? Wouldn't it serve to discourage proper pest control, greatly reduce the frequency of pest control services, and encourage less pest control, thereby leading to less desirable health conditions? Wouldn't such a drastic warning sign, for example, serve to scare and intimidate the public? Wouldn't this cause potentially catastrophic economic losses to hotels, motels, restaurants, casinos, etc.? Wouldn't tourism -- New Jersey's second largest industry -- receive a punishing blow while achieving no benefits at all?

I respectfully attach to my statement, for your consideration, the suggestions that we believe could help to make regulations regarding pesticide usage workable and effective. I believe that with cooperation we can achieve the goal that we all aspire to, that of allowing for the safe and proper use of pesticides with maximum benefits and minimal risks for the citizens of the Garden State.

I have addressed in detail, those parts I think need fixing. I think they could be very, very helpful. I am not going to go through this attachment in the interest of time. I do have it in writing. I have addressed the sections of the bill chronologically, but I would like to indulge your patience for another few moments, if I may, to just touch on one or two things that have not been discussed at all. We are talking about structural pest control now, and no one has discussed this before.

We talked about certification. We recommend on the second line of Page 5, that after the word certification, the words "or

registration" be added. Again on the third line, and again on the sixth line. The reason is that the certification and registration provision has been proven to be highly effective in Florida and Texas, states with effective pest control programs. New Jersey adopted a highly effective program less than one year ago that addresses this issue. This registration and certification program assures that all commercial applicators are known to the State of New Jersey. It provides for New Jersey State-prescribed training requirements that fully satisfy the objectives of this provision that "the applicant is knowledgeable concerning the toxic nature and adverse effects of pesticides and is adequately trained with respect to the precautions necessary to minimize human exposure to any potentially hazardous pesticide."

We talked about the notification provision, but as it regards structural pest control we recommend that after the word notify, on Page 14, f. (1), the words "upon request" be provided. The only persons needing prior notice in a private dwelling are those with special health concerns. They have the right not to contract for the pest control services initially or to request prior notice and information, which would then be submitted to them. Pest control services will not be supplied without request from private dwelling residents. The State now has existing provisions, reenforced by this bill if passed, to assure the safety of pesticides registered in New Jersey and the training of commercial applicators. In multiple dwelling units, we again recommend that the words "upon request" be added after the word "notify," because on rental units we suggest that a permanent notice as to dates of routine pest control treatment be posted more than 24 hours prior to treatment in a central location visible to tenants. We feel that this should suffice to satisfy the notification requirement. Nonscheduled return visits in response to tenant requests should, of course, be exempt from this requirement and, also, for commercial establishments. On Page 15, f.(4), we recommend that the phrase beginning "including but not limited to" and ending with "State poison control center toll-free number" be dropped totally with regard to commercial buildings. This refers to the notice that

you mandate that every commercial establishment must put on its exit or entrance for 24 hours after treatment.

Our reasons are that the New Jersey Department of Environmental Protection and the USEPA have determined that pesticides are not dangerous when applied properly in conformity with label directions. This provision would serve no useful public health protection purpose. This provision would be counterproductive as it would intimidate the public and reduce entry to facilities where such a sign appears. This provision implies that even when properly applied, pesticides are dangerous. This provision would penalize those establishments that provide for a greater frequency of pest control treatment. It would discourage proper pest control and encourage sanitary violations.

At a time when the New Jersey Chamber of Commerce is spending a great deal of money to promote New Jersey tourism, this would drive business and tourism away. I think that that would very clearly be counterproductive.

I have many, many other provisions that I would like to touch on which I think could be very easily improved upon. I will submit them for your consideration.

SENATOR DALTON: Please feel free to do that. The more detailed your suggestions the better. That is our feeling. Thank you for the suggestions you have already given us.

MR. COOPER: I have a lot more attached to my statement.

SENATOR DALTON: Very good.

MR. COOPER: Are there any questions?

SENATOR DALTON: We are going into our fifth hour now and, to tell you the truth, we are starting to get numb.

MR. COOPER: Thank you, Mr. Chairman.

SENATOR DALTON: Thank you. Next, we will hear from a panel composed of Emma Santone, Sharon Brosman, and June Fletcher. Are they here?

SENATOR DALTON: If they are not here, we will then go with Mr.--

FROM AUDIENCE: Excuse me, I am Sharon Brosman; I'm here.

SENATOR DALTON: Okay. Would you like to testify before this Committee?

FROM AUDIENCE: Yes, I would.

SENATOR DALTON: Okay.

SHARON BROSMAN: My name is Sharon Brosman; I live in Evesham Township in Burlington County. I am in favor of passing this bill. Specifically, I am in favor of the requirement for a banning or notification before aerial spraying of broad-spectrum pesticides.

I take precautions to avoid exposure; I also try to see that my children are not exposed, but I cannot avoid flying aircraft. On two occasions, my children and I have been sprayed while we were outdoors. I suffer from migraines, and I know that some of these chemicals do bring on migraine headaches. Therefore, if I could avoid it, I would really very much like to.

Anything that you can do to protect us -- especially the children -- will be greatly appreciated by subsequent generations. I often wonder if the health of industry or the health of people is more important in the long run. I know a balance is necessary, and I know about today's currently run agricultural system. I am aware of the need to use these substances. I am merely asking for public notification to avoid unnecessary exposure. I think it has been adequately demonstrated in the past that we are not, and cannot be aware of all the potential effects of the use of these substances. Recognizing this, I think this bill is a good step in the direction of minimizing unnecessary exposure.

Thank you for your time.

SENATOR DALTON: Thank you. Is Mr. Joe Gonzalez here from the New Jersey Business and Industry Association? (no response) Okay. Is Mr. James Seabrook available? (affirmative response)

JAMES M. SEABROOK: Good afternoon, Senators. My name is James M. Seabrook and I am the President of Seabrook Brothers & Sons, Inc. My company processes frozen vegetables, and we are located in Cumberland County. We produce about 50 million pounds of frozen vegetables a year, and 95% of them come from Salem, Cape May, and Cumberland Counties.

I am opposed to the entire bill, but I would like to address myself to just one issue and that is the notification provisions of 7 a., (1), (2), and (3). I would like to describe something to you. When our farmers' products are harvested -- take, for example, green beans -- they bring a trailer load of green beans into the plant. The trailer weighs 40,000 pounds. We take a 10-pound sample to grade the product. If there is one worm in that sample, we reject the entire load. The reason we are strict is very, very easy to understand. Our customers do not like to find worms or bugs in the products we produce. This places a great risk on the farmer. The farmer must control these pests so that there are none present when he brings us the product. The farmer has already invested a lot of money in seed, plowing, planting, cultivation, spray control, irrigation, and harvest. He brings the product to us, and if it is found to have any of these pests present, we reject it.

If these notification requirements are present and the farmer is not able to reply on a very, very prompt basis to the threat of having his product rejected, he might do something else other than grow vegetables. I feel there is a very real risk that these notification provisions will discourage people from growing products to be consumed by humans. We feel the notifications are unrealistic and unworkable in controlling pests. Our growers participate in the pest management program at Rutgers University, and even that is inadequate sometimes to control these pests. We still have products rejected because they do not do it on a timely basis, and they do not do it properly. If they find an infestation, even an hour might be too long in getting started on it because when you spray, you have to wait a certain amount of time before you can harvest the crop, depending on what you apply. If they have to wait 24 hours before they can spray, many times they would apply a spray with a lesser waiting period and, therefore, there would be an economic risk in doing it. When the risk is too great, the farmers are not going to grow these products.

For these reasons, I feel that agricultural land should be exempted and I feel that the notification is more than our growers can sustain. Thank you.

SENATOR DALTON: Mr. Seabrook, are you opposed to any and all notification?

MR. SEABROOK: I would not be opposed to a general notification, for instance, "We spray, and these are the kinds of things we spray," but many of these farmers have-- They do not have one big field; it's four fields, eight fields, or twelve fields in different locations with people all the way around all of those locations. It would be quite a job to notify everyone. The timeliness of the spray is the essence of what I am talking about.

SENATOR DALTON: There were some people who felt that the 72-hour provision was onerous; what you're saying is, the 24-provision is onerous as well.

MR. SEABROOK: That is correct, Senator.

SENATOR DALTON: Okay. I just wanted to understand. Are there any other questions? (negative response) Thank you very much, Mr. Seabrook.

MR. SEABROOK: You're welcome.

SENATOR DALTON: The next speaker will be the last speaker for the supporters. He is an attorney named Robert Blomquist. Then we will have one more speaker from the opponents.

ROBERT F. BLOMQUIST, ESQ.: Good afternoon, Senators. I appear today before this Committee in strong support of the proposed Committee Substitute for S-1342 sponsored by Senator Raymond J. Lesniak. My personal experience and background in representing a family in Burlington County in a dispute with a commercial pesticide crop-dusting firm is pertinent to the wide gaps in existing legal protections for New Jersey residents against the hazardous effects of pesticides.

By way of background, I am an attorney admitted to practice law in the State of New Jersey. I was admitted in 1977. I am a graduate of the Wharton School of Finance and Commerce, University of Pennsylvania, and the Cornell Law School. My specialized area of practice is environmental law. I have handled numerous environmental cases involving such issues as land-use regulation, alleged thermal pollution from a nuclear power plant, landfill problems, and pesticide problems. I have written articles in the area of land-use law and environmental law.

By way of preface to the Committee, I will describe -- without naming the specific names of the parties involved -- the kinds of issues and the experience my clients had with their pesticide problem in Burlington County. Part of the Consent Order in that proceeding involved an agreement that neither party would adversely comment on the other. I view my general testimony here as within the spirit of that Consent Order; but, the generic experiences my clients suffered in that case are pertinent to the bill under consideration today.

The clients who I represented in the 1981 Burlington County litigation were a family consisting of a mother, a father, and three small children aged fourteen, nine, and seven at the time. The chief defendant was a commercial aerial pesticide firm that was conducting an extensive agricultural crop-dusting operation on a strip of land immediately adjacent to the home of my clients in Burlington County. The pesticide airstrip was on land owned by a blueberry agri-business, consisting of over 1,000 acres of land located in the Pinelands protection area.

From the airstrip immediately adjacent to my clients' home, blueberry cropland over thousands of acres was sprayed with a variety of toxic chemical pesticides. The airstrip was in operation and had been in operation during the crop-dusting season, generally April through November.

In the case that I was involved with, the crop duster set up his airstrip and open-bin mixing vat some 280 feet from the home of my clients, on the land of the blueberry agri-business. The airstrip was put up with lax local zoning approval and without any prior notification to my clients, who had built a home on their land three years before the crop-dusting operation was set up on the adjacent land. Immediately after the construction of the 1,500-foot airstrip and pesticide mixing operation some 280 feet from their residence, my clients vociferously voiced their objections regarding the airstrip to their local government officials. My clients also complained directly to the agri-business owner, informing the business that the 20 to 30 daily takeoffs and landings emanating from the airstrip, commencing

during the predawn hours and going on until dusk, substantially interfered with the peaceful enjoyment of their property by virtue of the noxious and poisonous pesticide drift that emanated from the loading zone -- as it was called -- on the airstrip, which loading zone was a mere 280 feet from their dwelling and only 80 feet from their property line.

Despite my clients' protestations during the three spraying seasons before they came to see me and be represented by me, the defendant agri-business and crop-dusting operation continued to allow the operation of the airstrip on the land immediately adjacent to my clients' land, and also allowed and encouraged illegal mixing, loading, burning, storage, and use of toxic chemical pesticides by the crop-dusting firm.

During the course of litigation, the known toxic pesticides that were mixed near my clients' home and immediately adjacent to their property line in an open vat, subject to prevailing winds which allowed the pesticides to drift into my clients' home, entailed the following: parathion, malathion, captan, benomyl, guthion, imidian, progibb, and lanate, also known as methomyl. Moreover, substantial quantities of DDT were found by the New Jersey Department of Health a mere 10 feet from the loading zone on the airstrip. All of these toxic pesticides blew onto and into my clients' land and onto and into their bodies for the four to five years that the crop-dusting operation was undertaken next to their home.

My clients experienced classic symptoms of acute pesticide poisoning over the years, including headaches, nausea, disorientation, chronic infection, and lethargy. Moreover, some of my clients' farm animals died or exhibited extremely unusual symptoms which could only reasonably be linked to the operation of the airstrip and the chemical residues produced thereby. The water body between my clients' land and the airstrip -- a small ditch -- became devoid of all visible forms of life.

Another extremely troublesome aspect of my case was that the crop-duster/pesticide mixer started mixing, loading, and applying the toxic chemical pesticides without a proper pesticide license from the

New Jersey Department of Environmental Protection. Subsequently, he was cited by NJDEP for this deficiency.

Another frustrating aspect of the litigation for my clients was that at the inception of the operation of the airstrip, the New Jersey Department of Transportation, Division of Aeronautics, had approved the siting of the agricultural pesticide airstrip, site unseen. Specific landing strip certificates and commercial operational licenses were likewise granted by State officials site unseen. It was only several years later that the New Jersey Department of Transportation inspected the site and flippantly dismissed any health problems experienced by my clients from the pesticide drift. Special landing strip certificates and commercial operational certificates continued to be issued by DOT.

During the course of the litigation where I represented these homeowners, my clients specifically complained about their inability to use their swimming pool, their restriction on outdoor eating and socializing, and the deleterious health effects of the drift of the toxic pesticide pollutants onto their property from the pesticide airstrip next to their home. The local government officials ignored my clients' pleas regarding the health effects of the pesticide drift and voted to continue to approve the various applications and other site-plan applications without any serious concern about the health effects on my clients.

An extremely dangerous condition that was alleged in our lawsuit and proven by testimony and other evidence was that the pilot/pesticide applicator illegally mixed and loaded the pesticides several times a day in an open vat without protective gloves or respirator equipment. Thereafter, he was seen on several occasions to go directly into his airplane. This presented a substantial risk that the pesticide fumes would impair the pilot's operation of the aircraft and cause a crash into my clients' home. My clients' home was not an isolated home in a residential area but, rather, was surrounded by other residential areas and a school area. It just so happened that the agri-business tended to back into the residential area and be contiguous to the residential area. Whenever the aircraft took off

from the airstrip, the propeller prop would kick up dust and blow chemicals from the open pesticide vat across the property line and into my clients' home. Contrary to the labeling instructions on the pesticides that the crop duster/pesticide mixer utilized, he mixed the pesticides in the vicinity of the residential areas surrounding the airstrip. Thus, my clients and other residents contiguous to the pesticide airstrip were constantly subjected to hazardous pesticide inhalation, dermal-skin penetration of pesticides, and acute toxic poisoning by virtue of the drifting of toxic pesticide chemicals from the mixing area when the aircraft would take off from the site several times a day. Moreover, the crop duster/pesticide mixer continuously stored pesticide materials in an unsecured area, leaving open cans and containers of pesticides out in the open and immediately adjacent to my clients' property.

A particularly hazardous experience which was brought out in the litigation--

SENATOR DALTON: Mr. Blomquist, excuse me. I do not want to interrupt nor be rude, but you have several minutes left to sum up, and if you would stay to the provisions of the bill I would be appreciative. Okay?

MR. BLOMQUIST: Okay. I believe that the notification provisions in the bill, Senator, are absolutely necessary. My summation is generally that this bill strikes the necessary balance I think is lacking in current State legislation and in Federal legislation. I experienced in the litigation that I was involved with some three years ago the frustration that, under FIFRA, as has been alluded to by some of the witnesses, there is no standing. In legal concept, as I am sure you are aware, there is no standing of private individuals to allege violation of a pesticide label. If a mixer or a crop duster does not abide by the terms on the label, no individual can press a claim. There is no existing statute in the State of New Jersey that would allow that, or easily allows it. The only available remedy that we really had was a nuisance action -- a private nuisance action -- which is a common-law action. There, you are subject to an ad hoc balancing test by the judge: "Is this farm activity important and

worthwhile" versus "Well, what kind of health effects might exist in this situation?"

I think that a prior notification provision simply allows people the information and the right to protect their families -- young children who might be exposed or pregnant women who might be exposed to a chemical drift. I think there have been severe distortions by some of the antagonists of this bill, where they say it will outlaw and do away with agriculture in the State. I think that is really an overstatement of the distortion. It will simply strike a balance and equip people who have serious environmental problems with a better legal remedy.

As I mentioned in my statement, my clients were eventually able to negotiate a settlement with the farmer after long and expensive litigation, and he moved his airstrip. However, I daresay that that kind of expense, frustration, and emotional trauma should not have to take place in civilized society, much less in an advanced and enlightened State such as New Jersey.

I think the bill strikes a reasonable balance, and I think it protects agricultural interests, chemical interests, and now will protect the interests of people. I urge you to adopt this bill.
(applause)

SENATOR DALTON: The last speaker will be Mr. Michael Kopas, Timberland Tree Experts, Inc. Mr. Kopas?

FROM AUDIENCE: Excuse me while he is coming forward, you're not going to hear everyone who has signed up to speak, are you?

SENATOR DALTON: We will continue to take written testimony for the next two weeks, ma'am, and it will be made a part of the transcript of the hearing.

FROM AUDIENCE: Are you going to hold any more hearings?

SENATOR DALTON: No, this will be the final hearing. The Committee will consider the bill, but there will be no more public hearings. The next meeting will be a Committee meeting.

FROM AUDIENCE: I would urge you to consider holding further hearings.

SENATOR DALTON: Ma'am, I do not want to get into an argument with you, nor a disagreement with you about the future of this Committee. It is my call as Chairman of the Committee.

FROM AUDIENCE: I understand.

SENATOR DALTON: Okay. Is Mr. Kopas available?

MICHAEL S. KOPAS, JR.: Yes. Senator, with your permission, I would like to bring a panel up here in the hope of saving some time. We all have small issues to hammer on, and we will be very brief. It will save time in calling someone up in the future. Is that agreeable?

SENATOR DALTON: How much time will you need?

MR. KOPAS: I only have one issue I want to talk about; that is about the airblast.

SENATOR DALTON: Are we talking about 10 minutes, sir?

MR. KOPAS: That's right.

SENATOR DALTON: Okay.

MR. KOPAS: I would like to address the issue on Page 8, Section 3, Subsection b., where you address the airblast. You take the same basis of airblast in agriculture and push it into ornamental application. I feel that should be a separate classification. An airblast machine in agriculture is totally different than in ornamental applications. In agriculture, you may be using an airblast machine which is on total, you know, where the total application is supplying the material, whereas with a mist blower, in ornamental you can pick out individual trees. That is what it is designed for, for municipal and residential use.

So, I feel that particular phase should be considered in the ornamental application in the same way as with the hydraulic, as far as restrictions. Do you follow what I am saying on that?

SENATOR DALTON: Yes, I do.

MR. KOPAS: Okay. That would alleviate the necessity for the 500-foot ban, except for the people who are registered, as proposed. If you would like me to, I can state some evidence from a manufacturer, FMC Corporation, that will back up that particular thing. Are you interested in that, or should I leave it for you in writing?

SENATOR DALTON: If you could, Mr. Kopas, I would like you to really get to the point of your concerns, and then if you wish to supplement that with some testimony in writing, we will be glad to accept that.

MR. KOPAS: That is the main thrust. I would like to see that considered and put into a separate classification, the same as hydraulic applications in residential use.

SENATOR DALTON: Okay, very good. I suspect that you will be supplying us with written testimony.

MR. KOPAS: Yes, I will.

SENATOR DALTON: Very good. Mr. Kopas and members of your panel, thank you very much. Is anyone else in your group going to speak?

MR. KOPAS: Yes, briefly.

SENATOR DALTON: Okay.

THOMAS E. INTILE, JR.: My name is Thomas Intile, Intile Tree Experts, Inc. I would like to discuss something about residential homeowners and their properties. This has nothing to do with agricultural land, nothing to do with recreational land, and nothing to do with commercial land.

In each homeowner's home, there is something known as a green environment. It is the outdoor part of his house. It is his trees, his lawn, his shrubs, his flowers, and his little home gardens. The National Board of Realtors has done massive surveys as to homeowner value, the value of what homes are worth, and the particular part thereof which is the outdoor green environment. They come up with numbers in the area of 18% to 22% of the value of a residential piece of property that is involved in outdoor environment. By restricting the timely, safe, and proper applications of pesticides to protect the monetary investment of these people, it can multiply out into -- and I will leave it in writing -- what can actually turn out to be billions of dollars in New Jersey homeowners' damage.

That is really all I wanted to address.

SENATOR DALTON: Okay.

ROBERT W. DUBEE: My name is Bob Dubee. I am President of Greenwood Tree Experts, Inc. of Morris County. Other than being repetitive, which I do not want to be, and some things are covered in my letter, I would like to bring out one section in particular. That is the prenotification system which is currently involved in our present legislation. We feel that this is quite adequate. I would certainly like to stress this, because it allows a municipality to adopt a local ordinance-- It allows concerned residents an opportunity to be notified of a pesticide application if they so desire.

We have found that in Morris County where these local ordinances have been adopted -- one in Hanover Township and one in Bernardsville to be specific -- the residents were quite pleased. This is the first year this was in effect and it worked out very well.

I would just like to point out that in these two municipalities there are approximately 20,000 people -- a population of about 20,000. Only 23 residents desired notification, which should tell us something about the great public outcry. I'm sure that after careful consideration, you will find that the proposed legislation is quite inappropriate and unnecessary. Thank you.

KENNETH STUHR: My name is Ken Stuhr; I am the President of Sequoia Tree Service. Very quickly, I just want to address Page 15, Paragraph g. of the bill with reference to the application of pesticide to a lawn. I think Senator Lesniak said they were going to try to work on this one, but I would like it to go on record that to have to have a sign every 75 feet on a lawn after pesticide has been applied -- it probably goes without saying -- is impractical. You would have to have a truck just to go around putting up signs. My company has approximately 2,000 accounts, and I am not considered one of the largest ones. To put a sign every 75 feet that we have applied a pesticide, leave that sign for 72 hours, and then come back to take the signs -- whatever signs are left after the kids scatter them all over the neighborhood -- would be very, very difficult.

I just want it to go on record that some consideration should be given to this aspect. I hope that that can be looked into. It is just not practical.

SENATOR DALTON: What would be a practical way, sir?

MR. STUHR: If we are using a non-restrictive pesticide, I don't see the need for the signs at all. If we are using a restrictive pesticide where a warning is needed, then I would say to put something. The insecticides we're using are non-restrictive, so I do not see a need for a sign at all. The homeowner is notified that we have applied the insecticide. He has given us permission to do it. If anyone comes on his lawn for any reason, they are trespassing. I just don't see a need for a sign, particularly every 75 feet. I do not see the purpose of a sign.

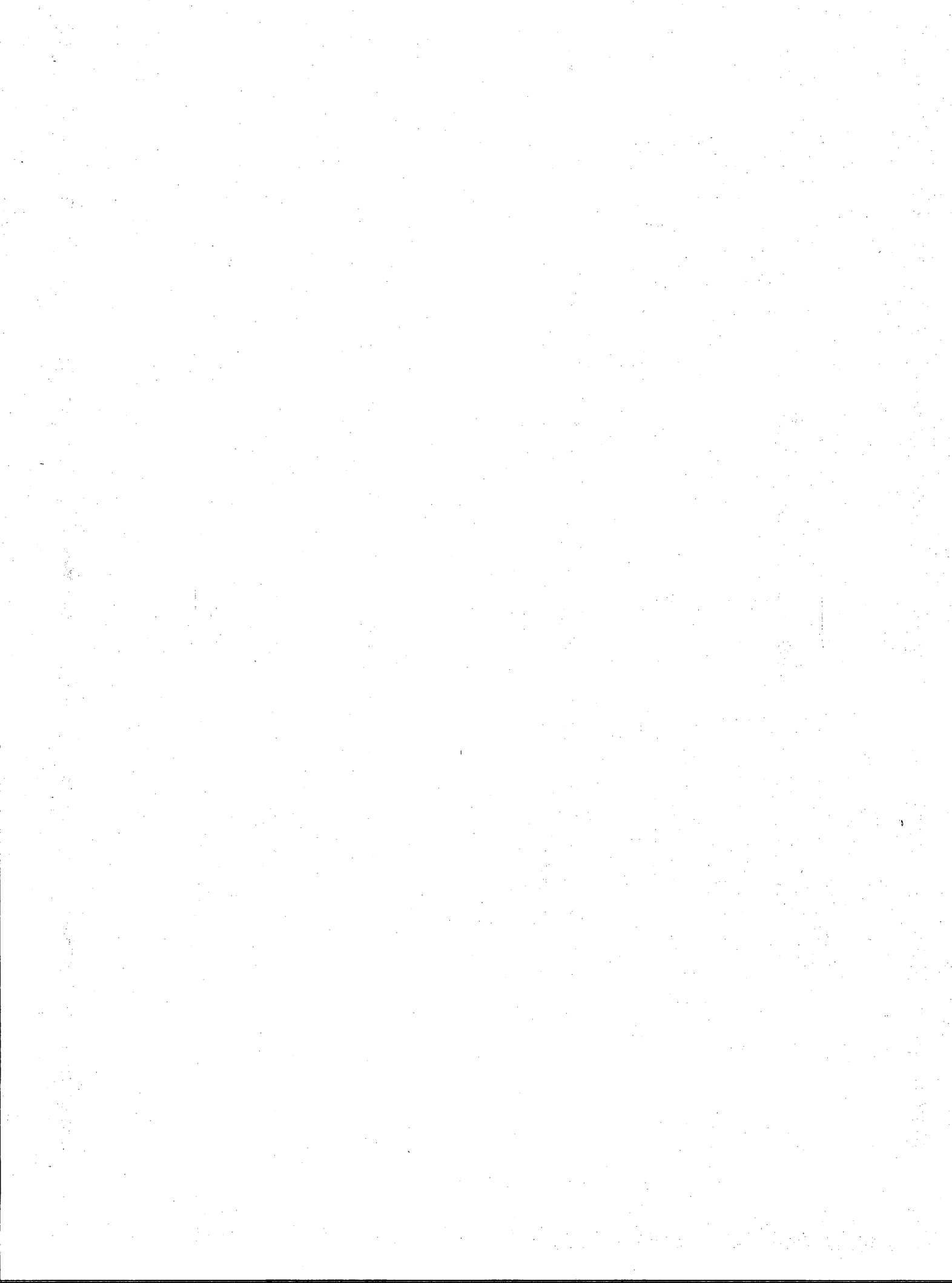
SENATOR DALTON: Senator Costa has a question.

SENATOR COSTA: Yes, I do. Are you saying it would not be harmful to any small animal, such as a cat?

MR. STUHR: To my knowledge, it would not be. I have never heard of nor seen any adverse effect from the amount that we put down. It is a very, very small amount. In a diluted form, I don't see how it could be harmful.

SENATOR DALTON: Thank you very much. As I indicated prior to the hearing, there are going to be some folks who are happy and some folks who are not happy because of their inability to publicly testify. The record will remain open, and that record will be considered prior to any vote being taken. This hearing is adjourned.

(HEARING CONCLUDED)



APPENDIX



MEMO

TO: Senator Daniel Dalton, Chairman
Senate Energy and Environment Committee

FROM: J. Richard Goldstein, M.D.
State Commissioner of Health

SUBJECT: Comments on Amended Bill S-1342

DATE: September 25, 1984

I wish to extend my appreciation for the opportunity to address the Senate Energy and Environment Committee at the public hearing of Amended Bill S-1342. I have taken the liberty of preparing a synopsis of this Department's position regarding this legislation. I hope this information will be of use to your Committee.

Thank you.

Enclosure

New Jersey State Department of Health

Comments on Amended Bill S-1342

September 25, 1984

This Bill supplements and amends the State statutes related to the use of pesticides in New Jersey. This Bill is very detailed, and covers a wide range of areas related to the control of the use of pesticides. The Department generally favors some parts of the Bill, but has serious reservations about other parts. We feel that there should be extensive amendments to the Bill before it is passed.

In commenting on S-1342, we wish to concentrate on the portion of the Bill which directly affects the work and mission of the Department of Health. We feel that this is the area where we have the greatest experience. Our comments on the remainder of the bill will be more generalized, as some of these areas are beyond the immediate expertise of the Department.

This Bill would require a significant Department of Health commitment, of personnel, time, and money. In effect, it would re-establish our Department's Pesticide Project, or a similar unit, with personnel assigned both to office and field positions. Such a unit would have responsibilities in research, information, education, coordinating health care services, and investigative response. This document will discuss what the law specifically would require, our comments on those requirements, the format of new programs and an estimated budget needed to accomplish them, and our overall assessment of the law.

Health Department Requirements

Specifically, the law requires that:

- 1) We create procedures to decide when to exempt county mosquito control commissions from deadlines for public notification before pesticide application (24 hours). In cases of disease outbreak emergencies, we would declare the need for immediate application, and inform the commissions (Section 7c (2), p. 10).
- 2) We require reporting of pesticide exposure "accidents or incidents", develop a farmworker pesticide incident report, and create a system of pesticide reporting (Sections 8a and 8b, p. 16).
- 3) We develop and implement a program of medical education to educate physicians and other health care workers on the health effects of pesticides, and on how to deal with exposures, in conjunction with the reporting system (Section 8b, p. 16, and 14g, p. 23).
- 4) We establish a toll-free pesticide hotline to respond to public questions (Section 8c, p. 16).
- 5) We review the results of the environmental pesticide testing program, established by this law, to be carried out by DEP (Section 9b, p. 16).

- 6) We provide training to workers likely to be exposed to pesticides, concerning the health effects of exposures, and appropriate preventive measures (Sections 14c, p. 22, and 14g, p. 23).
- 7) We coordinate health care services for farmworkers between local migrant health clinics and hospitals, and insure access to medical services, including a list of trained providers (Sections 14c, p. 22, and 14g, p. 23).
- 8) We investigate each report of pesticide exposure that is reported through our reporting system (or provide for local health department investigation), in coordination with DEP, to assist DEP's investigation for violations of the law (Section 15a, p. 23).

Comments on Our Requirements

The most important, overall comment we have is that this law requires that we establish a large program to carry out the many tasks the law will create. Requirements for research and information, for a reporting system, for an education system for workers and health care providers, and for field investigations all require trained personnel.

Many additional services also would be needed for this program to function efficiently, including computerized data services, a microcomputer, educational materials and equipment, travel (including vehicles), and other overhead. Clearly, we need a sizeable appropriation for the costs of this program.

Secondly, DEP has asked us to assume responsibility for some other aspects of the law, specifically the following:

- 1) certain other worker safety and health provisions of Section 14a, p. 21, regarding worker re-entry into treated fields, personal protective measures, and posted warnings;
- 2) the "Right to Know" provision, of Section 14b, p. 22, requiring us to write fact sheets in a way identical to our current Right to Know procedure.

We are in agreement that these sections more properly belong in the Health Department. Our Department already has an Occupational Health Program which deals with worker health. These sections just extend what we are already doing in industry to the agricultural setting. The "Right to Know" provisions of the Bill, particularly the provision regarding fact sheets, again is an extension of activities we are already doing. In particular, we are now preparing fact sheets for the Right to Know law. Since we have the staff and capacity to prepare such fact sheets, it seems more appropriate that we also prepare the pesticide fact sheets.

Some other specific comments about certain sections are in order.

Right to Know Provisions - Section 14

Section 14a provides for the adoption of worker protection regulations by the Department of Environmental Protection. These regulations would include but not be limited to 1) worker reentry; 2) protective clothing; 3) warnings; and 4) notification regarding provisions of the act.

It is proposed that these regulations be developed and adopted by the Department of Health, in consultation with the Department of Environmental Protection. Since these provisions are directly related to worker health and safety issues, it is appropriate that the Department of Health be responsible for the development and adoption of these regulations. The Industrial Hygienists in the Occupational Health Program have specific expertise and experience in the areas of protective clothing, respirators and worker education.

At the present time, EPA is in the process of revising the Worker Protection Standard for Agricultural Pesticides (40 CFR Part 170). The worker protection regulations adopted in accordance with Section 14 of this Act should be consistent with these revised regulations.

Section 14b provides for the preparation of a pesticide fact sheet for each registered pesticide and pesticide exempted from registration; these fact sheets would be prepared by the Department of Environmental Protection. The information required on these fact sheets includes health effects, symptoms of exposure and medical treatment. Because of the nature of the information required on these fact sheets, it would be more appropriate for the Department of Health to be responsible for the development of these fact sheets.

The current provisions of this section would require the development of approximately 7,000 fact sheets. Under the Right to Know Act, the Department of Health will be developing and distributing fact sheets on approximately 90 restricted pesticides. In total the Department will be developing fact sheets on the 2051 substances on the Workplace Hazardous Substance List. The development of 7,000 additional fact sheets by the Department of Health would require a

substantial increase in staff and the time required to develop these fact sheets would delay their availability for farm workers.

There are two alternatives:

- 1) Redefine and limit the category of pesticides for which fact sheets would be written.
- 2) Provide funds for the development of these fact sheets through a contract mechanism with a qualified consulting group or educational institution. The Department of Health would award the contract and supervise and review the development of the fact sheets.

It is estimated that the preparation of each fact sheet would cost approximately \$100 (or more) if developed by an outside contractor. Thus the total cost of preparing 7,000 fact sheets is estimated to cost \$700,000 or more.

Section 14c - Worker Education

This section provides for the training of "workers likely to be exposed to pesticides" by the Departments of Environmental Protection and Health. The training responsibilities are divided between the two departments. The Department of Environmental Protection would provide training related to the "practices, procedures, equipment and clothing to minimize exposure"; the Department of Health would provide training concerning the "health effects of exposure and appropriate preventive and remedial actions."

Because of the program activities in the area of occupational health and worker education, it would be appropriate that the Department of Health be responsible for this implementation of the worker training requirements of this section.

This training could be accomplished in alternate ways:

- 1) Direct training of workers by the staff of the Department of Health. This would be a large undertaking, requiring additional funds beyond those requested in the next section of this report.
- 2) Certification of trainers who would provide this training under contract with the Department of Health. (Funds provided by State.)
- 3) Certification of trainers who would provide this training under contract with the Department of Health. (Funds provided by employer fees.)

As outlined above, the tasks required of the NJSDH by Senate Bill 1342 are extensive and cannot be accomplished with presently available resources without adversely affecting existing health programs. Expenditures for additional personnel, equipment, and services are estimated to be in the range of \$400,000 - \$500,000, assuming there is modification of the number of fact sheets to be produced.

General Comments

The NJSDH applauds the intent of this Bill, which more aggressively seeks to identify pesticide exposure in the general population, determine the incidence of pesticide-related illness, and devise methods of reducing pesticide exposure and subsequent adverse health effects. Sections of the proposed legislation, such as requiring certification of all pesticide applicators, developing a pesticide incidence reporting network, expanding existing programs to incorporate farm worker safety and protection, and insuring adequate medical care to affected individuals, will certainly reduce pesticide exposure and/or potential adverse health effects. The NJSDH supports these measures.

Perhaps the provisions of the Senate Bill 1342 which cause us most concern involve the apparent elimination of aerial application of "broad-spectrum" pesticides. Most of the insecticides used to control agricultural, forest, and public health pests would be termed "broad-spectrum". Many of these "broad-spectrum" pesticides are classified as "general-use", a category of pesticides which has not been recognized as causing serious public health problems. The removal of this group of pesticides from those which could be aerially applied could result in a significant threat to public health as well as have other adverse consequences.

Our concerns may be illustrated by relating them to a major interest area of the NJSDH - mosquito control. Here, the only materials labeled for State use as adulticides are broad-spectrum insecticides. Although aerial applications for the control of adult mosquitoes are permitted under emergency conditions, the NJSDH believes that the routine control of potential mosquito vector populations prior to disease outbreaks is in the best interest of public health. Suppression of diseases,

such as Eastern Equine Encephalitis, is accomplished most effectively when virus activity is first detected in mosquitoes, not when an emergency situation has been reached. We cannot support this section of Senate Bill 1342 as it is presently written.

In another area of the Bill, we are of the opinion that the notification procedures as outlined in the proposed legislation are too restrictive, too encompassing, and too complicated. Here, compliance would often be impractical and, as such, will adversely affect the success of pest control activities. The following examples are offered as illustration. New Jersey agriculture is built upon the production of many crops on small, individually owned and operated farms; hence, the Garden State. However, the proposed legislation (Sections 6 and 7) places size limitations on the area to be treated and "buffer zone" requirements which all but eliminate aerial pesticide applications on much of New Jersey's farmland. Considering that aerial application is the most effective (in controlling pests), least expensive (conserving fuel, machinery downtime, etc.), and the sometimes safest and environmentally sound (using the least amount of pesticide) method, the restrictive nature of the notification procedure becomes self-defeating. Secondly, effective and safe aerial pesticide applications are governed by pest population dynamics (timing of spray) and ambient meteorological conditions (low wind speed, moderate temperatures, etc.) not arbitrary time limitations of complicated notification procedures. It would be unconscionable for applications to be made under less-than-optimum conditions just to meet a notification deadline.

There is little doubt that the legislation, as currently written, will substantially reduce the amount of aerial applications. The consequence of this reduction will be an increase in ground applications which, on average, uses 7-10 times the amount of pesticides than were applied to the same area via aircraft.

The proposed legislation also must be integrated into existing regulations. The evaluation of pesticide residues on crops and in livestock are under the aegis of FDA and USDA, respectively. Local health regulations may require that food establishments, in order to remain in operation, must control pests such as cockroaches and rodents. More often than not, such control involves the use of pesticides. However, the restaurateur must now post his establishment with a warning statement regarding pesticide usage to be in compliance with Senate Bill 1342. Most will view this as double jeopardy. Virtually all food establishments will be so affected. Failure to control pests may result in public health problems of a different sort.

The NJSDH is opposed to the notification procedure as they are presently written. The notification procedures are too complex to be practical. Differences in notification procedures between "general-use" and "restricted-use" pesticides should be considered. In some instances, minimum notification requirements may be all that is necessary, while in other applications, particularly regarding the indoor use of pesticides, the NJSDH would support the strengthening of notification procedures. The NJSDH also believes that it is inappropriate for this legislation to include the detailed mechanism for notification and would recommend that the establishment of such procedures be accomplished through Department of Environmental Protection regulations.

In summary, the NJSDH finds many things of value in S-1342 and is pleased to support the health-related provisions of the Bill providing that sufficient funding is made available. We are concerned, however, with the complexity of the notification procedures as presented. While this Department favors strengthening notification regarding certain pesticide applications, we believe an across-the-

board elimination of aerial applications of broad-spectrum pesticides will result in severe public health and economic consequences. We feel that this Bill should have significant changes before passage.

**TESTIMONY ON S.1342
DR. DONALD J. PROSTAK
EXTENSION SPECIALIST IN PEST MANAGEMENT
NEW JERSEY COOPERATIVE EXTENSION SERVICE
COOK COLLEGE-RUTGERS UNIVERSITY
NEW BRUNSWICK, NEW JERSEY**

I am Dr. Donald J. Prostak, Extension Specialist in Pest Management with the Cooperative Extension Service, Cook College, Rutgers University. In the role of Extension Specialist in Pest Management, I serve as the Statewide Coordinator of New Jersey's Integrated Pest Management Program (IPM).

Secretary Brown asked me to explain the Integrated Pest Management Program at Rutgers. My comments today will explain the science and practice of IPM, rather than my being in favor of or in opposition to the bill.

The Integrated Pest Management Program has been in operation at the New Jersey Agricultural Experiment Station at Rutgers University for 12 years. Great gains have been made at the grower level in educational and advisory programs. The basic premise that we follow in our programs centers around using pest control measures more efficiently. In doing so, this often means a reduction in the amount of pesticides applied. I would like to explain some of our successes as well as the procedures and reasoning in accomplishing them. However, before I do, I want to define Integrated Pest Management as we perceive it in New Jersey.

Integrated Pest Management is the implementation of two or more control tactics to maintain the population of one or more pest species at economically acceptable levels in the production of food and fiber. Tactics such as field monitoring (scouting), biological control, chemical control, resistant varieties and cultural practices are commonly employed. This is accomplished while protecting against hazards to humans, domestic animals, wildlife, plants, and the environment.

One of our goals is to change grower attitudes to make pesticide applications based on need rather than by the calendar. Calendar schedules mean repetitive applications on a strict interval.

Since its inception, 200 New Jersey growers have participated in on-the-farm IPM programs. Crops include sweet corn, lettuce, snap and lima beans, cabbage, apples, peaches and grain. Our sweet corn IPM program has gained popular acceptance by increasing from 12 to 96 participants in a ten year period. These programs have impacted on more than 20,000 acres of farmland, and more importantly, reduced the volume of pesticides used by one half million pounds per year. Some lettuce growers have reduced their pesticide usage by nearly 50% while apple growers and sweet corn growers have realized 34% and 30% reductions respectively without reducing yields per acre or top quality at the market place.

To achieve our goals, sound principles must be practiced. One of the most important is to provide information to the growers so that pest control measures can be properly timed. Intensive monitoring of fields and orchards to assess pest populations provides growers with the precise time to apply a control. This time is indicated by a pest population reaching an economic action threshold level. This level is a specified pest density at which economic damage will occur if control action is not taken. In other words, the damage potential equals or outweighs the cost of controlling the pest. Control procedures must be initiated immediately once this level is reached. Economic damage would result if control was delayed only a day. In the case of certain diseases, applications should be made in as little as a few hours after the time of infection. Timing an application also coincides with certain stages in the life cycles of insects and diseases. Control centers on those times when the pest is most vulnerable. Small larvae obviously are much easier to control than larger ones. Weather is another important consideration so that applications are not washed off too soon thus becoming ineffective.

We counsel and advise growers as to the most effective control for their situations. Using a less effective pesticide often necessitates using larger quantities through more frequent applications and at higher dosages. Broad spectrum pesticides are used when many different pests need control. For example, in our snap bean IPM program, fields can be infested with six or more species of insects at one time, such as moth larvae, beetles and plant bugs. A broad spectrum insecticide is necessary so that all pests are killed at one time, thus minimizing the need for future applications. On the other hand, the use of narrow spectrum chemicals which selectively control one organism is also an important consideration. Our tree fruit IPM program is based upon the use of selective chemicals applied at low rates so that the natural parasites and predators are encouraged to build up in orchards. A predatory mite and a small black lady bird beetle are integral parts of a program to keep leaf feeding mites below damaging levels. Parasites and predators are always considered in our programs. Unfortunately, most pest species do not have efficient biological control agents that are easily manipulated.

I have outlined Rutgers University's Cooperative Extension Service Integrated Pest Management Program and briefly explained our procedures and philosophy. If New Jersey growers are not free to practice proven IPM principles in an unrestrained fashion, they probably would revert back to spraying on a calendar schedule with little regard for pest populations. This would increase their pesticide usage. On the other hand, one can imagine the gains that could be made if all New Jersey farmers practiced sound pest management principles.

**RUTGERS UNIVERSITY, COOK COLLEGE - NEW JERSEY AGRICULTURAL
EXPERIMENT STATION**

Integrated Pest Management (IPM) Program Information Packet

Key Words: Natural Pest Control, Pesticide Reduction, Lower Production Costs, Population Monitoring, Conserving Resources, Economic Thresholds, Decision Making Improved, Pest Control Increased

WHAT: Integrated Pest Management - IPM for short. These programs use biological, physical, cultural and chemical methods in an integrated approach to pest control. Rutgers University specialists in entomology, plant pathology, horticulture, weed science, and meteorology pool their resources and knowledge to conduct these programs.

WHY: To help farmers utilize pesticides more efficiently and thereby reduce production costs through reduced pesticide usage and to use natural predators and parasites in pest control as an alternative to chemical and non-chemical methods. Minimal amounts of chemicals are introduced into the environment, while high quality standards for agricultural commodities are maintained.

HOW:

- 1) Pest management field scouts visit fields and orchards collecting pest population data
- 2) Growers get written reports and updated recommendations
- 3) Newsletters inform growers, agents, others

WHO: Approximately 200 growers statewide with on-the-farm programs, including ninety-six sweet corn, forty apple and peach, eight lettuce, six grain, and eleven snap and lima bean growers. Many other growers are reached through newsletter recommendations and educational materials. IPM programs impact on approximately 20,000 acres of farmland in the Garden State.

WHEN: From 1972 to present. Programs are initiated at different times. Sweet corn program started in 1972, lettuce 1977, lima beans 1977, tree fruit 1980, snap beans 1983 are a few examples.

APPROACH: IPM--this program promotes--

- 1) Pesticides used at minimal amounts, and only when necessary
- 2) Use of natural insect predators and parasites when necessary
- 3) Crops have better protection based on a calculated need
- 4) Growers' production costs are reduced
- 5) Economic action threshold level (when the cost of control equals or exceeds potential crop losses attributed to real or potential damage)

THE HISTORY: Past total reliance on pesticides has, at times--

- 1) Destroyed the plus P's in the insect world--the good guys-- insect predators, parasites, and pollinators
- 2) Created resistance to pesticides which in turn has led to an increased difficulty in controlling pest outbreaks
- 3) Resulted in high production costs, increased the demand and affected the availability of some pesticides

EXAMPLES OF ONGOING PROGRAMS:

Sweet Corn - Since its inception in 1972, the sweet corn IPM program has successfully developed a total farm delivery approach. In 1982 program participation has grown to an all time high of ninety-six growers located in seventeen counties. In 1983 private consultants took over this successful program, making it the second IPM program to be taken over by the private sector. IPM scouts visited each farm twice a week to count pest moths collected in a black light trap and to monitor fields to assess damage levels. All information was immediately updated on population charts located in the growers' barns.

Growers were able to decrease their pesticide usage by a considerable amount. On the average, two applications were eliminated at a savings of nearly \$20 per acre. Some growers were able to save as much as \$2000 or more for the season. The total sweet corn acreage during 1983 was nearly 10,000 acres grown by approximately 150 farmers in the Garden State. If all growers practiced sound pest management principles, they could realize a total savings of \$200,000 in pesticide costs in addition to the costs of application.

Tree Fruit - this program was started in 1980. It utilizes natural predator populations and reduced pesticide applications. Approximately 7,500 acres of apples are grown in the state of New Jersey. From environmental and economic standpoints, several benefits have been seen. Pest management cost/benefit studies during 1982 showed that some growers spent as much as \$359 per acre for pesticides, which translates into approximately 166 lbs. of formulated pesticide per acre. Growers following good pest management practices spent about \$146 per acre for pesticides, which translates into approximately 81 lbs. of formulated pesticide per acre. Thus, good pest management practices are both economically and environmentally sound.

The average New Jersey apple grower spent \$216 per acre and used 122 lbs. of formulated pesticide per acre. Statewide, approximately 915,000 lbs. of pesticide were applied to apples in New Jersey during 1982 and approximately \$1,620,000 were expended for these chemicals. Thus, if all growers followed a good pest management program, a 34 percent reduction in pesticide usage could be achieved, with a reduction in costs of approximately \$575,000 and a reduction in pesticide use of over 300,000 lbs.

Head Lettuce - The IPM program for head lettuce was initiated in 1977. Since that time a complete takeover by the private sector has occurred. The Cedarville Cooperative Marketing Association operates the program by collecting growers' fees to pay for the pest management scout. Cooperative Extension IPM personnel serve in a technical and supervisory role. Eight growers situated in Cumberland county participated with approximately 1000 acres. The scout's duties consist of counting pest moths in black light traps as well as assessing damage levels in the fields.

Growers were able to save a substantial amount of money, which was directly related to their pesticide costs. On the average four to six pesticide applications were eliminated at a savings of \$40 to \$60 per acre. One grower realized a substantial savings, which enabled him to purchase a new pickup truck at the end of the season.

Snap Beans - A snap bean pest management program was initiated in 1983. The major goal was to establish a program that would aid growers in timing effective applications for insect pests. Three growers in two counties participated with approximately 1120 acres. In 1984 participation increased to eleven growers and more than 5000 acres of beans. Insect activity was monitored to develop and establish suitable economic action thresholds. A blacklight trap was operated on each growers' farm to assess the initiation and fluctuations in pest moth populations. Concurrently, larval numbers and damage levels were assessed in the fields. The information was immediately made available to the grower via population charts and personal contacts.

Growers were able to save a considerable amount of money which was directly related to their pesticide costs. One grower during a period of negligible insect activity was able to delete a spray application on all his acres which might have been sprayed based on the calendar. On that day alone he saved nearly \$3,000 in application costs and did not apply 900 pounds of insecticide. On the average 3-5 applications were eliminated, at a savings of nearly \$25 to \$40 per acre. The program gained popular acceptance with the growers during its first year of operation.

The total snap bean acreage in New Jersey in 1984 was approximately 15,000 acres grown by over 100 growers. Expansion of the program could include at least 80% of this acreage.

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Statement for Public Hearing

on

Senate Committee Substitute

For Senate Bill Number 1342

Prepared by

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Senator Dalton and members of The Senate Energy and Environment Committee, I wish to thank you for the opportunity to provide the following statement.

I have been requested by the Secretary of the N. J. Department of Agriculture to appear here today to present information concerning the role of Cook College, the New Jersey Agricultural Experiment Station, and the Cooperative Extension Service with respect to pest problems in New Jersey.

Seldom are any two problems exactly alike---nor are the possible solutions. Even when the pest is the same, the type of remedial steps depends on the environment in which the problem occurs; e.g., house flies in the kitchen should not be handled in the same way as ones in a dairy barn, or Colorado potato beetles on eggplants can not be dealt with in the same manner as those on potatoes.

Generally speaking, there is a wide range of different ways for the alleviation of pest problems, including cultural, physical, and mechanical methods, the use of genetic technology, biological controls, pesticides, and IPM, the success of which usually depends on the appropriate use of several methods, practices, or procedures, and the involvement of pesticides. Although pest problem research at Cook College takes all of these various possibilities into consideration, because of time constraints and the main focus of this hearing, I will restrict my comments to pesticides.

Briefly, Cook College, through the Experiment Station and the Extension Service, promote the safe, judicious, and efficacious use of pesticides, wherever the use of such materials is indicated.

Our research and educational programs are geared to provide the pesticide user with recommendations for materials that will effectively control the pests, and at the same time have as little detrimental effect on the environment as possible.

To use or purchase restricted-use pesticides, one must first become a certified applicator, or work under the supervision of a certified applicator. The college has the role of providing educational materials and courses for applicators so that they can meet the continuing educational requirements of the N.J. Department of Environmental Protection's pesticide applicator program. Such training is done mainly by research and extension personnel.

Part of our research on pesticides includes studies of pest resistance, integrated pest management, effects of pesticides on beneficial insects, interactions of pesticides with other organisms, and persistence of pesticides on food crops and in other parts of the environment.

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It may be of interest to note that our studies of pesticide residues date back to 1912, when the State Chemist's Office was established, specifically for monitoring arsenical residues on apples. The scope of such work has greatly expanded over the years to include various types of pesticides and many different crops.

Our research efforts on the effects of pesticides on beneficial insects and other non-target organisms have been very extensive, and have often involved the cooperation of other state units. For example, I have been personally involved in the following:

Since the early 1970's, testing of chemicals, recommended or proposed for control of gypsy moth, against established moth parasites, as well as certain exotic species that were being reared by N.J. Dept. of Agriculture personnel for possible release in New Jersey to combat the gypsy moth.

From 1972-1975, I directed a multidisciplinary team in a study of possible effects of certain mosquito larvicides on a New Jersey marsh ecosystem. The research was funded by the New Jersey State Mosquito Commission and included studies of marsh grasses, algae, isopods, amphipods, snails, diatoms, grass shrimp, fiddler crabs, non-target insects, certain bird species (seaside sparrow and sharptailed sparrow), fish (sheepshead minnows and mummichogs), and persistence of residues on vegetation, and in water and marsh soil.

And very recently, in cooperation with the New Jersey Department of Agriculture, I completed an investigation of possible effects on the Mexican bean beetle of a herbicide needed to control interfering weeds in string bean nurse plots used for building up populations of parasites that would eventually disperse into adjacent soy bean field to control MBB infestations.

One final but highly important note: Our studies of insect resistance to synthetic organic insecticides date back to 1947, when two college entomologists discovered the first case of resistance to DDT in the United States. It is generally acknowledged that insect resistance is the single greatest problem confronting pest control throughout the world; it has been one of my main research interests over the past 32 years.

It is an accepted fact that the development of resistance in a population is primarily governed by the amount of selection pressure directed against the pest. The components of this pressure consist of the types of pesticides used, and the rates and frequencies of application.

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Often a pest problem will reach a critical stage almost overnight, particularly where agricultural products are concerned, and thus there is inadequate time to comply with the prior notification requirements proposed in this bill. Also, it is essential to have several different kinds of pesticides available for use against a given pest, so that chemicals can be alternated in control programs which require numerous applications throughout the season and thereby prevent, or at least substantially delay the development of pesticide resistance.

In our efforts to provide appropriate and effective pesticide legislation, we must be careful not to impose unreasonable notification requirements that may force growers and other applicators to abandon efforts to use pesticides only when absolutely necessary, and thereby return to predetermined application schedules; nor to so severely limit the kinds of pesticides licensed for use against a particular pest, that only a single material—or closely related ones—is available for all applications against all generations of that pest. Should we allow either of these situations to arise, then the insect resistance problems of today will indeed seem minor, compared to what will be experienced in the future.

