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N.J.A.C. 7:30

PESTICIDE CONTROL CODE

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

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SUBCHAPTER 1. SCOPE AND DEFINITIONS

§ 7:30-1.1 Scope

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

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

§ 7:30-1.2 Definitions

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

"Abutting and contiguous" means to border upon or touch. For the purposes of *N.J.A.C. 7:30-9*, this definition includes those properties across an intervening one or two lane road (whether paved or not), which would actually touch or border upon the property in question if the road were not present.

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

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

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

"Active ventilation" means ventilation by the use of fans or other mechanical devices until 10 air exchanges are completed, that is, the volume of air has been changed 10 times.

"Adulterated" means any pesticide:

1. Whose strength or purity is not equal to the professed standard or quality as expressed on its labeling or other representations under which it is sold; or

2. In which any substance has been substituted wholly or in part for the pesticide; or

3. In which any valuable constituent of the pesticide has been wholly or in part extracted.

"Advertising" means the description or presentation of a product or service in some medium of communication in order to induce the public to buy, support, or approve of it, including, but not limited to, telephone listings, letterhead, invoices, bills, business cards and lettering on vehicles.

"Aerial application" means a pesticide application made by aircraft.

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

"Agricultural aircraft operation" means the operation of an aircraft for the purpose of applying any pesticide directly affecting agriculture, horticulture, forest preservation, or for any other pest control operation.

"Agricultural commercial pesticide handling establishment" means any establishment, other than an agricultural establishment, that:

1. Employs any person, including a self-employed person, to apply on an agricultural establishment, pesticides used in the production of agricultural plants; or

2. Employs any person, including a self-employed person, to perform on an agricultural establishment, tasks as a crop advisor.

"Agricultural commodity" means any plant or part thereof, or animal product, produced by a person (including, but not limited to, farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by man or animal.

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

"Agricultural emergency" for the purposes of *N.J.A.C. 7:30-10.6* means an occurrence of any pest, whether through population growth beyond economic injury levels, or through introduction of a foreign or exotic pest, which presents a significant risk of harm or injury to any agricultural commodity, as determined by the New Jersey Department of Agriculture and/or the United States Department of Agriculture (USDA) in concurrence with the Department. For the purposes of N.J.A.C. 7:30-12, agricultural emergency means a sudden occurrence or set of circumstances which the agricultural employer could not have anticipated and over which the agricultural employer has no control, and which requires entry into a treated area during a restricted-entry interval, when no alternative practices would prevent or mitigate a substantial economic loss.

"Agricultural employer" means any person who is an owner of, or is responsible for the management or condition of, an agricultural establishment and who employs any worker or handler.

"Agricultural establishment" means any farm, forest operation, or nursery engaged in the outdoor or enclosed space production of agricultural plants. An establishment that is not primarily agricultural is an agricultural establishment if it produces agricultural plants, rather than purchasing them, for transplant or use (in part or their entirety) in another location.

"Agricultural forest" means any operation engaged in the outdoor production of any agricultural plant to produce wood fiber or timber products.

"Agricultural plant" means any plant, or part thereof, grown, maintained, or otherwise produced for commercial purposes, including any plant grown, maintained, or otherwise produced for sale or trade, for research or experimental purposes, or for use in part or their entirety in another location. "Agricultural plant" includes, but is not limited to, grains, fruits, and vegetables; wood fiber or timber products; flowering and foliage plants and trees; seedlings and transplants; and turfgrass produced for sod. "Agricultural plant" does not include pasture or rangeland used for grazing.

"Aircraft" means a weight-carrying structure for navigation of the air that is supported either by its own buoyancy or by the dynamic action of the air against its surfaces and includes either fixed-wing or rotary-wing aircraft.

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

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

"Antimicrobial agents" means:

1. Disinfectants intended to destroy or irreversibly inactivate infectious or other undesirable bacteria, pathogenic fungi, or viruses on surfaces or inanimate objects;

2. Sanitizers intended to reduce the number of living bacteria or viable virus particles on inanimate surfaces, in water, or in air;

3. Bacteriostats intended to inhibit the growth of bacteria in the presence of moisture;

4. Sterilizers intended to destroy viruses and all living bacteria, fungi, and their spores, on inanimate surfaces; or

5. Fungicides and fungistats intended to inhibit the growth of, or destroy fungi (including yeasts) pathogenic to man or other animals on inanimate surfaces;

6. Commodity preservatives and protectants intended to inhibit the growth of, or destroy bacteria in or on raw materials (such as adhesives or plastics) used in manufacturing, or manufactured products (such as fuel, textiles, lubricants, and paints); or

7. General use algicides labeled for use in:

i. Swimming pools, hot tubs, whirlpools, spas, ornamental ponds, fountains, fish tanks, and waterbeds;

ii. Water, wastewater and sewerage treatment plants, but only where there is a controlled inlet and outlet; and

iii. Industrial, commercial, and manufacturing processes.

"Applicant" means any person who applies for a registration, certification or license.

"Application equipment" means any type of ground, water, or aerial apparatus or contrivance used to apply any pesticide.

"Application exclusion zone" means the area surrounding application equipment that must be free of all persons, other than appropriately trained and equipped handlers, during pesticide applications.

"Aquatic pesticide" means any pesticide that contains labeling instructions indicating that the pesticide is intended for use on aquatic sites, except for those uses listed below. If a pesticide label contains both exempted and non-exempted aquatic uses, the pesticide shall still be considered an aquatic pesticide for the purposes of this chapter:

1. Pesticides labeled only for flushing down toilets or to be directly applied to water or sewer pipes, for use in controlling tree roots inside those pipes;

2. Pesticides labeled only for use in cooling towers;

3. Pesticides labeled only as algicides for use in swimming pools, hot tubs, ornamental ponds, fountains, fish tanks, or water beds. These sites are an artificial, self-contained water with no inlet from or outlet to "natural" water and with label statements prohibiting such discharge;

4. Algicides labeled only for use in water treatment plants, waste water treatment plants or sewerage treatment plants;

5. Pesticides labeled as mosquito larvicides, whose only active ingredients are biological controls (such as bacillus thuringiensis) and are formulated to slowly release the active ingredient over an extended period of time; or

6. Pesticides labeled as mosquito larvicides whose only active ingredients are monomolecular surface films.

"Aquatic site" means those areas meeting the definition of "waters of the State" or "wetland".

"Available if and when needed" means that the responsible pesticide applicator must be able to be immediately contacted, whether by phone, radio, beeper, etc., by the person under his or her direct supervision, and must be able to be physically at the application site within a reasonable amount of time, which means that it should take, at most, three hours to reach the application site by ground transportation.

"Bait" means any pesticide mixed with food or another attractive substance. Bait may be either a solid or liquid formulation.

"Basement" means any accessible space under a structure, wholly or partly below the surface of the ground, that is greater than six feet in height and contained by foundation walls.

"Beekeeper" means a person who owns, operates, or maintains a beeyard or beehive inhabited by honeybees or native bees.

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

"Broadcast application" means any application to surfaces such as walls, floors, ceilings. Broadcast application may include, but not be limited to: fan spray, cone spray, ULV, aerosols, mists, smokes, fog, dust, or granular applications. This definition does not include crack and crevice or spot applications.

"Broad spectrum pesticide" means any non-specific chemical pesticide, which, when it is applied to a labeled target site at a labeled rate, is toxic to a wide range of target and non-target organisms, as determined by the Department with recommendations by Rutgers University.

"Business name" means, for the purposes of *N.J.A.C 7:30-7*, the name that the business trades under or operates as. A separate business name will result from any difference in a key word part of the name (that is, an example of a key word change would be from ACE to ACER; none of the following are considered key: company, incorporated, exterminating, pest control). In addition, a name will be considered different if the difference results in a different alphabetical sort of the business name (that is, A Zebra as opposed to Zebra).

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

"Certified" means the recognition by the Department that a person has met the requirements of *N.J.A.C. 7:30-3.2*, *6.2* or *8.2*

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

"Charter school" means a school established pursuant to P.L. 1995, c.426 (*N.J.S.A. 18A:36A-1* et seq.).

"Chemigation" means the application of pesticides through irrigation systems.

"Closed system" means an engineering control that protects handlers from pesticide exposure hazards when mixing and loading pesticides.

"Commercial boat yard" means any facility which engages for hire in the construction, storage, maintenance, repair, or refurbishing of vessels or any licensed independent marine maintenance contractor who engages in such activities.

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

"Commercial pesticide handler employer" means any person, other than an agricultural employer, who employs any individual to perform handler activities on an agricultural establishment. A labor contractor who does not provide pesticide application services or supervise the performance of handler activities, but merely employs laborers who perform handler activities at the direction of an agricultural or handler employer, is not a commercial pesticide handler employer.

"Commercial pesticide handling establishment" means any enterprise, other than an agricultural establishment, that provides pesticide handler or crop advising services to an agricultural establishment.

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

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

"Common areas" means those areas of any multiple family residence, institution, public, commercial, or industrial building which are accessible to all residents, tenants, workers, or transient public. These areas include, but are not limited to, hallways, stairwells, laundry rooms.

"Community or area wide" means any pesticide application performed on aggregate areas greater than three acres of land or water which is either part of a pesticide control program performed or contracted by a government agency or is performed by, or contracted for, one person who has control over the use of the land to which the pesticide is applied.

"Contracting party" means the person who is arranging for the pesticide treatment to be done.

"Crack and crevice application" means the application of small amounts of pesticide into cracks and crevices using either a "crack and crevice" applicator tip or a pin stream application at low pressure. This type of application does not include any spray application to any surface.

"Crawlspace" means any space under a structure that is six feet or less in height and contained by foundation walls.

"Crop advisor" means any person who is assessing pest numbers or damage, pesticide distribution, or the status or requirements of agricultural plants. The term does not include any person who is performing hand labor tasks.

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

"Department" means the State Department of Environmental Protection.

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

"Designated representative" means any person designated in writing by a worker or handler to exercise a right of access on behalf of the worker or handler to request and obtain a copy of the pesticide application and hazard information required by *N.J.A.C. 7:30-12*.

"Diluent" means any liquid or solid material used to dilute a pesticide formulation for use.

"Disposal" or "dispose of" means the final transfer of pesticides, pesticide containers or pesticide related equipment from the current possessor to a second party or place. This shall not be construed to mean the ordinary application of pesticides for the purposes for which they are intended.

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

"Drainage ditch" means a linear topographic depression with bed and banks of human construction which is used to remove surface water or ground water from the land, including control of runoff to minimize erosion and sedimentation before and after construction or development. This does not include channelized or redirected natural water courses. See *N.J.S.A. 7:7A-1.4* and *N.J.A.C. 7:50-2.11* for definitions of "drainage" and "ditch."

"Drift" means the movement of a pesticide during or immediately after application or use through any media to a non-target site.

"Duration of the application" means, for the purposes of *N.J.A.C. 7:30-10.2*(*l*), during the time the fumigant is introduced, during the leak detection phase immediately thereafter and during the beginning and ending of the aeration phase at the end of the required retention time.

"Early entry" means entry by a worker into a treated area on the agricultural establishment after a pesticide application is complete, but before any restricted-entry interval for the pesticide has expired.

"Emergency" means an occurrence which can impair the public health or safety or can cause harm, injury or damage to the environment or which presents a significant risk of harm, injury or damage. (See also definitions for agricultural, environmental, and health emergencies.) (See also definition of agricultural emergency in *N.J.A.C. 7:30-12.4(d)*1.)

"Employ" means to obtain, directly or through a labor contractor, the services of a person in exchange for a salary, wages, or other compensation, including piece-rate wages, without regard to who may pay or who may receive the salary or wages. It includes obtaining the services of a self-employed person, an independent contractor, or a person compensated by a third party, except that it does not include an agricultural employer obtaining the services of a handler through a commercial pesticide handler employer or a commercial pesticide handling establishment.

"Employed at the same pesticide outlet" means that the person supervising and the person supervised shall both have physical work spaces at the same pesticide outlet.

"Enclosed cab" means a cab with a nonporous barrier that totally surrounds the occupant(s) of the cab and prevents dermal contact with pesticides that are being applied outside of the cab.

"Enclosed space production" means production of an agricultural plant indoors or in a structure or space that is covered in whole or in part by any nonporous covering, and that is large enough to permit a person to enter.

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

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

"Environmental emergency" means an occurrence of any pest which presents a significant risk of harm or injury to the environment, including, but not limited to, exotic or foreign pests which may need preventative quarantine measures to avert or prevent that risk, as determined by the Department, with recommendations from Rutgers University, the New Jersey Department of Health, or EPA.

"EPA" means the United States Environmental Protection Agency.

"EUP" means experimental use permit.

"Experimental use permit" means a State or Federal permit, granted to a person wishing to accumulate data necessary to register under section 3 of FIFRA *(7 U.S.C. § 136*(a)) and the regulations thereunder, 40 CFR Part 172, a pesticide not registered with the US EPA or a registered pesticide for a use not previously approved in the registration of the pesticide.

"Farm," when used in *N.J.A.C. 7:30-12*, means any operation, other than a nursery or forest, engaged in the outdoor production of agricultural plants.

"F.A.R.-137" means Federal aviation regulations relating to agricultural aircraft operations, 14 CFR Part 137.

"Field" means any treated area, or part thereof, upon which one or more pesticides are used for agricultural purposes.

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

"Flowering stage" means when plants bear any portion of a blossom as part of the blooming process associated with pollen and nectar production.

"Foam" means the expansion of a liquid formulation in a ratio of 5:1 or greater through the use of air, a foaming agent, mechanical means, or a combination of any or all of these.

"Food handling establishment" means any restaurant, bakery, cafeteria, cafe, bar, or any retail food handling facility required to have a New Jersey Department of Health and Senior Services inspection certificate.

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

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

"Fumigant" means any pesticide that is a vapor or gas, or forms a vapor or gas upon application, and whose pesticidal action is through the vapor or gaseous state.

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

"General use pesticide" means any pesticide or pesticide use which is not classified as a "restricted use pesticide" by Federal or State laws or regulations.

"Gravity feed" means placing a pesticide into the soil without pressure through an injection hole or trench.

"Greenhouse" means any operation engaged in the production of agricultural plants inside any structure or space that is enclosed with nonporous covering and that is of sufficient size to permit worker entry. This term includes, but is not limited to, polyhouses, mushroom houses, rhubarb houses, and similar structures. It does not include malls, atriums, conservatories, arboretums, or office buildings where agricultural plants are present primarily for aesthetic or climatic modification.

"Hand labor" means any agricultural activity performed by hand or with hand tools that causes a worker to have substantial contact with plants, plant parts, or soil, and other surfaces that may contain pesticide residues. These activities include, but are not limited to, harvesting, detasseling, thinning, weeding, topping, planting, sucker removal, pruning, disbudding, roguing, and packing produce into containers in the field. Hand labor does not include operating, moving, or repairing irrigation or watering equipment or performing the tasks of crop advisors.

"Handler" means any person, including a self-employed person:

1. Who is employed by an agricultural employer or commercial pesticide handler employer and who is:

i. Mixing, loading, or applying pesticides;

ii. Disposing of pesticides;

iii. Handling opened containers of pesticides, emptying, triple-rinsing, or cleaning pesticide containers according to the instructions on the pesticide labeling, or disposing of pesticide containers that have not been cleaned. The term does not include any person who is handling only unopened pesticide containers or pesticide containers that have been emptied or cleaned according to the instructions on the pesticide labeling;

iv. Acting as flagger;

v. Cleaning, adjusting, handling, or repairing the parts of mixing, loading, or application equipment that may contain pesticide residues;

vi. Assisting with the application of pesticides;

vii. Entering an enclosed space after the application of a pesticide and before the inhalation exposure level listed on the pesticide labeling has been reached or one of the ventilation criteria established by *N.J.A.C. 7:30-12.3(c)*3 or the pesticide labeling has been met:

(1) To operate ventilation equipment;

(2) To adjust or remove coverings used in fumigation; or

(3) To monitor air levels;

viii. Entering a treated area outdoors after application of any soil fumigant during the period of restricted entry specified on the pesticide labeling to adjust or remove coverings used in fumigation; or

ix. Performing tasks as a crop advisor:

(1) During any pesticide application;

(2) Before the inhalation exposure level listed in the pesticide labeling has been reached or one of the ventilation criteria established by *N.J.A.C. 7:30-12.3(c)*3 or in the pesticide labeling has been met; or

(3) During any restricted-entry interval.

"Handler employer" means any person who is self-employed as a handler or who employs any handler, for any type of compensation.

"Health emergency," for the purposes of *N.J.A.C. 7:30-10.6*, means the occurrence of any pest which presents a significant risk of harm or injury to the public health as determined by the New Jersey Department of Health and Senior Services in concurrence with the Department.

"Heating unit" means a furnace and any associated duct work.

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

"Hotel/motel" means a commercial establishment providing short term or transient lodging and where there is a registration desk. A hotel/motel which also rents rooms, suites, etc. to permanent residents or on a long term basis, that is, more than three weeks, shall be considered a "multiple

family residence" for the purposes of pesticide application notification for rooms rented for more than three weeks only.

"Immediate" means within 15 minutes, unless otherwise noted in the text of the rule or in the label directions.

"Immediate family" is limited to the spouse, children, stepchildren, foster children, parents, stepparents, foster parents, brothers, sisters, father-in-law, mother-in-law, sons-in-law, daughters-in-law, grandparents, grandchildren, brothers-in-law, sisters-in-law, aunts, uncles, nieces, nephews, and first cousins. "First cousin" means the child of a parent's sibling, that is, the child of an aunt or uncle.

"Inaccessible crawl space" means any space under a structure which is not open to normal ingress from within and/or without the structure.

"Inert ingredient" means an ingredient which is not an active ingredient.

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

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

"Integrated pest management" or "IPM" means a sustainable approach to managing pests by using all appropriate technology and management practices in a way that minimizes health, environmental and economic risks. IPM includes, but is not limited to, monitoring pest populations, consumer education, and when needed cultivation practices, sanitation, solid waste management, structural maintenance, physical, mechanical, biological and chemical controls.

"Integrated pest management coordinator" or "coordinator" means an individual who is knowledgeable about integrated pest management systems and who has been so designated by a local school board, the board of trustees of a charter school, or the principal or lead administrator of a private school, as appropriate.

"Intended date" means the applicator's best estimate of when the actual pesticide application will take place.

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

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

1. Accompanying the pesticide at any time; or

2. To which reference is made on the label or in literature accompanying the pesticide except to current official publications of the EPA, the United States Departments of Agriculture and Interior, the Department of Health and Human Services, State experiment stations, State agricultural colleg-

es, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

"Labor contractor" means a person, other than a commercial pesticide handler employer, who employs workers or handlers to perform tasks on an agricultural establishment for an agricultural employer or a commercial pesticide handler employer.

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

"Limited contact task" is a non-hand labor task performed by workers that results in minimal contact with treated surfaces (including, but not limited tom soil, water, surfaces of plants, and equipment), and where such contact with treated surfaces is limited to the forearms, hands, lower legs, and feet.

"Low impact pesticide" means any pesticide or pesticidal active ingredient alone, or in combination with inert ingredients, that the United States Environmental Protection Agency has determined is not of a character necessary to be regulated pursuant to the "Federal Insecticide, Fungicide, and Rodenticide Act," *7 U.S.C. §§ 136* et seq., as amended and supplemented, and that has been exempted from the registration and reporting requirements adopted pursuant to that act. In addition to these Federal-exempt pesticides, the following pesticide types or formulations are also included as low impact: any gel; paste; bait; antimicrobial agent such as a disinfectant used as a cleaning product; boric acid; disodium octoborate tetrahydrate; silica gels; diatomaceous earth; microbe-based insecticides such as bacillus thuringiensis; botanical insecticides, not including synthetic pyrethroids, without toxic synergists; and biological, living control agents.

"Low pressure injection" means the minimum amount of pressure required for a termiticide to clear the hose at the nozzle (normally less than 25 psi).

"Minimum risk pesticide" means any pesticide or pesticidal active ingredients alone or in combination with certain inert ingredients that EPA has determined are not of a character necessary to be regulated under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), and have been exempted from the registration and reporting requirements of FIFRA and 40 CFR Part 152.

"Minor violations" means those violations for which a grace period to comply may be granted pursuant to the criteria of the "Grace Period Law" (P.L. 1995, c.296).

"Misbranded" means a condition as to a pesticide wherein:

1. Its labeling bears any statement, design or graphic representation relative thereto or to its ingredients which is false or misleading in any particular; or

2. It is an imitation of or is distributed under the name of another pesticide; or

3. Any word, statement, or other information required to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or graphic matter in the labeling), and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; or

4. The labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and, if complied with, together with any re-

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

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

6. The label does not bear the information designated in *N.J.A.C. 7:30-2.7(a)*2; or

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

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

i. The skull and crossbones; and

ii. The word "POISON" prominently printed in red on a background of distinctly contrasting color; and

iii. A statement of an antidote or a practical treatment in case of poisoning by the pesticide.

"More than three acres" means a pesticide application or applications made to an aggregate of more than three acres whether this aggregate is reached over one day or several days. In addition, spraying several small shrubs or a small area on a parcel greater than three acres would not "involve more than three acres," but treating a number of areas scattered about the same parcel (or treating the whole parcel) would "involve more than three acres" thus triggering the need to comply with requirements noted at *N.J.A.C. 7:30-6.1(a)*2i, 9.4(e) and 9.10(a).

"Multiple family residence" means any residence where the occupant is not the party contracting for the pest control application. This includes, but is not limited to, house rentals, apartments, student housing, dormitories, residential hotels (see also hotel/motel), and the areas of multiple residential unit structures which are not considered "common" areas. This definition does not include the following:

1. Correctional facilities;

2. Common areas of structures with multiple residential units; these are considered commercial buildings which require structural notification pursuant to *N.J.A.C. 7:30-9.12(d)*; and

3. Residential units in which no one resides.

"Name" means, for the purposes of *N.J.A.C. 7:30-7*, the name that the business trades under or operates as. A separate business name will result from any difference in a key word part of the name (that is, an example of a key word change would be from ACE to ACER; none of the following are considered key: company, incorporated, exterminating, pest control). In addition, a name will be considered different if the difference results in a different alphabetical sort of the business name (that is, A Zebra as opposed to Zebra).

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

"Non-minor violations" means and includes those violations which are considered serious enough that no grace period can be granted to achieve compliance pursuant to the criteria of the "Grace Period Law" (P.L. 1995, c.296).

"Non-target site" means any location that is not a target site.

"Nursery" means any operation engaged in the outdoor production of any agricultural plant to produce cut flowers and ferns or plants that will be used in their entirety in another location. Such plants include, but are not limited to, flowering and foliage plants or trees; tree seedlings; live Christmas trees; vegetable, fruit, and ornamental transplants; and turfgrass produced for sod.

"Operate as" or "operate under" means to use a "business name" where the public can see it, such as:

1. Letterheads;

2. Advertisements;

3. Bills;

4. Service vehicle signs; or

5. Store, office, or building signs.

"Operation SAFE" means Self-regulating Application and Flight Efficiency, a program sponsored by the National Agricultural Aviation Association to improve agricultural aircraft operation by analysis of aerial spray deposition patterns and use of this information to calibrate such aircraft for the most effective placement of pesticides on a target site.

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

"Outdoor application" means any application which takes place beyond a building foundation perimeter. This definition does not include structural band or termite applications.

"Outdoor production" means production of an agricultural plant in an outside area that is not enclosed or covered in any way that would obstruct the natural air flow.

"Owner" for the purposes of *N.J.A.C. 7:30-12*, means any person who has a present possessory interest (fee, leasehold, rental, or other) in an agricultural establishment covered by *N.J.A.C. 7:30-12*. A person who has both leased such an agricultural establishment to another person and granted that same person the full right and authority to manage and govern the use of such agricultural establishment is not an owner for the purposes of that subchapter.

"Persistent pesticide" means any pesticide, or its metabolites of equal or greater toxicity, which will be present in the environment beyond one year from the date of application.

"Person" means and shall include a corporation, company, association, society, firm, partnership, and joint stock company as well as an individual, and shall also include a political subdivision of this State or any agency or instrumentality thereof.

"Pest" means any insect, rodent, nematode, fungus weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria or

other micro-organisms on or in living man or other animals) which is injurious to health or the environment.

"Pesticide" means and includes any substance or mixture of substances labeled, designed or intended for use in preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances labeled, designed, or intended for use as a defoliant, desiccant, or plant regulator; provided, that the term "pesticide" shall not include any substance or mixture of substances which the US EPA does not consider to be a pesticide. For the purposes of *N.J.A.C. 7:30-13* only, "pesticide" also means and includes any substance or mixture of substances labeled, designed, intended for or capable of use in 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.

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

"Pesticide applicator business" means any person who either wholly or in part holds himself out for hire to apply pesticides in the State of New Jersey. This definition includes any person who uses pesticides, or advertises pest control services, as a part of a service for which a fee is charged, whether or not a fee is directly charged for the pesticide use.

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

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

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

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

"Pesticide spill" means any intentional or unintentional action or omission resulting in the releasing, discharging, leaking, pumping, pouring, emitting, emptying, or dumping of any pesticide to any location which is not a labeled and intended site.

"Pinelands" means those lands defined in *N.J.A.C. 7:50-6*.

"Place of business" means any physical location at or through which the functional operations of business, including, but not limited to, financial transactions, arrangement of contracts, and assignment of work, regularly occur. (This term shall not include the offices of telephone answering services.)

"Plant regulator" means any substance or mixture of substances, intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of ornamental or crop plants or the produce thereof, but shall not include substanc-

es to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

"Plenum air space" means any space under a structure which acts as an air circulation chamber for air circulated throughout the structure.

"PPE" means personal protective equipment as defined in *N.J.A.C. 7:30-12.4(c)* and *12.20(b)*.

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

"Private residence" means any portion of a building or structure that is occupied exclusively for residence purposes. This definition does not include those portions of a building occupied for residence purposes which are used as an pesticide office, record keeping area, storage area, or the grounds surrounding a private residence.

"Psi" means pounds per square inch.

"Reasonable amount of time" means, when used in the context of the definition of the phrase "available if and when needed," that it should take, at most, three hours to reach the application site by ground transportation.

"Recipe" means the total amount of pesticide concentrate and the total amount of diluent mixed together, when required by the label of the pesticide product.

"Registrant" means any person whose name is or is required to be on a registration issued by the Pesticide Control Program.

"Reportable pesticide spill" means:

1. Any spill of an organochlorine termiticide inside a structure, during treatment, in a quantity of more than 50 square inches of contaminated surface area at any one injection point, or more than one square yard aggregate contaminated surface area on or at the base of any interior wall, through seepage or other cause;

2. Any spill inside a structure of any pesticide of more than one gallon liquid of any combination of pesticide and/or diluent, or dry pesticide formulations containing one pound or more of active ingredient;

3. Any spill outside a structure of any pesticide containing one pound or more of active ingredient; or

4. Any spill which contaminates a heating duct or heating system.

"Responsible pesticide applicator" means any individual who is accountable for the use of a pesticide by himself or herself or any person under his or her direct supervision. For the purposes of this chapter, a person shall not be defined as a responsible pesticide applicator during the time that he or she works at another job. The only exception to this definition is if the person has written documentation from both employers stating that the person has the authority to attend to his or her duties as a responsible pesticide applicator whenever the need arises.

"Responsible pesticide dealer" means any individual who is accountable for the distribution, sale, or offering for sale of a restricted use pesticide by himself or herself or any person who is under his or her direct supervision. For the purposes of this chapter, a person shall not be defined as a responsible pesticide dealer during the time that he or she works at another job. The only exception to this is if the person has written documentation from both employers stating that the person has the authority to attend to his or her duties as a responsible pesticide dealer whenever the need arises.

"Restricted-entry interval" or "REI" means the time during which entry into the treated area is restricted. The restricted entry interval begins at the time that the pesticide application is completed.

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

"Retreatment" means the reapplication of a pesticide, whether or not it is the same concentration or formulation as applied initially, to a structure or any part thereof, provided the application is for the control of the same pest as initially treated.

"Right of way" means the surface of a paved or unpaved road and its adjacent shoulders, whether paved or unpaved, the surface of industrial driveways, pipelines, and railroads; and the surface above buried cables and below elevated electric power and telephone lines.

"Rodding" means the application of a pesticide by means of the vertical or horizontal insertion of section treating rods or subslab injectors into the soil to a depth of at least four inches when the injection site is visible, beneath the soil surface when the injection site is not visible to the applicator, as when treating an inaccessible sub-floor area from the outside, and beneath slab on grade construction.

"Safety data sheet" or "SDS" has the same meaning as the definition at 29 CFR 1900.1200(c), incorporated herein by reference, as supplemented or amended.

"Sandy soil" means a soil containing 70 percent or more of sand particles and zero to 30 percent of any combination of silt, clay, and/or other soil material. Technically, this definition combines the two classifications "loamy sand" and "sand."

"School" means an establishment for teaching and learning, including, but not limited to, the following:

1. Preschool;

2. Day care centers;

3. Elementary school;

4. Junior high;

5. High school;

6. Vocational/technical;

7. College; and

8. University.

For the purposes of *N.J.A.C. 7:30-13* only, "school" instead means any public or private school as defined in *N.J.S.A. 18A:1-1* et seq.

"School integrated pest management policy" means a managed pest control policy that eliminates or mitigates economic, health, and aesthetic damage caused by pests in schools; that delivers effective pest management, reduces the volume of pesticides used to minimize the potential hazards posed by pesticides to human health and the environment in schools; that uses integrated methods, site or pest inspections, pest population monitoring, an evaluation of the need for pest control, and one or more pest control methods, including sanitation, structural repair, mechanical and biological controls, other nonchemical methods, and when nonchemical options are ineffective or unreasonable, allows the use of a pesticide, with a preference toward first considering the use of a low impact pesticide for schools.

"School pest emergency" means an urgent need to mitigate or eliminate a pest that threatens the health or safety of a student or staff member.

"School property" means any area inside and outside of the school buildings controlled, managed, or owned by a school or school district.

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

"Service container" means any container, other than the original labeled container of a registered pesticide provided by the registrant and containing the original pesticide material, that is used to hold, store, or transport a pesticide concentrate or a pesticide use dilution preparation. Service container does not include application equipment, such as a compressed air sprayer or service vehicle.

"Service vehicle" means any motorized conveyance owned, leased or operated by any person required to be registered by the Department to apply or supervise the application of pesticides, and used to hold, store and/or transport a pesticide from any place to an application location; except the following:

1. Vehicles used to hold and/or transport pesticides by private pesticide applicators; providing, the vehicles are operated solely within the boundaries of property owned or controlled by the private applicator;

2. Vehicles used to hold and/or transport a pesticide to an application location which is owned or controlled by a private pesticide applicator performing or supervising the pesticide application; providing, the pesticide being held and/or transported is wholly contained within the final holding tank from which the application is made;

3. Vehicles not normally and customarily used in business operations to hold and/or transport pesticides to an application location, providing:

i. The pesticide is transferred at the application location to a vehicle subject to the service vehicle requirements;

ii. The person operating such vehicle making the delivery and transfer does not apply the pesticide; and

iii. The maximum quantity of pesticide being transported is five gallons liquid or 50 pounds dry formulation; or

4. Vehicles not normally and customarily used in business operations to hold and/or transport pesticides to an application location providing the vehicle is bringing pesticides purchased from a pesticide outlet back to the business location.

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

"Staff member" means an employee of a school or school district, including administrators, teachers, and other persons regularly employed by a school or school district, but shall not include an employee hired by a school, school district or the State to apply a pesticide or a person assisting in the application of a pesticide.

"Structure" means any building or part thereof, including outside attached extensions such as patios, which are included as sites to which a pesticide is to be applied.

"Substantial economic loss," when used in *N.J.A.C. 7:30-12*, means a loss in profitability greater than that which would be expected based on the experience and fluctuations of crop yields in previous years.

"Subterranean application" means the placement of any pesticide:

1. Under or adjacent to structures by trenching; or

2. Under slabs or under or within six inches of foundation walls by rodding; or

3. Within the interior voids of foundation walls.

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

"Target site" means a specific location, including, but not limited to, any crop, commodity, object, delineated field or area, or structure or part thereof, that is intended to be treated by a pesticide so that any pests therein or thereon are controlled. This term does not include any similar site which was not a part of the original agreement between the contracting parties or any site not under the contracting party's control, even if such site is included on the label or labeling of a pesticide.

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

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

"Termiticide bait" means any termiticide formulated with food or another attractive substance, such as a pheremone or moisture source. Termiticide baits are normally solid wood, cardboard or paper formulations with little or no hazard of contaminating off target sites. Gel formulations with an attractive substance are also included in this definition.

"Toxicity category one pesticide" means any pesticide the label for which is required by US EPA to prominently display the signal word "DANGER" and may be additionally required to display the signal word "POISON," and to show the skull and crossbones signal.

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

"Treated area" means any area to which a pesticide is or has been applied or to which it has been directed.

"Trench" or "trenching" means the application of a pesticide by means of the excavation of a narrow ditch and the application of the pesticide into the ditch. It may also mean treatment of successive layers of the excavated soil as it is replaced into the trench. A trench shall be as wide as necessary to effectuate treatment, but in no case may the layer of pesticide treated soil extend more than ten inches horizontal linear distance from the structural wall.

"Under direct supervision" means under the instructions and control of another person who is responsible for actions taken and who is available if and when needed (see definition of "available if and when needed"), even if not physically present. An employer/employee relationship is required for someone to be under direct supervision.

"Universal notification" means notice provided by a local school board, a board of trustees of a charter school, or the principal or lead administrator of a private school, as appropriate, to all parents or guardians of children attending a school, and staff members of a school or school district.

"Use," as in "to use a pesticide," means any of the following in *N.J.A.C. 7:30-12*:

1. Pre-application activities, including, but not limited to:

i. Arranging for the application of the pesticide;

ii. Mixing and loading the pesticide; and/or

iii. Making necessary preparations for the application of the pesticide, including responsibilities related to worker notification, training of workers or handlers, providing decontamination supplies, providing pesticide safety information and pesticide application and hazard information, use and care of personal protective equipment, providing emergency assistance, and heat stress management;

2. Application of the pesticide;

3. Post-application activities intended to reduce the risks of illness and injury resulting from handlers' and workers' occupational exposures to pesticide residues during and after the restricted-entry interval, including:

i. Worker notification;

ii. Training of workers or early-entry workers;

iii. Providing decontamination supplies;

iv. Providing pesticide safety information and pesticide application and hazard information;

v. Use and care of personal protective equipment; and

vi. Providing emergency assistance and heat stress management; and

4. Other pesticide-related activities, including, but not limited to, transporting or storing a pesticide that has been opened, cleaning equipment, and disposing of excess pesticides, spray mix, equipment wash water, pesticide containers, and other pesticide-containing material.

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

1. Applying a pesticide, including mixing and loading and any required supervisory action in or near the area of application;

2. Handling, transporting or storing a pesticide or pesticide container;

3. Disposal actions for a pesticide and/or containers or equipment associated with the pesticide.

"Vessel" means every description of watercraft, other than a seaplane, used or capable of being used as a means of transportation on the water, whether self-propelled or otherwise, and includes barges and tugs.

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

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

"Wetland" means a freshwater wetland pursuant to *N.J.S.A. 13:9B-3*, a coastal wetland pursuant to *N.J.S.A. 13:9A-2* or any wetlands located within the jurisdiction of the Hackensack Meadowlands Development Commission pursuant to *N.J.S.A. 13:17-1* et seq., or the Pinelands Commission pursuant to *N.J.S.A. 13:18A-1* et seq.

"When unattended" means a situation wherein the person or a knowledgeable employee of the person possessing a restricted use pesticide or container contaminated by residues of restricted use pesticide(s) either is not present at the storage site or is present but is so located that he cannot immediately detect and respond if any unauthorized second party enters the storage site.

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

"Worker" means any person, including a self-employed person, who is employed for any type of compensation and who is performing activities relating to the production of agricultural plants on an agricultural establishment to which *N.J.A.C. 7:30-12.1* through *12.11* applies. While persons employed by a commercial pesticide handling establishment are performing tasks as crop advisors, they are not workers covered by the requirements of the sections above.

"Worker housing area" means any place or area of land, on or near an agricultural establishment, where housing or space for housing is provided for workers or handlers by an agricultural employer, owner, labor contractor, or any other person responsible for the recruitment or employment of agricultural workers.

"Worker trainer" means any person who instructs workers in accordance with the requirements of *N.J.A.C. 7:30-12.8*.

THIS IS A COURTESY COPY OF THIS RULE. ALL OF THE DEPARTMENT'S RULES ARE COMPILED IN TITLE 7 OF THE NEW JERSEY ADMINISTRATIVE CODE.

§ 7:30-1.3 (Reserved)

§ 7:30-1.4 (Reserved)

§ 7:30-1.5 (Reserved)

§ 7:30-1.6 (Reserved)

§ 7:30-1.7 (Reserved)

§ 7:30-1.8 (Reserved)

§ 7:30-1.9 (Reserved)

§ 7:30-1.10 (Reserved)

SUBCHAPTER 2. PESTICIDE PRODUCT REGISTRATION, GENERAL REQUIREMENTS, PROHIBITED AND RESTRICTED USE PESTICIDES

§ 7:30-2.1 Registration

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

(b) Each pesticide product including each EPA Registration Number, each supplemental registration, each brand name, trade name, formulation, specific fertilizer/pesticide mixture, Experimental Use Pesticide, Special Local Need, FIFRA Section 24(c), or Emergency Exemption, FIFRA Section 18, shall be registered separately.

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

1. The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant's;

2. The brand name of the pesticide;

3. A complete copy of the current label, which shall contain all statements, words, graphic material and any other information required by FIFRA, and the labeling accompanying the pesticide and a statement of all claims including the directions and precautions for use;

i. If a label or labeling is revised during the registration year, the registrant shall submit a copy of the revised label or labeling within 30 days;

4. The use classification of the pesticide as required by Federal or State regulation;

5. For registrants of any TBT antifoulant paint labeled for marine uses, a certification which states that the TBT antifoulant paint has an acceptable release rate; and

6. Initial product registration of pesticide active ingredients not previously registered in New Jersey shall supply the following information, if available:

i. A Material Safety Data Sheet (MSDS), which is created by the pesticide product registrant;

ii. A US EPA Notice of Pesticide Registration/Reregistration, or US EPA Notice of Supplemental Distribution; and

iii. US EPA required Fact Sheet for the Active Ingredient(s).

(d) When deemed appropriate, the Department may also require, for initial or continuing registration of a pesticide, the submission of the complete formula of the pesticide, including all active and inert ingredients, and any other necessary information relating to the pesticide's safe and effective use. This information may include studies submitted to US EPA for registration/permit purposes, or a list of such studies. The Department shall advise the registrant by mail of what information is needed and the reason thereof and provide a reasonable time for response from the registrant.

(e) For initial or continuing registration of pesticide products which are labeled as termiticides, resource manuals, clean-up procedures, and sampling methodology shall be supplied. Information concerning the following areas of decontamination, sampling and analytical methodology shall be supplied, where available:

1. Personal decontamination;

2. Spill containment (large and small);

3. Decontamination of heating/cooling ducts and units;

4. Decontamination of surface soil (interior and exterior);

5. Decontamination of hard surfaces (permeable and non-permeable);

6. Decontamination of french drains;

7. Decontamination of upholstery, carpeting, clothing, drapery, etc.;

8. Decontamination of potable water;

9. Air monitoring and analytical methodology;

10. Swab (wipe) sampling and analytical methodology;

11. Soil sampling and analytical methodology;

12. Water sampling and analytical methodology; and

13. Tissue sample analytical methodology.

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

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

(h) Before holding, using, distributing, selling, or offering for sale any pesticide in this State, the applicant or registrant shall pay an annual registration fee of $ 300.00 to the Department or its authorized representative for each pesticide to be registered. All such registrations shall expire on December 31 of each calendar year.

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

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

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

(*l*) Any registrant shall notify the Department in writing within 30 days when the distribution, sale, transportation, holding or storage of a registered pesticide product ceases. Any person who has registered a pesticide pursuant to this section shall continue to register that specific pesticide for two registration years beyond the last year of distribution, sale, transportation, holding or storage except as delineated below. The Department may waive the required registration fee for end users beyond this two year period.

1. If the US EPA issues provisions for the use of existing stocks of the pesticide that are shorter than two years, then the Department shall require registration for the shorter period.

2. Special Local Need (FIFRA Section 24(c)) product registrations shall be registered for only one year beyond the cancellation date.

3. Experimental use pesticides shall not be registered beyond the expiration date of the Federal or New Jersey experimental use permit.

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

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

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

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

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

5. Any "minimum risk" pesticide exempted from regulation by US EPA under 40 CFR Part 152, except that the Department may regulate and require registration of any pesticide if conditions indicate the need for such registration and regulation.

(n) If a person who is required to register a pesticide product pursuant to (a) above refuses to comply with any of the provisions of this section, the Department may refuse to register, cancel the registration of, embargo, secure or impound the registrant's violative products in New Jersey, pursuant to *N.J.A.C. 7:30-2.8*, until such time as compliance is obtained.

(*o*) No person shall hold, use, distribute, sell, or offer for sale within this State or deliver for transportation or transport in intrastate commerce or between points within this State or between points within this State through any point outside this State any pesticide or pesticide container, unless he or she complies with the requirements of 40 CFR Parts 9, 156 and 165 (otherwise known as the Federal Container and Containment regulations), which are hereby incorporated by reference, as amended and supplemented.

§ 7:30-2.2 Registrations pursuant to the provisions of Sections 18 and 24(c) of FIFRA

(a) The Department may issue emergency exemption registrations pursuant to the provisions of Section 18 of FIFRA if the State has been authorized by the Administrator of the US EPA to issue such registrations. The issuance of such registrations shall comply with the terms and conditions of such authorization and any rules and regulations promulgated under the provisions of Section 18 of FIFRA. The registration application shall be made on an application form supplied by the Department, which can be obtained by contacting the Pesticide Control Program, PO Box 411, Trenton, NJ 08625-0411.

(b) The Department may issue a Special Local Need registration pursuant to the provisions of Section 24(c) of FIFRA if:

1. The State is authorized by the Administrator of the US EPA to issue such registrations; and

2. The Department has received US EPA Form No. 8570-25 and all other information requested in the Department's instruction sheet; and

3. The composition of the pesticide is such as to warrant the proposed claims for it; and

4. The labeling and other material required to be submitted comply with the requirements of FIFRA, the Act or any rules and regulations promulgated thereunder; and

5. The pesticide will perform its intended function without significant risk of inquiry or damage; and

6. When used in accordance with widespread and commonly recognized practices the pesticide will not generally cause significant risk of injury or damage; and

7. The classification for general or restricted use is in conformity with State of New Jersey regulations and section 3(d) of FIFRA.

(c) Special Local Need registrations shall be subject to periodic review by the Department. As a result of that review, revisions to the label of the Special Local Need registration may be required in order for that registration to continue to be registered for use in the State.

(d) A Special Local Need registration shall be registered for use in the State for one additional year after distribution in the State has ceased, in order to allow for the use of existing stocks in the hands of users.

§ 7:30-2.3 Experimental use permits

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

1. Submit to the Department, Pesticide Control Program a copy of the EPA stamped, accepted and finished printed experimental use permit label;

2. Submit to the Department, Pesticide Control Program a copy of the EPA letter which authorizes and approves the experimental use permit and which defines the parameters of the experimental use permit;

3. Submit to the Department, Pesticide Control Program, a copy of the experimental use program protocol which outlines the use of the experimental pesticide in New Jersey;

4. Submit to the Department, Pesticide Control Program, a copy of the Material Safety Data Sheet (MSDS) which is created by the holder of the Federally-issued experimental use permit for the experimental pesticide;

5. Submit to the Department, Pesticide Control Program, the name, address and exact location of the field(s) being treated, and acreage of the site(s) in New Jersey where the experimental pesticide will be used;

6. Submit to the Department, Pesticide Control Program, the name(s) and address(es) and telephone number(s) of any person(s) who will be applying the experimental use pesticide in New Jersey;

7. Submit to the Department, Pesticide Control Program, the name(s), address(es) and telephone number(s) of any person(s) whose property in New Jersey will be used for the experimental use program; and

8. Submit to the Department, Pesticide Control Program, upon request a copy of the reports required under Federal regulations.

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

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

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

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

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

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

§ 7:30-2.4 Refusal, cancellation, or suspension of a pesticide registration

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

1. The Department determines that the pesticide does not warrant the proposed claims;

2. The pesticide is highly toxic and there is no effective antidote under the conditions of use for which such pesticide is intended or recommended;

3. The pesticide is recommended for use on food or feed crops, and the EPA has not established for such pesticide a tolerance or exemption from the need of a tolerance or a temporary tolerance or exemption from the need of a temporary tolerance; or

4. The pesticide and its labeling and other material required to be submitted for registration do not comply with the provisions of FIFRA, the Act or rules and regulations promulgated thereunder.

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

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

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

§ 7:30-2.5 Right of entry or collection of samples

(a) In order to determine compliance with the requirements of the Act or rules promulgated thereunder, the Department may, at reasonable hours, enter any building or place except private residences pursuant to (c) below, for the purpose of investigating an actual or suspected violation relating to pesticides, ascertaining compliance or non-compliance with any rules, regulations or orders of the Department. The Department may conduct an inspection or sampling, and may procure samples, for analysis or examination from any premises, lot, package or parcel of pesticide or substance

suspected to contain a pesticide. If the owner, operator or agent in charge of the place to be inspected is present, officers or employees of the Department shall notify him or her of their intent to inspect or sample and inform him or her of the reason therefore. Having been so notified, no person shall prevent officers or employees of the Department from conducting such inspection or sampling.

(b) Notification pursuant to (a) above may also consist of a "Notice Of Attempt To Contact" delivered by hand to an employee, an owner, operator or agent in charge, or sent by certified mail, receipt acknowledged.

1. When such "Notice" has been sent by certified mail, an owner, operator or agent in charge of the place to be inspected shall have one week after the date of delivery to contact the Department, Pesticide Control Program and arrange for the inspection or sampling.

(c) Those portions of a private residence used for business purposes shall be accessible for inspection and sampling. These portions include, but are not limited to, the office and recordkeeping areas, storage areas, mixing/loading sites, and vehicle parking areas.

(d) Compliance with this section shall be a condition of product registration for any out-of-State registrant.

§ 7:30-2.6 Records

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

1. The delivery, movement, or holding of any pesticide including the quantity;

2. The date of shipment and receipt;

3. The name of consignor and consignee; and

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

§ 7:30-2.7 General requirements

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

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

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

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

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

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

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

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

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

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

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

ix. Any other informa333tion required by Federal regulations or the Act or any rules and regulations promulgated thereunder.

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

4. Any pesticide which is adulterated or misbranded;

5. Any pesticide in containers which have become unsafe;

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

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

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

3. The manufacturer or distributor of a pesticide for experimental use only by or under the supervision of this State or of the Federal government; provided, that such manufacturer or distributor holds a valid experimental use permit as provided for by *N.J.A.C. 7:30-2.3* or by the US EPA;

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

(c) The Department may authorize the distribution, sale or use of any pesticide upon request by the Commissioner of the Department of Health and Senior Services or the Secretary of the Depart-

ment of Agriculture, and when the Department of Environmental Protection determines that such action will serve the interest of the public health, safety, or welfare.

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

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

(f) No person shall use for his or her own advantage or reveal, other than to the Commissioner or proper officials or employees of the State or Federal executive agencies, or to the courts of the State in response to a subpoena, or to physicians, or in emergencies to pharmacists and other qualified persons for use in the preparation of antidotes, any information relative to formulas of products acquired by authority of *N.J.A.C. 7:30-2.1*, *2.2* or *2.3* or any information judged by the Department as containing or relating to trade secrets or commercial or financial information obtained by authority of the Act or rules and regulations promulgated thereunder.

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

(h) No person shall hold, use, distribute, sell, or offer for sale or deliver for transportation or transport in intrastate commerce or between points within this State through any point outside this State any pesticide if part or all of its registered pesticide label or labeling is missing, obscured, altered, unreadable or otherwise damaged beyond use or recognition.

(i) No person shall handle, store, display, distribute or deliver for transportation or transport in intrastate commerce or between points within this State through any point outside this State any pesticide in a manner that may endanger man or his environment or that may contaminate food, feed, or any other product that may be transported, handled, stored, displayed, or distributed with such pesticide.

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

(k) No person shall hold, use, distribute, sell, or offer for sale within this State or deliver for transportation or transport in intrastate commerce or between points within this State or between points within this State through any point outside this State any pesticide or pesticide container, unless he or she complies with the requirements of 40 CFR Parts 9, 156 and 165 (otherwise known as the Federal Container and Containment regulations).

(*l*) Notwithstanding the responsibility of any other person or the exemption from the provisions of any other section of this subchapter, each employer shall be held responsible for any violation of the act committed by his or her employee in the scope of his or her employment. This responsibility shall be joint and several.

§ 7:30-2.8 Order to secure or impound; disposition of pesticides

(a) Any pesticide that is being 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 may be secured or impounded by order of the Department if the Department finds, or has probable cause to believe, that it is in violation of any provision of the Act or this chapter. No such pesticide shall be removed, disposed of or used until permission is given by the Department or a judge of a court of competent jurisdiction.

(b) The owner, owner's agent or custodian of such pesticide who has applied for a hearing within 15 days after the issuance of the Notice of Violation shall be afforded an expedited hearing pursuant to the Administrative Procedure Act, *N.J.S.A. 52:14B-1* et seq., and the Uniform Administrative Rules of Practice *N.J.A.C. 1:1*.

(c) If such pesticide subject to the secure or impoundment order as provided for by the Pesticide Control Act is of such character that when properly marked or branded, its sale is not prohibited by the Act or this chapter, such article shall be released to the owner, owner's agent or custodian upon payment of the Department's costs and the execution and delivery to the Department as obligee of a good and sufficient surety bond to the effect that such article shall not be sold or otherwise disposed of contrary to the provisions of the Act, this chapter, the laws of the United States, or the written authorization to release. The value of such surety bond shall be determined by the Department, based on the value of the article secured or impounded and the costs of the proceeding.

(d) If, upon a hearing to consider confiscation and disposal of a secured or impounded pesticide, it is determined that the pesticide was offered or exposed for sale, or a person was in possession with intent to distribute or sell, or that the pesticide was intended for distribution or sale in violation of any of the provisions of the Act or this chapter, it shall be disposed of by destruction or sale as the court or judge may direct, but no such articles shall be sold contrary to the provisions of the Act.

§ 7:30-2.9 Prohibited pesticides

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

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

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

§ 7:30-2.10 Restricted use pesticides

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

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

2. Any fumigant including, but not limited to, those listed in (a)4v below, except:

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

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

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

3. Any aquatic pesticide which contains labeling instructions indicating that the pesticide is intended for use on aquatic sites, except any "minimum risk" pesticide exempted from regulation by *N.J.A.C. 7:30-2.1(m)*5.

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

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

CAS Number	Common Name
7440-43-9	cadmium products (containing salts or metal complexes)
534-52-1	DNOC, DNC
131-89-5	DNOCHP, dinitrocyclohexylphenol
22224-92-6	fenamiphos
140-56-7	fenaminosulf (concentrations above 5%)
7439-97-6	Any pesticide containing mercury as an inorganic or organic compound except those used as a drug as defined in N.J.S.A. 24:21-2, those used as a fungicide in the treatment of textiles and fabrics intended for continuous outdoor use, those used as an in-can preservative in water-based paints and coatings, or those used as a fungicide in water-based paints and coatings used for exterior application.
87-86-5	pentachlorophenol, PCP (concentrations above 5% for non-wood preservative uses)
26628-22-8	sodium azide, azide (concentrations above 0.5%)
297-97-2	thionazin
various	tributyltin (marine uses of formulations with acceptable release rates)
76-87-9	triphenyltin hydroxide (concentrations above 10%)

ii. Herbicides/growth regulators as follows:

94-75-7	2,4-dichlorophenoxy-acetic acid (2,4-D) (concentrations above 20%)
5742-19-18	2,4-D diethanolamine salt (concentrations above 20%)
2008-39-1	2,4-D dimethylamine salt (concentrations above 20%)
2702-72-9	2,4-D sodium salt (concentrations above 20%)
1929-73-3	2,4-D butoxyethanol ester (concentrations above 20%)
1928-45-6	2,4-D propylene glycol butyl ether esters (concentrations above 20%)
1928-43-4	2,4-D 2-ethylhexyl ester (concentrations above 20%)
25168-26-7	2,4-D isooctyl ester (concentrations above 20%)

533-23-3	2,4-D ethyl ester
94-11-1	2,4-D, isopropyl ester
1928-38-71	2,4-D methyl ester
94-80-4	2,4-D, mixed butyl esters
1713-15-1	2,4-D mixed isobutyl esters
93-76-5	2,4,5-T
50-31-7	2,3,6-TBA and related polychlorobenzoic acids, dimethylamine salts
15972-60-8	alachlor
61-82-5	amitrole
159518-97-5	cloransulam
21725-46-2	cyanazine (concentrations above 30%)
596-84-5	daminozide
88-85-7	dinoseb
98967-40-9	flumetsulam
7784-46-5	sodium arsenite
7775-09-9	sodium chlorate (concentrations above 7%)

iii. Insecticides as follows:

390-00-2	aldrin
86-50-0	azinphos-methyl
22781-23-3	bendiocarb (concentrations above 15%)
122-10-1	bomyl (concentrations above 1%)
57-74-9	chlordane
2921-88-2	chlorpyrifos (concentrations above 15%)
56-72-4	coumaphos (concentrations above 5%)
333-41-5	diazinon (concentrations above 25%)
62-73-7	dichlorvos (concentrations above 0.5%)
60-57-1	dieldrin
60-51-5	dimethoate (concentrations above 25%)
298-04-4	disulfoton (concentrations above 2%)
115-29-7	endosulfan
72-20-8	endrin
563-12-1	ethion (concentrations above 6% Granular and 3% other formulations)
55-38-9	fenthion (concentrations above 0.5%)
76-44-8	heptachlor
7440-38-2	inorganic arsenicals (above 0.5 oz. active ingredient)
112-56-1	lethane 384 (concentrations above 10%)
58-89-9	lindane (concentrations above 20%)
2032-65-7	mercaptodimethur, methiocarb (concentrations above 2%)
919-86-8	methyl demeton (concentrations above 7%)
315-18-4	mexacarbate (concentrations above 2%)
311-45-5	paraoxon
2310-17-0	phosalone (concentrations above 12%)
732-11-6	phosmet (concentrations above 20%)
23103-98-2	pirimicarb (concentrations above 15%)

23505-41-1	pirimiphos-ethyl (concentrations above 20%)
114-26-1	propoxur (concentrations above 2%)
7681-49-4	sodium fluoride
8001-35-2	toxaphene
52-68-6	trichlorfon (concentrations above 15%)

iv. Vertebrate pesticides as follows:

86-88-4	antu (concentrations above 4%)
1327-53-3	arsenic trioxide (concentrations above 1.5% in rodenticides)
504-24-5	avitrol
56073-10-0	brodifacoum (concentrations above 0.005%)
28772-56-7	bromadiolone (concentrations above 0.01%)
369i-35-8	chlorophacinone (concentrations 0.2% and above)
117-52-2	coumafuryl (concentrations above 3%)
535-89-7	crimidine
82-66-6	diphacinone (concentrations above 3%)
7723-14-0	phosphorus (yellow, white)
83-26-1	pindone (concentrations above 3%)
507-60-8	red squill (concentrations above 30%)
81-81-2	warfarin (concentrations above 3%)

v. Fumigants including, but not limited to, the following:

107-13-1	acrylonitrile
20859-73-8	aluminum phosphide (Phostoxin)
592-01-8	calcium cyanide
75-15-9	carbon disulfide
56-23-5	carbon tetrachloride
7782-50-5	chlorine gas
76-06-2	chloropicrin
533-74-4	dazomet
542-75-6	dichloropropene
106-93-4	ethylene dibromide
107-06-2	ethylene dichloride
75-21-8	ethylene oxide (carboxide)
74-90-8	hydrogen cyanide (hydrocyanic acid gas)
12057-74-8	magnesium phosphide
137-42-8	metam-sodium
74-83-9	methyl bromide
2699-79-8	sulfuryl fluoride (Vikane)

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

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

§ 7:30-2.11 Amending prohibited and restricted-use pesticide lists

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

(b) Any person may petition the Department for modification of the listings in *N.J.A.C. 7:30-2.9* or *2.10* provided that the petitioner shall supply adequate information (as determined by the Department) to demonstrate that the modification is necessary.

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

1. Acute toxicity;

2. Neurotoxicity;

3. Chronic health effects, including but not limited to:

i. Carcinogenicity;

ii. Mutagenicity;

iii. Teratogenicity;

iv. Embryotoxicity;

v. Reproductive effects.

4. Environmental fate, including but not limited to:

i. Persistence;

ii. Bioaccumulation;

iii. Frequency of detection in environmental media;

iv. Potential for contamination of "waters of the State";

5. Pesticide use pattern(s); and

6. Pesticide regulatory history.

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

(e) When any pesticide is reclassified from general to restricted use, such restriction shall be immediate unless otherwise provided by US EPA for a pesticide restricted under *N.J.A.C. 7:30-2.10(a)*1 or unless otherwise provided by the Department in *N.J.A.C. 7:30-2*. The Department, at the time of reclassification, may provide a specified time period and any other condition for continued sale and/or use of the reclassified pesticide after evaluation of the criteria established in *N.J.A.C. 7:30-2.11(c)*.

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

§ 7:30-2.12 Advertising

(a) No person shall advertise in a manner which implies US EPA or Department approval of the person, the pesticide, or the pest control technique used.

(b) No person shall advertise in a manner which states or implies that a pesticide, pesticides, pest control technique or services including the use of pesticides, are non-toxic or safe. Such prohibited advertising practices may include, but are not limited to:

1. False statements about product effectiveness;

2. References to a product being recommended or endorsed by the US EPA or the Department;

3. A true statement used in such a way as to give a false or misleading impression, such as, "organic," "organic based," "natural" or "natural based";

4. Safety claims such as "environmentally safe," "nonpoisonous," "non-injurious," "harmless" or "nontoxic to humans and pets";

5. Non-numerical and/or comparative statements on the safety of a product such as, "contains all natural ingredients," "among the least toxic chemicals known," "pollution approved," "biodegradable" and "environmentally friendly";

6. False and misleading pictorial ads; and

7. Company names such as those which imply that the pesticides used are "safe," "natural" or "organic."

(c) No person shall advertise or represent himself or herself in any manner to the public, as performing a service for which licensing is required by this chapter, unless such person is so licensed.

1. Exceptions to (c) above shall be permitted only if the advertisement clearly states that:

i. The services advertised are subcontracted out to a licensed person, and such an arrangement between the two parties is documented in writing; or

ii. Only non-pesticidal methods of pest control are used.

2. Any reference to proper pesticide licensing or a pesticide license number shall include the word "pesticide," such as "licensed for pesticide use" or "pesticide license number . . .". This requirement will avoid confusion with other licenses or certifications which may also be obtained by an applicator or business.

(d) No person shall advertise in a manner that is in violation of State or Federal law.

SUBCHAPTER 3. PESTICIDE DEALERS

§ 7:30-3.1 General requirements

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

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

i. For the purposes of this subchapter and *N.J.A.C. 7:30-4*, a person is under direct supervision only if the person supervised and the person supervising are employed at the same pesticide outlet.

ii. "Employed at the same pesticide outlet" means that the person supervising and the person supervised shall both have physical work spaces at the same pesticide outlet. In addition, all records of restricted use pesticide sales performed by the person supervised shall be kept at the same pesticide outlet as the person supervising and shall be immediately available upon request by the Department.

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

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

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

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

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

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

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

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

1. Examples of situations to which (c) above may include, but are not limited to:

i. An applicator business going out of business;

ii. A private applicator going out of business; or

iii. The death of an applicator or dealer who still holds restricted use pesticides.

2. In situations where the Department has granted an exemption, the seller shall meet all the recordkeeping requirements and distribution restrictions pursuant to *N.J.A.C. 7:30-3.7* and *3.8*, with the exception of *N.J.A.C. 7:30-3.8(b)*.

i. Upon request by the Department, records of sale shall be sent to the Pesticide Control Program, Attn: RUP Sales Records, PO Box 411, Trenton, NJ 08625-0411.

(d) This subchapter also applies to out-of-State pesticide dealers who distribute, sell, offer for sale or supervise the distribution, sale, or offering for sale of State or Federal restricted use pesticides to New Jersey end users.

§ 7:30-3.2 Certification

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

1. The third party may charge a fee for administering an examination.

2. The Department will charge $100.00 for each examination it administers.

(b) Any person who is assigned a certification examination date, and fails to be present on that examination date without just cause, shall be subject to a $ 50.00 fee.

(c) Application for examination shall be made on a form approved by the Department. The application shall be submitted to the examination provider no later than midnight of the closing date for the examination as determined by the examination provider.

1. The application form is available from the Bureau of Licensing and Registrations website at http://www.nj.gov/dep/enforcement/pcp/bpo.htm.

(d) Any examination, form, or required training course or material used by a third party shall be approved by the Department. Any such materials developed under an agreement with the Department shall be considered Department-approved.

§ 7:30-3.3 Licensing

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

(b) The license year shall expire on October 31 of each calendar year.

(c) Applications for new licenses will be accepted from certified pesticide dealers throughout the calendar year, but a full year's license fee will be required. All such licenses will expire on October 31 following the date of application except that the Department may issue a license for an additional year when an application is initially filed during the last three months of the license year.

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

(e) A pesticide dealer shall notify the Department, in writing and within 30 days, if any information as shown on the license application changes.

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

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§ 7:30-3.4 License renewal

(a) A certified pesticide dealer shall be licensed annually with the Department and pay the license fee of $ 75.00.

(b) A pesticide dealer who has not become licensed with the Department for two consecutive license years shall lose certification status and shall again become certified and licensed in accordance with the provisions of this subchapter.

§ 7:30-3.5 Continuing certification

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

§ 7:30-3.6 Right of entry or collection of samples

(a) In order to determine compliance with the requirements of the Act or rules promulgated thereunder, the Department may, at reasonable hours, enter any building or place except private residences pursuant to (c) below, for the purpose of investigating an actual or suspected violation relating to pesticides, ascertaining compliance or non-compliance with any rules, regulations or orders of the Department. The Department may conduct an inspection or sampling, and may procure samples for analysis or examination from any lot, package or parcel of pesticide or substance suspected to contain a pesticide. If the owner, operator or agent in charge of the place to be inspected is present, officers or employees of the Department shall notify him or her of their intent to inspect or sample, and inform him or her of the reason therefore. Having been so notified, no person shall prevent officers or employees of the Department from conducting such inspection or sampling.

(b) Notification pursuant to (a) above may also consist of a "Notice Of Attempt To Contact" delivered by hand to an employee, an owner, operator or agent in charge, or sent by certified mail, receipt acknowledged.

1. When such "Notice" has been sent by certified mail, the owner, operator or agent in charge of the place to be inspected shall have one week after the date of delivery to contact the Department, Pesticide Control Program and arrange for the inspection or sampling.

(c) Those portions of a private residence used for business purposes shall be accessible for inspection and sampling. These portions include, but are not limited to, the office and recordkeeping areas, storage areas, mixing/loading sites, and vehicle parking areas.

(d) Compliance with *N.J.A.C. 7:30-3.6* shall be a condition of licensing for any out-of-State licensee.

§ 7:30-3.7 Records

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

1. The name and address of the purchaser and the name and address of the purchaser's employer. If the purchaser is self-employed, the name and address of his or her business;

2. The brand or trade name and the EPA product registration number of each restricted use pesticide distributed or sold;

3. The quantity of each restricted use pesticide distributed or sold;

4. The date of the distribution or sale;

5. The certified pesticide applicator license number used by the purchaser at the time of sale or distribution. If any of the acceptable alternatives to a State of New Jersey pesticide applicator's license, as specified in *N.J.A.C. 7:30-3.8*, are used, the certification or license number or other proof used, shall be recorded in lieu of the certified pesticide applicator license number; and

6. If the purchaser's employer or business is a licensed pesticide applicator business, the license number of the pesticide applicator business.

(b) The records or copies thereof shall be kept for a minimum of three years. These records may be kept by a pesticide dealer business pursuant to the provisions of *N.J.A.C. 7:30-4*.

(c) All records and information required to be kept pursuant to this section shall be immediately provided to the Department upon request. Such records shall also be immediately provided to medical personnel in emergency cases.

(d) The records of sale or distribution for all pesticides used under a State or Federal Experimental Use Permit, FIFRA Emergency Exemption or Section 24(c), Special Local Need registration shall be kept separately from the other records of sale or distribution.

§ 7:30-3.8 Sale of restricted use pesticides

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

1. For the purpose of this section, the presentation of only a pesticide operator's license is not acceptable.

2. For the purpose of this section, a valid certification issued by a Federal agency shall be acceptable in lieu of a State of New Jersey pesticide applicator's license if the purchaser is applying a pesticide on property or premises owned or rented by the Federal government, if the purchaser is a Federal employee engaged in the performance of his or her official duties, and if the purchaser has been certified as an applicator of pesticides under a Federal agency plan which has been approved by the United States Environmental Protection Agency pursuant to the provisions of Section 4 of FIFRA *(7 U.S.C. § 136*(*l*)), as amended.

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

i. Public Water Treatment System license;

ii. Public Water Distribution System license;

iii. Public Wastewater Treatment System license;

iv. Public Wastewater Collection System license; or

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

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

5. For the purposes of this section, sale of a New Jersey State restricted use pesticide to an end user who will not be using it in New Jersey, shall not require a valid pesticide applicator license.

i. The dealer shall meet all the recordkeeping requirements pursuant to *N.J.A.C. 7:30-3.7*, with the exception of *N.J.A.C. 7:30-3.7(a)*5 and 6.

ii. The dealer shall also obtain a statement signed by the end user that the New Jersey restricted use pesticide shall not be used in New Jersey.

iii. This paragraph applies only to pesticide dealers physically located within the boundaries of the State of New Jersey.

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

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

1. Misrepresent the degree of certification and licensing required by such person to apply the pesticide being distributed, sold or offered for sale; or

2. Disseminate misinformation as to the correct use of the pesticide as provided in the Act and this Chapter.

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

§ 7:30-3.9 Sale of general use pesticides

(a) No pesticide dealer shall sell any general use pesticide to an unlicensed person who they know must be certified and licensed under the provisions of *N.J.A.C. 7:30-6, 7 or 8* unless the dealer gives or has previously given the buyer the Pesticide Program's information sheet on certification and licensing.

1. A record equivalent to that required under *N.J.A.C. 7:30-3.7(a)* shall be kept for each sale referenced in (a) above (except the license number of the certified pesticide applicator and license number of the pesticide applicator business).

(b) Indications that a person must be so certified and licensed include, but are not limited to, purchasing under the name of a business, farm, apartment complex, school or municipality.

(c) The record of sale shall be kept for a minimum of three years, and shall be immediately provided to the Department upon request.

§ 7:30-3.10 Assignment of work

No person shall require any individual to distribute restricted use pesticides unless such person is certified and licensed as a pesticide dealer or working under the direct supervision of a responsible dealer pursuant to *N.J.A.C. 7:30-3.1(a)*.

§ 7:30-3.11 Denial, suspension, or revocation of pesticide dealer license

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

1. Deny an application for a license as a pesticide dealer;

2. Revoke a pesticide dealer license;

3. Suspend a pesticide dealer license;

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

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

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

3. Falsifying or making misleading statements in the application for pesticide dealer certification or licensing;

4. Falsifying or failing to keep required records;

5. Allowing the dealer license to be used by any person for any purpose which will evade or be in violation of the provisions of the Act or this chapter;

6. Evading or attempting to evade the provisions of the Act or this chapter, or aiding, abetting, combining with, or conspiring with any person for any purpose which will evade or be in violation of the provisions of the Act or this chapter;

7. Selling or distributing a pesticide in such a manner as to cause harm, injury or damage or a significant risk of harm, injury or damage to the public health, safety or welfare or the environment.

(c) In the event of the issuance of a final order assessing a civil penalty under Section 14(a) *(7 U.S.C. § 136*(l)) of the Federal Insecticide, Fungicide, and Rodenticide Act *(7 U.S.C. §§ 135* et seq.) or a criminal conviction under Section 14(b) *(7 U.S.C. § 136*(l)), the Department shall review and may suspend or revoke the license of any person so assessed or convicted.

(d) Where the Department acts pursuant to (a) above, the Department shall afford a hearing pursuant to the Administrative Procedure Act, *N.J.S.A. 52:14B-1* et seq., and the Uniform Administrative Rules of Practice, *N.J.A.C. 1:1*, to any person who is aggrieved by the order and who has applied to the Department for a hearing within 20 days after issuance of the order.

(e) The dealer shall return the certified dealer license to the Department, Pesticide Control Program within two weeks of a suspension or revocation.

§ 7:30-3.12 Reciprocity

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

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

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

2. The registrant demonstrates to the examination provider, through testing, a knowledge of relevant New Jersey pesticide control laws, rules, and regulations; and

3. All applicable fees are paid. The examination provider shall charge the applicable fee for an examination, notwithstanding that it has waived all or a portion of the initial certification testing in accordance with (a) above.

§ 7:30-3.13 Container and containment rule

No person shall hold, use, distribute, sell, or offer for sale within this State or deliver for transportation or transport in intrastate commerce or between points within this State or between points within this State through any point outside this State any pesticide or pesticide container, unless he or she complies with the requirements of 40 CFR Parts 9, 156 and 165 (otherwise known as the Federal Container and Containment regulations).

SUBCHAPTER 4. PESTICDE DEALER BUSINESSES

§ 7:30-4.1 Licensing

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

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

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

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

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

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

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

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

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

(d) An annual license fee of $ 150.00 shall be paid to the Department at the time of licensing for each separate license. The license period shall end on October 31 of each calendar year.

(e) Applications for new licenses will be accepted from pesticide dealer businesses throughout the calendar year, but a full year's license fee will be required. All such licenses will expire on October 31 following the date of application except that the Department may issue a license for an additional year when an application is initially filed during the last three months of the license year.

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

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

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

1. If a pesticide dealer business license is voided, the license card shall be returned to the Department, Pesticide Control Program.

(i) Every pesticide dealer business shall post in a conspicuous and accessible area a list of persons to contact in case of a pesticide accident. This list shall include, but not necessarily be limited to, the name, address, and telephone number of the New Jersey Poison Information and Education System, the telephone number of the Department environmental action hot line, and the telephone number of the local fire department.

(j) The Department may grant an exemption from the provisions of this subchapter to any person who has shown to the satisfaction of the Department that compliance with the provisions of this subchapter shall result in undue hardship and that granting of the exemption shall not, in the opinion of the Department, result in danger or financial loss to man or the environment.

1. Examples of situations to which (j) above may apply include, but are not limited to:

i. An applicator business going out of business;

ii. A private applicator going out of business; or

iii. The death of an applicator or dealer who still holds restricted use pesticides.

2. In situations where the Department has granted an exemption, the recordkeeping requirements and distribution restrictions mandated by *N.J.A.C. 7:30-4.2* and *4.3*, with the exception of *N.J.A.C. 7:30-4.2(a)* 7, shall be followed.

i. Upon request by the Department, all records of sale shall be sent to the Pesticide Control Program, Attn. RUP Sales Records, PO Box 411, Trenton, NJ 08625-0411.

§ 7:30-4.2 Records

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

1. The name and address of the purchaser and the name and address of the purchaser's employer. If the purchaser is self-employed, the name and address of his business shall be kept;

2. The brand or trade name and the EPA product registration number of each restricted use pesticide distributed or sold;

3. The quantity of each restricted use pesticide distributed or sold;

4. The date of the distribution or sale;

5. The certified pesticide applicator license number used by the purchaser at the time of sale or distribution. If any of the acceptable alternatives to a State of New Jersey pesticide applicator's license, as specified in *N.J.A.C. 7:30-4.3* are used, the certification or license number or other proof used, shall be recorded in lieu of the certified pesticide applicator license number;

6. If the purchaser's employer or business is a licensed pesticide applicator business, the license number of the pesticide applicator business; and

7. The name of the responsible pesticide dealer associated with the physical distribution and/or sale of restricted use pesticides.

(b) The records or copies thereof shall be kept for a minimum of three years at the pesticide outlet from which the distribution and/or sale was made.

(c) All records and information required to be kept pursuant to this section shall be immediately provided to the Department upon request. Such records shall also be immediately provided to medical personnel in emergency cases. In addition, all records of restricted use pesticide sales performed by a person supervised by a licensed dealer shall be kept at the same pesticide outlet as the person supervising.

(d) The records of sale or distribution for all pesticides used under a State or Federal Experimental Use Permit, FIFRA Emergency Exemption or Section 24(c), Special Local Needs registration shall be kept separately from the other records of sale or distribution.

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§ 7:30-4.3 Sale of restricted use pesticides

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

1. For the purposes of this section, the presentation of only a commercial pesticide operator's license is not acceptable.

2. For the purposes of this section, a valid certification issued by a Federal agency shall be acceptable in lieu of a State of New Jersey pesticide applicator's license if the purchaser is applying a pesticide on property or premises owned or rented by the Federal government, if the purchaser is a Federal employee engaged in the performance of his or her official duties, and if the purchaser has been certified as an applicator of pesticides under a Federal agency plan which has been approved by the United States Environmental Protection Agency pursuant to the provisions of Section 4 of FIFRA *(7 U.S.C. § 136*(l)), as amended.

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

i. Public Water Treatment System license;

ii. Public Water Distribution System license;

iii. Public Wastewater Treatment System license;

iv. Public Wastewater Collection System license; or

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

4. The exemptions in (a)3 above are valid unless Federal regulation is changed to exclude them.

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

6. For the purposes of this section, sale of a New Jersey State restricted use pesticide to an end user who will not be using it in New Jersey, shall not require a valid pesticide applicator license.

i. The dealer shall meet all the recordkeeping requirements pursuant to *N.J.A.C. 7:30-4.2*, with the exception of *N.J.A.C. 7:30-4.2(a)*5 and 6.

ii. The dealer shall also obtain a statement signed by the end user, that the New Jersey restricted use pesticide shall not be used in New Jersey.

iii. This paragraph applies only to pesticide dealers physically located within the boundaries of the State of New Jersey.

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

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

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1. For the purposes of *N.J.A.C. 7:30-3* and this subchapter, a person is under direct supervision only if the person supervised and the person supervising are employed at the same pesticide outlet.

2. "Employed at the same pesticide outlet" means that the person supervising and the person supervised shall both have physical work spaces at the same pesticide outlet. In addition, all records of restricted use pesticide sales performed by the person supervised shall be kept at the same site as the person supervising and shall be immediately available upon request by the Department.

§ 7:30-4.4 Sale of general use pesticides

(a) No pesticide dealer business shall sell any pesticide to an unlicensed person who they know should be certified and licensed under the provisions of N.J.A.C. 7:30-6 or 8 unless the dealer business gives or has previously given the buyer the Department's information sheet on certification and licensing.

1. A record equivalent to that required under *N.J.A.C. 7:30-4.2(a)* shall be kept for each sale referenced in *N.J.A.C. 7:30-4.4(a)* above (except the license number of the certified pesticide applicator and license number of the pesticide applicator business).

(b) Indications that a person must be so certified and licensed include, but are not limited to, purchasing under the name of a business, farm, apartment complex, school or municipality.

(c) The record of sale shall be kept for a minimum of three years and shall be immediately provided to the Department upon request.

§ 7:30-4.5 Right of entry or collection of samples

(a) In order to determine compliance with the requirements of the Act or rules promulgated thereunder, the Department may, at reasonable hours, enter any building or place except private residences pursuant to (c) below, for the purpose of investigating an actual or suspected violation relating to pesticides, ascertaining compliance or non-compliance with any rules, regulations or orders of the Department. The Department may conduct an inspection or sampling, and may procure samples for analysis or examination from any lot, package or parcel of pesticide or substance suspected to contain a pesticide. If the owner, operator or agent in charge of the place to be inspected is present, officers or employees of the Department shall notify him or her of their intent to inspect or sample, and inform him or her of the reason therefore. Having been so notified, no person shall prevent officers or employees of the Department from conducting such inspection or sampling.

(b) Notification pursuant to (a) above may also consist of a "Notice Of Attempt To Contact" delivered by hand to an employee, an owner, operator or agent in charge, or sent by certified mail, receipt acknowledged.

1. When such "Notice" has been sent by certified mail, the owner, operator or agent in charge of the place to be inspected shall have one week after the date of delivery to contact the Department, Pesticide Control Program and arrange for the inspection or sampling.

(c) Those portions of a private residence used for business purposes shall be accessible for inspection and sampling. These portions include, but are not limited to, the office and recordkeeping areas, storage areas, mixing/loading sites, and vehicle parking areas.

(d) Compliance with this section shall be a condition of licensing for any out-of-State licensee.

§ 7:30-4.6 Assignment of work

No person shall require any individual to distribute restricted use pesticides unless such person is certified and licensed as a pesticide dealer or working under the direct supervision of a responsible dealer pursuant to *N.J.A.C. 7:30-4.1(a)*.

§ 7:30-4.7 Denial, suspension, or revocation of a pesticide dealer business license

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

1. Deny a license application for a pesticide dealer business;

2. Revoke a pesticide dealer business license;

3. Suspend a pesticide dealer business license.

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

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

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

3. Falsifying or making misleading statements in the license application for a pesticide dealer business;

4. Failing to keep or falsification of required records;

5. Allowing the dealer business license to be used by any person for any purpose which will be in violation of the provisions of the Act or this chapter;

6. Evading or attempting to evade the provisions of the Act or this subchapter or aiding, abetting, combining with, or conspiring with any person for any purpose which will evade or be in violation of the provisions of the Act or this chapter;

7. Selling or distributing a pesticide in such a manner as to cause harm, injury or damage or a significant risk of harm, injury or damage to the public health, safety or welfare or the environment.

(c) In the event of the issuance of a final order assessing a civil penalty under Section 14(a) *(7 U.S.C. § 136*(l)) of the Federal Insecticide, Fungicide, and Rodenticide Act *(7 U.S.C. § 135* et seq.) or a criminal conviction under Section 14(b) *(7 U.S.C. § 136*(l)), the Department will review and may suspend or revoke the license of any person so assessed or convicted.

(d) Where the Department acts pursuant to (a) above, the Department shall afford a hearing pursuant to the Administrative Procedure Act, *N.J.S.A. 52:14B-1* et seq., and the Uniform Administrative Rules of Practice, *N.J.A.C. 1:1*, to any person who is aggrieved by the order and who has applied to the Department for a hearing within 20 days of issuance of the order.

(e) The pesticide dealer business shall return the pesticide dealer business license to the Department, Pesticide Control Program within two weeks of a suspension or revocation.

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§ 7:30-4.8 Container and containment rule

No person shall hold, use, distribute, sell, or offer for sale within this State or deliver for transportation or transport in intrastate commerce or between points within this State or between points within this State through any point outside this State any pesticide or pesticide container, unless he or she complies with the requirements of 40 CFR Parts 9, 156 and 165 (otherwise known as the Federal Container and Containment regulations).

SUBCHAPTER 5. COMMERCIAL PESTICIDE OPERATORS

§ 7:30-5.1 General requirements

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

1. Such person is certified and licensed as a commercial pesticide applicator;

2. Such person is at least 18 years of age and working under the direct supervision of a responsible commercial pesticide applicator who is present at the time and place of application and visual and audio contact sufficient to ensure proper application is maintained.

i. For the purposes of this subchapter, a person is under direct supervision only if the person supervised and the person supervising are employed by the same employer.

ii. Commercial pesticide operators who work for a pesticide applicator business are considered under direct supervision only if the person supervised and the person supervising are employed at the same physical location. "Employed at the same physical location" means that the person supervising and the person supervised shall both have physical work spaces at the same physical location. In addition, all records of pesticide application performed by the person supervised shall be kept at the same physical location as the person supervising and shall be immediately available upon request by the Department pursuant to *N.J.A.C. 7:30-6.8 or 7.3*; records kept at a temporary seasonal facility during the spray season, may be transferred to the main facility at the end of the spray season;

3. Such person is applying any "minimum risk" pesticide which has been exempted from regulation by the US EPA under 40 CFR Part 152; or

4. Such person is exempt under the provisions of *N.J.S.A. 13:1F-1a*, namely local or county health inspectors who use only general use pesticides as flushing agents, such as pyrethrum sprays, to check for insect infestations during the normal course of their job.

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

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

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

(e) No commercial pesticide operator shall perform an aerial application of any pesticide.

§ 7:30-5.2 Training

(a) In order to meet the requirements for training, a commercial pesticide operator who has never before been licensed as an operator or who has lost his or her license pursuant to *N.J.A.C. 7:30-5.4(b)* shall:

1. Complete a Department approved commercial pesticide operator training course;

i. The Department-approved commercial pesticide operator training course shall provide the commercial pesticide operator with a working knowledge of, at a minimum, the following information:

(1) The proper use of the application equipment;

(2) The hazards that may be involved in applying the pesticides;

(3) Instruction for mixing pesticides to be used in particular circumstances;

(4) Protective clothing and safety equipment required during the handling and application of pesticides;

(5) General precautions to be followed in the disposal of containers as well as the cleaning and decontamination of the equipment which the certified pesticide operator proposes to use;

(6) Applicable State and Federal pesticide laws and regulations;

(7) An understanding of how to correctly interpret pesticide label and labeling information; and

(8) An understanding of the principles of integrated pest management (IPM); and

2. Complete a minimum of 40 hours of "on-the-job" practical training sufficient to allow the commercial pesticide operator to competently perform the functions associated with any applications in which the commercial pesticide operator is expected to be involved.

i. The commercial pesticide operator in training shall witness or perform at least the minimum number of pesticide applications during the 40 hours of "on-the-job" training in each of the following categories of work for which they are trained:

Category of Work	Minimum Number of Applications
Category 1A--Plant:	5
Category 1B--Animals:	2
Category 2--Forest pest control:	2
Category 3A--Ornamental:	15
Category 3B--Turf:	15
Category 3C--Interior plantscaping:	15
Category 4--Seed treatment:	2
Category 5--Aquatic pest control:	5
Category 6A--General vegetation management:	10
Category 6B--Right of Way:	5
Category 7A--General and household pest control:	15
Category 7D--Food manufacturing and processing:	5

Category 7E--Wood preserving pest control:	2
Category 7F--Antifoulants:	2
Category 8A--General Public Health:	15
Category 8B--Mosquito control:	5
Category 8C--Campground pest control:	5
Category 8D--Cooling water pest control:	2
Category 8E--Sewer Root control:	2
Category 8F--Pet grooming:	15
Category 9--Regulatory pest control:	5
Category 12A--Water Sanitization:	10
Category 12B--Sterilization:	15

ii. Proof of such applications shall consist of the records of application signed by both a licensed pesticide applicator and the commercial pesticide operator in training, or any other Department approved record. Such records shall be kept for a minimum of three years and shall be immediately available upon request by the Department.

iii. A responsible pesticide applicator shall be present during any part of the "on-the-job" training which requires the commercial pesticide operator in training to apply pesticides.

(b) As an alternative to the minimum of 40 hours of "on-the-job" training required in (a)2 above, the commercial pesticide operator in training may witness or perform demonstrations of the types of pesticide applications which the commercial pesticide operator shall perform in the future.

1. Such demonstrations shall be equivalent to the "on-the-job" training except that no actual pesticide is used in the demonstration.

(c) Any required training course or materials developed under an agreement with the Department shall be considered Department-approved.

§ 7:30-5.3 Licensing

(a) When the commercial pesticide operator has satisfied the training requirements pursuant to *N.J.A.C. 7:30-5.2(a)* and is eligible for the commercial pesticide operator's license, the commercial pesticide operator shall file with the Department, on forms provided by the Department, a license application. The application shall be co-signed by a certified and licensed responsible pesticide applicator and shall indicate that the co-signer shall be the responsible pesticide applicator for pesticide applications performed by the commercial pesticide operator. A license fee of $ 30.00 shall be included as an integral part of the commercial pesticide operator license application.

1. The commercial pesticide operator shall have 30 days after the post mark date of the license application in which to operate before he or she must be licensed.

2. License application forms may be obtained by contacting the Pesticide Control Program, PO Box 411, Trenton, NJ08625-0411.

(b) The license shall expire on October 31 of each license year.

(c) Applications for new licenses will be accepted from commercial pesticide operators throughout the calendar year but a full term's license fee will be required. All such licenses will expire on October 31 following the date of application, except that the Department may issue a license

for an additional year when an application is initially filed during the last three months of the license year.

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

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

i. Any commercial pesticide operator whose license has become void as a result of a change in his or her responsible pesticide applicator, but who has continued to work for the same employer, shall obtain a signed statement from the new responsible pesticide applicator that the commercial pesticide operator is now applying pesticides under the direct supervision of the new pesticide applicator. This statement shall be sent to the Department, Pesticide Control Program.

ii. In the circumstance where a responsible pesticide applicator is temporarily unavailable if and when needed, such as when sick or on vacation, etc., the commercial pesticide operator shall be allowed to apply pesticides in accordance with hsi current license for a period of 30 days only if the commercial pesticide operator is applying pesticides under the direct supervision of another certified and licensed pesticide applicator, working for the same employer. This is allowable, even if the supervising applicator is not employed at the same physical location as the commercial pesticide operator.

2. Any commercial pesticide operator, whose license has become void due to a change in employer, shall apply for a new commercial pesticide operator's license.

i. The Department shall require an additional 40 hours of "on the job" training pursuant to *N.J.A.C. 7:30-5.2(a)*2.

ii. The Department approved commercial pesticide operator training course shall not have to be retaken.

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

(f) The commercial pesticide operator shall notify the Department, Pesticide Control Program, in writing and within 30 days, of any changes in the information contained on the license application.

(g) The co-signer of the application for the commercial pesticide operator license shall notify the Department, Pesticide Control Program, in writing and within 30 days, of any changes in the information contained on the commercial pesticide operator license application if such notification has not already been given to the Department by the commercial pesticide operator.

(h) The commercial pesticide operator shall maintain his or her license on his or her person whenever pesticides are transported or a pesticide application is performed.

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

§ 7:30-5.4 License renewal

(a) A commercial pesticide operator shall renew the commercial pesticide operator license annually on a form provided by the Department, Pesticide Control Program and, pay the license renewal fee of $ 30.00.

(b) If a commercial pesticide operator fails to become licensed for two consecutive license periods, the commercial pesticide operator shall lose eligibility for commercial pesticide operator licensing and shall reapply to become a commercial pesticide operator pursuant to the provisions of *N.J.A.C. 7:30-5.2* and *5.3*.

§ 7:30-5.5 Records

The records of each application of pesticides made by a commercial pesticide operator shall be kept by the co-signer of the commercial pesticide operator's license application in the manner delineated in *N.J.A.C. 7:30-6.8* or by the pesticide applicator business which employs the commercial pesticide operator in the manner delineated in *N.J.A.C. 7:30-7.3*.

§ 7:30-5.6 Right of entry or collection of samples

(a) In order to determine compliance with the requirements of the Act or rules promulgated thereunder, the Department may, at reasonable hours, enter any building or place except private residences pursuant to (c) below, for the purpose of investigating an actual or suspected violation relating to pesticides, ascertaining compliance or non-compliance with any rules, regulations or orders of the Department. The Department may conduct an inspection or sampling, and may procure samples for analysis or examination from any premises, lot, package or parcel of pesticide or substance suspected to contain a pesticide. If the owner, operator or agent in charge of the place to be inspected is present, officers or employees of the Department shall notify him or her of their intent to inspect or sample and inform him or her of the reason therefore. Having been so notified, no person shall prevent officers or employees of the Department from conducting such inspection or sampling.

(b) Notification pursuant to (a) above may also consist of a "Notice Of Attempt To Contact" delivered by hand to an employee, an owner, operator or agent in charge, or sent by certified mail, receipt acknowledged.

1. When such "Notice" has been sent by certified mail, an owner, operator or agent in charge of the place to be inspected shall have one week after the date of delivery to contact the Department, Pesticide Control Program and arrange for the inspection or sampling.

(c) Those portions of a private residence used for business purposes shall be accessible for inspection and sampling. These portions include, but are not limited to, the office and recordkeeping areas, storage areas, mixing/loading sites, and vehicle parking areas.

(d) Compliance with *N.J.A.C. 7:30-5.6* shall be a condition of licensing for any out-of-State licensee.

§ 7:30-5.7 Denial, suspension, or revocation of commercial pesticide operator license

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

1. Deny a license application for a commercial pesticide operator;

2. Revoke a commercial pesticide operator license;

3. Suspend a commercial pesticide operator license.

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

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

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

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

4. Making a pesticide application not in accordance with the pesticide label, except as allowed by the EPA, or not in accordance with administrative actions on specific pesticide(s) taken by the EPA, or not in accordance with the specifications of a special local need registration or not in accordance with use restrictions imposed by the Department under the authority of 7:30-10.1(a).

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

6. Falsifying or making misleading statements in the application for a commercial pesticide operator license;

7. Evading or attempting to evade the provisions of the Act or this chapter, or aiding, abetting, combining with, or conspiring with any person for any purpose which will evade or be in violation of the provisions of the Act or this chapter;

8. Using another person's certification or license with or without the other person's knowledge.

(c) In the event of the issuance of a final order assessing a civil penalty under section 14(a) *(7 U.S.C. § 136*(l)) of the Federal Insecticide, Fungicide, and Rodenticide Act *(7 U.S.C. §§ 135* et seq.) or a criminal conviction under section 14(b) *(7 U.S.C. § 136*(l)), the Department will review and may suspend or revoke the license of any person so assessed or convicted.

(d) No person having a commercial pesticide operator license which has been revoked or suspended shall be allowed to become licensed as a commercial pesticide applicator or to apply pesticides under the direct supervision and in the line-of-sight of a licensed pesticide applicator who is physically present at the application location, during the time period in which the revocation or suspension is in effect.

1. If the license of a commercial pesticide operator is suspended, revoked, or is otherwise invalidated, the license shall be returned to the Department, Pesticide Control Program within 14 days of such revocation or suspension.

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

tive Rules of Practice, *N.J.A.C. 1:1*, to any person who is aggrieved by the order and who has applied to the Department for a hearing within 20 days of issuance of the order.

§ 7:30-5.8 Requirement for commercial pesticide operator certification and licensing as pesticide applicators

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

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

(c) Failure to comply with (a) and (b) above will result in the commercial pesticide operator license being immediately suspended pending the outcome of a hearing which shall be granted the registrant upon request. Such a hearing shall be granted on an expedited basis and shall be conducted pursuant to the Administrative Procedure Act, *N.J.S.A. 52:14B-1* et seq. and the Uniform Administrative Rules of Practice, *N.J.A.C. 1:1*.

§ 7:30-5.9 (Reserved)

SUBCHAPTER 6. COMMERCIAL PESTICIDE APPLICATORS

§ 7:30-6.1 General requirement and exemptions

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

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

2. Such person is using a general use pesticide by equipment other than aerial for himself or herself or his or her employer on premises owned or rented by him or her or his or her employer and utilized for non-residential purposes, provided all of the following are true:

i. An exterior application itself does not involve more than three acres of land;

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

iii. The property or premises to which the pesticide is applied indoors is not utilized by more than 10 employees; and

iv. The application is not made to a school, or day care center;

3. Such person is using pesticides by equipment, other than aerial, under the direct supervision of a responsible commercial pesticide applicator and where an employer-employee relationship exists between the person supervising the application and the person applying the pesticide, and where that person meets the requirements of *N.J.A.C. 7:30-5*;

i. For the purposes of this subchapter, a person is under direct supervision only if the person supervised and the person supervising are employed by the same employer at the same physical location.

ii. "Employed at the same physical location" means that the person supervising and the person supervised shall both have physical work spaces at the same physical location;

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

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

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

5. Such person is using antimicrobial agents unless such agents have been classified as restricted use pesticides or such agents are being used in the pulp or paper process, or in the cooling waters of cooling towers or similar cooling devices;

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

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

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

9. Such person is using chlorine gas, a restricted use antimicrobial agent, and is a holder of, or is working under the direct supervision of a holder of, one of the valid operator licenses listed in (a)9i through v below, provided that the operator license held is the proper one for the facility where the chlorine gas is being used:

i. Public Water Treatment System license;

ii. Public Water Distribution System license;

iii. Public Wastewater Treatment System license;

iv. Public Wastewater Collection System license; or

v. Industrial Wastewater Treatment Systems License, except NN license;

vi. The exemptions in this paragraph are valid unless Federal regulation is changed to exclude them;

10. Such person is using a general use pesticide, such as a general use aerosol, in a manner limited to spot applications for personal safety against stinging insects, provided that the application is to an exterior site which will not potentially expose anyone except the user;

11. Such person is using any "minimum risk" pesticide exempted from regulation by *N.J.A.C. 7:30-2.1(m)*5; or

12. Such person is exempt under the provisions of *N.J.S.A. 13:1F-1a*, namely local or county health inspectors who use only general use pesticides as flushing agents, such as pyrethrum sprays, to check for insect infestations during the normal course of their job.

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

(c) Persons exempt under this section from all certification requirements shall not be considered to be commercial pesticide applicators, except that the exemption listed in (a)2 above shall not apply to any employee of a governmental agency (except for those exempt under the provisions of *N.J.S.A. 13:1F-1a*, namely local or county health inspectors who use only general use pesticides as flushing agents, such as pyrethrum sprays, to check for insect infestations during the normal course of their job) who engages in the use and application of pesticides as is necessary within the scope of his or her employment.

(d) Any person who believes that compliance with the provisions of this subchapter with respect to the requirements of (a) above will result in undue hardship, may apply to the Department for an exemption from the provisions of this subchapter, setting forth his or her reasons and justifications therefore, provided the proposed application is limited to general use pesticides to be applied on private property not open to the general public.

(e) Possession or storage of any pesticide on a vehicle which meets the definition of a service vehicle, under circumstances which are not listed as exceptions pursuant to (a) above or *N.J.A.C. 7:30-8.1(a)* is considered as evidence that the user, owner or lessee of the vehicle is a commercial pesticide applicator and is required to be registered pursuant to this subchapter. Such person may also be required to register as a commercial pesticide applicator business pursuant to *N.J.A.C. 7:30-7.*

§ 7:30-6.2 Certification and training

(a) In order to become certified, an applicant for a commercial pesticide applicator license who has never before been licensed or who has lost certification pursuant to the requirements of *N.J.A.C. 7:30-6.5* or *6.6(b)*, shall pass a core examination, as well as a specific category examination, which shall be written and, when deemed necessary by the Department, may include performance testing. The examinations shall include, but not be limited to, all areas of required knowledge set forth in Federal regulations 40 CFR 171. The core examination shall include such areas as pesticide handling and safety, environmental considerations, symptoms of pesticide poisoning and current laws and regulations. The category or subcategory examination shall include areas of required knowledge, that are specific to the commercial category or subcategory in which the applicant has applied to be certified.

1. The examination shall be Department-approved and administered by the Department or a third party approved by the Department.

2. The third party may charge a fee for administering an examination.

3. The Department will charge $100.00 for each examination that it administers.

(b) The applicant shall further fulfill the following training and certification requirements:

1. To be eligible to take the core examination, each applicant shall submit to the examination provider proof of completion of a Department-approved basic training course, which shall provide the pesticide applicator with a working knowledge, at a minimum, of the following:

i. The proper use of application equipment;

ii. The potential hazards that may be involved in applying pesticides;

iii. Instruction for mixing pesticides to be used in particular circumstances;

iv. Protective clothing and safety equipment required during the handling and application of pesticides;

v. General precautions to be followed in the disposal of containers as well as the cleaning and decontamination of equipment;

vi. Applicable State and Federal pesticide laws and regulations;

vii. An understanding of how to correctly interpret pesticide label and labeling information; and

viii. An understanding of the principles of integrated pest management (IPM).

2. To be eligible to take a category examination, each applicant shall complete a minimum of 40 hours of "on-the-job" practical training sufficient to allow the applicant to competently perform the functions associated with any pesticide applications in which the applicant is expected to be involved.

i. The applicant shall be instructed on recognition of pests, their biology and signs of infestation to ensure an understanding of the pest(s) to be controlled.

ii. The applicant shall witness or perform at least the minimum number of pesticide applications during the 40 hours of "on-the-job" training in each of the following categories of work for which they are trained:

Category of Work	Minimum Number of Applications
Category 1A--Plant:	5
Category 1B--Animals:	2
Category 2--Forest	2
Category 3A--Ornamental:	15
Category 3B--Turf:	15
Category 3C--Interior plantscaping:	15
Category 4--Seed treatment:	2
Category 5--Aquatic pest control:	5
Category 6A--General vegetation management:	10
Category 6B--Right of Way:	5
Category 7A--General and household pest control:	15

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Category of Work	Minimum Number of Applications
Category 7B--Termites and other wood destroying pests:	
Category 7C--Fumigation pest control:	2
Category 7D--Food manufacturing and processing:	5
Category 7E--Wood preserving pest control:	2
Category 7F--Antifoulants:	2
Category 8A--General Public Health:	15
Category 8B--Mosquito control:	5
Category 8C--Campground pest control:	5
Category 8D--Cooling water pest control:	2
Category 8E--Sewer Root Control:	2
Category 8F--Pet grooming:	15
Category 9--Regulatory pest control:	5
Category 11--Aerial Pest	10
Category 12A--Water Sanitization:	10
Category 12B--Sterilization:	15

iii. Proof of such applications shall consist of the records of application signed by both a responsible pesticide applicator and the applicant, or any other Department approved record. Such records shall be kept for a minimum of three years and shall be immediately available upon request by the Department;

iv. Proof of the required training shall be submitted with the application for examination.

v. A responsible certified and licensed pesticide applicator shall be present during any part of the "on-the-job" training which requires the applicant to apply pesticides.

3. If "on-the-job" training is unavailable for reasons deemed sufficient by the examination provider, the applicant may do one of the following in lieu of (b)2 above:

i. Arrange for an internship to receive the 40 hours of "on-the-job" training from a Department-approved trainer, company or school;

ii. Complete a Department-approved category training course which covers pest biology, pest identification, and signs of infestation to ensure an understanding of the pest(s) to be controlled, and demonstrates techniques specific for that category sufficient to meet the "on-the-job" training objectives; or

iii. Submit an affidavit to the examination provider attesting to proof of one year of work experience in the category desired. Such proof may consist of records of application or employment records, such as an employer's written statement attesting to the applications made during that employment. Such records shall be made available to the Department upon request.

4. If the minimum of 40 hours of on-the-job practical training or an internship of 40 hours is determined by the examination provider to be unavailable, then the examination provider shall waive

(b)2 and 3 above and may instead accept completion of a Department-approved correspondence course or online interactive computer course to satisfy training requirements.

5. Proof of the training required in (b)1, 2, 3, or 4 above shall be submitted to the examination provider with the application for examination.

6. Certification categories 10 and 11 are exempt from the training requirements above since training is required related to the specific category or subcategory to be carried out under these categories. See *N.J.A.C. 7:30-6.3(a)*10 and 11 for an explanation.

7. Certification category 11 requires training in aerial pest control only and is exempt from the 40 hour training requirements in the other categories. The 40 hours of training required in the aerial category will serve as sufficient proof to file an application to take any other category exam.

8. Certification category 13 is exempt from the training requirements above since any applicant requiring certification in this category will be required to pass any category or subcategory which is related to the specific type of pest control performed.

(c) Certification in both core and a category or subcategory shall be obtained within 12 months of the date of the first examination passed. Any person who does not meet the requirements of this subsection shall lose all certification and retake certification exams in accordance with the provisions of this subchapter.

(d) Any person who is assigned a certification examination date, and fails to be present on that examination date without just cause, shall be subject to a $ 50.00 fee.

(e) Application for the examination shall be submitted to the examination provider on a form approved by the Department, along with proof of training, no later than midnight of the closing date for the examination as determined by the examination provider.

1. The application form is available from the Bureau of Licensing and Registrations website at http://www.nj.gov/dep/enforcement/pcp/bpo.htm.

(f) After certification a pesticide applicator who elects to add one or more categories or subcategories to his or her certification shall be required to take only the category examination for such category or subcategory, and shall file a separate application with proof of training appropriate to that category.

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

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

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

(h) The examination provider may waive certification testing or may only require a "waiver" examination (a short examination covering the pesticide regulations) for such categories as 12B-Sterilization, where the applicant already holds the recognized training certificate, membership card, or license. The examination provider shall charge the applicable fee for an examination, notwithstanding that it has waived all or a portion of the certification testing. To become certified and licensed in New Jersey through the examination waiver process, the following items must be submitted to the examination provider:

1. A completed "Application for Pesticide Applicator Certification Examination" with the exam selection area left blank;

2. A copy of the certificate, membership card or license issued by the school indicating that the course was successfully completed; and

3. The completed waiver examination answer sheet.

(i) Any examination, form, or required training course or material used by a third party shall be approved by the Department. Any such materials developed under an agreement with the Department shall be considered Department-approved.

§ 7:30-6.3 Categories

(a) Any commercial pesticide applicator who satisfactorily completes the requirements for Core certification and training pursuant to *N.J.A.C. 7:30-6.2* may become certified in one or more of the following categories or subcategories:

1. Agricultural pest control;

i. Category 1A--Plant: This subcategory includes commercial pesticide applicators using or supervising the use of pesticides in the production of agricultural crops, including, but not limited to, tobacco, peanuts, cotton, feed grains, soybeans, and forage; vegetables, small fruits, tree fruits and nuts, as well as on grasslands and non-crop agricultural lands. This subcategory also includes the commercial fumigation of soil and agricultural products on agricultural establishments and the commercial use of chemigation.

ii. Category 1B--Animals: This subcategory includes commercial pesticide applicators using or supervising the use of pesticides on animals, including, but not limited to, beef cattle, dairy cattle, swine, sheep, horses, goats, poultry, and livestock, and to places on or in which animals are confined.

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

3. Landscaping pest control:

i. Category 3A--Ornamental: This subcategory includes commercial pesticide applicators using or supervising the use of pesticides to control pests in the maintenance and production of ornamentals. This subcategory also includes tick control in brush areas only.

ii. Category 3B--Turf: This subcategory includes commercial pesticide applicators using or supervising the use of pesticides to control pests in the maintenance and production of turf. This subcategory also includes vegetation control on commercial and residential sites only; flea and tick

control in turf areas only; and soil fumigation for turf only. Vegetation control on industrial sites, airport runways, dams or other embankments requires Category 6A, General vegetation management.

iii. Category 3C--Interior plantscaping: This subcategory includes commercial applicators using or supervising the use of pesticides to control pests in the maintenance of interior plantscapes.

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

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

6. Vegetation management:

i. Category 6A--General vegetation management: This subcategory includes commercial pesticide applicators using or supervising the use of pesticides for vegetation control at industrial sites, airport runways, dams and other embankments.

ii. Category 6B--Right of Way: This subcategory includes commercial pesticide applicators using or supervising the use of pesticides in the maintenance of public roads, industrial weed control on driveways, electric power lines, pipelines, railway rights-of-way, fence lines or other similar linear areas that cross boundaries and includes the application of insecticides to control pests of turf and ornamental plants in these settings.

7. Industrial, institutional, structural pest control:

i. Category 7A--General and household pest control: This subcategory includes commercial pesticide applicators using or supervising the use of pesticides to control general household pests including, but not limited to, roaches, ants, bees, ticks (inside and outside the structure), fleas (inside and outside the structure), rodents, other vertebrates and birds. Control for these pests may take place at residential, commercial, industrial and institutional sites including retail sales outlets where food is prepared, served, or stored.

ii. Category 7B--Termites and other wood destroying pests: This subcategory includes commercial pesticide applicators using or supervising the use of pesticides to control termites or other wood destroying pests.

iii. Category 7C--Fumigation pest control: This subcategory includes commercial pesticide applicators using or supervising the use of pesticides which may be classified as true fumigants.

iv. Category 7D--Food manufacturing and processing: This subcategory includes commercial pesticide applicators using or supervising the use of pesticides in and around food manufacturing, packaging and processing establishments including, but not limited to, meat packing plants, dairy product operations, canning, grain, milling, bottling, and coffee roasting plants, not including retail sales outlets. This is a composite subcategory which covers the types of pest control work found in Categories 3A, 3B, 6A, 7A and 7C for food manufacturing plants.

v. Category 7E--Wood preserving pest control: This subcategory includes commercial pesticide applicators using or supervising the use of restricted use pesticides to control fungi, insects, bacteria, marine borers and other wood destroying pests.

vi. Category 7F--Antifoulants: This subcategory includes commercial pesticide applicators using or supervising the use of restricted use antifouling paints or other agents on boat hulls and other areas to control barnacles, algae, and other marine pests.

8. Public health pest control:

i. Category 8A--General: This subcategory includes, but is not limited to, State, Federal, or other governmental employees using or supervising the use of pesticides in public health programs for the management and control of pests having medical and public health importance. This subcategory also includes flea and tick control inside and outside structures.

ii. Category 8B--Mosquito control: This subcategory includes commercial pesticide applicators using or supervising the use of pesticides for the management and control of mosquitoes.

iii. Category 8C--Campground pest control: This subcategory includes commercial pesticide applicators using or supervising the use of pesticides in locations having area(s) specifically designated for the purpose of erecting temporary shelters such as tents and cabins. These locations may or may not include areas which are used for recreational activities. This is a composite subcategory which covers the types of pest control application found in Categories 3A, 3B, 7B (except termites), 8A and 8B.

iv. Category 8D--Cooling water pest control: This subcategory includes commercial pesticide applicators using or supervising the use of pesticides to control microbial and other pests of cooling waters in cooling towers or other related areas.

v. Category 8E--Sewer root control: This subcategory includes commercial pesticide applicators using or supervising the use of root control agents applied in sewer lines.

vi. Category 8F--Pet grooming: This subcategory includes commercial pesticide applicators using or supervising the use of pesticides to control pests on animals normally kept as pets, including but not limited to fleas, ticks, or mites.

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

10. Category 10--Demonstration and research pest control: This category includes:

i. Individuals who demonstrate to the public the proper use and techniques of application of pesticides or supervise such demonstrations;

(1) Included in the group in (a)10i above are such persons as extension specialist and county agents, commercial representatives demonstrating pesticide products, and those individuals demonstrating methods used in public programs; and

ii. Persons conducting field research with pesticides.

(1) The group in (a)10ii above includes: State, Federal, commercial and other persons conducting field research on or utilizing pesticides.

iii. A person applying for certification in this category will be required to pass at least two examinations, for this category as well as an examination and training in any category or subcategory which is related to the specific type of demonstration or research to be carried out by the applicant.

11. Category 11--Aerial pest control: This category includes all pilots responsible for agricultural and other pest control. A person applying for certification in this category will be required to pass at least two examinations in addition to the core examination. These shall include a general examination of this category, as well as an examination in any category or subcategory which is related to the specific type of aerial application to be carried out by the applicant. However, the 40 hours of training pursuant to *N.J.A.C. 7:30-6.2(a)*3ii will be required for category 11 only.

12. Antimicrobial pest control:

i. Category 12A--Water sanitization: This subcategory includes commercial pesticide applicators using or supervising the use of restricted use antimicrobial agents for sanitizing water. This includes, but is not limited to, sanitizing water in swimming pools, hot tubs, spas, whirlpools, and in industrial, commercial, and manufacturing processes.

ii. Category 12B--Sterilization: This subcategory includes commercial pesticide applicators using or supervising the use of restricted use pesticides for sterilization of medical supplies and instruments. All of the following are considered to be a "use" of a restricted use sterilant and require certification:

(1) Changing supply tanks;

(2) Service persons using a sterilant to test the proper functions of a sterilizing chamber;

(3) Loading of the sterilization chamber;

(4) Monitoring during all parts of the chamber's automated cycle, with the exception of the aeration portion of the cycle; and

(5) Unloading the chamber.

13. Category 13--IPM in Schools: This category includes commercial pesticide applicators making applications on school buildings and grounds pursuant to the provisions of *N.J.A.C. 7:30-13*.

i. A person certified in this category shall also satisfactorily complete the requirement for certification in the category or subcategory related to the specific type of pest control the person will perform.

ii. An applicant for certification in this category is not subject to the requirement at *N.J.A.C. 7:30-6.2(a)*3ii.

(b) New categories: Whenever the Department determines that a particular type of pesticide application involves concepts included in more than one category or subcategory or concepts not addressed by an existing category or subcategory, the Department may establish a special category or subcategory which will incorporate such concepts. A person may apply pesticides in the special category or subcategory for a period of time which does not exceed 90 days after the date that the examination for the special category or subcategory has become available.

§ 7:30-6.4 Licensing

(a) Within 12 months after a person has become fully certified and eligible to become licensed as a commercial pesticide applicator, the certified commercial pesticide applicator shall complete and file with the Department a license application, and shall include as integral part of the application the annual license fee of $ 80.00.

1. A fee not to exceed $ 10.00 may be charged for each additional duplicate license issued.

2. Any certified pesticide applicator who fails to file within the 12 month period will lose certification status and shall again become certified in accordance with the provisions of this subchapter.

(b) The license year shall expire on October 31 of each calendar year.

(c) Applications for a new license will be accepted from certified commercial pesticide applicators throughout the calendar year but a full year's license fee will be required. All such licenses will expire on October 31 following the date of application, except that the Department may issue a license for an additional year when an application is initially filed during the last three months of the license year.

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

(e) A commercial pesticide applicator shall notify the Department, in writing within 30 days, if he or she changes any information on his or her license application.

(f) A commercial pesticide applicator shall maintain his or her license on his or her person whenever pesticides are used.

(g) Rutgers University Cooperative Extension personnel who participate as instructors or in the preparation of subject matter for applicator certification and/or recertification training programs shall be exempt from the fee requirements as provided in (a) above and *N.J.A.C. 7:30-6.5(a)*.

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

§ 7:30-6.5 License renewal

(a) A certified commercial pesticide applicator shall renew his or her license annually with the Department and pay the license renewal fee of $ 80.00.

(b) A licensed commercial pesticide applicator who has not become licensed with the Department for two consecutive license years shall lose certification status and shall again become certified and licensed in accordance with the provisions of this subchapter.

§ 7:30-6.6 Recertification

(a) In order to maintain his or her certification, the commercial pesticide applicator shall meet the requirements for recertification as specified by the Department. If the requirements for recertification are not met, the commercial pesticide applicator shall again become certified in accordance with the provisions of this subchapter.

(b) Persons licensed as commercial pesticide applicators whom the Department determines are responsible for a pesticide misuse under the provisions of the Act or this chapter, may be required by the Department to provide evidence of continued competency to apply or supervise the application of pesticides by repeating the certification requirements of *N.J.A.C 7:30-6.2*.

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

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

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

§ 7:30-6.7 Right of entry or collection of samples

(a) In order to determine compliance with the requirements of the Act or rules promulgated thereunder, the Department may, at reasonable hours, enter any building or place except private residences pursuant to (c) below, for the purpose of investigating an actual or suspected violation relating to pesticides, ascertaining compliance or non-compliance with any rules, regulations or orders of the Department. The Department may conduct an inspection or sampling, and may procure samples for analysis or examination from any premise, lot, package or parcel of pesticide or substance suspected to contain a pesticide. If the owner, operator or agent in charge of the place to be inspected is present, officers or employees of the Department shall notify him or her of their intent to inspect or sample and inform him or her of the reason therefore. Having been so notified, no person shall prevent officers or employees of the Department from conducting such inspection or sampling.

(b) Notification pursuant to (a) above may also consist of a "Notice Of Attempt To Contact" delivered by hand to an employee, an owner, operator or agent in charge, or sent by certified mail, receipt acknowledged.

1. When such "Notice" has been sent by certified mail, the owner, operator or agent in charge of the place to be inspected shall have one week after the date of delivery to contact the Department, Pesticide Control Program and arrange for the inspection or sampling.

(c) Those portions of a private residence used for business purposes shall be accessible for inspection and sampling. These portions include, but are not limited to, the office and recordkeeping areas, storage areas, mixing/loading sites, and vehicle parking areas.

(d) Compliance with *N.J.A.C. 7:30-6.7* shall be a condition of licensing for any out-of-State licensee.

§ 7:30-6.8 Records

(a) A commercial pesticide applicator shall keep, for each application of pesticides made by him or her or under his or her direct supervision, a record of application containing the following information, unless it is an aquatic pesticide application, in which case a record shall be kept in accordance with *N.J.A.C. 7:30-9.3(j)*:

1. The date of the application.

i. For pesticides having a specific REI listed on the label or labeling, the date of application shall include the hour completed (which signals the beginning of the REI); and

ii. The re-entry time and date;

2. The place of application, namely the specific address, municipality and county.

i. For pesticide applications to an agricultural commodity, place of application shall include:

(1) The name and address of the farm;

(2) The specific field, greenhouse or land area, including the municipality and county;

(3) The crop, commodity or stored product that was treated with the pesticide; and

(4) The size of the area treated.

ii. To satisfy the requirement for a specific address, a map or specific location description of the place of application may be listed as part of the record;

3. The brand or trade name, the active ingredients, and the EPA registration numbers of each pesticide used or symbol representing such information, providing the applicator also keeps a list, which, clearly correlates the symbol used pursuant to (b)1 below;

4. The "recipe" used to mix the pesticide as required by the label. The recipe shall consist of:

i. The total amount of pesticide concentrate; and

ii. The total amount of diluent;

5. The total amount of pesticide mixture used for each individual application.

i. The size of the area treated, when a rate per given area is specified on the label;

6. The full name and pesticide applicator license number of the person making the application, or a symbol that corresponds to that person's name and license number on a separate list of all commercial applicators and/or commercial pesticide operators.

i. If the person making the pesticide application is a handler, the record or list shall include the handler's full name;

7. The site of application; and

8. For applications by a commercial applicator of a termiticide, the record shall also include a diagram of the structure treated, depicting:

i. The lower level of the structure;

ii. The general location of the termite infestation(s) or re-infestation(s) and visible damage;

iii. Areas treated; and

iv. Any significant items, such as location of known wells, drainage systems, "porch over basement" situations and streams and ponds, which may be affected by the application.

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

1. A listing of the names, active ingredients (common chemical name, if available) and corresponding EPA Registration Numbers of all the pesticides applied by the applicator or by any persons under the applicator's supervision. This information may be kept separately from the records required by (a) above or may be integrated with such records by including on the record of each pesticide application the full name, active ingredients and EPA Registration Number of the pesticide(s) used; and

2. Records of all on-the-job training given to commercial pesticide operators and applicators pursuant to *N.J.A.C. 7:30-5.2* and *6.2*, kept separately or marked in such a way that they can be accessed upon request by the Department.

(c) All records and information required to be kept pursuant to this section shall be recorded in writing as soon as possible, but no later than 24 hours after application and kept for a minimum of three years except that all records of termiticide applications shall be kept for a minimum of five years.

(d) All records and information required to be kept pursuant to this section shall be immediately provided to the Department upon request. Such records shall also be immediately provided to medical personnel in emergency cases. In non-emergency cases, medical personnel may request this information through the Department. These records may be kept by a business pursuant to *N.J.A.C. 7:30-7.*

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

(f) Before the application of any pesticide on or in an agricultural establishment, any handler employer, commercial pesticide applicator and/or pesticide applicator business performing any application of a pesticide having a restricted-entry interval subject to the provisions of *N.J.A.C. 7:30-12*, shall notify the agricultural employer, owner or lessee responsible for the field being treated of the following:

1. The specific location and description of the areas to be treated;

2. The start and estimated end time and date of application;

3. The product name, EPA registration number, and active ingredient(s);

4. The restricted-entry interval specified on the pesticide labeling;

5. Whether posting and oral notification, or both, are required; and

6. Any restrictions or use directions that the pesticide labeling indicates must be followed for protection of workers, handlers, or other persons during, or after, application.

(g) The records of application for all pesticides used under a New Jersey or Federal Experimental Use Permit, FIFRA Section 18 Emergency Exemption or Section 24(c) Special Local Needs registration shall be clearly designated so that they stand out from the other application records. In addition, such records shall contain, in addition to that information required in (a) above, the EPA Section 24(c) SLN Product Registration Number, EPA Section 18 File Symbol Number, or the State/EPA EUP Number.

(h) Local or county health inspectors whose only use of pesticides is the use of flushing agents, such as pyrethrum sprays, to check for insect infestations during the normal course of their job are exempt from recordkeeping under the provisions of P.L. 2000, c.126.

§ 7:30-6.9 Denial, suspension, or revocation of commercial pesticide applicator license

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

1. Deny an application for a commercial pesticide applicator license;

2. Revoke a commercial pesticide applicator license;

3. Suspend a commercial pesticide applicator license.

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

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

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

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

4. Making a pesticide application which is not in accordance with the pesticide label, except as allowed by the US EPA, or not in accordance with administrative actions on a specific pesticide(s) taken by the US EPA, or not in accordance with the specifications of a special local need registration or not in accordance with use restrictions imposed by the Department under the authority of *N.J.A.C. 7:30-10.1(a)*;

5. Operating faulty or unsafe application equipment;

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

7. Failing to keep or falsification of required records;

8. Falsifying or making misleading statements in the application for a commercial pesticide applicator license;

9. Evading, or attempting to evade the provisions of the Act or this chapter, or aiding, abetting, combining with, or conspiring with any person for any purpose which will evade or be in violation of the provisions of the Act or this chapter;

10. Using another person's certification or license;

11. Advertising a false pesticide applicator or business license number or advertising in such a manner as to imply Department approval of the applicator, or of the pesticides or techniques used by the applicator; or

12. Receiving disciplinary action for committing any of the acts in (b)1 through 11 above in another state, territory or tribal jurisdiction;

(c) In the event of the issuance of a final order assessing a civil penalty under Section 14(a) *(7 U.S.C. § 136*(l)) of the Federal Insecticide, Fungicide, and Rodenticide Act *(7 U.S.C. §§ 135* et seq.) or a criminal conviction under Section 14(b) *(7 U.S.C. § 136*(l)), the Department will review and may suspend or revoke the license of any person so assessed or convicted.

(d) No person having a commercial pesticide applicator license which has been revoked or suspended in this State or in any other state, territory or tribal jurisdiction, shall be allowed to apply

pesticides under the direct supervision of any licensed pesticide applicator during the time period in which the revocation or suspension is in effect.

1. If a commercial pesticide applicator license is revoked or suspended, the license shall be returned to the Department, Pesticide Control Program within 14 days of such revocation or suspension.

(e) Where the Department acts pursuant to (a) above, the Department shall afford a hearing pursuant to the Administrative Procedure Act, *N.J.S.A. 52:14B-1* et seq. and the Uniform Administrative Rules of Practice, *N.J.A.C. 1:1*, to any person who is aggrieved by the order and who has applied to the Department for a hearing within 20 days of issuance of the order.

§ 7:30-6.10 Purchase of restricted use pesticides

No person shall purchase a restricted use pesticide unless he or she presents his or her valid certified pesticide applicator license pursuant to this subchapter or *N.J.A.C. 7:30-8*, or a valid substitute as provided in *N.J.A.C. 7:30-6.1(a)*4, 8 or 9.

§ 7:30-6.11 Responsibility for commercial pesticide operators and handlers

(a) The commercial pesticide applicator co-signing the license application of a commercial pesticide operator, shall be responsible for the commercial pesticide operator having obtained adequate training in the proper use and application of pesticides as required in *N.J.A.C. 7:30-5.2(a)*.

(b) Notwithstanding the responsibility of any other person or the exemption from the provisions of any other section of this subchapter, the pesticide applicator co-signing the commercial pesticide operator's license application, or the new responsible pesticide applicator pursuant to *N.J.A.C. 7:30-5.3(d)1*, shall be responsible for any violation of the Act committed by a commercial pesticide operator under his or her direct supervision. This responsibility shall be joint and several.

(c) The commercial pesticide applicator co-signing the license application for the commercial pesticide operator shall be responsible for notifying the Department, Pesticide Control Program, in writing and within 30 days, of any changes in the information contained on the commercial pesticide operator license application, if such notification has not already been given to the Department by the commercial pesticide operator.

(d) Notwithstanding the responsibility of any other person or the exemption of the pesticide applicator from the provisions of this subchapter, the pesticide applicator shall be responsible for any violation of the Act committed by a handler under his or her direct supervision. This responsibility shall be joint and several.

§ 7:30-6.12 Assignment of work

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

(b) No person shall require any individual to perform any task that falls within the definition of handler, unless the individual has been trained as a handler and complies with N.J.A.C. 7:30-12, Agricultural Worker Protection.

§ 7:30-6.13 Reciprocity

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

(b) A New Jersey Pesticide Applicator license will be issued pursuant to this section, if the following conditions are satisfied:

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

2. The applicant demonstrates to the examination provider, through testing, a knowledge of relevant New Jersey Pesticide Control laws and regulations;

3. All applicable fees are paid. The examination provider shall charge the applicable fee for an examination, notwithstanding that it has waived all, or a portion of, the initial certification testing in accordance with (a) above; and

4. The applicant has no history of violations in his or her state of residence.

§ 7:30-6.14 Container and containment rule

No person shall hold, use, distribute, sell, or offer for sale within this State or deliver for transportation or transport in intrastate commerce or between points within this State or between points within this State through any point outside this State any pesticide or pesticide container, unless he or she complies with the requirements of 40 CFR Parts 9, 156 and 165 (otherwise known as the Federal Container and Containment regulations).

SUBCHAPTER 7. PESTICIDE APPLICATOR BUSINESSES

§ 7:30-7.1 Licensing

(a) No person shall cause, suffer, allow or permit the operation of a pesticide applicator business as defined by this chapter in the State of New Jersey without first licensing such business with the Department on forms provided by the Department.

1. Such person shall provide the Department with the physical location address as well as the mailing address, if the addresses are different.

2. A business is exempt from (a) above if:

i. The only use of pesticides involves the use of the following general use pesticides: antimicrobial agents, wood preservatives, antifouling paints or antifouling agents not classified as restricted use; or

ii. Such person is using any "minimum risk" pesticide exempted from regulation by *N.J.A.C. 7:30-2.1(m)*5.

3. Application forms may be obtained by contacting the Pesticide Control Program, PO Box 411, Trenton, NJ 08625-0411.

(b) An annual license fee of $ 150.00 shall be paid to the Department at the time of licensing. The license year shall end on October 31 of each calendar year except that the Department may issue a license for an additional year when an application is initially filed during the last three months of the license year.

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

1. A separate business name will result from any difference in a key word part of the name (that is, an example of a key word change would be from ACE to ACER; none of the following are considered key: company, incorporated, exterminating, pest control). In addition a name will be considered different if the difference results in a different alphabetical sort of the business name (that is, A Zebra as opposed to Zebra).

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

(e) Each pesticide applicator business shall prominently display on every service vehicle operated by that business the license number assigned to that business by the Department.

1. The license number shall be in figures at least three inches high;

2. The license number shall be located on at least the two sides of each vehicle; and

3. The license number shall be a color which contrasts with the background color of the vehicle.

(f) A licensed business shall notify the Department, in writing and within 30 days, of any changes in any information on its license application.

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

(h) Possession or storage of any pesticide on a commercial vehicle, or on a vehicle which meets the definition of a service vehicle, under circumstances which are not listed as exceptions pursuant to (a) above is considered as evidence that the user, owner, or lessee of the vehicle is engaged in the commercial application of pesticides or the operation of a commercial pesticide applicator business.

§ 7:30-7.2 Right of entry or collection of samples

(a) In order to determine compliance with the requirements of the Act or rules promulgated thereunder, the Department may, at reasonable hours, enter any building or place except private residences pursuant to (c) below, for the purpose of investigating an actual or suspected violation relating to pesticides, ascertaining compliance or non-compliance with any rules, regulations or orders of the Department. The Department may conduct an inspection or sampling, and may procure samples for analysis or examination from any lot, package or parcel of pesticide or substance suspected to contain a pesticide. If the owner, operator or agent in charge of the place to be inspected is present, officers or employees of the Department shall notify him or her of their intent to inspect or sample and inform him or her of the reason therefore. Having been so notified, no person shall prevent officers or employees of the Department from conducting such inspection or sampling.

(b) Notification pursuant to (a) above may also consist of a "Notice Of Attempt To Contact" delivered by hand to an employee, an owner, operator or agent in charge, or sent by certified mail, receipt acknowledged.

1. When such "Notice" has been sent by certified mail, the owner, operator or agent in charge of the place to be inspected shall have one week after the date of delivery to contact the Department, Pesticide Control Program and arrange for the inspection or sampling.

(c) Those portions of a private residence used for business purposes shall be accessible for inspection and sampling. These portions include, but are not limited to, the office and recordkeeping areas, storage areas, mixing/loading sites, and vehicle parking areas.

(d) Compliance with this section shall be a condition of licensing for any out-of-State licensee.

§ 7:30-7.3 Records

(a) Every business required to become licensed pursuant to the provisions of *N.J.A.C. 7:30-7.1* shall keep, for each application of pesticides made by that business, a record of application containing the following information, unless it is an aquatic pesticide application, in which case a record shall be kept in accordance with *N.J.A.C. 7:30-9.3(j)*:

1. The date of application.

i. For pesticides having a specific REI listed on the label or labeling, the date of application shall include the hour completed (which signals the beginning of the REI); and

ii. The re-entry time and date;

2. The place of application, namely the specific address, municipality and county.

i. For pesticide applications to an agricultural commodity, place of application shall include:

(1) The name and address of the farm;

(2) The specific field, greenhouse or land area, including the municipality and county;

(3) The crop, commodity or stored product that was treated with the pesticide; and

(4) The size of the area treated;

3. The brand or trade name, the active ingredients, and the EPA registration numbers of each pesticide used or symbol representing such information, providing the applicator also keeps a list, which clearly correlates the symbol used pursuant to (b)1 below;

4. The "recipe" used to mix the pesticide mixture as required by the label. The recipe shall consist of:

i. The total amount of pesticide concentrate; and

ii. The total amount of diluent;

5. The total amount of pesticide mixture used for each individual application.

i. The size of the area treated, when a rate per given area is specified on the label;

6. The full name and pesticide applicator license number of the person making the application, or a symbol that corresponds to that person's name and license number on a separate list of all commercial applicators and/or commercial pesticide operators.

i. If the person making the pesticide application is a handler, the record or list shall include the handler's full name;

7. The site of application; and

8. For pesticide applicator business applications of a termiticide, the record shall also include a diagram of the structure treated, depicting:

i. The lower level of the structure;

ii. The general location of the termite infestation(s) or re-infestation(s) and visible damage;

iii. Areas treated; and

iv. Any significant items, such as location of known wells, drainage systems, "porch over basement" situations and streams and ponds, which may be affected by the application.

(b) In addition to the records required by (a) above, the pesticide applicator business shall also keep, in writing, the information required by (b)1 through 3 below. This information may be kept separately from the records required by (a) above or may be integrated with such records by including on the record of each pesticide application the full name, active ingredients, and the EPA registration number of the pesticide used and the name of the pesticide applicator or commercial pesticide operator responsible for the application.

1. A listing of the names, active ingredients (common chemical name, if available) and corresponding EPA Registration Numbers of all the pesticides applied by the applicator business;

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

3. Records of all on-the-job training given to commercial pesticide operators and applicators pursuant to *N.J.A.C. 7:30-5.2* and *6.2*, kept separately or marked in such a way that they can be accessed upon request by the Department.

(c) All records and information required to be kept pursuant to this section, or copies thereof, shall be recorded in writing as soon as possible, but no later than 24 hours after application and kept for a minimum of three years except that all records of termiticide applications shall be kept for a minimum of five years at the place of business. In non-emergency cases, medical personnel may request this information through the Department.

(d) All records and information required to be kept pursuant to this subchapter and *N.J.A.C. 7:30-9* shall be immediately provided to the Department upon request. Records required under (a) and (b)1 above shall also be immediately provided to medical personnel in emergency cases.

1. When staffed, during normal business hours, each pesticide applicator business shall have someone authorized and available to provide the records required to be kept above immediately upon request by the Department and medical personnel in emergency situations.

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

(f) Before the application of any pesticide on or in an agricultural establishment, any handler employer, commercial pesticide applicator and/or pesticide applicator business performing any application of a pesticide having a restricted-entry interval subject to the provisions of *N.J.A.C 7:30-12*, shall notify the agricultural employer, owner or lessee responsible for the field being treated of the following:

1. The specific location and description of the areas to be treated;

2. The start and estimated end time and date of application;

3. The product name, EPA registration number, and active ingredient(s);

4. The restricted-entry interval specified on the pesticide labeling;

5. Whether posting and oral notification, or both, are required; and

6. Any restrictions or use directions that the pesticide labeling indicates must be followed for protection of workers, handlers, or other persons during or after application.

(g) The records of application for all pesticides used under a State or Federal Experimental Use Permit, FIFRA Section 18 Emergency Exemption or Section 24(c), Special Local Needs registration shall be clearly designated so that they stand out from the other application records. In addition, such records shall contain, in addition to the information required in (a) above, the EPA Section 24(c) SLN Product Registration Number, EPA Section 18 File Symbol Number, or the State/EPA EUP Number.

§ 7:30-7.4 Financial responsibility

(a) Businesses required to become licensed pursuant to *N.J.A.C. 7:30-7.1* shall submit proof of financial responsibility with the license application to the Department. The pesticide applicator business shall maintain financial responsibility at all times while such license is in effect.

(b) Proof of financial responsibility shall be provided by a certificate of insurance, or an alternative acceptable to the Department.

(c) The financial responsibility shall meet or exceed the standards set forth below:

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

i. Liability insurance coverage from an insurance company licensed to do business in the State of New Jersey with the equivalent of a $ 300,000 combined single limit of liability for bodily injury and property damage, which includes coverage for completed operations;

ii. As part of the coverage required in (c)1i above, coverage for chemical liability is required, for the types of pesticide application performed. This chemical liability coverage shall provide coverage equivalent to that provided by the Insurance Services Office (ISO) standard endorsement CG 22 64 (which provides chemical liability coverage for the ground application of pesticides by pesticide applicator businesses) or its equivalent.

(1) If chemical liability coverage is not available for the type of pesticide applications performed by the pesticide applicator business, the pesticide applicator business shall obtain written confirmation from its insurance provider and submit this information to the Department's Pesticide Control Program with the license application; and

iii. Each certificate shall certify that the coverage shall not be cancelled for any reason except after 30 days written notice to the Department.

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

i. Liability insurance coverage from an insurance company licensed to do business in the State of New Jersey with the equivalent of a $ 500,000 combined single limit of liability for bodily injury and property damage, which includes coverage for completed operations;

ii. As part of the coverage required in (c)2i above, coverage for chemical liability is required for the types of pesticide application performed. This chemical liability coverage shall provide coverage equivalent to that provided by the Insurance Services Office (ISO) standard endorsement CG 22 64 (which provides chemical liability coverage for the ground application of pesticides by pesticide applicator businesses) or its equivalent.

(1) If chemical liability coverage is not available for the type of pesticide applications performed by the pesticide applicator business, the pesticide applicator shall obtain written confirmation from their insurance provider and submit this information to the Department, Pesticide Control Program with the license application; and

iii. Each certificate shall certify that the coverage shall not be cancelled for any reason except after 30 days written notice to the Department.

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

§ 7:30-7.5 Assignment of work

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

1. For the purposes of this subchapter, a person is under direct supervision only if the person supervised and the person supervising are employed by the same business at the same physical location.

2. "Employed at the same physical location" means that the person supervising and the person supervised shall both have physical work spaces at the same physical location. In addition, all records of pesticide application performed by the person supervised shall be kept at the same physical location as the person supervising and shall be immediately available upon request by the Department pursuant to *N.J.A.C. 7:30-7.3*.

(b) No person shall require any individual to perform any task that falls within the definition of handler, unless the individual has been trained as a handler and complies with all handler requirements pursuant to *N.J.A.C. 7:30-12*, Agricultural Worker Protection.

§ 7:30-7.6 Denial, suspension, or revocation of pesticide applicator business license

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

1. Deny an application for a pesticide applicator business license;

2. Suspend a pesticide applicator business license; or

3. Revoke a pesticide applicator business license.

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

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

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

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

4. Making a pesticide application which is not in accordance with the pesticide label, except as allowed by the EPA, or not in accordance with administrative actions on specific pesticide(s) taken by the EPA, or not in accordance with the specifications of a special local need registration or not in accordance with use restrictions imposed by the Department under the authority of 7:30-10.1(a);

5. Operating faulty or unsafe pesticide application equipment;

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

7. Failing to keep or falsification of required records;

8. Falsifying or making misleading statements in the application for a pesticide applicator business license;

9. Failing to submit and/or maintain adequate insurance or surety bond as provided for in *N.J.A.C. 7:30-7.4*;

10. Evading or attempting to evade the provisions of the Act or this chapter or aiding, abetting, combining with, or conspiring with any person for any purpose which will evade or be in violation of the provisions of the Act or this chapter;

11. Advertising a false pesticide applicator or business license number or advertising in such a manner as to imply Department approval of the applicator or business, or of the pesticides or techniques used by the applicator or business; or

12. Receiving disciplinary action for committing any of the acts in (a)1 through 11 above in another state, territory or tribal jurisdiction.

(c) In the event of the issuance of a final order assessing a civil penalty under Section 14(a) *(7 U.S.C. § 136*(l)) of the Federal Insecticide, Fungicide, and Rodenticide Act *(7 U.S.C. §§ 135* et seq.) or a criminal conviction under Section 14(b) *(7 U.S.C. § 136*(l)) the Department will review and may suspend or revoke the license of any person so assessed or convicted.

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

1. If a commercial pesticide applicator license is revoked or suspended, the license shall be returned to the Department, Pesticide Control Program within 14 days of such revocation or suspension.

(e) Where the Department acts pursuant to (a) above, the Department shall afford a hearing pursuant to the Administrative Procedure Act, *N.J.S.A. 52:14B-1* et seq. and the Uniform Administrative Rules of Practice, *N.J.A.C. 1:1*, to any person who is aggrieved by the order and who has applied to the Department for a hearing within 20 days of issuance of the order.

§ 7:30-7.7 Responsibility of a pesticide applicator business for the actions of employees

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

§ 7:30-7.8 Advertising

The pesticide applicator business shall advertise in accordance with the requirements of *N.J.A.C. 7:30-2.12*.

§ 7:30-7.9 Container and containment rule

No person shall hold, use, distribute, sell, or offer for sale within this State or deliver for transportation or transport in intrastate commerce or between points within this State or between points within this State through any point outside this State any pesticide or pesticide container, unless he or she complies with the requirements of 40 CFR Parts 9, 156 and 165 (otherwise known as the Federal Container and Containment Regulations).

SUBCHAPTER 8. PRIVATE PESTICIDE APPLICATORS

§ 7:30-8.1 General requirements

(a) No private pesticide applicator shall engage in, cause, suffer, allow, or permit the use or application of, or supervise the use or application of, any pesticide without first meeting the requirements of certification and licensing as a private pesticide applicator unless:

1. Such person is applying pesticides under the direct supervision of a certified and licensed private pesticide applicator pursuant to *N.J.A.C. 7:30-12.12*;

i. For the purposes of this subchapter, a person is under direct supervision only if the person supervised and the person supervising are employed by the same business or agricultural establishment at the same physical location.

ii. "Employed at the same physical location" means that the person supervising and the person supervised shall both have physical work spaces at the same physical location. In addition, all records of pesticide application performed by the person supervised shall be kept at the same physical location as the person supervising and shall be immediately available upon request by the Department pursuant to *N.J.A.C. 7:30-8.8*;

2. Such person is a commercial pesticide applicator certified and licensed in a commercial category or subcategory which completely covers the subject matter content in the private pesticide applicator certification requirements;

3. Such person is using general use pesticides on property owned or rented by that person to produce an agricultural commodity or commodities worth less than $ 2,500 annually;

4. Such person is using any "minimum risk" pesticide exempted from regulation by *N.J.A.C. 7:30-2.1(m)*5; or

5. Such person has experience in using pesticides for the purpose of producing an agricultural commodity and is only using general use pesticides for such purpose. This exemption shall expire on November 19, 2003, after which all private pesticide applicators shall be subject to the certification and licensing requirements of (a) above.

§ 7:30-8.2 Certification

(a) In order to become certified, an applicant shall pass an examination administered by the Department or a third party approved by the Department. The examination shall include core subject matter, as well as specific category subject matter. The examinations may be written, and when deemed necessary by the Department, may include performance testing, and shall include, but not be limited to, all areas of required knowledge set forth in Federal regulations 40 CFR 171. The core subject matter shall include such areas as pesticide safety and handling, current laws and regulations, understanding of label and labeling information, including the name of the pesticide, the crop, animal or site to which it will be applied, pest(s) to be controlled, when and how to apply, harvest intervals, related environmental hazards, poisoning symptoms and disposal techniques. The specific category subject matter shall include areas of required knowledge that are specific to the type of pesticide use performed by the applicator.

1. The third party may charge a fee for administering an examination.
2. The Department will charge $100.00 for each examination that it administers.

(b) Any person who is assigned a certification examination date, and fails to be present on that examination date without just cause, shall be subject to a $ 50.00 fee.

(c) Application for examination shall be made on a form approved by the Department. The application shall be submitted to the examination provider no later than midnight of the closing date for the examination, as determined by the examination provider.

1. The application form is available from the Bureau of Licensing and Registrations website at http://www.nj.gov/dep/enforcement/pcp/bpo.htm.

(d) Any examination, form, or required training course or material used by a third party shall be approved by the Department. Any such materials developed under an agreement with the Department shall be considered Department-approved.

§ 7:30-8.3 Licensing

(a) Within 12 months after a person has become fully certified and eligible to become licensed as a private pesticide applicator, the certified private pesticide applicator shall complete and file with the Department, on forms provided by the Department, a license application. Any certified pesticide applicator who fails to file for a license within the 12 month period will lose certification status and shall again become certified in accordance with the provisions of this subchapter.

(b) Applications for new licenses will be accepted from certified private pesticide applicators throughout the calendar year. All such licenses will expire on October 31, of the fifth license year following the date of application.

(c) The certification and license of a private pesticide applicator are not transferable.

(d) A private pesticide applicator shall notify the Department, in writing and within 30 days, if any information shown on his or her license application changes.

(e) No person shall be eligible for a license as a private pesticide applicator until reaching 18 years of age.

§ 7:30-8.4 License renewal

(a) A certified private pesticide applicator shall renew his or her license on a form supplied by the Department.

(b) A previously certified and licensed private pesticide applicator who has not been licensed with the Department for two consecutive years after the expiration date of his or her registration shall lose certification status and shall again become certified and licensed in accordance with the provisions of this subchapter.

§ 7:30-8.5 Continuing certification

(a) In order to maintain his or her certification, the private pesticide applicator shall meet the requirements for continuing certification as specified by the Department. If the requirements for continuing certification are not met, the private pesticide applicator shall again become certified in accordance with the provisions of this subchapter.

(b) Persons licensed as private pesticide applicators who are held to be responsible for a pesticide misuse under the provisions of the Act or regulations promulgated thereunder, may be required by the Department to provide evidence of continued competency to apply or supervise the application of pesticides by repeating the certification requirements of *N.J.A.C. 7:30-8.2*.

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

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

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

§ 7:30-8.6 Special licenses

The Department may issue special permits or limited private pesticide applicator licenses in cases that warrant deviations from the certification requirements of this subchapter. Specialized training and examinations that assure the Department that competency and other necessary requirements are met may be the basis for issuance of special licenses.

§ 7:30-8.7 Right of entry or collection of samples

(a) In order to determine compliance with the requirements of the Act or rules promulgated thereunder, the Department may, at reasonable hours, enter any building or place except private residences pursuant to (c) below, for the purpose of investigating an actual or suspected violation relating to pesticides, ascertaining compliance or non-compliance with any rules, regulations or orders of the Department. The Department may conduct an inspection or sampling, and may procure samples for analysis or examination from any lot, package or parcel of pesticide or substance suspected

to contain a pesticide. If the owner, operator or agent in charge of the place to be inspected is present, officers or employees of the Department shall notify him or her of their intent to inspect or sample and inform him or her of the reason therefore. Having been so notified, no person shall prevent officers or employees of the Department from conducting such inspection or sampling.

(b) Notification pursuant to (a) above may also consist of a "Notice Of Attempt To Contact" delivered by hand to an employee, an owner, operator or agent in charge, or sent by certified mail, receipt acknowledged.

1. When such "Notice" has been sent by certified mail, the owner, operator or agent in charge of the place to be inspected shall have one week after the date of delivery to contact the Department, Pesticide Control Program and arrange for the inspection or sampling.

(c) Those portions of a private residence used for business purposes shall be accessible for inspection and sampling. These portions include, but are not limited to, the office and recordkeeping areas, storage areas, mixing/loading sites, and vehicle parking areas.

(d) Compliance with this section shall be a condition of licensing for any out-of-State licensee.

§ 7:30-8.8 Records

(a) Any person required to be licensed as a private pesticide applicator shall keep, for each application of a pesticide made by him or her or under his or her direct supervision, a record of application containing the following information, unless the application is of aquatic pesticide, in which case a record shall be kept in accordance with *N.J.A.C. 7:30-9.3(j)*:

1. The date of application.

i. For pesticides having a specific restricted entry interval (REI) on the label or labeling, the date of application shall include the hour completed (which signals the beginning of the REI); and

ii. The re-entry time and date;

2. The place of application.

i. For pesticide applications to an agricultural commodity, place of application shall include:

(1) The name and address of the farm;

(2) The specific field, greenhouse or land area, including the municipality and county;

(3) The crop, commodity or stored product that was treated with the pesticide; and

(4) The size of the area treated;

3. The brand or trade name, the active ingredients, and the EPA registration numbers of each pesticide used or symbol representing such information, providing the business also keeps a list, which clearly correlates the symbol used pursuant to (b)1 below;

4. The "recipe" used to mix the pesticide mixture, as required by the label. The recipe shall consist of:

i. The total amount of pesticide concentrate; and

ii. The total amount of diluent;

5. The total amount of mixture used for each individual application; and

6. The full name and pesticide applicator license number of the person making the application; or the full name of the handler; or a symbol that corresponds to that person's name on a separate list of all private applicators and/or handlers.

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

1. A listing of the names, active ingredients (common chemical name, if available) and corresponding EPA Registration Numbers of all the pesticides applied by him or her. This information may be kept separately from the records required by (a) above, only if a code is used on each application record which corresponds to a pesticide on the list or the information may be integrated with such records by including on the record of each pesticide application the full name, active ingredients and EPA Registration Number of each pesticide used; and

2. A listing of the handler(s) working under the private applicator's direct supervision.

(c) All records and information required to be kept pursuant to this section shall be recorded in writing as soon as possible, but no later than 24 hours after application and kept for a minimum of three years.

(d) All records and information required to be kept pursuant to this section shall be immediately provided to the Department upon request. Such records shall also be immediately provided to medical personnel in emergency cases. In non-emergency cases, medical personnel may request this information through the Department.

(e) Before the application of any pesticide on or in an agricultural establishment, every agricultural employer, agricultural owner or agricultural lessee is entitled to the following information from any handler employer, commercial pesticide applicator and/or pesticide applicator business performing any application of a pesticide having a restricted-entry interval (REI) subject to the provisions of *N.J.A.C. 7:30-12*:

1. The specific location and description of the areas to be treated;

2. The start and estimated end time and date of application;

3. The product name, EPA registration number, and active ingredient(s);

4. The restricted-entry interval specified on the pesticide labeling;

5. Whether posting and oral notification, or both, are required; and

6. Any restrictions or use directions on the pesticide labeling that are to be followed in order to protect workers, handlers, or other persons during or after application.

(f) The records of application for all pesticides used under a State or Federal Experimental Use Permit, FIFRA Section 18 Emergency Exemption or Section 24(c), Special Local Needs registration shall be clearly designated so that they stand out from the other application records. In addition, such records shall contain, in addition to the information required in (a) above; the EPA Section 24(c) SLN Product Registration Number, EPA Section 18 File Symbol Number, or the EPA EUP Number.

§ 7:30-8.9 Purchase of restricted use pesticides

No person shall purchase a restricted use pesticide unless he or she presents his or her valid certified pesticide applicator license pursuant to this subchapter.

§ 7:30-8.10 Assignment of work

No person shall require any individual to make a pesticide application in any category or subcategory in which the individual has not been certified and licensed as an applicator pursuant to this subchapter or trained and recognized as a handler pursuant to *N.J.A.C. 7:30-12*, unless the individual so assigned is applying pesticides by equipment other than aerial and is working under the supervision of a responsible pesticide applicator, certified and licensed pursuant to this subchapter, who is employed by the same business and is physically present at the time, site and place of application.

§ 7:30-8.11 Denial, suspension, or revocation of private pesticide applicator license

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

1. Deny an application for a private pesticide applicator license;

2. Suspend a private pesticide applicator license;

3. Revoke a private pesticide applicator license.

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

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

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

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

4. Making a pesticide application which is not in accordance with the pesticide label, except as allowed by the EPA, or not in accordance with administrative actions on specific pesticide(s) taken by the EPA, or not in accordance with the specifications of a special local need registration or not in accordance with use restrictions imposed by the Department under the authority of *N.J.A.C. 7:30-10.1(a)*;

5. Operating faulty or unsafe pesticide application equipment;

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

7. Failing to comply with restricted entry interval (REI) requirements as provided in N.J.A.C. 7:30-12, or the product label and any days to harvest interval as stated on a pesticide label;

8. Failing to keep or falsification of required records;

9. Falsifying or making misleading statements in the license application for a private pesticide applicator;

10. Evading or attempting to evade the provisions of the Act or this chapter or aiding, abetting, combining with, or conspiring with any person for any purpose which will evade or be in violation of the provisions of the Act or this chapter including, but not limited to, using another persons' certification or license; or

11. Receiving disciplinary action for committing any of the acts in (a)1 through 10 above in another state, territory or tribal jurisdiction.

(c) In the event of the issuance of a final order assessing a civil penalty under section 14(a) *(7 U.S.C. § 136*(l)) of the Federal Insecticide, Fungicide, and Rodenticide Act *(7 U.S.C. §§ 135* et seq.) or a criminal conviction under section 14(b) *(7 U.S.C. § 136*(l)), the Department will review and may suspend or revoke the license of any person so assessed or convicted.

(d) No person having a private pesticide applicator license which has been denied, revoked or suspended in this State or in any other state, territory or tribal jurisdiction, shall be allowed to apply pesticides under the direct supervision of any licensed pesticide applicator during the time period in which the revocation or suspension is in effect.

(e) Where the Department acts pursuant to (a) above, the Department shall afford a hearing pursuant to the Administrative Procedure Act, *N.J.S.A. 52:14B-1* et seq., and the Uniform Administrative Procedure Rules of Practice, *N.J.A.C. 1:1*, to any person who is aggrieved by the order and who has applied to the Department for a hearing within 20 days of issuance of the order.

§ 7:30-8.12 Reciprocity

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

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

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

2. The registrant demonstrates to the examination provider, through testing, a knowledge of relevant New Jersey Pesticide Control laws and regulations;

3. All applicable fees are paid. The examination provider shall charge the applicable fee for an examination, notwithstanding that it has waived all or a portion of the initial certification testing in accordance with (a) above; and

4. The applicant has no history of violations in his or her own state of residence.

§ 7:30-8.13 Responsibility for the action of employees

Notwithstanding the responsibility of any other person or the exemption from the provisions of any other section of this subchapter, each employer shall be held responsible for any violation of the act committed by his or her employee in the scope of his or her employment. This responsibility shall be joint and several.

§ 7:30-8.14 Container and containment rule

No person shall hold, use, distribute, sell, or offer for sale within this State or deliver for transportation or transport in intrastate commerce or between points within this State or between points within this State through any point outside this State any pesticide or pesticide container, unless he or she complies with the requirements of 40 CFR Parts 9, 156 and 165 (otherwise known as the Federal Container and Containment Regulations).

SUBCHAPTER 9. PESTICIDE EXPOSURE MANAGEMENT

§ 7:30-9.1 (Reserved)

§ 7:30-9.2 Mosquito/fly control permits

(a) No person shall apply any pesticide on a community or area wide basis for the control of larval, pupal or adult forms of mosquitoes (in the Family Culicidae) and/or flies (in the Order Diptera) without having obtained a mosquito/fly control permit from the Department prior to the date of application.

(b) A mosquito/fly permit shall not be required:

1. If applications are for agricultural purposes; or

2. For programs which are conducted by or controlled by a county mosquito control agency pursuant to the provisions of the Mosquito Extermination statutes (*N.J.S.A. 26:9-1* et seq.).

(c) Applications for a mosquito/fly control permit shall be made on forms supplied by the Department at least 30 days prior to the intended pesticide application date.

1. All information requested on the form shall be submitted. This information includes, but is not limited to, the following:

i. The person/organization requesting treatment;

ii. The applicator or applicator business performing the application;

iii. The type of application;

iv. The location of the area to be treated;

v. The target site;

vi. The target pests;

vii. The method for determining when to spray;

viii. The pesticides proposed for use;

ix. A sketch or map of the treatment area;

x. The application equipment; and

xi. The equipment calibration and maintenance.

2. The Department may request additional information which it deems necessary to evaluate the proposed application.

3. The Department may require the submission of a report addressing the effectiveness of the treatment and any environmental effects as a condition of permit approval. The person performing the pesticide application shall submit such information to the Department at the time and in the format as specified on the approved mosquito/fly control permit.

4. The permittee shall notify the Department in writing of any proposed changes to the approved mosquito/fly control permit and receive written Department approval for such changes prior to a pesticide application being made under the changed conditions.

(d) Failure to submit any requested information or falsification of any information may result in the denial or revocation of a mosquito/fly control permit.

(e) A $ 5.00 fee may be charged for each permit.

(f) Any person administering a community or area wide mosquito control program shall contact and coordinate the program with any county mosquito control agency which exists in the county in which the application is to be made.

(g) All conditions for approval specified in a mosquito/fly control permit shall be fulfilled.

(h) The Department shall approve or deny a mosquito/fly control permit application within 30 days after the Department receives all information deemed necessary to evaluate the application.

(i) The Department may not require fulfillment of the formal permit application provisions of (c) above, if the Department determines there is an emergency situation that warrants expedited review. (See the definition of "emergency" in *N.J.A.C. 7:30-1.2*.) This provision shall be exercised only if the information necessary to adequately review the permit is on file with the Department. Notification of an emergency situation shall be made to the Pesticide Control Program by calling (609) 984-6507.

(j) A mosquito/fly control permit shall not be transferable.

§ 7:30-9.3 Aquatic pesticide permits

(a) No person shall apply an aquatic pesticide on any aquatic site without having obtained an aquatic pesticide permit for an aquatic application from the Department prior to the intended date of application.

(b) An aquatic pesticide permit shall not be required if the application is to aquatic sites and:

1. The application is made to waters, which are not used as a source of potable water, have no outlet and which are bounded by land wholly owned or rented, and controlled, by one person;

2. The application is made to waters, which are not used as a source of potable water and is made for the control of mosquitoes or flies and the application procedure requires approval pursuant

to the provisions of *N.J.A.C. 7:30-9.2(a)* or the application is made by the appropriate lead agency operating under the provisions of the Mosquito Extermination statutes (*N.J.S.A. 26:9-1* et seq.);

3. The application is made to retention basins, drainage ditches with no water flow, and similar sites that are designed to collect and retain water for percolation back into the ground, which are not used as a source of potable water, and where there is no normal outflow into natural waterways; or

4. The application is made with an aquatic pesticide which qualifies as a "minimum risk" pesticide exempted from regulation by *N.J.A.C. 7:30-2.1(m)*5.

(c) Applications for an aquatic pesticide permit shall be made on forms supplied by the Department at least 30 days prior to the intended application date.

1. Any information requested on the form shall be accurate at the time of submission.

2. The Department may request any pertinent additional information which it deems necessary to evaluate the application.

3. The Department may require the submission of a report addressing the effectiveness of the treatment and any environmental effects as a condition for approval. The person performing the application shall submit such information to the Department at the time and in the format as specified on the approved aquatic pesticide permit.

4. The applicant shall notify the Department in writing of any proposed changes in the approved aquatic pesticide permit and receive written approval for such changes prior to making any applications.

(d) Failure to submit any requested information or the falsification of any information may result in the denial or revocation of an aquatic pesticide permit.

(e) All conditions for approval specified in an aquatic pesticide permit shall be fulfilled.

(f) A $ 75.00 fee may be charged for each aquatic pesticide permit.

(g) The Department may waive the formal requirements of (c) above if the Department determines there is an emergency situation that warrants expedited review. (See the definition of "emergency" in *N.J.A.C. 7:30-1.2*.) This provision shall be exercised only if the information necessary to adequately review the permit is on file with the Department.

(h) The Department will respond to any application for an aquatic pesticide permit within 30 days after the Department receives all the information deemed necessary to evaluate the application.

(i) An aquatic pesticide permit shall not be transferable.

(j) All written records required by the aquatic permit must conform to the requirements listed on the "Record of Actual Treatment" (Form BPO-03) or the "Record of Actual Treatment Sodium Hypochlorite Solution" (Form BPO-06).

(k) An aquatic pesticide permit shall be valid for the time period specified in the permit at the time of approval.

§ 7:30-9.4 Aquatic notification

(a) No application of an aquatic pesticide which requires an aquatic pesticide permit shall be made without the following notification provisions being carried out by the applicator or applicator business:

1. The applicator or applicator business shall provide the contracting party (person or organization requesting treatment) with pretreatment notification. This notification shall be provided in writing and prior to any treatments being made.

i. The contracting party shall be given sufficient time to review and take appropriate precautions, if needed, to minimize potential exposure to the treated water by any person, pet, domestic animal or irrigated plant life.

2. The pretreatment notification shall consist of the following:

i. A copy of the approved aquatic pesticide permit;

ii. Label instructions of the aquatic pesticide(s) to be used relating to resident or general public safety, including safety precautions and any water use restrictions. A copy of the label of the pesticide(s) approved for use, with the appropriate sections highlighted, may be used for this requirement;

iii. The telephone number of the National Pesticide Telecommunications Network for general health and pesticide toxicology information and the New Jersey Poison Information and Education System telephone number for emergency situations;

iv. The telephone number of the Pesticide Control Program and the statement: "This number for pesticide regulation information, pesticide complaints and health referrals";

v. A statement that a copy of the label(s) for the pesticide(s) approved for use will be provided, if requested by the contracting party, prior to any treatment using that pesticide; and

vi. A statement that the exact date of each treatment will be provided prior to the treatment, if requested by the contracting party.

(b) If the contracting party requests a copy of the label(s) for the pesticide(s) approved for use, or the exact date(s) of treatment, such information shall be provided by the commercial applicator or applicator business.

1. The contracting party shall be given sufficient time to review and take appropriate precautions, if needed, to minimize potential exposure to the treated water by any person, pet, domestic animal or irrigated plant life.

(c) Prior to the start of any treatment, signs shall be posted on the shoreline of all treated aquatic sites as specified below. The commercial applicator or applicator business shall be responsible for the posting and removal of the signs, except that the applicator or applicator business may delegate to the contracting party, in writing, the removal of the signs.

1. Signs shall be printed on a minimum of 90 weight paper and shall contain the statement "PESTICIDE TREATED WATER," in letters a minimum of one inch in size; and

2. Signs shall contain date of application, time application is completed, and all water use restrictions pertaining to the pesticide(s) used on that date. For each water use restriction, the length of time that water use is restricted is also required. If there is a total prohibition of a specific water use, that prohibition shall also be stated;

3. Signs shall contain the name and telephone number of the commercial applicator or applicator business to contact for additional information; and

4. For (c)2 and 3 above, the printing shall be legible to a person standing in front of the sign at a distance of three feet;

5. The signs shall remain legible and posted until the greatest time restriction for the use of the treated water has passed, but for a minimum of at least three days.

i. If there are water use restrictions on the sign that have no time limit, such as the total prohibition of a specific water use, the signs shall remain legible and posted for 30 days; and

6. The signs shall be posted in such a manner that they are legible from the principle and common access points to the treated aquatic site.

i. For golf course aquatic sites, the signs may be posted at the starting tees instead of at each treated aquatic site. If posted at the starting tees, each hole that has a treated aquatic site shall be listed. This posting may be incorporated into the signs used for the notification of turf and ornamental applications as per *N.J.A.C. 7:30-9.13(c)*; and

ii. In a treated area without a defined shoreline, a sign shall be posted at the principal access point(s) to the area, instead of along the shoreline.

(d) If specific users of the treated water will be impacted by a water use restriction related to potable water use, irrigation, or stock watering, those users shall be provided by the applicator or applicator business, the same pretreatment notification specified in (a) and (b) above that pertains to the contracting party. These specific users shall include, but not be limited to, those located downstream of the aquatic site treated, under circumstances where movement of the pesticide downstream may be reasonably foreseen.

1. A written record of those notified as per this subsection shall be kept on file by the applicator or applicator business and shall be immediately available upon request by the Department.

(e) Notification of community or area wide applications, as specified in *N.J.A.C. 7:30-9.10*, is required for treatments of aquatic sites greater than an aggregate of three surface acres.

(f) The applicator or applicator business is exempt from the provisions of (a) above with regard to the contracting party if the contracting party signs a waiver which states that the written information is declined:

1. Such waiver shall be worded as follows: "I have been told that I have the right to receive notification information as outlined in *N.J.A.C. 7:30-9.4(a)*. I decline to receive the information until such time as I withdraw this waiver by notifying the applicator or applicator business in writing." Signed .....

2. The waiver may be withdrawn by the contracting party at any time by notifying the applicator or applicator business, in writing.

3. Waivers shall be kept by the applicator or applicator business on file for at least three years.

4. Waivers shall be provided to the Department immediately upon request.

5. Waivers do not relieve the applicator or applicator business from responsibility to transmit appropriate warnings or precautions to appropriate persons pursuant to *N.J.A.C. 7:30-10.2*. Waivers

are for the contracting party and his property only. This waiver in no way affects notification information which shall be given to others or posted to notify others.

§ 7:30-9.5 Storage of pesticides

(a) Restricted use pesticides and containers contaminated by residues of restricted use pesticides shall, when unattended, be stored in a secure, locked enclosure. Such an enclosure shall bear prominently displayed warnings in English and any other language or languages as may be designated by the Department to reflect the ethnic majority of the local geographical area in which the storage area is located.

(b) Any person required to be a licensed pesticide applicator or dealer who stores any pesticide shall maintain a list of the pesticides stored or likely to be stored during the license year and shall annually send a copy of this list with an explanatory cover letter to the local fire company along with a written description or diagram depicting the exact location of the area on the property where the pesticide is stored; provided that the provisions of this subsection shall not apply to individuals who are storing pesticides for their personal use on their private residence or persons who are storing pesticides for less than seven calendar days at loading or application sites in connection with their use.

1. The list shall be updated and sent to the local fire company each year by May 1.

2. The list shall be kept at a location which is separate from the actual storage site.

3. The cover letter shall explain that this list has been sent pursuant to *N.J.A.C. 7:30-9.5(b)*.

4. A copy of each year's cover letter shall be kept on file for three years and shall be provided immediately upon request by the Department.

(c) No person shall store restricted use pesticides in a building wholly or partly occupied as a private residence unless:

1. The actual storage area, such as a garage, is a structurally separate room for those commonly used as living areas of the residence, and the ventilation in the storage area is sufficient to keep fumes and/or any potential fumes from intruding into the living areas of the residence; and

2. In the case of multi-family private residences, the actual storage area is a structurally separate room from those rooms commonly used as living areas, and the location of the storage area does not present a significant risk of harm, injury or damage to residents in the building and the ventilation in the storage area is sufficient to keep fumes and/or any potential fumes from intruding into the living areas of the residence.

(d) No person shall store restricted use pesticides in a building wholly or partly occupied as a commercial establishment or institution unless:

1. The actual storage area is a structurally separate room from those occupied as work areas and the ventilation in the storage area is sufficient to keep fumes and/or any potential fumes from intruding into the occupied areas of the building; and

2. In the case of multi-unit commercial establishments or institutions, the actual storage area is a structurally separate room from those rooms commonly used as living or work areas, and the location of the storage area does not present a significant risk of harm, injury or damage to occupants or

employees in the building and the ventilation in the storage area is sufficient to keep fumes and/or any potential fumes from intruding into the occupied areas of the building.

(e) The storage of any restricted use fumigant as delineated in *N.J.A.C. 7:30-2.10(a)*2 in a multi-family private residence, or in multi-unit commercial establishments or institutions, is considered to present a significant risk of harm, injury or damage and is prohibited.

1. This prohibition shall not apply to the storage of Ethylene Oxide as long as it is stored in accordance with OSHA requirements pursuant to 29 CFR Part 1910.

(f) No person shall store or transport pesticides in any service vehicle unless:

1. The service vehicle has posted thereon prominently displayed signs on at least the two sides of the vehicle, which clearly identifies the vehicle as containing pesticides or which clearly identifies the vehicle as being a pest control service vehicle. Lettering on signs shall be a minimum of three inches high;

i. The service vehicle shall also conform to the applicable advertising requirements of *N.J.A.C. 7:30-2.12* and, if it is an applicator business, the requirements of *N.J.A.C. 7:30-7.1(e)*;

2. All containers smaller than five gallons are securely stored in such a manner as to be resistant to being spilled or directly bumped by other containers;

3. Glass containers of any size are securely padded to avoid breakage;

4. Five gallon or larger containers are tightly braced or secured to a structural part of the service vehicle such as to the side, to prevent or reduce movement resulting from a sudden stop;

5. The service vehicle is provided with a supply of an absorbent material, sufficient to soak up or contain any liquid spills which may occur, and a shovel and/or broom and pan used exclusively to help contain the spills;

6. The service vehicle is equipped with at least an accessible and working 10-B:C dry chemical, or carbon dioxide fire extinguisher;

7. The pesticides are stored in a compartment separate from the driver, such as the bed of a pick-up truck or a van equipped with a partition. Such a partition may consist of a grillwork or heavy screening designed to limit movement of the pesticide containers;

8. All pesticide containers or any pesticide contained in portable application equipment, such as hand-held pressurized tank sprayers, are locked or secured to the vehicle in such a manner as to prevent removal by unauthorized persons, when such container or application equipment is located at an open, accessible area on the service vehicle when unattended; and

9. The hatch or door on any service vehicle tank containing a pesticide is equipped with a cover that will prevent spillage when the vehicle is in motion.

(g) No person who stores any pesticide shall store or display a pesticide next to food, or animal feed products; provided, that the provisions of this subsection shall not apply to individuals who are storing pesticides for their personal use on their private residence.

(h) Any person who stores or displays any pesticide shall have equipment, used exclusively for pesticide spill response and clean up, immediately available, including, but not limited to:

1. Enough absorbent material to absorb any liquid spill which could potentially occur; and

2. A shovel or a dust pan and brush, which shall be used exclusively to help contain the spill and pick up any absorbent material or dry pesticide, or a recovery or containment system capable of containing any spill which could potentially occur.

(i) The provisions of (h) above shall not apply to individuals who are storing pesticides for their personal use on their private residence.

§ 7:30-9.6 Containers and container labeling

(a) No person shall store, transport, or otherwise possess any pesticide if part or all of its registered label or labeling is missing, obscured, altered, unreadable or otherwise damaged beyond use or recognition. The provisions of this subsection shall not apply to pesticides in service containers, pesticides contained in application equipment, pesticides in the process of manufacturing or formulating, or pesticides in the possession of public officials of this State or Federal government while engaged in the performance of their official duties in administering State or Federal pesticide law.

(b) No person shall store, transport, or otherwise possess any pesticide in any service container unless the service container has attached to it a copy of the registered label that represents the pesticide contained therein or a readable label with the following information:

1. Brand or trade name;

2. EPA Registration Number;

3. Name and percentage of active ingredients in the service container; and

4. Appropriate signal word; that is, Danger-Poison, Warning, or Caution.

(c) No person shall place or keep any pesticide in any container commonly used for food, drink, or household products.

(d) No person shall hold, use, distribute, sell, or offer for sale within this State or deliver for transportation or transport in intrastate commerce or between points within this State or between points within this State through any point outside this State any pesticide or pesticide container, unless he or she complies with the requirements of 40 CFR Parts 9, 156 and 165 (otherwise known as the Federal Container and Containment regulations).

§ 7:30-9.7 Disposal

(a) No person shall dispose of pesticides, pesticide containers, or equipment that holds or has held a pesticide in a manner that causes harm or injury to persons or the environment, or a significant risk of harm, injury or damage.

(b) No person shall dispose of pesticides, pesticide containers, or equipment that holds or has held a pesticide in a manner that is in violation of State or Federal law.

§ 7:30-9.8 Emergency containment and disposal of pesticides

(a) Whenever any fire, explosion, casualty, or any other event or circumstance results in upset or spillage of any pesticide, or results in the placement or location of any pesticide such that it might move, flow, seep or in any way emanate from such location into the air, into any adjacent property, into any drain or sewer, into any source of potable water, into any ground water or into any of the

waters of this State, then such pesticide shall immediately be contained, covered, or removed or such other steps taken in accordance with this section, as may be necessary to stop or prevent any such movement, flow seepage or emanation.

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

1. The owner of the premises upon which such pesticide is located;

2. The person responsible for the presence of the pesticide on the premises; and

3. Any person responsible for the upset, spill, or circumstances resulting in such placement or location of the pesticide described in this paragraph.

(c) Each of the persons designated in (b)1, 2 and 3 above shall be responsible for the immediate notification of the Department as delineated in *N.J.A.C. 7:30-9.17*, upon the occurrence of a pesticide incident as described in this section.

(d) No person shall discard, burn, bury, or in any other way dispose of any pesticide involved in an event such as one described in (a) above, except in accordance with a written plan for such disposal submitted within 10 work days of the event and approved in writing by the Department, Pesticide Control Program.

(e) The written plan shall satisfy the Department:

1. That such disposal will not result in the contamination of the air or of any surface waters, ground waters, potable waters or any other waters of this State;

2. That such disposal will not result in the incineration or placement in any landfill, dump or refuse disposal area of any pesticide, except as may be approved in writing or in regulation by the Department; and

3. That such disposal will not endanger the public health, safety or welfare or present a significant risk of such danger.

§ 7:30-9.9 Pesticide application and safety equipment

(a) No person shall apply a pesticide unless the application equipment is properly maintained.

(b) No person shall apply a pesticide unless the application equipment is properly calibrated.

(c) All persons having employees who use, apply, transport, or otherwise handle any pesticide shall make available to such employees any necessary or appropriate safety equipment in good working order and shall train such employees in the proper operation of such safety equipment.

(d) No person required to be registered as a pesticide applicator or commercial pesticide operator under *N.J.A.C. 7:30-5*, *6 or 8*, or as a handler under *N.J.A.C. 7:30-12*, shall mix or load any restricted use 2,4-D compound unless the appropriate safety equipment is worn, a minimum of which shall be chemical resistant gloves and eye protection, to consist of either goggles or a face shield.

§ 7:30-9.10 Notification: community or area wide applications

(a) The provisions of this section shall apply only to the following types of pesticide application, if performed on aggregate areas of more than three acres:

1. All aerial applications, unless performed for the production of an agricultural commodity or for mosquito larviciding;

2. Right-of-way type applications. These applications include, but are not limited to pesticide applications performed along roadways, powerlines, railroads, and pipelines;

3. All mosquito adulticiding applications; or

4. All aquatic applications, except mosquito larviciding applications.

(b) No person shall apply any pesticide on a community or area wide basis unless prior notification of the proposed application has been given to persons residing in the vicinity of the proposed target site.

1. The notification shall be made through advertisement in at least two newspapers having the greatest likelihood of informing the public within the area of application.

i. The notice shall be placed in the legal advertisement section of one paper;

ii. The notice shall also be placed in a second paper, in a prominent area other than the legal advertisement section, namely a "display ad"; and

iii. The newspaper notification shall be given a maximum of 30 days and a minimum of seven days prior to the intended application date.

2. In addition to (b)1 above, if the technology and administrative ability is in place, notification shall be made by posting the information required in (b)3i through x below to the applicator's or applicator employer's web site.

i. The specific time(s) and location(s) to be sprayed shall be posted as soon as possible prior to the application.

3. The notification required in (b)1 above shall contain at least:

i. The intended application date(s) or a range of dates within which an application may be made;

ii. To the extent known at the time of the advertisement, the street name or names of streets at the nearest intersection (when this is beneficial in identifying the location) and the name of the municipality and county where the application is taking place;

iii. The name, address, and license number of the applicator business or the responsible pesticide applicator associated with the application;

iv. The brand name and active ingredients of the pesticide(s) to be used;

v. Application equipment to be used;

vi. The name, address and phone number of a person who may be contacted and is responsible for supplying updated information on the advertised pesticide applications to those persons requesting it;

vii. The New Jersey Poison Information and Education System telephone number for emergencies and the National Pesticide Information Center telephone number for routine health inquiries, and to obtain information about signs and symptoms of pesticide exposure;

viii. The telephone number of the Pesticide Control Program and the statement: "This number for pesticide regulation information, pesticide complaints, and health referrals";

ix. A statement that says: "Upon request, the pesticide applicator or applicator business shall provide a resident with notification at least 12 hours prior to the application, except for Quarantine and Disease Vector Control only, when conditions necessitate pesticide applications sooner than that time";

x. If the system is in place, the telephone number of the automated telephone system required in (b)4 below, along with the statement: "This phone number is for updated information on time and location of application(s)"; and

xi. If the system is in place, the address of the applicator's or applicator employer's web site.

4. In addition to (b)1 and 2 above, if the technology is in place, the times and locations for pesticide application and a telephone number to call for further information shall be made available on an automated telephone system.

i. The information is posted at least 12 hours prior to the pesticide application, except for Quarantine and Disease Vector Control only, when conditions necessitate pesticide applications sooner than that time, in which case the information shall be posted as soon as possible prior to the application; and

ii. The information shall be updated when changes take place.

5. Upon the request by a person residing in the vicinity of the proposed target site, to a person designated pursuant to (b)3vi above, such designated person shall provide, at a minimum, the following information at least 12 hours prior to the application, except for Quarantine and Disease Vector Control only, when conditions necessitate pesticide applications sooner than that time, or if a reasonable attempt to provide notice is unsuccessful, an attempt to notify such person, by telephone, shall be made immediately prior to the application.

i. The actual time and date of application;

ii. The actual pesticide to be applied including the EPA registration number; and

iii. Any precautionary statement(s) on the product's Federal registered label relating to homeowner or general public safety.

6. The person designated pursuant to (b)3vi above shall maintain a record of all telephone calls, attempted and completed, with persons requesting information referred to in (b)5 above, and a file of related correspondence. Such records and files shall be made available to the Department upon request. The minimum information required to be kept on the call record shall include:

i. Name and phone number of the person contacted; and

ii. The time and date of the call.

7. The person making the application subject to the notification requirements shall keep a record of the newspaper in which the advertisement was placed and the dates published. This information shall be made available to the Department upon request.

8. Neither quarantine nor vector disease control includes nuisance pest control.

(c) A waiver from the provisions of this section may be granted by the Department for the purpose of controlling emergency outbreaks of pests.

(d) The provisions of this section need not be followed when using "minimum risk" pesticides exempted from regulation by *N.J.A.C. 7:30-2.1(m)*5.

(e) In addition to the community and area wide notification requirements above, the following additional notification shall be made by the pesticide applicator for publicly sponsored/funded pesticide applications, including, but not limited to, mosquito adulticiding and gypsy moth control. These are applications made in the public interest which tend to target residential areas and adjacent areas such as parks and recreation sites.

1. Notification shall be made by mailing or delivering a packet of information annually, to the municipality to be sprayed.

i. Notification shall be mailed or delivered to the municipality's designated responsible official, such as the mayor, town administrator or town clerk.

ii. Except as delineated in (e)3 below, the information packet shall be mailed or delivered once per year between March 1 and March 30 prior to the intended application date.

2. Such information packets shall contain all of the items in (b)3 above, in addition to the following information:

i. A Department approved fact sheet for each pesticide proposed for use;

ii. A Department approved Question and Answer sheet for the program and each pesticide proposed for use, which explains what the agency does and how, where to get more information, what the populace may do to help mitigate the pest, general symptoms of exposure, and recommendations of how to avoid exposure to the pesticide; and

iii. The following statement: "Municipalities are encouraged to share this information with all residents in their community."

3. If the pesticide application can not be anticipated in the time frame required by (e)1 above, the information packet shall be delivered to the municipality prior to the pesticide application and as soon as possible after the decision is made to spray.

4. The information packets required in this subsection are intended for municipalities that are not the contracting party or that will only receive community or areawide notification.

§ 7:30-9.11 Notification to beekeepers

(a) No person shall make an outdoor application of a pesticide product that has information on its label or labeling noting that the product is toxic to bees, unless such person first notifies, at least 24 hours prior to the date of application, each beekeeper who:

1. Desires notification;

2. Owns, operates, or maintains a beeyard or beehive inhabited by honeybees or native bees located within three miles of the target site; and

3. Has been registered with the Department by March 1 of the calendar year in which the applications subject to the notification requirements of this section will occur.

(b) The notification shall include the following information:

1. The intended date of the application;

2. The approximate time of the application;

3. The brand name and active ingredient of the pesticide to be applied;

4. The location of the land on which the application is to be made; and

5. The name and certified pesticide applicator license number of the responsible pesticide applicator.

(c) Notification may be made to the beekeeper by telephone; in person; by regular or certified mail with sufficient lead time to arrive the day prior to the application; by facsimile (fax); or email. If no application is made on the intended date, then the individual shall be notified again according to (h) below.

(d) The Department may alter the interval of time needed for notification if any person can demonstrate to the satisfaction of the Department that an emergency situation has occurred and an immediate application is required to control a sudden and unexpected pest infestation, but time does not reasonably allow the giving of an advance 24-hour notice; provided, however, that notice of emergency applications shall be given to the beekeeper as soon as reasonably possible before or after the application.

(e) If the beekeeper does not choose to move, cover, or otherwise protect the beeyard or beehive inhabited by honeybees or native bees, the application may be made without delay; provided that such application complies with the pesticide labeling and any provisions of the Act or any rules and regulations promulgated thereunder.

(f) The provisions of this section shall not apply to any person using a pesticide on an aggregate area less than three acres; provided that the application is not made with hydraulic spraying equipment capable of operating at a rate greater than 300 psi and 10 gpm, airblast sprayers, or aerial equipment.

(g) Any person required to notify beekeepers pursuant to the provisions of (a) above shall not be responsible for notifying any beekeeper who cannot be notified because:

1. The Department failed to provide information deemed necessary by the Department for such notification, provided that the person required to notify the beekeeper requested the information from the Department at least two weeks prior to the application date; or

2. The person required to notify the beekeeper was unable to contact the beekeeper, provided that one telephone contact is attempted between the hours of 9:00 A.M. and 10:00 P.M. on the last day before the 24-hour notification limit.

(h) If the application date is changed so that the application will not occur on the intended date specified in the original notification of application but will be conducted during the next consecutive day, notification shall be given to the individual beekeeper as soon as reasonably possible but not later than 10:00 P.M. the night prior to the new application date.

(i) The provisions of this section shall not apply to any pesticide application that is made for agricultural purposes, except to the following crops within the dates stated below or when in the flowering stage:

1.	Apples	April 15 to May 15
2.	Pears	April 15 to May 15
3.	Strawberries	April 15 to May 15
4.	Peaches	April 15 to May 15
5.	Blueberries	April 15 to May 15
6.	Cranberries	June 15 to August 15
7.	Holly	June 1 to June 30
8.	Vine Crops (Cucurbits)	June 1 to August 31
9.	Sweet Corn	Flowering Stage
10.	Cover crop or weeds	Flowering Stage

(j) No person shall apply a community or area wide application of a pesticide product that has information on its label or labeling noting that the product is toxic to bees, on forest or shade tree hardwood tree species within one mile of a commercial blueberry field during the period April 15 through May 31 unless:

1. The applicator has received written permission to perform the application from all blueberry growers located within the one mile distance of the target site; and

2. Such written permission shall indicate that the application may be performed.

(k) No person shall apply any microencapsulated formulation, known to be toxic to bees, either in the crop or in the ground cover below or abutting the crop, while the crop or the ground cover is in bloom.

(l) The applicator or applicator business is exempt from the provisions of (a) above if the beekeeper signs a waiver that states that notification is declined:

1. Such waiver shall be worded as follows: "I have been told that I have the right to receive notification information as outlined in *N.J.A.C. 7:30-9.11(a)*1. I decline to receive the information until such time as I withdraw this waiver by notifying the applicator or applicator business in writing." Signed _____

2. The waiver may be withdrawn by the beekeeper at any time by notifying the applicator or applicator business, in writing.

3. Waivers shall be kept by the applicator or applicator business on file for at least three years.

4. Waivers shall be provided to the Department immediately upon request.

5. Waivers do not relieve the applicator or applicator business from responsibility to transmit appropriate warnings or precautions to the beekeeper pursuant to *N.J.A.C. 7:30-10.2*.

§ 7:30-9.12 Notification: household or structural pest control

(a) The types of pesticide application covered by this section are those performed by applicators who are required to be commercial certified pesticide applicators in Categories: 7A--General and household, 7B--Termite and other wood destroying, 7C--Fumigation, 7D--Food processing, 7E--Wood preserving pest control (in structures), 8A--General public health (see exception in (e) below), 8C-Campground, and 12A--Water sanitization; or by a person working under the direct supervision of a commercial certified pesticide applicator in the above categories. The types of pesticide

application not covered by this section are applications made by: private pesticide applicators; commercial certified pesticide applicators in Categories: 1A--Agricultural plant, 1B--Agricultural animal, 2--Forest, 3A--Ornamental, 3B--Turf, 3C--Interior plantscaping, 4--Seed treatment, 5--Aquatic, 6A--General vegetation management, 6B--Right-of-way, 7F--Antifoulant, 8B--Mosquito, 8D--Cooling water, 8F--Pet grooming, 9--Regulatory, 10--Demonstration and research (in the above "not covered" categories), 11--Aerial, and 12B--Sterilization; applications with "minimum risk" pesticides exempted from regulation by *N.J.A.C. 7:30-2.1(m)*5; and also applications to "mobile structures," such as automobiles, buses, planes and ships.

(b) At single family residences, no commercial application of pesticides shall be made for the control of household or structural pests without the following provisions being carried out, and sufficient time given to take appropriate precautions, if needed, to minimize potential exposure to individuals, pets and non-target sites; except as delineated in (b)3 below:

1. No application shall be made until the residents of the property are given the opportunity to review the following consumer information notice, which shall be provided by the commercial applicator or applicator business in writing or by electronic mail to the contracting party/residents and shall contain, at a minimum, the following:

i. A statement that the exact dates of application shall be available if requested, by the contracting party/residents;

ii. The pesticide(s) to be used (brand name and common chemical names, if available, of the active ingredients);

(1) When an advance list of possible pesticides for each application has been given to the person to be notified, then the applicator or applicator business shall leave written notice of the specific pesticide used on the application date.

(2) The exercise of this option shall not defeat the purpose of (b)1iii below. The residents of the property must be able to act upon those applicable label precautions for the product being used prior to the application being made. This means that if an applicator, while on a job site, decides to use a pesticide for which the necessary label precautions or instructions are not performed either by the resident or the applicator, prior to the application, then the application shall be rescheduled;

iii. Label instructions relating to resident or general public safety, including specific precautions for each pesticide;

(1) Such label instructions may include instructions to vacate for the time specified on the label, or to cover or remove certain objects, such as food, dishes, aquariums, etc. Giving such instructions to the residents does not relieve the applicator of responsibility to insure that applicable label directions are carried out;

iv. The name, address and telephone number of the applicator or applicator business;

v. The telephone number of the National Pesticide Information Center for general health and pesticide toxicology information and the New Jersey Poison Information and Education System telephone number for emergency situations;

vi. The telephone number of the Pesticide Control Program and the statement: "This number is for pesticide regulation information and pesticide complaints";

vii. A statement, in writing, that a copy of the label(s) for the pesticide(s) used will be available, if requested by the contracting party; and

viii. The statement: "Sanitation, as well as physical and biological control measures, should be considered as a part of a good pest control program. Pesticides may be used as another part of a good pest control program. Pesticides are substances used to control living organisms and vary in degree of toxicity."; and

ix. For termite control applications, a copy of *N.J.A.C. 7:30-10.4* or a Department approved summary of *N.J.A.C. 7:30-10.4*.

2. If the contracting party/resident requests prior notification of the specific date of the application, or a copy of the label(s) for the pesticide(s) used, such information shall be provided by the applicator or applicator business.

3. The applicator or applicator business is exempt from the provisions of (b)1 above if the contracting party/resident and the buyer, if applicable, signs a waiver or confirms agreement by electronic mail of such waiver, which states that the written information is declined:

i. Such waiver shall be worded as follows: "I have been told that I have the right to receive consumer information as outlined in *N.J.A.C. 7:30-9.12(b)*1. I decline to receive the information until such time as I withdraw this waiver by notifying the applicator or applicator business in writing." Signed _____

ii. The waiver may be withdrawn by the contracting party/resident or buyer, if applicable, at any time by notifying the applicator or applicator business, in writing.

iii. Waivers shall be kept by the applicator or applicator business on file for at least three years.

iv. Waivers shall be provided to the Department immediately upon request.

v. Waivers do not relieve the applicator or applicator business from responsibility to transmit appropriate warnings or precautions to the contracting party, resident, buyer and/or other appropriate persons pursuant to *N.J.A.C. 7:30-10.2*.

4. The applicator or applicator business shall provide all information required in (b)1 or 2 above if requested by the new homeowner of a single family residence which was treated pursuant to a real estate transaction.

(c) At multiple family residences, no commercial application of pesticides shall be made for the control of household or structural pests without the following provisions being carried out, and sufficient time given to take appropriate precautions, if needed, to minimize potential exposure to individuals, pets and non-target sites; except as delineated in (c)6 below:

1. The applicator or applicator business shall post a decal notice in each unit prior to the start of the application, as required in (c)2 below; such decal shall have the following specifications:

i. The minimum size of the decal shall be 15 square inches;

ii. The decal shall be legible from a distance of three feet;

iii. The decal shall remain legible while the area is being treated and for at least 60 days afterward. The decal may be removed after 60 days if no further pesticide applications are projected;

iv. The decal shall include the applicator or applicator business name and telephone number;

v. The decal shall include the following statement: "As part of a good sanitation program, this facility may be treated with pesticides. See the manager or building administration for further information."; and

vi. The decal shall conform to all applicable advertising requirements pursuant to *N.J.A.C. 7:30-2.12*.

2. The applicator or applicator business shall post the decal prominently on the inside of a kitchen cabinet door. Such cabinet shall be a commonly used cabinet, such as the cabinet above or below the kitchen sink. If a multiple family residence has no kitchen, the decal may be posted inside a cabinet or closet door where the tenant will see it.

3. If the tenant or resident requests additional information, the applicator or applicator business shall provide a copy of all information required in (c)4i through ix below.

4. No application shall be made until the contracting party has been given the opportunity to review the following consumer information notice, a copy of which shall be provided by the commercial applicator or applicator business in writing or by electronic mail to the contracting party, tenants, or residents and which shall contain, at a minimum, the following:

i. A statement that the exact dates of application shall be available if requested, by the contracting party, tenants or residents;

ii. The pesticide(s) to be used (brand name and common chemical names, if available, of the active ingredients);

(1) When an advance list of possible pesticides for each application has been given to the person to be notified, then the applicator or applicator business shall leave written notice of the specific pesticide used on the application date.

(2) The exercise of this option shall not defeat the purpose of (c)4iii below. The residents of the property must be able to act upon those applicable label precautions for the product being used prior to the application being made. This means that if an applicator, while on a job site, decides to use a pesticide for which the necessary label precautions or instructions are not performed either by the resident or the applicator, prior to the application, then the application shall be rescheduled;

iii. Applicable label instructions including separate precautions for each pesticide;

(1) Such label instructions may include instructions to vacate for the time specified on the label, or to cover or remove certain objects, such as food, dishes, aquariums, etc. Giving such instructions to the residents does not relieve the applicator of responsibility to insure that applicable label directions are carried out;

iv. The name, address and telephone number of the applicator or applicator business;

v. The telephone number of the National Pesticide Information Center for general health and pesticide toxicology information and the New Jersey Poison Information and Education System telephone number for emergency situations;

vi. The telephone number of the Pesticide Control Program and the statement: "This number is for pesticide regulation information and pesticide complaints.";

vii. A statement, in writing, that a copy of the label(s) for the pesticide(s) used will be available, if requested by the contracting party;

viii. The statement: "Sanitation, as well as physical and biological control measures, should be considered as a part of a good pest control program. Pesticides may be used as another part of a good pest control program. Pesticides are substances used to control living organisms and vary in degree of toxicity."; and

ix. For termite control applications, a copy of *N.J.A.C. 7:30-10.4* or a Department approved summary of *N.J.A.C. 7:30-10.4*.

5. If the contracting party, tenant or resident requests prior notification of the specific date of the application, or a copy of the label(s) for the pesticides used, such information shall be provided by the applicator or applicator business.

6. The applicator or applicator business is exempt from the provisions of (c)4 above if the contracting party, tenant or resident signs a waiver or confirms agreement by electronic mail of such waiver, which states that the written information is declined.

i. Such waiver shall be worded as follows: "I have been told that I have the right to receive consumer information as outlined in *N.J.A.C. 7:30-9.12(c)*4. I decline to receive the information until such time as I withdraw this waiver by notifying the applicator or applicator business in writing."

Signed_____

ii. The waiver may be withdrawn by the contracting party at any time by notifying the applicator or applicator business, in writing.

iii. Waivers shall be kept by the applicator or applicator business on file for at least three years.

iv. Waivers shall be provided to the Department immediately upon request.

v. Waivers do not relieve the applicator or applicator business from responsibility to transmit appropriate warnings or precautions to the contracting party, resident, buyer and/or other appropriate persons pursuant to *N.J.A.C. 7:30-10.2*.

7. Common areas (such as hallways, storage areas or laundry rooms) of structures with multiple residential units are considered commercial buildings, which require structural notification pursuant to (d)3 below.

(d) At institutions, commercial, industrial or public buildings, no commercial application of pesticides shall be made for the control of household or structural pests without the following provisions being carried out, and sufficient time given to take appropriate precautions, if needed, to minimize potential exposure to individuals, pets and non-target sites:

1. No application shall be made until the contracting party and the building manager, or building contact person of the individual location, if different than the contracting party, has been given the opportunity to review the following consumer information notice, a copy of which shall be provided by the commercial applicator or applicator business in writing or by electronic mail:

i. A statement that the exact dates of application shall be available if requested, by the contracting party, building manager, or building contact person;

ii. The pesticides to be used (brand name and common chemical names, if available, of the active ingredients);

(1) When an advance list of possible pesticides for each application has been given to the person to be notified, then the applicator or applicator business shall leave written notice of the specific pesticide used on the application date.

(2) The exercise of this option shall not defeat the purpose of (d)1iii below. The residents of the property must be able to act upon those applicable label precautions for the product being used prior to the application being made. This means that if an applicator, while on a job site, decides to use a pesticide for which the necessary label precautions or instructions are not performed either by the resident or the applicator, prior to the application, then the application shall be rescheduled;

iii. Label instructions relating to building user or general public safety, including separate precautions for each pesticide;

(1) Such label instructions may include instructions to vacate for the time specified on the label, or to cover or remove certain objects, such as food, dishes, aquariums, etc. Giving such instructions to the occupants does not relieve the applicator of responsibility to insure that applicable label directions are carried out;

iv. The name, address and telephone number of the applicator or applicator business;

v. The telephone number of the National Pesticide Information Center for general health and pesticide toxicology information and the New Jersey Poison Information and Education System telephone number for emergency situations;

vi. The telephone number of the Pesticide Control Program and the statement: "This number is for pesticide regulation information and pesticide complaints.";

vii. A statement, in writing, that a copy of the label(s) for the pesticide(s) used will be available, if requested by the contracting party;

viii. The statement: "Sanitation, as well as physical and biological control measures, should be considered as a part of a good pest control program. Pesticides may be used as another part of a good pest control program. Pesticides are substances used to control living organisms and vary in degree of toxicity."; and

ix. For termite control applications, a copy of *N.J.A.C. 7:30-10.4* or a Department approved summary of *N.J.A.C. 7:30-10.4*.

2. If the contracting party, occupant and/or the building manager, or building contact person requests prior notification of the specific date of the application, or a copy of the label(s) for the pesticides used, such information shall be provided by applicator or applicator business.

3. The applicator or applicator business shall post permanent notices, prior to the start of the application, as specified below, such notice to include date of latest application, pesticide(s) used (brand name and common chemical names, if available), the name of a contact person and telephone number for additional information, and the intended date of next application. The Department will allow removal of the notice after 60 days if no further treatments are projected.

i. At health care facilities, the notice shall be prominently posted at the nurse's station adjacent to the areas treated;

ii. At restaurants, or any food handling establishment, the notice shall be prominently posted next to the Health Department inspection card;

iii. At hotels and motels, the notice shall be prominently posted at the main desk;

iv. At schools, places of worship and public meeting places, the notice shall be prominently posted at the central bulletin board; and

v. At commercial and industrial work places, the notice shall be posted in a prominent place for the benefit of the employees.

4. At malls, stores, airports and other large public places, the applicator or applicator business shall post signs during the application, where the public may come in contact with the treated area, and the posting shall remain until the pesticide has settled or dried. This does not apply to crack and crevice treatments.

i. The signs shall bear the following information in letters at least one inch high "Pesticide Treated Area" and the signs shall contain a three inch or greater diameter circular illustration, in standard international signage, depicting an adult and a child walking. The illustration shall indicate by a diagonal line across the circle, that this action is prohibited.

ii. The signs shall be placed at the entrance(s) to the treated areas.

(e) The use of aerosols or fogs in structures which are attached to or adjoining other occupied structures, or structures which have a common air handling system, shall require the notification of the occupants of those adjoining structures in the manner prescribed by (b) above. Crack and crevice applications and flushing agents are exempt from this subsection.

(f) Public health officials are exempt from the notification requirements of this section, *N.J.A.C. 7:30-9.13* and *9.15*, during the normal course of their duties.

§ 7:30-9.13 Notification: turf or ornamental applications

(a) The types of pesticide applications covered by this section are those performed by applicators who are required to be commercial certified pesticide applicators certified in Categories: 3A--Ornamentals; 3B--Turf; 3C--Interior plantscaping; 7A, 7B, 7D, 8A, 8C--Treatments which include perimeter barrier treatments beyond two feet, shade trees, lawn areas, shrubbery or brushy areas; 6A--General vegetation management; or performed by someone working under the direct supervision of such a commercial applicator. The provisions of this section need not be followed when using "minimum risk" pesticides exempted from regulation by *N.J.A.C. 7:30-2.1(m)*5.

(b) At single family residences, no commercial application of pesticides shall be made for the control of turf or ornamental pests on residential properties without the following provisions being carried out and sufficient time given to take appropriate precautions, if needed, to minimize potential exposure to individuals, pets and non-target sites, except as delineated in (b)4 below:

1. Signs shall be posted on the treated property, at the start of the application and may be removed after 72 hours.

i. The signs shall be white in color and bear the words, "Pesticide Treated Area" in letters at least one-half inch high;

(1) All of the information required in (b)1i through v, shall be printed in a dark color, which sufficiently contrasts with the white background of the signs;

ii. The signs shall also contain a minimum two inch diameter circular illustration, in standard international signage, depicting an adult and a child on a lawn walking a dog on a leash. The illustration shall depict, with a diagonal line across the circle, that this action is prohibited;

iii. The signs shall also bear the name of the applicator or applicator license number only if not employed by a pesticide applicator business;

iv. If the application is made by a pesticide applicator business, the name of the applicator business or the business license number;

v. The telephone number of the applicator or applicator business;

vi. The signs shall be placed in such a manner:

(1) That they are clearly legible from all streets fronting the treated property and principal accesses to the treated area and also at reasonable intervals around the perimeter of that part of the treated area which may be reasonably accessed by the public and/or the residents; or

(2) If a smaller section of a larger property has been treated, only the treated area need be posted with a sign or signs; and

vii. The applicator or applicator business shall be responsible for posting and removing the signs; however, the applicator business may delegate to the contracting party, in writing, the removal of the signs.

2. No application shall be made until the contracting party has been given the opportunity to review the following consumer information notice, a copy of which shall be provided by the commercial applicator or applicator business in writing or by electronic mail:

i. A statement that the exact dates of application shall be available if requested, by the contracting party;

ii. The pesticide(s) to be used (brand name and common chemical names, if available, of the active ingredients);

(1) When an advance list of possible pesticides for each application has been given to the person to be notified, then the applicator or applicator business shall leave written notice of the specific pesticide used on the application date.

(2) The exercise of this option shall not defeat the purpose of (b)2iii below. The residents of the property must be able to act upon those applicable label precautions for the product being used prior to the application being made. This means that if an applicator, while on a job site, decides to use a pesticide for which the necessary label precautions or instructions are not performed either by the resident or the applicator, prior to the application, then the application shall be rescheduled;

iii. Label instructions relating to contracting party or general public safety, including separate precautions for each pesticide;

(1) Such label instructions may include instructions to water in the pesticide, or to cover or remove certain objects, such as pets, yard equipment, etc. Giving such instructions to the residents does not relieve the applicator of responsibility to insure that applicable label directions are carried out;

iv. The name, address and telephone number of the applicator business;

v. The telephone number of the National Pesticide Information Center for general health and pesticide toxicology information and the New Jersey Poison Information and Education System telephone number for emergency situations;

vi. The telephone number of the Pesticide Control Program and the statement: "This number is for pesticide regulation information and pesticide complaints.";

vii. A statement, in writing, that a copy of the label(s) for the pesticide(s) used will be available, if requested by the contracting party; and

viii. The statement: "Sanitation, as well as physical and biological control measures, should be considered as a part of a good pest control program. Pesticides may be used as another part of a good pest control program. Pesticides are substances used to control living organisms and vary in degree of toxicity."

3. If the contracting party requests prior notification of the specific date of the application, or a copy of the label(s) for the pesticides used, such information shall be provided by the applicator or applicator business.

4. The applicator or applicator business is exempt from the requirement to provide the information pursuant to (b)2 above if the contracting party signs a waiver or confirms agreement by electronic mail of such waiver, which states that the written information is declined.

i. Such waiver shall be worded as follows: "I have been told that I have the right to receive consumer information as outlined in *N.J.A.C. 7:30-9.13(b)* 2. I decline to receive the information until such time as I withdraw this waiver by notifying the applicator or applicator business in writing." Signed_____

ii. The waiver may be withdrawn by the contracting party by notifying the applicator or applicator business, in writing.

iii. The waivers shall be kept on file by the applicator or applicator business for at least three years.

iv. The waivers shall be immediately available upon request by the Department.

v. Waivers do not relieve the applicator or applicator business from responsibility to transmit appropriate warnings or precautions to the contracting party, resident, buyer and/or other appropriate persons pursuant to *N.J.A.C. 7:30-10.2*.

5. Whether or not a waiver is granted, the signs required pursuant to (b)1 above shall be posted.

(c) At multi-family residences, industrial and commercial buildings, no commercial application of pesticides shall be made for the control of turf or ornamental pests without the following provisions being carried out and sufficient time given to take appropriate precautions, if needed, to minimize potential exposure to individuals, pets and non-target sites:

1. Signs shall be posted on the treated property at the start of the application and may be removed after 72 hours.

i. The signs shall be white in color and bear the words, "Pesticide Treated Area" in letters at least one-half inch high;

(1) All of the information required in (b)1i through v, shall be printed in a dark color, which sufficiently contrasts with the white background of the signs;

ii. The signs shall also contain a minimum two inch diameter circular illustration, in standard international signage, depicting an adult and a child on a lawn walking a dog on a leash. The illustration shall depict, with a diagonal line across the circle, that this action is prohibited;

iii. The signs shall also bear the name of the applicator or applicator license number only if not employed by a pesticide applicator business; or if the application is made by a pesticide applicator business, the name of the applicator business or the business license number;

iv. The telephone number of the applicator or applicator business;

v. The signs shall be placed in such a manner:

(1) That they are legible from the principal access points to the treated area and also at reasonable intervals around the perimeter of that part of the treated area which may be reasonably accessed by the public and/or residents;

(2) For category 3C--Interior plantscaping applications, the signs shall be placed where they will be visible and a separate sign shall be placed in each cluster or grouping of plants; or

(3) If a smaller section of a larger property has been treated, only the treated area need be posted with a sign or signs; and

vi. The applicator or applicator business shall be responsible for posting and removing the signs; however, the applicator business may delegate to the contracting party, in writing, the removal of the signs.

2. No application shall be made until the contracting party and the building manager or building contact person of the individual location, if different, has been given the opportunity to review the following consumer information notice, a copy of which shall be provided by the applicator or applicator business in writing or by electronic mail:

i. A statement that the exact dates of application shall be available if requested, by the contracting party, building manager, or building contact person;

ii. The pesticide(s) to be used (brand name and common chemical names, if available, of the active ingredients);

(1) When an advance list of possible pesticides for each application has been given to the person to be notified, then the applicator or applicator business shall leave written notice of the specific pesticide used on the application date.

(2) The exercise of this option shall not defeat the purpose of (c)2iii below. The residents of the property must be able to act upon those applicable label precautions for the product being used prior to the application being made. This means that if an applicator, while on a job site, decides to use a pesticide for which the necessary label precautions or instructions are not performed either by the resident or the applicator, prior to the application, then the application shall be rescheduled;

iii. Label instructions relating to contracting party or general public safety, including separate precautions for each pesticide;

(1) Such label instructions may include instructions to water in the pesticide or remove certain objects, such as food, dishes, toys, or pets, etc. Giving such instructions to the occupants does not relieve the applicator of responsibility to insure that applicable label directions are carried out.

iv. The name, address and telephone number of the applicator or applicator business;

v. The telephone number of the National Pesticide Information Center for general health and pesticide toxicology information and the New Jersey Poison Information and Education System telephone number for emergency situations;

vi. The telephone number of the Pesticide Control Program and the statement: "This number is for pesticide regulation information and pesticide complaints.";

vii. A statement, in writing, that a copy of the label(s) for the pesticide(s) used will be available, if requested by the contracting party or building manager building contact person; and

viii. The statement: "Sanitation, as well as physical and biological control measures, should be considered as a part of a good pest control program. Pesticides may be used as another part of a good pest control program. Pesticides are substances used to control living organisms and vary in degree of toxicity."

3. If the contracting party and/or the building manager or building contact person, requests prior notification of the specific date of application, or a copy of the label(s) for the pesticides used, such information shall be provided by the applicator or applicator business.

4. The applicator or applicator business is exempt from the requirement to provide the information pursuant to (c)2 above if the contracting party, or the building manager/building contact person, signs a waiver or confirms agreement by electronic mail of such waiver, which states that the written information is declined.

i. Such waiver shall be worded as follows: "I have been told that I have the right to receive consumer information as outlined in *N.J.A.C. 7:30-9.13(c)* 2. I decline to receive the information until such time as I withdraw this waiver by notifying the applicator or applicator business in writing." Signed_____

ii. The waiver may be withdrawn by the contracting party or the building manager by notifying the applicator or applicator business, in writing.

iii. The waivers shall be kept on file by the applicator or applicator business for at least three years.

iv. The waivers shall be immediately available upon request by the Department.

v. Waivers do not relieve the applicator or applicator business from responsibility to transmit appropriate warnings or precautions to the contracting party, resident, buyer and/or other appropriate persons pursuant to *N.J.A.C. 7:30-10.2*.

5. Whether or not a waiver is granted, the signs required pursuant to (c)1 shall be posted.

(d) At golf courses, no commercial application of pesticides shall be made for the control of turf or ornamental pests without the following provisions being carried out:

1. Signs shall be posted at the starting tees prior to any application so that the signs are visible to persons using the course.

i. The signs shall bear the following information in letters at least one inch high: "Pesticide Treated Area"; and

ii. The signs shall also include the following information, which shall be legible to a person standing in front of the sign at a distance of three feet and which shall be changed as necessary:

(1) The date of last application;

(2) The area(s) treated, that is, the tees, fairways, greens, and roughs for each hole;

(3) The pesticide(s) used (brand name and common chemical names, if available, of the active ingredients);

(4) The intended date of next application for the tees and fairways, greens, and roughs for each hole; and

(5) The name and telephone number of the person to contact for additional information.

2. Any person asking the applicator or applicator business about pesticides used at the golf course shall be informed that the following information is available if requested in writing. The applicator or applicator business shall provide the following information within two weeks:

i. A copy of the label(s), of the pesticides used;

ii. The telephone number of the New Jersey Poison Information and Education System telephone number for emergency situations; and

iii. The telephone number of the Pesticide Control Program and the statement: "This number is for pesticide regulation information and pesticide complaints."

3. If a pesticide application is made to a residential property which is a part of the golf course grounds then notification shall be given to the resident(s) pursuant to (b)2 above and the treated area shall be posted as in (b)1 above.

4. If a pesticide application is made to golf course grounds which are not part of the actual playing course or part of a residential property, then the treated area shall be posted as in (b)1 above.

(e) At schools, institutions, parks and similar sites, no commercial application of pesticides shall be made for the control of turf or ornamental pests without the following provisions being carried out:

1. Signs shall be posted at the start of the application and may be removed after 72 hours. The signs shall be posted in such a manner:

i. That they are legible from the principal access points to the treated areas, such as athletic fields, play grounds and recreation areas;

ii. If there are no principal access points, that is, the field, playground, or recreation area is open or unfenced, then signs shall be posted at reasonable intervals around the perimeter of that part of the treated area which may be reasonably accessed by the public and/or residents; or

iii. In a smaller section of a larger property has been treated, only the treated area need be posted with a sign or signs;

2. The signs shall be white in color and bear the following information in letters at least one-half inch high: "Pesticide Treated Area.":

i. All of the information required in (e)1 through 5, shall be printed in a dark color, which sufficiently contrasts with the white background of the signs;

3. The signs shall also contain a minimum two inch diameter circular illustration, in standard international signage, depicting an adult and a child on a lawn, walking a dog on a leash. The illustration shall depict, with a diagonal line across the circle, that this action is prohibited.

4. The signs shall also bear the name of the applicator or applicator license number only if not employed by a pesticide applicator business; or if the application is made by a pesticide applicator business, the signs shall bear the name of the applicator business or the business license number.

5. The signs shall also bear the telephone number of the applicator or applicator business.

6. The applicator or applicator business shall be responsible for posting the signs.

7. No application shall be made until the contracting party and the site manager, that is, the head of the school, institution or park, has been given the opportunity to review the following consumer information notice, which shall be provided by the applicator or applicator business in writing or by electronic mail:

i. A statement that the exact dates of application shall be available if requested, by the contracting party, and site manager, that is, the head of the school, institution or park;

ii. The pesticide(s) to be used (brand name and common chemical names, if available, of the active ingredients);

(1) When an advance list of possible pesticides for each application has been given to the person to be notified, then the applicator or applicator business shall leave written notice of the specific pesticide used on the application date.

(2) The exercise of this option shall not defeat the purpose of (e)7iii below. The residents of the property must be able to act upon those applicable label precautions for the product being used prior to the application being made. This means that if an applicator, while on a job site, decides to use a pesticide for which the necessary label precautions or instructions are not performed either by the resident or the applicator, prior to the application, then the application shall be rescheduled;

iii. Label instructions relating to building or site user or general public safety, including separate precautions for each pesticide;

(1) Such label instructions may include instructions to water-in the pesticide, or to cover or remove certain objects, such as playground equipment, etc. Giving such instructions to the contracting party does not relieve the applicator of responsibility to insure that applicable label directions are carried out;

iv. The name, address and telephone number of the applicator or applicator business;

v. The telephone number of the National Pesticide Information Center for general health and pesticide toxicology information and the New Jersey Poison Information and Education System telephone number for emergency situations;

vi. The telephone number of the Pesticide Control Program and the statement: "This number is for pesticide regulation information and pesticide complaints.";

vii. A statement, in writing, that a copy of the label(s) for the pesticide(s) used will be available, if requested by the contracting party or site manager; and

viii. The statement: "Sanitation, as well as physical and biological control measures, should be considered as a part of a good pest control program. Pesticides may be used as another part of a good pest control program. Pesticides are substances used to control living organisms and vary in degree of toxicity."; and

8. If the contracting party or site manager requests prior notification of the specific date of application, or a copy of the label(s) of the pesticides used, such information shall be provided by the applicator or applicator business.

(f) Public health officials are exempt from the notification requirements of this section and *N.J.A.C. 7:30-9.12* and *9.15* during the normal course of their duties.

§ 7:30-9.14 School notification

(a) No commercial or private outdoor pesticide application shall be made on sites within 250 feet from a school property line on those properties that are abutting and contiguous to the school with any equipment operating at greater than 60 psi unless the following provisions are carried out:

1. The responsible pesticide applicator shall contact a responsible school official prior to application to notify him or her of the possibility of future applications and learn if the school official desires notification of the applications.

i. If the school desires notification, the responsible applicator and the responsible school official may negotiate a notification agreement which may be verbal, but should be in writing if possible to avoid misunderstanding.

2. The notification agreement may include, but not be limited to, the following considerations, which will serve as notification guidelines:

i. The possible date(s) of application;

ii. The brand name and EPA registration number of the pesticide(s) which may be applied;

iii. The common chemical name(s) of the active ingredient(s) of the pesticide(s) listed in (a)2ii above;

iv. The name and license number of the pesticide applicator making the application; and

v. A name and telephone number of a contact person to call to receive further information.

3. Notice may be made by any means agreed to by both parties, such as by telephone, facsimile (fax), e-mail, in person or by regular or certified mail with sufficient lead time to take precautions in advance of the application. If attempts to notify the school official by telephone fail pursuant to (a)4 below, then all required notification information may be made in person or left in writing at the school office, prior to the beginning of the application. If no application is made on the intended date, then the school official may be notified again.

i. In the case of agricultural applications, if the applicator attempts to notify the school official by the methods agreed upon by both parties, and is unsuccessful, then the applicator is not required to provide notification in person or in a writing left at the school office.

4. The person opting to notify the school by telephone shall attempt one telephone contact between the hours of 9:00 A.M. and 3:00 P.M.

5. The agreement may address such circumstances as weekend availability of a responsible school official, or the use of an Integrated Pest Management (IPM) program.

(b) Exceptions to the provisions of (a) above are as follows:

1. Notice need not be made at all when the responsible school official informs the applicator that no student outdoor use of the school will occur during the application and for at least 24 hours after the application.

2. If a good faith effort has been made to work out an agreement with the school, but an agreement cannot be reached, the application will not be stopped. However, the responsible applicator shall provide notification to the school official and reasonable precautions shall be taken, including the allowance of sufficient time for those notified to take appropriate precautions, before application may commence.

3. The provisions of (a) above shall not apply to larviciding applications which are conducted by or controlled by a county mosquito control agency pursuant to the provisions of the Mosquito Extermination statute, *N.J.S.A. 26:9-1* et seq.

4. The provisions of (a) above shall not apply to pesticide applications made with any "minimum risk" pesticide exempted from regulation by *N.J.A.C. 7:30-2.1(m)*5.

5. The applicator or applicator business is exempt from the requirement to provide notification pursuant to (a) above if the responsible school official declines the notification.

6. The requirements of (a) above shall not apply to application equipment which has been designed to limit drift and which has been reviewed and approved by the Department.

§ 7:30-9.15 General notification

(a) The following applies to all applications covered under commercial Category 1A, 2, 3A, 3B, 3C, 5, 6A, 6B, 7A, 7B, 7C, 7D, 8A (see exception at *N.J.A.C. 7:30-9.11(e)*), 8B (except mosquito larviciding by ground application), and 8C:

1. No person shall make an application of pesticides in the categories of pest control noted in (a) above without complying with (b) below where a person not previously notified requests to be notified of such an application or where conditions indicate that notification in addition to that specified in this subchapter is necessary to prevent a significant risk of harm, injury or damage.

(b) When such need for notification is identified, notification shall be made and reasonable precautions taken, including the allowance of sufficient time for those notified to take appropriate precautions, before application may commence.

(c) Notification shall consist of the following:

1. The date and time of application;

2. The brand name and EPA registration number of the pesticide(s) which will be applied;

3. The common chemical name(s) of the active ingredient(s) of the pesticide(s) listed in (c)2 above;

4. The location or address of the application; and

5. A name and telephone number of a contact person to call to receive further information.

§ 7:30-9.16 General agricultural notification

(a) Any private or commercial pesticide applicator, who has been issued any notice by the Department for violations of regulations concerning pesticide drift, direct application to non-target site(s), or misuse involving risk or actual harm, injury or damage to persons or the environment, which has occurred during the course of producing an agricultural commodity shall be subject to these notification requirements.

1. This requirement to notify shall commence upon the applicator's receipt of the notice as specified in (a) above and shall continue for a period of five years.

2. Should the applicator receive another notice for a violation concerning pesticide drift, direct application to non-target sites, or misuse as specified in (a) above during this five year period, then a new five year period shall commence with the applicator's receipt of the latest violation notice.

(b) The applicator shall post a flag or sign prior to any outdoor pesticide application that is made within 250 feet from the abutting or contiguous property line, so that the sign is visible to those neighboring persons who abut the treated site.

(c) The applicator shall post such flag or sign at the start of the application and shall remain posted at least 24 hours and removed within 72 hours of the end of the restricted entry interval.

1. The signs shall be posted in the following manner:

i. The flag(s) or sign(s) shall be legible from the neighboring borders or fence line abutting the treated areas; and

ii. If a smaller section of a larger property has been treated, only the treated area need be posted with a flag or sign.

2. The signs shall bear the following information in letters at least one inch high:

i. "Pesticide Treated Area"; and

ii. The name and telephone number of the person to contact for additional information.

(d) The applicator shall be responsible for removing the flag or sign.

§ 7:30-9.17 Reporting of pesticide spills

(a) Any licensed pesticide dealer, dealer business, commercial pesticide operator, pesticide applicator, or any licensed pesticide applicator business, or any person required under the provisions of the Act and N.J.A.C. 7:30-3, 4, 5, 6, 7, or 8 to be a licensed dealer, dealer business, commercial pesticide operator, applicator or applicator business, shall notify the Department of any reportable pesticide spill occurring under such person's direct supervision and/or direct observation and shall provide the following information:

1. The name, address and telephone number of the pesticide dealer, commercial pesticide operator, or applicator;

2. The name, address and telephone number of the dealer business or applicator business, if any;

3. The name and telephone number of the property owner or operator;

4. The location of the incident;

5. The name and EPA registration number of the pesticide;

6. The estimated amount and dilution rate of pesticide involved; and

7. The corrective action(s) taken.

(b) The report shall be made to the Department immediately and shall be made by telephone to the Department Hotline at 1-877-WARNDEP or 1-877-927-6337.

1. A written report of the pesticide spill by the person responsible for the report pursuant to (a) above, shall be mailed to the Department, Pesticide Control Program, PO Box 411, Trenton, NJ 08625-0411 within 10 days of the date of occurrence.

(c) The Department shall maintain a log dedicated to recording reports made pursuant to (a) and (b) above and shall immediately enter such reports upon receipt.

(d) Any pesticide applicator and/or pesticide applicator business shall be jointly and severally responsible for the reporting of a pesticide spill as required by this section.

§ 7:30-9.18 Accidental pesticide misapplications and spills

(a) When, during the application of a pesticide, an accidental reportable pesticide spill has occurred, or if movement of a pesticide to a non-target site within a structure has occurred, no violation of this chapter shall be cited provided:

1. The person responsible for the application reports the spill or movement of the pesticide to the Department in accordance with *N.J.A.C. 7:30-9.17*;

2. Necessary procedures to cleanup the pesticide to a level deemed acceptable by the Department are immediately implemented to reduce or remove resultant contamination at the non-target site. The Department may, at its discretion, extend the time period of initiation of the cleanup; and

3. It can be adequately demonstrated to the Department that the following conditions relevant to the application were met:

i. No injury to persons or the environment resulted from the incident or the presence of the pesticide at the non-target site;

ii. All persons involved in the application were properly licensed under the provisions of this chapter;

iii. Equipment used during the application was properly maintained and/or calibrated;

iv. The record of pesticide application contains all mandated information; and

v. The application was performed in a manner consistent with the provisions of the Federal registered label of the pesticide used and other restrictions as contained in the Act or this chapter.

SUBCHAPTER 10. PESTICIDE USE

THIS IS A COURTESY COPY OF THIS RULE. ALL OF THE DEPARTMENT'S RULES ARE COMPILED IN TITLE 7 OF THE NEW JERSEY ADMINISTRATIVE CODE.

§ 7:30-10.1 Restriction of pesticide use

(a) Upon determination that a specific use of any pesticide or group of pesticides consistent with the Federal registered label or labels presents a significant risk of harm, injury or damage, the Department may place restrictions on such use of the pesticide or group of pesticides as deemed necessary by the Department.

(b) All applications performed with any pesticide on which the Department has imposed restrictions as authorized by (a) above, shall be done in accordance with both the pesticide label directions and any additional restriction. If the Federal registered label is more stringent or revised by US EPA to be more stringent than the restrictions imposed by the Department, then the more stringent label shall take precedence, consistent with effective dates of such more stringent requirement as may be provided by the US EPA.

§ 7:30-10.2 Pesticide use and/or application

(a) No person shall use or apply a pesticide in a manner inconsistent with its Federal or State registered label or labeling, or restrictions as provided for in this chapter. The following activities shall not constitute a violation of the label or labeling:

1. Applying a pesticide at any dosage, concentration or frequency less than that specified on the label or labeling, unless the label or labeling specifically prohibits this;

2. Applying any pesticide against a target pest not specified on the label or labeling, provided that the application is made to the site, crop or animal specified on the label or labeling; unless the US EPA or the Department, where authorized, has required that the pesticide shall only be used for pests specified on the label, or pests specified in Department rules;

3. Employing any method of application, except aerial, pursuant to *N.J.A.C. 7:30-10.6(x)*, and chemigation, not prohibited by the label or labeling;

4. Mixing a pesticide or pesticides with a fertilizer when such a mixture is not prohibited by the label or labeling; or

5. Any use of a pesticide in conformance with Sections 5 or 18 of the Federal Insecticide, Fungicide, and Rodenticide Act *(7 U.S.C. §§ 136*(c) and 136(p), respectively).

(b) No person shall transport, handle, store, mix or load any pesticide or pesticide container in a manner that causes:

1. Harm, injury or damage to persons, property or the environment; or

2. A significant risk of harm, injury or damage.

(c) No person shall apply pesticides in a manner that causes:

1. Harm, injury or damage to persons, property or the environment; or

2. A significant risk of harm, injury or damage.

(d) No person shall directly apply any pesticide to a non-target site.

(e) No person shall make any application of a pesticide unless he or she takes reasonable precautions, before, during and after the application, to minimize exposure of individuals or the environment to the pesticide and ensure the safety of any individuals or the environment consequently exposed. Such precautions shall include, but not be limited to, transmittal from the applicator to the exposed and/or potentially exposed individual of precautionary label statements relevant to such individuals or the environment.

(f) No person applying a pesticide shall permit drift or other movement of the pesticide to infringe on a non-target site, under circumstances where such infringement should be reasonably foreseeable.

(g) No person shall clean or rinse containers or application equipment which holds or has held a pesticide in a manner that causes harm, injury or damage to persons, property or the environment, or a significant risk of harm, injury or damage.

(h) No person shall add water to any pesticide handling, storage, or application equipment via a hose, pump, or other equipment unless such hose, pump, or other equipment is fitted with an effective valve or device to prevent backflow of pesticides or liquids containing pesticides into water supply systems, streams, lakes, other sources of water or other areas.

(i) No person shall mix or apply or use a pesticide unless a readable copy of the registered label for the pesticide which is being mixed or applied is available at the application or mixing site.

(j) No person shall apply or use pesticides on a field or any other area used for agricultural purposes when persons other than those involved in the application or evaluation of the applied pesticide are within the boundaries of the target site to which the pesticide is being applied; unless such persons have appropriate protective clothing and/or equipment as required by the labels or labeling of the pesticides being applied.

(k) No person shall perform a community or areawide pesticide application for gypsy moth control during normal student commuting times, as determined by the local school district, within two miles of a school including part or all of grades K through 8 and within two and one-half miles of a school including part or all of grades 9 through 12. Provisions of this subsection shall not apply on those days when a school is not in session.

(*l*) No person shall make a commercial application of a fumigant unless at least one applicator certified and licensed in the appropriate category or subcategory which allows fumigation, such as those described in *N.J.A.C. 7:30-6.2(a)*1i--Category 1A, Plant, (a)3ii--Category 3B Turf, (a)7iii--Fumigation, or (a)7iv--7D Food processing is present at the application location for the "duration of the application" as defined in *N.J.A.C. 7:30-1.2*. The licensed applicator does not have to be present during the entire retention period.

1. A certified and licensed applicator need not be present at the opening of fumigated transportation modules, such as rail cars, truck trailers, or ships, if the following requirements are met:

i. The person or persons opening the transportation module have been trained in the use of respirators and/or SCBA (Self-Contained Breathing Apparatus) appropriate to avoid exposure to fumigants and also how to dispose of any residues properly, and

ii. The transportation module has been in transit for a time in excess of the normal fumigant holding time.

2. The use of fumigants covered by categories 12A and 12B are exempt from (*l*) above.

(m) No person shall make an application of a pesticide containing diazinon to sod farms, golf courses, or other turf areas greater than three acres, or to other general turf areas of three acres or less that evidence indicates are frequented by waterfowl.

(n) No person shall make an application of any pesticide, except for rodenticides, insect baits and antimicrobial agents, in or around a day care facility, during normal operating hours, as set by the facility administration. After normal operating hours, or for the exceptions in (n)1 and 2 below, applications can be made in areas where children will not contact treated areas until ventilation requirements and the numerical re-entry time prescribed on the label have been met, or if there is no numerical re-entry time prescribed on the label, until seven hours have passed.

1. Recreational fields which are not used by the children during normal operating hours may be treated during normal operating hours.

2. Structures that are separate from any structure used by the children during normal operating hours and which shall not be used by the children during normal operating hours may be treated during normal operating hours.

3. This subsection is not applicable to public health officials during the normal course of their duties.

(*o*) No person shall make an application of a TBT antifoulant paint unless applied:

1. Within a commercial boat yard; and

2. To vessels which exceed 25 meters (82.02 feet) in length or which have aluminum hulls.

(p) Pursuant to *N.J.A.C. 7:50-6.87(c)*, no person shall use any herbicide on any road or public utility right-of-way within the Pinelands unless necessary to protect an adjacent agricultural activity. Should *N.J.A.C. 7:50-6.87(c)* be amended, then such amended regulation shall take precedence.

§ 7:30-10.3 Rodent baiting

(a) No person shall use any rodent bait, unless it has been placed in tamper-resistant bait boxes pursuant to (b) and (c) below, or in locations not accessible to children, pets, domestic animals or non-target wildlife.

(b) No person shall use or otherwise possess any pesticide in any rodent bait box or bait tray unless:

1. The bait box is secured against tampering when placed in areas accessible to pets, domestic animals, non-target wildlife or children; and

i. The bait box or tray has attached to the exterior, a copy of the registered label of the pesticide; or

ii. The bait box or tray has, attached to the exterior, a readable label with the following information about the pesticide contained therein:

(1) The brand or trade name;

(2) The EPA registration number;

(3) The name and percentage of active ingredient(s) in the bait box; and

(4) An appropriate signal word, that is, Danger-Poison, Warning, or Caution.

(c) For purposes of interpretation of (b) above, a bait box shall be considered tamper-resistant when:

1. It has met the standards for tamper-resistant bait boxes used by the EPA in PR-Notice 94-7, incorporated herein by reference;

2. The bait box containing the pesticide is in a secure storage area; or

3. The bait box is under the direct observation of a pesticide applicator.

(d) After the application has been completed or the contract has been terminated, all accessible bait shall be removed by the applicator or applicator business.

§ 7:30-10.4 Restrictions on use of termiticides

(a) No person shall make a commercial application of a pesticide for control of termites unless at least one applicator certified and licensed in the termite subcategory as described in *N.J.A.C. 7:30-6.3(a)*7ii is present at the application location for the duration of the application and within line of sight of the person making the application. This requirement shall not apply to the monitoring and maintenance of termite baiting stations or the placement of pesticide active ingredient therein by a properly trained and licensed commercial pesticide operator, working under the direct supervision of a responsible commercial pesticide applicator certified in the termite subcategory.

(b) No person shall apply any termiticide, using equipment designed for pressurized application, without first pressurizing the application equipment and inspecting for leaks, including, but not limited to, observation of the tank, pump, hose, fittings, and injection apparatus. Any leak detected during this inspection shall be repaired prior to starting the application. If any leaks are detected during application, the application shall immediately cease until the leak has been repaired and the spill soaked up with an absorbent material. Provisions of *N.J.A.C. 7:30-9.17* and *9.18* shall also apply.

(c) All pressurized termiticide application equipment shall be equipped with a properly operating pressure gauge, accurate to within plus or minus five psi. Provisions of this subsection do not apply to hand-held pressurized tank type sprayers which may be used for control of swarming termites with pesticides labeled for this use.

(d) No person shall add water to any termiticide application equipment unless adequate provision is made for prevention of backflow as stated in *N.J.A.C. 7:30-10.2(h)*.

(e) When treating a structure with a termiticide, hoses acting as the conduit between the tank holding the termiticide and the injection apparatus shall be routed through the structure in the manner most likely to minimize the potential for contamination should a hose rupture during treatment. Whenever possible, keep hoses outside of the structure being treated.

(f) Voids in foundation walls may be left untreated when deemed appropriate, in the experience of the applicator and after review of the structure and evidence of damage or infestation therein, to effect a successful treatment. If the foundation wall voids are treated, the treatment shall be performed consistent with label directions and the provisions of (g) below.

(g) No person shall make an application of any pesticide labeled for termite control, except termiticide baits, into voids of foundations unless done pursuant to the following restrictions listed by foundation type:

1. When hollow block, brick, and tile foundations are treated, the applicator shall:

i. Check any basement or crawlspace interior after treatment for potential seepage or spill;

ii. If a seepage or spill is observed, the spill shall be absorbed and cleaned to manufacturer's specifications immediately;

iii. Other clean-up procedures, to be determined by the Department when discovered or reported pursuant to *N.J.A.C. 7:30-9.17*, may be required in addition to absorption of the termiticide; and

iv. A reasonable precaution taken pursuant to *N.J.A.C. 7:30-10.2(e)* may be the sealing of any visible cracks, holes, or other openings prior to the application of any pesticide to prevent infiltration of pesticides into basements or crawlspaces.

2. Rubble and stone foundations shall:

i. When the mortar is in good condition, have test holes drilled, any of which reaching voids may be treated as consistent with label directions. Test holes not reaching voids shall be left untreated and shall be sealed along with the treated holes after application;

ii. When the mortar is in poor condition as determined by inspection or test application using water only, the inside wall shall be sealed with cement or equivalent covering prior to treatment, or the voids injected with a pesticide, other than an organo-chlorine, which is Federally registered for this use;

iii. Be injected only with low pressure injection; and

iv. Be injected only in conjunction with active ventilation using fans inside the basement and/or crawlspace to remove solvent and pesticide vapors from the treated structure.

(h) No person shall make an application of any termiticide to a basement floor, unless applied pursuant to label directions and the following restrictions listed by structural floor type and/or condition:

1. Concrete slab floors with a French drain system shall be treated by low pressure injection beneath the slab and/or expansion joint with a pesticide, other than an organo-chlorine, labeled for this site.

i. If a sump is present and accessible, the sump pump shall be turned off until (h)1ii below is carried out and (h)1iii below, if necessary;

ii. Such a french drain system shall be checked for potential seepage or spill after treatment;

iii. If a seepage or spill is observed, the spill shall be absorbed and cleaned to manufacturer's specifications immediately; and

iv. Other clean-up procedures, to be determined by the Department when discovered or reported pursuant to *N.J.A.C. 7:30-9.17*, may be required in addition to absorption of the termiticide.

2. Basement floors which are wet shall not be treated, unless it can be determined that the site of injection is above the level of the surrounding water table.

3. Basement floors with a high local water table which is known to the person contracting for the termite treatment and communicated to the applicator shall not be treated, unless the floor can be treated with a non water soluble termiticide when the water table is below the level of the site of injection.

4. Basement floors which have a sump pump pit in which there is standing water shall not be treated. Such a floor shall only be treated when the sump pit is pumped and then does not refill.

(i) No person shall make an application of a termiticide, except termiticide baits, to a crawlspace unless applied pursuant to the following restrictions listed by structural type and/or other conditions:

1. Accessible crawlspaces with no heating unit (see definition of heating unit in *N.J.A.C. 7:30-1.2*) present shall be treated in a manner consistent with the State or Federal label or labeling.

2. Accessible crawlspaces with a heating unit present shall be treated consistent with (i)1 above. Any air intakes in the heating unit which draw air from the crawlspace shall be ducted to the exterior of the building, and seams on the ducts inspected for tightness of fit and taped or equivalently sealed as necessary. In addition, adequate cross-ventilation must be present or shall be provided prior to treatment with a minimum total ventilation opening size requirement of 1/150th of the square footage of the crawlspace surface. As an alternative, this crawlspace may also be treated as in (i)3 below.

3. Accessible plenum crawlspaces shall be treated consistent with (i)1 above, but only with a termiticide which is labeled for this site and only in conjunction with active ventilation during and for 24 hours following the end of the plenum crawlspace treatment. Only low pressure injection shall be used. Immediately following treatment, cover treated soil with at least six mil polyethylene tarp or equivalent sheeting as may be approved by the Department. Occupants of the treated structure shall be advised to vacate during treatment and for the 24 hour aeration period.

(j) No person shall make an application of a termiticide to an inaccessible space unless applied pursuant to the following restrictions:

1. Access shall be created to permit visual inspection of the area to be treated.

2. If there is a minimum of two feet of clearance between the soil surface and the bottom of the floor joists, treatment may be made consistent with label directions using the access point in (j)1 above, provided that proper ventilation exists or can be provided pursuant to (i)2 above.

3. If there is less than two feet of clearance and if entry can be made into the area to be treated, soil may be removed to obtain adequate clearance and treatment may be made consistent with label directions, provided that proper ventilation exists or can be provided pursuant to (i)2 above; or

i. If the ceiling of the space is concrete and entry cannot be made, drill through the foundation walls from the exterior at an angle and rod beneath the soil surface, or drill vertically through the ceiling of the space and rod beneath the soil surface.

(k) No person shall make an application of a termiticide, except termiticide baits, to an interior or exterior slab unless applied in accordance with the following restrictions by slab type and/or other conditions:

1. Prior to treatment, inspect the structure containing the slab to determine the location of utility lines, sewer waste lines, water shut-off valves, radiant heat and hot water baseboard heat lines and any other conduits or ducts that may be contained therein.

2. When slabs are drilled from the inside, a device such as a drill stopper shall be used.

3. Each hole drilled through the slab shall be plugged immediately following treatment. Such plug may be temporary, until permanently sealed following completion of the job, with mortar or equivalent material.

4. Wood directly on slab construction (not on sleepers) shall be drilled and treated as in (k)2 and 3 above, except only low pressure injection shall be used and the quantity of termiticide pumped into each hole shall not be great enough to cause excess termiticide to emerge from adjacent holes.

i. Wood not directly on slab construction, such as on sleepers, shall be treated as in (j) above.

5. Slabs covering or containing air ducts shall be inspected. If ducts are made of cardboard or rusted metal, no treatment shall be made unless the air circulation ducts are securely and permanently filled at the duct openings with a concrete or equivalent plug.

6. Slabs covering or containing air ducts may be only be treated with a non-organo-chlorine termiticide, without sealing of the duct openings and installation of an alternative air circulation/heating system provided:

i. There is evidence of an existing termite infestation in the structure;

ii. The exact location of the air ducts can be determined;

iii. Application under the slab is limited to gravity or low pressure injection;

iv. At least one member of the termite application crew is familiar with initial duct decontamination procedures;

v. Equipment necessary to facilitate initial clean-up, should accidental contamination occur, shall be present at the application location. The equipment shall include, but not be limited to, a wet/dry vacuuming system, spill absorbent material, at least five gallons of detergent, and filters of charcoal or comparable efficacious material sized for or capable of being readily adapted for use in the type ducts and/or heating system present; and

vi. The applicator or applicator business informs the contracting party for whom the termite treatment is to be performed in writing of the potential for contamination of the air ducts and resultant possible required modifications to the heating system as a part of the consumer information notice required pursuant to *N.J.A.C. 7:30-9.12*.

(*l*) Duct contamination resultant from a pesticide application shall be subject to clean-up under the provisions of *N.J.A.C. 7:30-10.7* and to reporting and review under the provisions of *N.J.A.C. 7:30-9.17*.

(m) No person shall make a subterranean application of a termiticide, except termiticide bait, to a property in proximity to or on which wells and/or related water sources are located unless applied pursuant to the following restrictions:

1. If the well or other water source capable of being used is within the linear distance of the treatment site as provided in (m)4 below and if the well is sealed according to the specifications of the Division of Water Resources at *N.J.A.C 7:9-9.9*, then this subsection does not apply.

2. Do not treat any structure if a well, cistern, or spring, currently in use or capable of being used, is located within the foundation walls, except:

i. Subterranean application around the exterior perimeter of the foundation which surrounds the well, cistern or spring;

ii. If such a structure contains foundation walls exterior to those surrounding the well, cistern or spring, treatment may be made to those areas outside the foundation walls surrounding the well pursuant to (m)5 below;

iii. Foundation wall voids may be treated with a termiticide foam labeled for this site;

iv. The floor of the basement or crawlspace may be treated using the excavation technique as follows: remove soil of the interior perimeter, or pilings, from a trench from the grade level to the top of the footing, place it on polyethylene sheeting, mix the termiticide with it, permit to dry a minimum of 15 minutes, and replace the soil into the trench.

3. If a well is down grade (at a lower elevation) from the application site, and there is a structural conduit, such as a paved driveway, between the well and the application site, provision shall be made to block the conduit or dike the area around the well to prevent movement of the termiticide to the well should a spill occur.

4. If the well or other water source is more than 20 feet from the treatment site in sandy soil, or more than 100 feet in other soils, treatment shall be consistent with label directions.

5. If the well or other water source is located closer to the treatment site than as stated in (m)4 above, treat as follows:

i. The foundation wall voids shall not be treated, except that foundation wall voids more than two feet on either side of a water or sewer line may be treated with a termiticide foam labeled for the site.

ii. Foundation wall voids two feet or less on either side of a water or sewer line may be treated with a termiticide foam labeled for wall voids by removing the soil, at least 18 inches outside the foundation, along the water or sewer line and to a depth at least six inches below the water or sewer line; or, if the soil within two feet of the water or sewer line is covered by a fixed substrate such as concrete, remove the soil outside the fixed substrate, along the water or sewer line and to a depth at least six inches below the water or sewer line. Treatment shall be made while observing the newly dug hole for seepage. If such seepage occurs, treatment shall cease until all seepage is absorbed into the soil.

iii. The soil outside the foundation within two feet of the water or septic lines shall not be treated, except as provided in (p)5iv or v below.

iv. To treat the soil adjacent to the foundation within the linear distance specified in (m)4 above, other than that through or adjacent to which water or sewer lines run, dig a shallow trench adjacent to the foundation and flood it with termiticide. Allow the termiticide to seep downward with gravity. Do not rod under pressure; or remove soil from grade to top of footing, place it on polyethylene sheeting, mix the termiticide with it, permit to dry a minimum of 15 minutes, and replace the soil into the trench.

v. Soil within two feet of the water or sewer lines shall be treated as provided in (m)5iv above, or as outlined in this subparagraph. As an alternate, remove the soil, at least 18 inches outside the foundation, along the water or sewer line and to a depth at least six inches below the water or sewer line; or, if the soil within two feet of the water or sewer line is covered by a fixed substrate such as

concrete, remove the soil outside the fixed substrate, along the water or sewer line and to a depth at least six inches below the water or sewer line. Following either of the soil removal options above, the soil against the foundation wall shall be treated by gravity feed only, while observing the newly dug hole for seepage. If such seepage occurs, treatment shall cease until all seepage is absorbed into the soil. Soil within two feet of the water or sewer lines may also be left intentionally untreated as in (m)5ii above.

vi. Soil adjacent to the foundation which is covered by a concrete or other soil covering shall be treated by drilling through the covering surface at a maximum of one foot intervals and using a funnel to gravity feed the correct quantity of termiticide into each hole. Do not apply the termiticide under pressure.

vii. If the soil beneath the basement floor must be treated, space treatment holes a maximum one foot apart and apply using a funnel as in (m)5vi above, except when using foam termiticides labeled for this site.

viii. The use of foam in this subsection is considered to be equivalent to a gravity feed application.

(n) Retreatments with termiticides, except termiticide baits, are allowed only after five years have elapsed after a treatment, or when there is evidence of reinfestation subsequent to the initial treatment, or if there is a disruption of the pesticide barrier in the soil due to construction, excavations, or landscaping. In cases of disruption of the soil barrier, only those locations where this occurred may be retreated. In cases of evidence of termite infestations, the entire premises may be treated if:

1. The history of treatment of the structure is not known and cannot be readily determined, or

2. Live termites are found on or within the structure.

(*o*) For the purposes of interpretation of (n) above, previously reported damage shall not be accepted as evidence of re-infestation. For purposes of interpretation of (n) above, retreatment by the same person as originally performed the initial treatment shall presume knowledge of the history of treatment.

(p) Prior to entering into any contract to apply a termiticide, the applicator or applicator business shall provide the contracting party with a copy of this section (*N.J.A.C. 7:30-10.4*) included with the consumer information required pursuant to *N.J.A.C. 7:30-9.12*. The applicator or applicator business may provide a summary in lieu of a copy of *N.J.A.C. 7:30-10.4*, subject to the approval of the summary by the Department.

1. When using a termiticide bait, a copy of *N.J.A.C. 7:30-10.4* or approved summary need not be given to the contracting party.

(q) A diagram of the structure to be treated, depicting the lower level of the structure, the location of termite infestations, areas treated and any significant items such as location of known wells, drainage systems, streams and ponds which may be affected by the application shall become a part of the termite application records and shall be maintained by the applicator for a minimum of five years.

§ 7:30-10.5 Additional restrictions on the use of organochlorine termiticides

(a) If an organochlorine termiticide is used, it shall be used in accordance with the current Federally registered label or labeling, the preceding restrictions of *N.J.A.C. 7:30-10.4(a)* through (q) and the following additional restrictions of (a) through (k) below, whichever is most restrictive.

1. Exceptions from these additional restrictions may be granted at the Department's discretion if scientific evidence shows that the organochlorine termiticide(s) may be used without significant risk of harm, injury, or damage to persons, property or the environment.

(b) No organochlorine termiticide may be sprayed onto any interior surface exposed to the air or injected into wood structural elements in any post-construction termite application.

(c) No person shall make an application of a termiticide to soil along the exterior of a foundation wall by rodding or trenching unless:

1. The surface of the treated soil is covered with at least one-half inch of untreated soil, except in the erosion prone areas as provided in (c)4 below;

2. When backfilling a trench with soil removed prior to starting the application, the final layer of backfill is not added until all the termiticide puddles have been absorbed into the bottom of the trench;

3. Visible holes, cracks, and other above grade surface openings in the foundation wall which extend below the level of the outside grade are filled with mortar or other suitable material to the extent feasible prior to the application to prevent infiltration of pesticides into basements or crawlspaces; and

4. Soil in areas along a foundation obviously prone to erosion, such as soil immediately adjacent to a gutter downspout, shall have treated soil covered with enough untreated soil to prevent the erosion from reaching the treated layer, but in no case less than two inches of untreated soil.

(d) The provisions of (c) above shall not apply to the extent that the soil removed by trenching is treated away from the site as provided in (k)5iv below; however, coverage with at least one-half inch or two inches of untreated soil is required as in (c)1 and 4 above.

(e) Voids in foundation walls may be left untreated when, in the experience of the applicator and after review of the structure and evidence of damage or infestation therein, leaving such voids untreated will effect a successful treatment. Upon selection of this option, with subsequent discovery of continued infestation necessitating treatment of the voids, treatment shall be performed consistent with label directions and the provisions of (f) below.

(f) No person shall make an application of an organochlorine pesticide into voids of hollow block, brick, and tile foundations unless done pursuant to the following restrictions:

1. The foundation shall be capped at the top of the foundation with cement, mortar, or other suitable material in such a manner as to completely seal the opening;

2. The foundation shall have all visible holes, cracks, and other openings sealed to the extent feasible prior to treatment;

3. The foundation shall have any paneling or other wall covering, as in the case of a finished basement, removed prior to treatment for inspection and sealing as in (f)2 above, or have a member of the termite application crew inside the basement during treatment observing for evidence of leaks. If a leak is observed by such crew member, application shall immediately cease, the spill be

absorbed, the paneling or other wall covering removed, and any visible holes or cracks sealed prior to continuing treatment. If this second option is selected, other clean-up procedures, to be determined by the Department when discovered or reported pursuant to *N.J.A.C. 7:30-9.17*, may be required in addition to absorption of the termiticide; and

4. Rubble and stone foundations shall not be treated with an organochlorine pesticide.

(g) No person shall treat the void behind a brick, stone, or other veneer on the exterior of a structure with an organo-chlorine termiticide unless the injection hole is below the top of the foundation. If treatment is required above the foundation, application shall be made with a pesticide, other than an organo-chlorine, which is labeled for use at this site.

(h) No person shall make an application of any organochlorine termiticide to a basement floor, unless applied pursuant to the following restrictions listed by structural floor type and/or condition:

1. Exposed soil basement floors shall be treated by shallow trenching adjacent to the foundation, rodding or flooding the trench and backfill, and covering with at least two inches of untreated soil.

2. Wood basement floors over soil shall be treated by removal of the wood floor and treating the perimeter consistent with label directions and (h)1 above. Treated soil shall be covered with at least two inches of untreated soil or the entire soil floor covered with a concrete slab.

3. Concrete slab floors with an expansion joint more than one-quarter inch wide shall be treated by first sealing the expansion joint with cement, mortar, or equivalent material and then treating consistent with label directions.

4. Concrete slab floors with a French drain system shall be treated by low pressure injection beneath the slab and/or expansion joint with a pesticide, other than an organo-chlorine, labeled for this site. Such a french drain system shall be checked for potential seepage or spill after treatment. If a seepage or spill is observed, the spill shall be absorbed. Other clean-up procedures, to be determined by the Department when discovered or reported pursuant to *N.J.A.C. 7:30-9.17*, may be required in addition to absorption of the termiticide.

5. Basement floors which are wet shall not be treated, unless it can be determined that the site of injection is above the level of the surrounding water table.

6. Basement floors with a high local water table which is known to the person contracting for the termite treatment and communicated to the applicator shall not be treated, unless the floor can be treated when the water table is below the level of the site of injection.

7. Basement floors which have a sump pump pit in which there is standing water shall not be treated. Such a floor shall only be treated when the sump pit is completely dry.

(i) No person shall make an application of an organochlorine pesticide to a crawlspace unless applied pursuant to the following restrictions listed by structural type and/or other conditions:

1. Accessible crawlspaces with no heating unit (see definition in *N.J.A.C. 7:30-1.2*) present and with exposed soil shall be treated by shallow trenching adjacent to the foundation, application consistent with label directions for trenching, and then coverage of the treated soil with a minimum of two inches of untreated soil.

2. Accessible crawlspaces with no heating unit present and with the soil covered with a thin grout or equivalent material shall be treated consistent with label directions for treatment of slabs,

unless the grout or equivalent material breaks up upon drilling, whereupon these areas shall be sealed with concrete or equivalent material in such a manner as to adequately close all holes, cracks, or seams resultant from the treatment. Coverage of the treated surface with a minimum of two inches of untreated soil is also acceptable.

3. Accessible plenum crawlspaces shall not be treated with an organochlorine pesticide.

(j) No person shall make an application of an organochlorine pesticide to an inaccessible crawlspace.

(k) No person shall make an application of an organochlorine pesticide beneath a slab containing air ducts unless the air ducts are securely and permanently filled at the duct openings with a concrete or equivalent plug, any visible cracks or seams in the slab surface sealed, and the slab then treated consistent with label directions. The exterior soil may be treated with an organochlorine pesticide labeled for this site by rodding or trenching.

§ 7:30-10.6 Aerial application of pesticides

(a) All agricultural aircraft operations in New Jersey shall comply with those parts of 14 CFR Part 137, Agricultural Aircraft Operations, not covered in this section. In the case of conflict, a regulation of 14 CFR Part 137, Agricultural Aircraft Operations shall take precedence over any of this section.

1. An agricultural aircraft operator may be required to provide proof of current licensing as an agricultural aircraft operator in order to obtain a New Jersey pesticide applicator license.

(b) The pilot of an agricultural aircraft shall, prior to any pesticide application, learn and confirm:

1. The boundaries and exact location of the target area(s); and

2. The identity of non-target areas and safety hazards located on or adjacent to the target area.

(c) Spray and spreading equipment shall be thoroughly rinsed after each agricultural aircraft operation, except when the next application will be made using the same pesticide or, if another pesticide is to be used, it is compatible with that previously in the equipment and will not result in illegal residues or significant risk of injury or damage when applied to the new target site.

(d) During pesticide application, the flow and mixture of the pesticide(s) shall be uniform and applied with spray or spreading equipment suited for the pesticide(s) used. Application equipment shall be properly calibrated, according to the manufacturers' specification for the equipment utilized, for the specific type of pesticide application being performed and proof of this proper calibration shall be maintained by the aerial pesticide applicator business and be provided, upon request, to the Department.

(e) For interpretation of (d) above, participation of the individual aircraft in the Operation SAFE program, or its equivalent, as determined by the Department, shall presume proper equipment calibration; providing, the type of application(s) for which calibrated remains the same and the equipment set-up is not modified from that determined to be the most efficient under Operation SAFE, or its equivalent, as determined by the Department.

(f) Participation of each aerial pesticide applicator business in the Operation SAFE program, or its equivalent, as determined by the Department, shall be mandatory; providing, the program addresses the type of application to be performed and providing the program is offered within New Jersey and for a sufficient time period to allow this participation.

(g) Aircraft of the exact type and conformation, including, but not limited to, the application equipment utilized, shall also be considered to be properly calibrated if set-up to the specification determined from Operation SAFE, or its equivalent, as determined by the Department, to be the most efficient for that type aircraft; provided, this extension provision shall only apply to aircraft owned and operated by the aerial pesticide applicator business that has calibrated at least one of each type of aircraft under Operation SAFE or its equivalent, as determined by the Department.

(h) The Department may require full participation of all aerial application aircraft if experience in working with the Operation SAFE program, or its equivalent, as determined by the Department, shows the need, as determined by the Department, to require the participation of each aircraft regardless of sameness of conformation.

(i) All aerial spray or spreading equipment shall be free of leaks and shall have a positive shutoff system to prevent leaking and dissemination of pesticide on any non-target areas over which the flight is made.

(j) The shape of the tank or hopper of the spray or spreading equipment shall be such as to allow the complete drainage during flight and on the ground.

(k) Any emergency or accidental release of pesticide(s) from the aerial application or auxiliary equipment shall be subject to the reporting provisions of *N.J.A.C. 7:30-9.17*.

(*l*) All pesticides applied aerially as liquids, in liquid carriers, or as dusts shall be released within 15 feet above the target, except for applications to forests and/or trees, such application height shall be within 50 feet above the target, and except where obstructions in or adjacent to the target would endanger the safety of the pilot while applying pesticides at that altitude.

(m) All pesticide applied aerially as dry granules or pellets shall be released within 40 feet above the target, except where obstructions in or adjacent to the target would endanger the safety of the pilot while applying pesticides at that altitude.

(n) (Reserved)

(*o*) Aerial pesticide application for non-agricultural purposes may be performed on application sites of less than three acres provided the application site is part of a larger property or contiguous properties, which together make up three or more acres, and for which the owner's or owners' consent has been obtained. Consent may be verbal except when an occupied dwelling is within 100 feet of the target spray block. If such an occupied dwelling is within 100 feet of the target spray block, consent shall be in writing.

1. The written consent agreement shall include at a minimum:

i. The date of agreement;

ii. The location or designation of the consenting owner's property; and

iii. The signature of the owner of the consenting owner's property.

2. Consent shall remain valid until withdrawn.

3. Any consenting owner may withdraw consent by notifying, in writing, the party who requested the consent. Consent may be withdrawn at the end of the calendar year, or may be withdrawn at any time following a pesticide misapplication involving the consenting owner's property, cited under this chapter. Upon such notification, the previous consent shall be invalidated.

4. Copies of all written consent agreements shall be maintained by the aerial pesticide applicator or applicator business for three years.

5. The written consent agreements shall be immediately provided to the Department, upon request.

(p) Aerial pesticide application to an agricultural commodity may be performed on any size field; providing, the field being sprayed is part of a larger property of three or more acres wholly owned or controlled by the person contracting for the application.

(q) No pesticide shall be applied by aircraft within 300 feet horizontally of the premises of schools, hospitals, nursing homes, houses of religious worship, or any building, other than a private residence, which is used for business or social activities, if either the premise or the building is occupied by people, except:

1. Pesticide application within 100 feet of a building used for an agricultural business shall be allowed; providing, only a general use pesticide is applied and warning is given prior to application so that doors and/or windows on the building are closed and the occupants thereof allowed time to vacate the building.

(r) No pesticide shall be directly sprayed by aircraft on the right-of-way of a public road, except when the right-of-way is included as the target site.

(s) No pesticide shall be deposited by aircraft within 100 feet of any private residence unless the aerial pesticide applicator and/or applicator business has written consent of an inhabitant of said private residence of legal age. The aerial applicator or applicator business may obtain the written consent directly, or the party who is contracting for the services of an aerial applicator business may obtain the written consent and forward it to the aerial applicator or applicator business for record keeping purposes. The consent agreement shall include:

1. The date of agreement;

2. The time period for which the consent is valid;

3. The location or designation of the private residence; and

4. The signature of the consenting inhabitant of the private residence.

i. Any consenting inhabitant may withdraw consent by notifying, in writing, the party which requested the consent. Consent may be withdrawn at the end of the calendar year or at any time following a pesticide misapplication involving the consenting inhabitant's property, cited under this chapter. Upon such notification, the previous consent shall be invalidated.

ii. Copies of all consent agreements shall be maintained by the aerial pesticide applicator and/or applicator business for three years; and

iii. Such copies shall be immediately provided, upon request, to the Department.

(t) No person may aerially apply any broad spectrum pesticide for non-agricultural purposes except for the following:

1. Pest control where the Department determines, with recommendations from Rutgers University, that no practical alternative is available.

i. If the Department determines that Rutgers University is unable to provide such recommendations, the Department may seek other expert advice as necessary;

2. Pest control where it can be shown that the pest has reached a stage of development, or where population pressure is such, that any non-broad spectrum pesticide is ineffective;

3. Environmental, health, or agricultural emergencies, as defined below:

i. "Agricultural emergency" for the purposes of this section means an occurrence of any pest, whether through population growth beyond economic injury levels, or through introduction of a foreign or exotic pest, which presents a significant risk of harm or injury to any agricultural commodity, as determined by the New Jersey Department of Agriculture and/or the United States Department of Agriculture (USDA) in concurrence with the Department.

ii. "Environmental emergency" for the purposes of this section means the occurrence of any pest which presents a significant risk of harm or injury to the environment, including, but not limited to, exotic or foreign pests which may need preventive quarantine measures to avert or prevent that risk, as determined by the Department in concurrence with Rutgers University, and/or the New Jersey Department of Health and Senior Services.

iii. "Health emergency" for the purposes of this section means the occurrence of any pest which presents a significant risk of harm or injury to the public health as determined by the New Jersey Department of Health and Senior Services in concurrence with the Department; and

4. Experimental work pursuant to *N.J.A.C. 7:30-2.3*.

(u) Where it has been determined that a situation described in (t)1 or 2 exists, then the applicator or applicator business shall petition the Department at least two working days prior to the proposed application for approval to use a broad spectrum pesticide.

1. Once the Department has confirmed that a situation described in (t)1 exists, then no further petition shall be needed to use broad spectrum pesticides aerially, until the following calendar year, or until a practical alternative becomes available earlier than the end of the calendar year.

2. Situations such as those described in (t)2 above shall be reviewed by the Department on a case-by-case basis, unless it can be determined that the pest population or development has resulted in a situation which is more general throughout larger areas of the State. Should this occur, the Department shall announce the situation and any limitations, geographic or otherwise, to the aerial use of broad spectrum pesticides.

(v) If it can be shown that an emergency application must take place without delay, the applicator or applicator business shall inform the Department of the application and provide justification for the application satisfactory to the Department no later than one working day after the application takes place.

(w) Where an application takes place pursuant to (t) above, and compliance with community or area-wide notification requirements pursuant to *N.J.A.C. 7:30-9.10* is not possible due to the timing

of the application, the applicator shall request a waiver from the provisions of *N.J.A.C. 7:30-9.10*, pursuant to *N.J.A.C. 7:30-9.10(c)*.

(x) No person shall apply any pesticide by aerial application equipment, unless the pesticide is specifically labeled for aerial application.

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

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

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

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

§ 7:30-10.7 Pesticide contamination clean-up

(a) In situations involving misapplication of a pesticide, or where the Department determines an imminent hazard or significant risk of harm, injury or damage to persons or the environment would result, or in the case of a reportable pesticide spill, the Department may order the person responsible for the situation, misapplication or spill to return to the site location and conduct a clean-up to reduce or remove the pesticide to a level deemed acceptable by the Department. The clean-up procedure is to be in accordance with the methods approved by the Department and subject to follow up sampling by the Department or Department approved sampler to verify the efficacy of the clean-up.

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

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

1. Any application and/or spill of a persistent pesticide to a non-target site, as determined by review of the product's Federal registered label or other use restrictions adopted under the authority of *N.J.A.C. 7:30-10.1(a)*; or

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

3. Any application of a pesticide where the Department determines that the pesticide presents a significant risk to persons or the environment.

§ 7:30-10.8 Assessment of fees for sample analysis

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

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

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

1.	Liquids, except detergents:	$ 600.00 per sample.
2.	Powders:	$ 680.00 per sample.
3.	Aerosols, baits, traps, and detergents:	$ 800.00 per sample.
4.	User dilution:	$ 1,000 per sample.

(d) Fees for pesticide sample analysis of residues are as follows, reflecting a cost when utilizing existing Pesticide Laboratory methods, including residue scans:

1.	Swab (surficial wipe):	$ 375.00 per sample.
2.	Air (sorbent tube):	$ 375.00 per sample.
3.	Water (Solid Phase Extraction):	$ 525.00 per sample.
4.	Soil:	$ 560.00 per sample.
5.	Vegetation:	$ 560.00 per sample.
6.	Commodity (Fruits and Vegetables):	$ 725.00 per sample.
7.	Filter Paper:	$ 450.00 per sample.
8.	Animal tissue:	$ 725.00 per sample.

(e) The fee for a Phenoxy Acid Herbicide scan in any sample matrix shall be $ 625.00/sample.

(f) Any sample requiring extra preparatory work or special analysis shall be charged $ 300.00 per hour for the preparatory work, derivitization or special analysis in addition to the fees specified in (c), (d) or (e) above.

§ 7:30-10.9 Submission of data on pesticide distribution or use

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

1. The product name and EPA registration number of all pesticides applied or distributed within the time period specified;

2. The total quantity of each pesticide applied or distributed within such time period;

3. The site(s) of application or sale, including the crop, commodity, specific field, greenhouse or land area, including the municipality and county; and

4. The method of application (if applied).

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

SUBCHAPTER 11. ENFORCEMENT AND REQUESTS FOR ADJUDICATORY HEARINGS

§ 7:30-11.1 Purpose and general provisions

(a) This subchapter governs the Department's assessment of civil administrative penalties, and commencement of a civil or criminal action for violations of the Act. This subchapter also governs the procedures for requesting an adjudicatory hearing on a notice of civil administrative penalty assessment or an administrative order.

(b) Nothing in this subchapter is intended to affect the Department's authority to revoke or suspend any permit, license, or other operating authority issued under the Act. Specifically, the Department may revoke or suspend a permit, license, certification, or other operating authority, without regard to whether a civil administrative penalty has been or will be assessed pursuant to this subchapter.

(c) Neither the assessment of a civil administrative penalty nor the payment of same shall be deemed to affect the availability to the Department of any other enforcement provision provided for by the Act, or any other statute, in connection with the violation for which the assessment is levied.

(d) For purposes of this subchapter, any person who undertakes or performs an obligation imposed upon another person pursuant to the Act, including any rule promulgated, and any administrative order, permit, license, certification, or other operating authority issued pursuant to the Act, may at the discretion of the Department be subject to a civil administrative penalty pursuant to this subchapter in the same manner and in the same amount as the person to which the obligation was initially imposed.

(e) Each violation of the Act, or violation of any rule promulgated, any administrative order, permit, license, or other operating authority issued pursuant to the Act, shall constitute an additional, separate, and distinct violation.

(f) Each day during which a violation continues shall constitute an additional, separate, and distinct violation.

§ 7:30-11.2 Administrative order

(a) Whenever, on the basis of available information, the Department finds a person in violation of any provision of the Act, or any rule promulgated, any administrative order, permit, license, or other operating authority issued pursuant to the Act, the Department may issue an administrative order:

1. Specifying each provision of the applicable law that has been, or is being, violated;

2. Citing the action that constituted the violation;

3. Requiring immediate compliance with the provision, or provisions, violated;

4. Requiring the person responsible for the violation to return to the site location and conduct a clean-up to reduce or remove the pesticide to a level deemed acceptable by the Department in accordance with *N.J.A.C. 7:30-10.7*; and

5. Providing notice of the right to a hearing on the matters contained in the order.

(b) An administrative order issued pursuant to (a) above may include a notice of civil administrative penalty pursuant to *N.J.A.C. 7:30-11.3*.

§ 7:30-11.3 Civil administrative penalty

(a) Whenever, on the basis of available information, the Department finds a person in violation of any provision of the Act, or in violation of any rule promulgated, any administrative order, permit, license, or other operating authority issued pursuant to the Act, the Department may assess a civil administrative penalty of no more than $25,000 for each violation, not including any amount assessed for economic benefit as determined under *N.J.A.C. 7:30-11.8*. The amount of the civil administrative penalty for a violation of the Act shall be determined pursuant to *N.J.A.C. 7:30-11.6, 11.7, and 11.8.*

(b) To assess a civil administrative penalty, the Department shall notify the violator by certified mail (return receipt requested) or by personal service. This notice of civil administrative penalty assessment shall:

1. Identify each section of the applicable law violated;

2. Concisely state the facts alleged to constitute the violation;

3. Specify the amount of the civil administrative penalty; and

4. Advise the violator of the right to request an adjudicatory hearing under *N.J.A.C. 7:30-11.4*.

(c) The violator shall pay a civil administrative penalty immediately upon receipt of the Department's final order in a contested case, or as soon as a notice of civil administrative penalty assessment becomes a final order, as follows:

1. If no hearing is requested pursuant to *N.J.A.C. 7:30-11.4*, a notice of civil administrative penalty assessment becomes a final order on the 36th day after the violator receives the notice of civil administrative penalty assessment.

2. If the Department denies a hearing request pursuant to *N.J.A.C. 7:30-11.4*(c) or (d), a notice of civil administrative penalty assessment becomes a final order upon the violator's receipt of the denial.

3. If the Department grants a hearing, a notice of civil administrative penalty assessment becomes a final order upon the violator's receipt of a final order in the contested case.

(d) The Department may, in its discretion, settle any civil administrative penalty assessed pursuant to this subchapter, based on an evaluation of the following factors:

1. Mitigating or extenuating circumstances not previously considered in the assessment of penalties;

2. The violator's timely implementation of measures leading to compliance, which measures were not previously considered in the assessment of penalties, including measures to clean up, reverse, or repair environmental damage caused by the violation, or to remove the violation; or

3. Any other terms or conditions acceptable to the Department.

§ 7:30-11.4 Adjudicatory hearing

(a) A person requesting an adjudicatory hearing shall send a completed Adjudicatory Hearing Request Checklist and written request for a hearing to:

1. Office of Legal Affairs
   ATTENTION: Adjudicatory Hearing Requests
   Department of Environmental Protection
   Mail Code 401-04L
   PO Box 402
   401 East State Street, 7th Floor
   Trenton, New Jersey 08625-0402; and

2. Bureau of Pesticide Compliance and Enforcement
   PO Box 420
   Mail Code 401-04A
   Trenton, New Jersey 08625-0420

(b) The person requesting a hearing shall include with the completed Adjudicatory Hearing Request Checklist the following information:

1. The name, address, telephone number, and email address of:

i. The person the Department named in the document for which the hearing is sought;

ii. A contact person or authorized representative, if the person the Department named in the document is other than an individual; and

iii. The person's attorney, if any;

2. The date the person received the document for which a hearing is sought;

3. A copy of the document for which a hearing is sought, pursuant to (a) above;

4. An admission, a denial, or an averment of insufficient knowledge or information of the findings listed in the document being contested, as follows:

i. If the person is without knowledge or information sufficient to form a belief as to the truth of a specific finding, the person shall so state and this shall have the effect of a denial;

ii. If a person intends to deny any finding or portion of the finding in the document:

(1) The person shall identify the finding or portion of the finding that is denied. A general denial of some or all of the findings shall have the effect of an admission of each finding generally denied;

(2) For each finding or portion of a finding the person denies, the person shall explain the factual and legal basis of the denial. Any failure to provide a factual and legal basis for a denial shall have the effect of an admission of the finding; and

(3) The person shall ensure that each denial fairly meets the substance of the finding or portion of the finding denied. A denial that does not meet the substance of the finding denied shall have the effect of an admission of the finding; and

iii. If a person fails to either admit or deny any specific finding or portion of a finding, this shall have the effect of an admission of that finding.

5. A list of all factual and legal issues that the person is contesting, with each defense position stated in short and plain terms;

6. If the person's response to the Department allegation of noncompliance is that the person has complied with some or all of the applicable requirements, a description of all such compliance, including specific citation to each applicable requirement with which the person alleges it has complied; the facts and circumstances of the compliance, including a copy of any submission that is required by that applicable requirement; or other evidence of compliance and the date of compliance;

7. Documents or information supporting the request for a hearing, and specific reference to, or copies of other written documents relied on, to support the request;

8. An estimate of the time required for the hearing (in days and/or hours); and

9. A request, if necessary, for a barrier-free hearing location for physically disabled persons.

(c) If the Department does not receive the hearing request within the number of days specified in the notice or order that is being contested, the Department shall deny the hearing request.

(d) If the violator fails to include all the information required under (b) above, the Department shall deny the hearing request.

(e) Any adjudicatory hearing shall be conducted in accordance with the Administrative Procedure Act, *N.J.S.A. 52:14B-1* et seq., and *52:14F-1* et seq., and the Uniform Administrative Procedure Rules, *N.J.A.C. 1:1.*

(f) Nothing in this section shall be construed to provide a right to an adjudicatory hearing in contravention of *N.J.S.A. 52:14B-3.1* through *3.3*.

§ 7:30-11.5 Grace period

(a) This section identifies violations of this chapter as minor or non-minor in accordance with *N.J.S.A. 13:1D-125* et seq., which is commonly known as the Grace Period Law.

(b) The person responsible for any minor violations listed in the table at *N.J.A.C. 7:30-11.6(a)5* shall achieve compliance within the number of days specified in the table, unless otherwise noted.

(c) A violation shall be designated by the Department as a minor violation if:

1. The violation is not the result of purposeful, knowing, reckless or criminally negligent conduct of the person responsible for the violation;

2. The violation poses minimal risk to the public health, safety, and natural resources;

3. The violation does not materially and substantially undermine or impair the goals of the regulatory program;

4. The activity or condition constituting the violation has existed for less than 12 months prior to the date of discovery by the Department or local government agency;

5. The person responsible for the violation has not been identified in a previous enforcement action by the Department or local government agency as responsible for a violation of the same requirement of the same permit within the preceding 12 month period;

6. In the case of a violation that does not involve a permit, the person responsible or the violation has not been identified in a previous enforcement action by the Department or local government agency as responsible for the same or a substantially similar violation at the same facility within the preceding 12 month period;

7. In the case of any violation, the person responsible for the violation has not been identified by the Department or a local government agency as responsible for the same or substantially similar violations at any time that reasonably indicate a pattern of illegal conduct and not isolated incidents on the part of the person responsible; and

8. The activity or condition constituting the violation is capable of being corrected and compliance achieved within the period of time prescribed by the Department.

(d) Where the Department, or a local county government agency operating under the County Environmental Health Act (CEHA), *N.J.S.A. 26:3A2-21* et seq., discovers a violation that is designated as minor in accordance with the table at *N.J.A.C. 7:30-11.6* and in accordance with (c) above, it shall issue a notice of violation to the person responsible for the minor violation that:

1. Identifies the condition or activity that constitutes the violation and the specific statutory and regulatory provision or other requirement violated; and

2. Notifies the person responsible for the violation that a penalty may be imposed under the Pesticide Control Act and this chapter, as applicable, unless compliance is achieved within the time period provided for the violation as set forth in *N.J.A.C. 7:30-11.6*.

(e) If the person responsible for a minor violation corrects that violation and achieves compliance within the period specified in the notice of violation issued pursuant to this section, the Department shall not seek penalties for the violation.

1. Any person responsible for a violation may be required to submit to the Department written information as to the corrective action taken or compliance achieved, and shall do so within the prescribed compliance time period provided for the violation in this subchapter.

(f) If the person responsible for the violation fails to achieve compliance within the period of time specified in the notice of violation, the Department may, in accordance with the provisions of the Act or this chapter, impose a penalty, which is retroactive to the date the notice of violation was first issued.

1. A penalty shall not be assessed for any violation of Subchapter 13.

(g) Persons who commit major violations will not be accorded a grace period and are subject to the penalty provisions of the Pesticide Control Act and this chapter, as applicable.

1. A penalty shall not be assessed for any violation of Subchapter 13.

THIS IS A COURTESY COPY OF THIS RULE. ALL OF THE DEPARTMENT'S RULES ARE COMPILED IN TITLE 7 OF THE NEW JERSEY ADMINISTRATIVE CODE.

§ 7:30-11.6 Civil administrative penalty amount: base penalty

(a) When the Department assesses a civil administrative penalty for a violation of this chapter, the Department shall use the penalty schedule in the table at (a)5 below, except for circumstances listed at *N.J.A.C. 7:30-11.7*, and subject to the conditions in (a)1 through 5 below and any other Department statutory or regulatory powers.

1. The Department reserves the right to impose the statutory maximum penalty for any violation.

2. For a repeat violation of the same rule where the previous violation occurred less than two years prior, the Department shall double the base penalty.

3. For the purpose of this section, violation of the "same rule" means violation of the same specific requirement of a rule. Where a rule has a list of specific requirements, the same item on the list must be violated to be considered violation of the "same rule."

4. If "Use Matrix" appears in place of a base penalty in the table at (a)5 below, refer to *N.J.A.C. 7:30-11.7* for the Department method for calculating a penalty.

5. The table below provides the rule citation, description, base penalty, type of violation under the Grace Period Law ("Minor" or "M" and "Non-Minor" or "NM"), and the grace period in days, if applicable. For *N.J.A.C. 7:30-13*, the base penalty is listed as N/A (not applicable) since there is no penalty assessed for violations of the subchapter.

Citation (N.J.A.C. 7:30-)	Violation	Base Penalty	Type of Violation	Grace Period (days)
2.1(a)	State Unregistered Product (per product)	$1,000	M	30
2.1(a)	Federal Unregistered Product (per product)	Use Matrix	NM	
2.1(b)	Failure to register each pesticide product requiring Department registration	$1,000	M	30
2.1(c)	At the time of registration, failure to file a statement with the Department with the correct information	$1,000	M	30
2.1(o)	Failure of registrant to follow the requirements of the Federal Container and Containment regulations, as incorporated by reference	$1,000	NM	
2.3(a)	Failure to submit required EUP in-	$1,000	M	30

	formation			
2.3(c)	Failure to notify the Department of specific EUP information	$1,000	NM	
2.5(a)	Failure to allow the Department to enter and inspect	Use Matrix	NM	
2.6(a)	Failure of the records to contain the required information	$1,000	M	30
2.6(a)	Failure to maintain or submit a record concerning the delivery, movement, or holding of a pesticide	$1,000	NM	
2.6(b)	Failure to allow access to records and/or provide copies of records	Use Matrix	NM	
2.7(a)	Failure to meet pesticide label or container specifications	$1,000	NM	
2.7(d)	Detach, alter, deface, or destroy, wholly or in part, a pesticide label or labeling (per product)	Use Matrix	NM	
2.7(e)	Add a substance to, or remove a substance from, a pesticide in a manner that may defeat the purpose of the Act or regulations (per product)	$1,000	NM	
2.7(f)	Reveal or use confidential or trade secret information for personal gain	$25,000	NM	
2.7(g)	Refuse access to or to copy records of business transactions involving pesticides	Use Matrix	NM	
2.7(h)	Registered pesticide label or labeling missing, obscured, altered, etc.	$1,000	NM	
2.7(i)	Use or store a pesticide in a manner that may endanger a man or woman or his or her environment or that may contaminate food, feed, or other products	$1,000	NM	
2.7(j)	Making false or misleading claims through the media relating to the effects of a pesticide, the degree of certification required, or the application methods to be utilized	$1,000	NM	
2.7(k)	Failure of any person to follow the requirements of the Federal Container and Containment regulations, as incorporated by reference	$1,000	NM	
2.9(a)	Distribute, sell, offer for sale, purchase, or use an EPA-suspended or	$1,000	NM	

	canceled pesticide			
2.9(b)	Use of a tributyl tin (TBT) paint with an unacceptable release rate	$1,000	NM	
2.9(c)	Distribute or use a State-suspended or canceled pesticide	$1,000	NM	
2.11(f)	Distributing or selling a restricted use pesticide for resale only, to a retail dealer or distributor without first informing the purchaser in writing that the pesticide being distributed or sold is a restricted use pesticide	$1,000	NM	
2.12(a)	Advertising in a manner that implies EPA- or Department-approval of the person, the pesticide, or the pest control technique used	$1,000	M	30
2.12(b)1 through 7	Advertising in a manner that states or implies that a pesticide, pesticides, pest control technique or services that include the use of pesticides, are non-toxic or safe	$1,000	M	30
2.12(c)	Advertising or representing oneself in any manner to the public, as performing a service for which licensing is required without being licensed	$1,000	M	30
2.12(d)	Advertising in a manner that is in violation of State or Federal law	$1,000	NM	
3.1(a)	Unregistered pesticide dealer (Federally restricted pesticides)	$1,750	NM	
3.1(a)	Unregistered pesticide dealer (New Jersey-restricted pesticides)	$1,000	NM	
3.3(e)	Failure to notify the Department of changes in dealer registration information	$1,000	M	30
3.6(a)	Failure to allow entry for inspection, sampling, or collection of records	Use Matrix	NM	
3.7(a)	Failure to maintain a record of the sale of a restricted use pesticide, or the record is substantially deficient	$1,000	NM	
3.7(a)	A record of the sale of a restricted use pesticide is partially deficient	$1,000	M	30
3.7(b)	Failure to maintain a record of a sale for the minimum three-year	$1,000	NM	

	period			
3.7(c)	Failure to make a record available to the Department upon request	Use Matrix	NM	
3.7(c)	Failure, upon request, to immediately provide a record to medical personnel in emergency cases	Use Matrix	NM	
3.7(d)	Failure to keep a record of the sale of pesticides used under a State or Federal Experimental Use Permit, FIFRA Section 18, or Section 24(c) registration separately from the other records of sale	$1,000	M	30
3.8(a)	Failure to require a purchaser to present a valid license	$1,000	NM	
3.8(a)5ii	Failure to obtain a statement signed by the end user that the New Jersey-restricted use pesticide shall not be used in New Jersey	$1,000	M	30
3.8(b)	Failure to conduct a sale under the direct supervision of a licensed dealer	$1,000	NM	
3.8(c)1	Misrepresentation of the degree of licensing required by the applicator	$1,000	NM	
3.8(c)2	Dissemination of misinformation as to the correct use of a pesticide	$1,000	NM	
3.8(d)	Failure to inform a dealer or distributor that a pesticide is restricted use	$1,000	NM	
3.9(a)	The sale of a pesticide to an unlicensed person without giving the required information sheet or failure to maintain a record of who is given the information sheet	$1,000	M	30
3.9(c)	Failure to provide a record of sale to the Department upon request	Use Matrix	NM	
3.10	Requiring an unlicensed person to distribute a restricted use pesticide	$1,000	NM	
3.11(e)	Failure to return a dealer and/or dealer business license to the Department within two weeks of a suspension or revocation	$3,750	NM	
3.13	Failure of any person who is a dealer to follow the requirements of the Federal Container and Containment regulations, as incorporated by ref-	$1,000	NM	

	erence			
4.1(a)	Unregistered dealer business (Federally restricted pesticide sale)	$3,750	NM	
4.1(a)	Unregistered dealer business (State-restricted pesticide sale)	$1,750	NM	
4.1(b)	Failure to register each pesticide outlet and/or each name (Federal-restricted pesticide sale)	$1,000	NM	
4.1(b)	Failure to register each pesticide outlet and/or each name (State-restricted pesticide sale)	$1,000	NM	
4.1(f)	Failure of a dealer business to submit the name and address of a sales person or agent	$1,000	M	30
4.1(h)	Failure to notify the Department of changes in dealer business registration information	$1,000	M	30
4.1(i)	Failure to post a list of persons to contact in case of a pesticide accident	$1,000	M	1
4.2(a)	Failure to maintain a record of the sale of a restricted use pesticide or the record is substantially deficient	$1,000	NM	
4.2(a)	A record of the sale of a restricted use pesticide is partially deficient	$1,000	M	30
4.2(b)	Failure to maintain records of a sale for the minimum three-year period	$1,000	NM	
4.2(c)	Failure to make a record of pesticide sale immediately available to the Department or to medical personnel	Use Matrix	NM	
4.2(d)	Failure to keep the record of sale for EUP, Section 18, or 24(c) separate from other records of sale	$1,000	M	30
4.3(a)	Failure of a dealer business to require the purchaser to present a valid license	$1,000	NM	
4.3(a)	The sale of a restricted use pesticide to an unlicensed person	$1,000	NM	
4.3(a)	The sale of a State-restricted use pesticide to an out-of-State purchaser without obtaining a signed statement or keeping a record of the sale	$1,000	M	30
4.3(b)	Failure to inform a dealer or dis-	$1,000	NM	

	tributor that a pesticide is restricted use			
4.3(c)	Failure to conduct restricted use pesticide sale under the supervision of a dealer employed at the outlet	$1,000	NM	
4.4(a)	The sale of a pesticide to an unlicensed person without providing the required information sheet or failure to maintain a record of who is given the information sheet	$1,000	M	30
4.5(a)	Failure to allow entry for inspection, sampling, or collection of records	Use Matrix	NM	
4.6	Requiring an unlicensed person to sell restricted use pesticides	$1,000	NM	
4.7(e)	Failure of the pesticide dealer business to return the pesticide dealer business license to the Department within two weeks of a suspension or revocation	$3,750	NM	
4.8	Failure of any person who is a dealer business to follow the requirements of the Federal Container and Containment regulations, as incorporated by reference	$1,000	NM	
5.1(a)	Unlicensed commercial pesticide operator	$1,000	NM	
5.1(d)	A commercial pesticide operator supervised the use of a pesticide	$1,000	NM	
5.2(a)	Failure to meet the requirements for training as a commercial pesticide operator	$1,000	NM	
5.3(d)1i	Failure to obtain and/or send a signed statement about a change in supervisor	$1,000	M	30
5.3(d)2	Failure to apply for a new commercial pesticide operator's license due to a change in employer	$1,000	NM	
5.3(f)	Failure to notify the Department of a change in registration information	$1,000	M	30
5.3(g)	Failure of the cosigner for a commercial pesticide operator license to notify the Department of changes in registration information	$1,000	M	30
5.3(h)	Failure of a commercial pesticide	$1,000	M	30

	operator to maintain his or her license on his or her person during pesticide application			
5.6	Failure to allow entry for inspection, sampling, or collection of records	Use Matrix	NM	
5.7(d)1	Failure to return a pesticide operator's license to the Department within two weeks of a suspension or revocation	$3,750	NM	
6.1(a)	Unlicensed commercial applicator	Use Matrix	NM	
6.4(e)	Failure to notify the Department of a change in commercial pesticide applicator license information	$1,000	M	30
6.4(f)	Failure of a commercial pesticide applicator to maintain his or her license on his or her person during pesticide application	$1,000	M	30
6.7(a)	Failure to allow entry for inspection, sampling, or collection of records	Use Matrix	NM	
6.8(a)	Failure to maintain a record of pesticide application or the record is substantially deficient	$1,000	NM	
6.8(a)	A record of pesticide application is partially deficient	$1,000	M	30
6.8(b)	Failure of a commercial pesticide applicator to maintain a listing of the pesticide applied or to keep training records separate	$1,000	M	30
6.8(c)	Failure of a commercial pesticide applicator to maintain a record for the minimum time period required	$1,000	NM	
6.8(d)	Failure to make a record of pesticide application immediately available to the Department or medical personnel	Use Matrix	NM	
6.8(e)	Failure to provide a copy of the application record to a customer upon written request	$1,000	NM	
6.8(f)	Failure to provide an agricultural employer with required information or the information is substantially deficient	$1,000	NM	
6.8(f)	The information given to an agri-	$1,000	M	1

	cultural employer is partially deficient			
6.8(g)	Failure to keep records of application for EUP, Section 18, and 24(c) pesticides separately	$1,000	M	30
6.9(d)1	Failure to return the commercial pesticide applicator license to the Department within two weeks of a suspension or revocation	$3,750	NM	
6.10	Failure to present a valid license when purchasing a restricted use pesticide	$1,000	NM	
6.11(a)	Failure of the cosigner for a commercial pesticide operator license to ensure that the commercial pesticide operator obtained adequate training as required pursuant to N.J.A.C. 7:30-5.2(a)	$1,000	NM	
6.11(c)	Failure of the co-signer for a commercial pesticide operator license to notify the Department of changes in the registration information	$1,000	M	30
6.12	Requiring an unlicensed individual or untrained handler to use or apply a pesticide	Use Matrix	NM	
6.14	Failure of any person who is a commercial pesticide applicator to follow the requirements of the Federal Container and Containment regulations, as incorporated by reference	$1,000	NM	
7.1(a)	Unlicensed applicator business	Use Matrix	NM	
7.1(c)	Failure to register each place of business	$1,000	NM	
7.1(c)	Failure to register each business name	$1,000	M	30
7.1(d)	Failure of a business to employ at least one commercial pesticide applicator certified and registered in the proper category or subcategory	$1,000	NM	
7.1(e)	Failure of a business to prominently display the required information on each service vehicle	$1,000	M	30
7.1(f)	Failure of a business to notify the Department of changes in license	$1,000	M	30

	information			
7.2	Failure to allow entry to inspect, sample, or collect records	Use Matrix	NM	
7.3(a)	Failure to maintain a record of pesticide application or the record is substantially deficient	$1,000	NM	
7.3(a)	A record of pesticide application is partially deficient	$1,000	M	30
7.3(b)	Failure of a commercial pesticide applicator business to maintain adequate required list of pesticides applied, applicators employed, or training records	$1,000	M	30
7.3(c)	Failure of a business to maintain a record of pesticide application for the minimum time period	$1,000	NM	
7.3(d)	Failure to make a record of application immediately available to the Department or medical personnel	Use Matrix	NM	
7.3(e)	Failure of a business to provide a customer with a copy of the application record upon request	$1,000	NM	
7.3(f)	Failure of the pesticide applicator or business to provide an agricultural employer with the information required or the information is substantially deficient	$1,000	NM	
7.3(f)	The information given to an agricultural employer is partially deficient	$1,000	M	1
7.3(g)	Failure to keep a record of application for EUP, Section 18, and 24(c) pesticides separately	$1,000	M	30
7.4(a)	No proof of insurance	$1,000	NM	
7.5	Requiring an unlicensed individual or untrained handler to use or apply a pesticide	Use Matrix	NM	
7.6(d)1	Failure of the pesticide applicator business to return the pesticide applicator business license to the Department within two weeks of a suspension or revocation	$3,750	NM	
7.9	Failure of any person who is a commercial pesticide applicator business to follow the requirements	$1,000	NM	

	of the Federal Container and Containment regulations, as incorporated by reference			
8.1(a)	Unlicensed private applicator	Use Matrix	NM	
8.3(d)	Failure of a private pesticide applicator to notify the Department of a change in license information	$1,000	M	30
8.7(a)	Failure to allow entry for inspection, sampling, or collection of records	Use Matrix	NM	
8.8(a)	Failure to maintain a record of a pesticide application or the record is substantially deficient	$1,000	NM	
8.8(a)	A record of pesticide application is partially deficient	$1,000	M	30
8.8(b)	Failure of a private pesticide applicator to maintain a required record, specifically a list of pesticides used, or handlers employed	$1,000	M	30
8.8(c)	Failure of a private pesticide applicator to maintain an application record for the minimum of three years	$1,000	NM	
8.8(d)	Failure to make a record of application immediately available to the Department or to medical personnel	Use Matrix	NM	
8.8(f)	Failure to keep records of application for EUP, Section 18, and 24(c) pesticides separately	$1,000	M	30
8.9	Failure to present a valid license when purchasing a restricted use pesticide	$1,000	NM	
8.10	A private applicator requiring an unlicensed individual or untrained handler to apply a pesticide	$1,000	NM	
8.14	Failure of any person who is a private pesticide applicator to follow the requirements of the Federal Container and Containment regulations, as incorporated by reference	$1,000	NM	
9.2(a)	Failure to obtain a mosquito/fly permit prior to the application	$1,000	NM	
9.2(c)4	Applying a pesticide prior to receiving written approval from the Department for a change to an ap-	$1,000	NM	

	proved mosquito/fly control permit			
9.2(f)	Failure to coordinate a community or area wide mosquito control program with the county agency	$1,000	NM	
9.2(g)	Failure to fulfill a condition of a mosquito/fly control permit	$1,000	NM	
9.3(a)	Failure to obtain an aquatic pesticide permit	$1,000	NM	
9.3(c)2	Failure to provide the Department with the information required as a condition for evaluation/approval of the aquatic pesticide permit application	$1,000	M	30
9.3(c)3	Failure to submit the Department requested report	$1,000	M	30
9.3(c)4	Failure to notify the Department of a change in an aquatic pesticide permit and failure to obtain approval prior to the application	$1,000	NM	
9.3(e)	Failure to fulfill a condition of an aquatic use permit	$1,000	NM	
9.3(j)	Failure to conform to the record-keeping requirements of the "Record of Actual Treatment" (BPO-03 and BPO-06)	$1,000	NM	
9.4(a)	Failure to comply with a notification provision	$1,000	NM	
9.4(b)	Failure to provide label and/or exact treatment date	$1,000	NM	
9.4(c)	Failure to comply with posting requirements	$1,000	NM	
9.4(d)	Failure to notify specific aquatic users	$1,000	NM	
9.4(e)	Failure to comply with community and area-wide notification	$1,000	NM	
9.4(f)3	Failure to maintain a copy of a notification waiver on file for at least three years	$1,000	M	30
9.4(f)4	Failure to provide a copy of a notification waiver to the Department immediately upon request	Use Matrix	NM	
9.5(a)	Storing a restricted use pesticide; not posted with a warning sign	$1,000	M	3
9.5(a)	Failure to store a restricted use pesticide properly	$1,000	NM	

9.5(b)	Failure to maintain, or send, a list of pesticides stored (and a written description or diagram depicting the exact location) to the local fire company with cover letter (no fire has occurred)	$1,000	M	3
9.5(b)	Failure to maintain, or send, a list of pesticides stored (and a written description or diagram depicting the exact location) to the local fire company with cover letter (a fire has occurred)	Use Matrix	NM	
9.5(b)1	Failure to send a list of pesticides stored to the local fire company each year by May 1	$1,000	M	7
9.5(b)2	Failure to keep a list of pesticides stored at a location that is separate from the actual storage site	$1,000	M	7
9.5(b)3	Failure to explain, in a cover letter, that the list of pesticides stored has been sent pursuant to N.J.A.C. 7:30-9.5(b)	$1,000	M	30
9.5(b)4	Failure to maintain a copy of each year's cover letter on file for three years	$1,000	M	30
9.5(c)	Failure to properly store a restricted use pesticide in a building used as a private residence	$1,000	NM	
9.5(d)	Failure to properly store a restricted use pesticide in a commercial building or institution	$1,000	NM	
9.5(e)	Storing a restricted use fumigant in a multi-family private residence, or multi-unit commercial establishment or institutions	$1,000	NM	
9.5(f)	Failure to comply with any service vehicle requirement, or service vehicle is substantially deficient	$1,000	NM	
9.5(f)	Service vehicle is partially deficient	$1,000	M	3
9.5(g)	Storage of a pesticide near food or animal feed	$1,000	NM	
9.5(h)	Failure of any person who stores or displays any pesticide to have equipment immediately available for spill response and clean up	$1,000	M	1

9.6(a)	EPA-registered label is partially missing, obscured, altered, or unreadable	$1,000	M	3
9.6(a)	EPA-registered label is missing	$1,000	NM	
9.6(b)	Failure to comply with any service container labeling requirement or the labeling is substantially deficient	$1,000	NM	
9.6(b)	Service container labeling is partially deficient	$1,000	M	1
9.6(c)	Placing or keeping a pesticide in a container commonly used for food, drink, or household products	$1,000	NM	
9.6(d)	Failure to conform to the requirements of the Federal Container and Containment regulations, as incorporated by reference	$1,000	NM	
9.7(a)	Disposal of a pesticide in a manner that caused harm or injury to persons or the environment	Use Matrix	NM	
9.8(a)	Failure to immediately contain, cover, or remove a pesticide spill in an emergency	Use Matrix	NM	
9.8(c)	Failure of a responsible person to immediately notify the Department of a spill or incident	Use Matrix	NM	
9.8(d)	Failure to dispose of any pesticide released as a result of an emergency, in accordance with a Department-approved plan	Use Matrix	NM	
9.8(e)	The written plan for disposal as a result of an emergency failed to satisfy the Department	$1,000	M	30
9.9(a)	Failure to properly maintain the application equipment	$1,000	NM	
9.9(b)	Failure to properly calibrate the application equipment	$1,000	NM	
9.9(c)	Failure to supply safety equipment in good working order and train employees in its proper use	$1,750	NM	
9.9(d)	Failure of an applicator, operator, or handler to wear the appropriate safety equipment while mixing or loading 2,4-D	$1,000	NM	
9.10(b)	Failure to provide community or	$1,000	NM	

	area-wide notification			
9.10(b)5	Failure of the pesticide applicator to provide information at least 12 hours prior to the community or area-wide application when requested by a person residing in the vicinity.	$1,000	NM	
9.10(e)	Failure to provide additional notification for publicly sponsored/funded community or area-wide pesticide applications	$1,000	NM	
9.11(a)	Failure to provide beekeeper notification	$1,000	NM	
9.11(b)	Beekeeper notification substantially deficient	$1,000	NM	
9.11(b)	Beekeeper notification partially deficient	$1,000	M	1
9.11(d)	Notice of emergency applications was not given to a beekeeper as soon as reasonably possible before or after the application	$1,000	NM	
9.11(h)	Failure to provide updated notification the night prior to the new application date	$1,000	NM	
9.11(j)	Performing a community or area-wide application on hardwood tree species within one mile of a commercial blueberry field during the period April 15 through May 31	$1,000	NM	
9.11(k)	Applying a microencapsulated formulation, known to be toxic to bees, either in the crop or in the ground cover below or abutting the crop, while the crop or the ground cover was in bloom	$1,000	NM	
9.12(b)1	Failure to provide a Consumer Information Notice to a single-family resident, or the notice provided is substantially deficient	$1,000	NM	
9.12(b)1	Consumer Information Notice provided to a single-family resident is partially deficient	$1,000	M	7
9.12(b)2	Failure to provide the specific date of pesticide application or a copy of a label upon request	$1,000	NM	

9.12(b)4	Failure to provide household or structural pesticide application notification requested by the new homeowner of a single-family residence that was treated pursuant to a real estate transaction	$1,000	NM	
9.12(c)1	Failure to post a decal notice in each unit prior to the start of the application	$1,000	M	15
9.12(c)2	Failure to post a decal prominently in the appropriate location	$1,000	M	7
9.12(c)3	Failure to provide a copy of all information required in N.J.A.C. 7:30-9.12(c)4i through ix upon request	$1,000	NM	
9.12(c)4	Failure to provide a consumer information notice or the notice provided is substantially deficient	$1,000	NM	
9.12(c)4	Consumer information notice provided is partially deficient	$1,000	M	7
9.12(c)5	Failure to provide prior notification of the specific date of application upon request by the tenant or resident	$1,000	NM	
9.12(d)1	Failure to notify at an institution, or commercial or public building, or the notification provided is substantially deficient	$1,000	NM	
9.12(d)1	Notification provided at an institution, or commercial or public building is partially deficient	$1,000	M	7
9.12(d)2	Failure to provide prior notification of the specific date of application or a copy of a label upon request of the contracting party or occupant	$1,000	NM	
9.12(d)3	Failure to post notification information in an institution, or commercial or public building, or the posted notification information is substantially deficient	$1,000	NM	
9.12(d)3	Notification information posted in an institution, or commercial or public building is partially deficient	$1,000	M	7
9.12(d)4	Failure to post and maintain appropriate notification sign in a large	$1,000	M	7

	public place			
9.12(e)	Failure to properly notify an adjoining resident before using an aerosol or fog	$1,000	NM	
9.13(b)1	Failure to post the proper sign when making a turf and/or ornamental application	$1,000	M	1
9.13(b)2	Failure to provide a Consumer Information Notice, or the notice provided is substantially deficient	$1,000	NM	
9.13(b)2	The Consumer Information Notice provided is partially deficient	$1,000	M	7
9.13(b)3	Failure to provide prior notification of the specific date of a pesticide application upon request by the contracting party	$1,000	NM	
9.13(c)1	Failure to post the proper signs at a multi-family residence, or industrial or commercial building	$1,000	M	1
9.13(c)2	Failure to provide a Consumer Information Notice at a multi-family residence, or industrial or commercial building, or the notice provided is substantially deficient	$1,000	NM	
9.13(c)2	Consumer Information Notice provided is partially deficient	$1,000	M	7
9.13(c)3	Failure to provide the specific date of pesticide application upon request	$1,000	NM	
9.13(d)1	Failure to post the proper notification sign at a golf course	$1,000	M	3
9.13(d)1ii	Failure to make a necessary change to the required notification information on the signs at the starting tees	$1,000	M	3
9.13(d)2	Failure to supply information requested by any person in writing	$1,000	NM	
9.13(d)3	Failure to supply notification information to the residents pursuant to 9.13(b)2, or the notification is substantially deficient, and/or failure to post pursuant to 9.13(b)1	$1,000	NM	
9.13(d)3	The notification to residents pursuant to 9.13(b)2 is partially deficient	$1,000	M	7
9.13(d)3	Failure to post pursuant to 9.13(b)1	$1,000	M	1

9.13(d)4	Failure to post pursuant to 9.13(b)1 when the treated area is not part of the actual playing course	$1,000	M	1
9.13(e)1 through 6	Failure to post properly at a school, institution, park, or similar site	$1,000	M	1
9.13(e)7	Failure to provide a Consumer Information Notice to contracting party, or the notice provided is substantially deficient	$1,000	NM	
9.13(e)7	The Consumer Information Notice is partially deficient	$1,000	M	7
9.13(e)8	Upon request by the contracting party, failure to provide a specific date of application, or a copy of the label of the pesticides used to control turf or ornamental pest at a school, institution, park, or similar site	$1,000	NM	
9.14(a)	Failure to provide notification to a school, or the notification provided is substantially deficient	$1,000	NM	
9.14(a)	The school notification provided is partially deficient	$1,000	M	1
9.15(a)	Failure to give notification when requested or under conditions that indicated that notification was necessary	Use Matrix	NM	
9.15(b)	Failure to give notification or take a reasonable precaution before application may commence	Use Matrix	NM	
9.16	Failure to comply with or inadequate general agricultural notification	$1,000	NM	
9.17(a)	Failure to notify the Department of a reportable pesticide spill	Use Matrix	NM	
9.17(b)	Failure to immediately report a reportable spill by telephone to the Department Hotline, and file a written report within 10 days	Use Matrix	NM	
10.2(a)	Pesticide label violation	Use Matrix	NM	
10.2(a)	Technical pesticide label violation, with no risk or damage	$1,000	M	7
10.2(b)	Transporting, handling, storing, mixing, or loading a pesticide that caused harm, injury, damage, or	Use Matrix	NM	

	risk			
10.2(c)	Applying a pesticide that causes harm, injury, damage, or risk	Use Matrix	NM	
10.2(d)	Directly applying a pesticide to a non-target site	Use Matrix	NM	
10.2(e)	Applying a pesticide without taking reasonable precautions, before, during and after the application	Use Matrix	NM	
10.2(f)	Drift or other movement of a pesticide to a non-target site	Use Matrix	NM	
10.2(g)	Cleaning or rinsing container or application equipment in a manner that caused harm, injury, damage, or risk	Use Matrix	NM	
10.2(h)	Failure to have back-flow prevention, causing significant risk of harm or injury, or actual harm or injury	Use Matrix	NM	
10.2(h)	Failure to have back-flow prevention, but no significant risk of harm or injury	Use Matrix	M	1
10.2(i)	Failure to have the label for the pesticide at the application or mixing site	$1,000	M	1
10.2(j)	Applying a pesticide when people were within the boundaries of the target site to which the pesticide was applied	$1,000	NM	
10.2(k)	Performing a community or area-wide pesticide application for gypsy moth control during normal student commuting times	$1,000	NM	
10.2(l)	Failure to have a properly licensed applicator present at a fumigation location for the duration of the application	Use Matrix	NM	
10.2(m)	Application of a pesticide containing diazinon to a sod farm, golf course, or other turf areas greater than three acres, or other turf areas of three acres or less where evidence indicates the presence of waterfowl	$1,000	NM	
10.2(n)	Applying a pesticide in or around a day care facility during normal op-	Use Matrix	NM	

	erating hours where children would contact treated areas			
10.2(o)1	Application of a TBT antifoulant paint outside of a commercial boat yard	$1,000	NM	
10.2(o)2	Application of a TBT antifoulant paint to a vessel that did not exceed 25 meters (82.02 feet) in length and/or did not have an aluminum hull	$1,000	NM	
10.2(p)	Failure to comply with the Pinelands use restriction of herbicides	$1,000	NM	
10.3(a)	Failure to use tamper-resistant rodent bait boxes when needed	$1,000	NM	
10.3(b)	Failure to properly label a rodent bait box	$1,000	NM	
10.3(b)	Failure to secure a rodent bait box when necessary	$1,000	NM	
10.3(d)	Failure to remove all accessible bait	$1,000	NM	
10.4(a)	Failure to have licensed applicator on-site for termite application	Use Matrix	NM	
10.4(b)	Failure to pressure test termite application equipment	$1,000	NM	
10.4(c)	Failure to have a properly operating pressure gauge	$1,000	NM	
10.4(d)	Failure to have adequate backflow prevention pursuant to N.J.A.C. 7:30-10.2(h)	$1,000	NM	
10.4(e)	Failure to properly route a hose through a structure	$1,000	NM	
10.4(g)1	Failure to follow termiticide restrictions for hollow block, brick, or tile foundation	$1,000	NM	
10.4(g)2	Failure to follow a termiticide restriction for rubble/stone foundations	$1,000	NM	
10.4(h)	Failure to follow termiticide restrictions for basement floors	$1,000	NM	
10.4(i)	Failure to follow termiticide restrictions for a crawlspace	$1,000	NM	
10.4(i)3	Failure to follow termiticide restrictions for a plenum crawlspace	$1,000	NM	
10.4(j)	Failure to follow termiticide restrictions for an inaccessible space	$1,000	NM	
10.4(k)	Failure to follow termiticide re-	$1,000	NM	

	strictions for a slab			
10.4(m)1	Failure to follow termiticide restrictions for a well	$1,000	NM	
10.4(n)	Failure to follow a retreatment restriction	$1,000	NM	
10.4(p)	Failure to provide proper notification for termiticide treatment	$1,000	M	7
10.4(q)	Failed to keep a proper diagram of the structure treated	$1,000	M	30
10.5	Failure to comply with organochlorine restrictions in N.J.A.C. 7:30-10.5	$1,000	NM	
10.6(b)	Failure of a pilot to learn and confirm: 1. The boundaries and exact location of the target area 2. The identity of non-target area and safety hazards	$1,000	NM	
10.6(c)	Failure to thoroughly rinse spray and spreading equipment after each application	$1,000	NM	
10.6(d)	Failure to maintain proof of proper calibration of aerial application equipment	$1,000	NM	
10.6(d)	Failure to provide proof of calibration of application equipment to the Department upon request	Use Matrix	NM	
10.6(d)	Failure to properly calibrate application equipment	$1,000	NM	
10.6(i)	Failure to have spray or spreading equipment free of leaks and/or have a positive shutoff system	$1,000	NM	
10.6(j)	The shape of the tank or hopper of the spray or spreading equipment did not allow for complete drainage	$1,000	NM	
10.6(l)	Aerially releasing pesticide more than 15 feet above the target or more than 50 feet above trees	$1,000	NM	
10.6(m)	Aerially releasing a pesticide formulated as dry granules or pellets more than 40 feet above the target	$1,000	NM	
10.6(o)	Failure to obtain the required information for the consent agreement	$1,000	M	30
10.6(o)	Failure to obtain property owner(s)	$1,000	NM	

	consent for aerial application			
10.6(o)	Making an aerial application to a site of less than three acres that was not part of a larger property or contiguous properties that together totaled more than three acres	$1,000	NM	
10.6(p)	Making an aerial pesticide application to a field that was not part of a larger field of three or more acres	$1,000	NM	
10.6(q)	Failure to follow buffer zone restrictions for an aerial application	$1,000	NM	
10.6(r)	Directly applying a pesticide by aircraft to a right-of-way of a public road that was not included in the target site	Use Matrix	NM	
10.6(s)	Depositing a pesticide by aircraft within 100 feet of a private residence without obtaining written consent or failing to include information required for such agreements	$1,000	NM	
10.6(s)4ii	Failure to maintain copies of a consent agreement obtained	$1,000	NM	
10.6(s)4iii	Failure to provide a copy of a consent agreement to the Department upon request	Use Matrix	NM	
10.6(t)	Aerially applying a broad-spectrum pesticide for a non-agricultural purpose	Use Matrix	NM	
10.6(u)	Failure to petition the Department for approval to use a broad-spectrum pesticide	Use Matrix	NM	
10.6(v)	Failure to inform the Department of the application and provide justification	Use Matrix	NM	
10.6(w)	Failure to request a waiver from the provisions of N.J.A.C. 7:30-9.10	$1,000	NM	
10.6(x)	Applying a pesticide by aerial application equipment, without the pesticide being specifically labeled for aerial application	$1,000	NM	
10.7(a)	Failure to conduct a clean up	Use Matrix	NM	
10.7(b)	Failure to notify the Department that a clean up had been completed and/or failure to provide analytical	$1,000	NM	

	results			
10.9(a)	Failure to submit to the Department the required information regarding pesticide use	$1,000	M	30
10.9(b)	Failure to provide additional information relating to a specific pesticide or type of pesticide requested by the Department	$1,000	NM	
12.1(a)	Failure of an agricultural employer or the handler employer to meet the requirements of N.J.A.C. 7:30-12.1	Use Matrix	NM	
12.1(c)	Preventing, discouraging, or taking retaliatory action for attempts made by any worker or handler from complying or attempting to comply with any requirement of N.J.A.C. 7:30-12	Use Matrix	NM	
12.3(a)	Allowing or directing a person, other than an appropriately trained and equipped handler, to enter or to remain in the treated area	$1,000	NM	
12.3(b)	Allowing or directing a person, other than an appropriately trained and equipped handler, to enter or to remain in the restricted-entry area of an enclosed space	$1,000	NM	
12.3(c)1	Allowing or directing a person, other than an appropriately trained and equipped handler, to enter or remain in the restricted-entry area of an enclosed space prior to the inhalation exposure level the labeling requires is achieved or ventilation criteria are met	$1,000	NM	
12.3(c)2	Allowing or directing a worker to enter an enclosed space restricted-entry area before the restricted-entry interval expires	$1,000	NM	
12.3(c)3	Failure to achieve inhalation exposure requirements in an enclosed space as indicated on the pesticide labeling	$1,000	NM	
12.4(a)	Allowing or directing a worker to enter or remain in the treated area before the restricted-entry interval expires and all warning signs have	$1,000	NM	

	been removed			
12.4(a)3	Failure to ensure that any worker who enters a treated area during a restricted-entry interval uses the personal protective equipment specified in the product labeling	$1,000	NM	
12.5(a)1	Failure of an agricultural employer to notify workers of any pesticide application in an enclosed space by posting when necessary	$1,000	M	1
12.5(a)2	Failure of an agricultural employer to notify workers of a pesticide application in an enclosed space by posting or oral notification when necessary	$1,000	M	1
12.5(a)3	Failure of an agricultural employer to notify workers of any pesticide application in an enclosed space by posting and by oral notification when necessary	$1,000	NM	
12.5(b)1	Failure of an agricultural employer to post warning signs when the restricted-entry interval is greater than 48 hours for outdoor production	$1,000	NM	
12.5(b)2	Failure of an agricultural employer to notify workers of a pesticide application either orally or by posting when the restricted entry interval is less than 48 hours for outdoor production	$1,000	M	1
12.5(b)3	Failure of an agricultural employer to provide oral notice and post warning signs for outdoor production	$1,000	NM	
12.5(c)	Failure of an agricultural employer to properly post a warning sign	$1,000	M	1
12.5(d)	Failure of an agricultural employer to provide an oral warning to workers	$1,000	M	1
12.6(a)	Failure of an agricultural employer to display specific information about a pesticide	$1,000	M	1
12.6(b)	Failure of an agricultural employer to display accessible and legible	$1,000	M	1

	information about a pesticide application in the proper location			
12.6(c)	Failure to post specific information about a pesticide application at the correct time or for the correct duration	$1,000	M	1
12.6(d)	Failure of an agricultural employer to display specific information about a pesticide	$1,000	M	1
12.6(e)	Failure to retain pesticide application, safety, and hazard information for three years	$1,000	M	1
12.6(f)	Failure to provide pesticide application, safety, and hazard information upon request to a worker or handler	$1,000	NM	
12.6(g)	Failure to provide pesticide application, safety, and hazard information to medical personnel upon request	$1,000	NM	
12.6(h)	Failure to provide pesticide application, safety, and hazard information to a designated representative upon written request	$1,000	NM	
12.7(a)	Failure of an agricultural employer to provide to a handler employer specific information about a treated area	$1,000	M	1
12.8(a)	Failure of the agricultural employer to ensure that each worker has been trained properly before entering a treated area	$1,750	NM	
12.8(a)1	Failure of an agricultural employer to ensure that a worker has been given orientation training	$1,000	M	1
12.8(c)	Failure to provide the oral or audiovisual information in a manner that a worker can understand in a location conducive to training	$1,000	M	1
12.8(c)1	Failure of the person conducting the worker training to meet the required criteria	$1,000	NM	
12.8(c)2	Failure to ensure that a worker whose name appears on a completed roster has been trained	$1,000	NM	
12.8(c)3	Training materials do not convey required information	$1,000	M	1

12.8(e)	Failure to provide educational pamphlets	$1,000	M	30
12.8(j)	Failure to cease training during the time period for which trainer recognition has been revoked or suspended	Use Matrix	NM	
12.8(m)	Failure of a trainer to keep a training roster for each worker trained in New Jersey	$1,000	M	30
12.8(n)	Failure to maintain a training roster for a minimum of three years	$1,000	M	30
12.8(o)	Failure to provide a training roster immediately upon request by the Department	Use Matrix	NM	
12.8(p)	Failure to provide a copy of a roster to a worker upon request	$1,000	NM	
12.8(q)	Failure to provide training data after receipt of survey	$1,000	M	30
12.9(a)	Failure of an agricultural employer to display pesticide safety information when required	$1,000	NM	
12.9(a)3	Failure to display emergency medical care information or inform workers within 24 hours of any changes in the information	$1,000	M	1
12.9(b)	Failure to display the safety information in the proper location	$1,000	M	1
12.9(c)	Failure to inform workers of the location of the safety information or allow access to it	$1,000	NM	1
12.9(d)	Failure to ensure that safety information remains legible	$1,000	M	1
12.10(a)	Failure of an agricultural employer to provide a complete decontamination site or supplies	$1,000	NM	
12.10(b)	Failure of the agricultural employer to provide a worker with at least one gallon of water of required quality for routine washing and emergency decontamination	$1,000	NM	
12.10(b)1	Failure to equip a water tank with properly functioning valves or other mechanisms that prevent movement of a pesticide into the tank, when necessary	$1,000	NM	

12.10(b)2	Failure of the agricultural employer to provide sufficient soap and single-use towels at each decontamination site	$1,000	M	1
12.10(c)	Failure to place the decontamination supplies together and where they are reasonably accessible to workers	$1,000	NM	
12.10(c)2	Placing the decontamination site in an area being treated with pesticides	$1,000	NM	
12.10(c)3	Placing the decontamination site in an area that is under a restricted-entry interval, where the workers for whom the site is provided were not performing early-entry activities	$1,000	NM	
12.10(d)	Failure of the agricultural employer to provide early-entry workers soap, clean towels, and at least three gallons of water per worker so that the workers may wash thoroughly	$1,000	NM	
12.11(a)1	Failure of an agricultural establishment to provide emergency medical transportation	Use Matrix	NM	
12.11(a)2	Failure of an agricultural establishment to provide information in a medical emergency	Use Matrix	NM	
12.13(a)	Allow pesticide to contact anyone other than an appropriately trained and equipped handler involved in the application	Use Matrix	NM	
12.13(b)	Failure of the handler employer to ensure that a handler is monitored visually or by voice communication at least every two hours when required	$1,000	M	1
12.13(c)	Failure of the handler employer to ensure that a handler maintains continuous visual or voice contact with another handler when required, and that there is immediate access to and use of the necessary PPE	$1,000	NM	
12.13(d)	Failure of a handler to suspend a pesticide application when neces-	$1,000	NM	

	sary			
12.14(a)	Failure of an agricultural employer to display specific information when required	$1,000	M	1
12.14(b)	Failure to display specific information about pesticides for pesticide handlers in the correct location or in the correct manner	$1,000	M	1
12.14(c)	When warning signs are posted for the treated area before an application, failure to post the specific application information for that application at the same time or earlier	$1,000	M	1
12.14(c)1	Failure to post specific application information at the correct time or for the correct duration	$1,000	M	1
12.14(d)	Failure to post the required information for a pesticide application for the benefit of handlers	$1,000	M	1
12.14(e)	Failure to retain application and hazard information for three years	$1,000	M	30
12.14(f)	Failure to provide application or hazard information to a worker or handler upon request	$1,000	NM	
12.14(g)	Failure to provide application or hazard information to medical personnel	$1,000	NM	
12.14(h)	Failure to provide application or hazard information to a designated representative	$1,000	NM	
12.15(a)	Failure of a handler employer, commercial pesticide applicator, and/or pesticide applicator business to notify the agricultural employer, owner, or lessee responsible for the field being treated of the required information before the application was made	$1,000	NM	
12.15(b)	Failure of a handler employer, commercial pesticide applicator, and/or pesticide applicator business to update the agricultural employer with changes to application information	$1,000	NM	
12.16(a)	Failure to train a handler	$1,000	NM	

12.16(a)1	Handler task performed by a person less than 18 years of age	$1,000	NM	
12.16(a)2	Failure to conduct orientation training for a handler	$1,000	M	1
12.16(c)	Failure to present pesticide safety information, either orally or audio-visually, in a manner that a handler can understand, in a location conducive to training and using EPA-approved materials	$1,000	M	1
12.16(c)1	Failure of a person conducting handler training to meet the required criteria	$1,000	NM	
12.16(c)2	Failure to ensure that a handler who is listed on a roster as trained, was trained	$1,000	NM	
12.16(c)3	Materials used to train handlers do not convey the required minimum information	$1,000	M	1
12.16(f)	Failure to annually provide educational pamphlets as required	$1,000	M	30
12.16(k)	Training a handler or worker during the time period for which trainer recognition has been suspended or revoked	Use Matrix	NM	
12.16(n)	Failure of a handler trainer and/or agricultural employer to keep a training roster for each handler or worker trained	$1,000	M	30
12.16(o)	Failure to maintain all handler training rosters for a minimum of three years	$1,000	M	30
12.16(p)	Failure to provide all handler training rosters immediately upon request by the Department	Use Matrix	NM	
12.16(q)	Failure of trainer or agricultural employer to send a copy of the roster of handlers trained to the Department within 30 days	$1,000	M	30
12.17(a)	Failure of the handler employer to ensure that the handler either reads the product labeling or is informed of necessary labeling requirements	$1,000	NM	
12.17(a)1	Failure of the handler employer to ensure that the handler has access	$1,000	M	1

	to the product labeling information during handling activities			
12.17(a)2	Failure of the handler employer to ensure that the handler is aware of all entry restrictions	$1,000	NM	
12.17(b)	Failure of a handler employer to ensure that a handler is aware of the required information concerning any pesticide treated areas	$1,000	M	1
12.18(a)	Failure of the handler employer to ensure that a handler is instructed in the safe operation of equipment, including, when relevant, chemigation safety requirements and drift avoidance	$1,000	M	1
12.18(b)	Failure of the handler employer to ensure that equipment is in good working order	$1,000	M	1
12.18(c)	Failure of the handler employer to ensure that pesticide residues have been removed from equipment before allowing any person to repair, clean, or adjust the equipment, or that a person not employed by the establishment is informed of appropriate safety precautions	$1,000	M	1
12.19(a)	Failure of a handler employer to display pesticide safety information for handlers who are not employed by a commercial handling establishment	$1,000	M	1
12.19(a)1	Failure of a handler employer to display safety information that conveys, at a minimum, the required basic pesticide safety concepts	$1,000	M	1
12.19(a)3	Failure of a handler employer to display emergency medical care information or update the information	$1,000	M	1
12.19(a)4	Failure to display the Department contact information	$1,000	M	30
12.19(b)	Failure of a handler employer to display safety information at the proper locations where it can be readily seen and read by handlers	$1,000	M	1

12.19(c)	Failure of a handler employer to inform handlers of the location of, or allow access to, the safety information	$1,000	M	1
12.19(d)	The safety information was not legible during the time it was posted	$1,000	M	1
12.20(a)	Failure of a handler to use the clothing and PPE specified on the labeling for the use of the product while performing pesticide handler tasks	$1,000	NM	
12.20(c)	Failure of the handler employer to provide appropriate PPE to the handler when required	$1,000	NM	
12.20(c)9	Failure to provide the appropriate respirator, fit test, training, or medical evaluation	$1,000	NM	
12.20(c)9iv	Failure to keep a record for respirator fit test, training, or medical evaluation, or the record is substantially deficient	$1,000	NM	
12.20(c)9iv	The record for respirator fit test, training, or medical evaluation is partially deficient	$1,000	M	30
12.20(d)	Failure to follow conditions for exception to PPE requirements	$1,000	M	1
12.20(e)	Failure of a handler employer to ensure that PPE is used correctly and maintained properly	$1,000	M	1
12.20(f)	Failure of handler employer to ensure that all PPE is cleaned, maintained, stored, disposed, or used according to the manufacturer's instructions, pesticide labeling, or regulations	$1,000	M	1
12.20(g)	Failure of a handler employer to take appropriate measures to prevent heat-related illness	$1,000	NM	
12.21(a)	Failure of a handler employer to provide decontamination supplies	$1,000	NM	
12.21(b)	Failure of a handler employer to provide at least three gallons of water for routine washing and for emergency decontamination	$1,000	M	1
12.21(b)	Failure of the handler employer to	$1,000	NM	

	ensure that water was of a quality and temperature that did not cause illness or injury when it contacted the skin or eyes, or if swallowed			
12.21(b)1	Failure to use properly functioning valves or other mechanisms that prevent movement of pesticides into the water source, when necessary, causing significant risk of harm or injury or actual harm or injury	Use Matrix	NM	
12.21(b)1	Failure to have back-flow prevention, but no significant risk of harm or injury	Use Matrix	M	1
12.21(b)2 and 3	Failure of a handler employer to provide sufficient soap and single-use towels, and a change of clothing, at each decontamination site	$1,000	M	1
12.21(c)	Failure of a handler employer to provide decontamination supplies together and/or provide them at the required location	$1,000	M	1
12.21(d)	Failure of a handler employer to ensure that the appropriate amount and system for delivering rinse water is immediately available to each handler when required	$1,000	M	1
12.21(e)	Failure of a handler employer to provide at least one pint of water in a portable container when required	$1,000	M	1
12.21(f)	Failure of a handler employer to provide, at the site where handlers remove PPE, soap, clean towels, and a sufficient amount of water	$1,000	M	1
12.22(a)1	Failure to provide emergency transportation to a handler who has been poisoned or injured by exposure to a pesticide	Use Matrix	NM	
12.22(a)2	Failure to provide the handler and medical personnel with required information in a medical emergency involving a pesticide	Use Matrix	NM	
13.1(b)	Failure to adopt and implement a school IPM Policy	NA	NM	
13.2(a)	Failure of a school to develop and	NA	NM	

	implement an IPM Plan pursuant to its policy			
13.2(b)	Failure of a school to use IPM methods in its pest control program	NA	M	30
13.2(c)	Failure to provide information to students and parents or guardians on how they can contribute to the success of IPM	NA	M	30
13.2(d)	Failure of a school to report annually to the school's governing board on the effectiveness of the IPM Plan and recommend improvements as needed	NA	M	45
13.3(a)	Failure of a school to designate an IPM Coordinator	NA	NM	
13.3(a)1i through v	Failure of an IPM Coordinator to implement the IPM Plan, maintain the required information about the IPM Policy and Plan, act as a contact for inquiries, maintain material safety data sheets and labels, and to ensure that commercial pesticide applicators on school property are in compliance with applicable rules	NA	M	30
13.3(b)	Failure of an IPM Coordinator to obtain training sufficient to implement an IPM Policy and Plan	NA	NM	
13.3(c)	Failure of an IPM Coordinator to submit required information	NA	M	30
13.4(a)	Failure of a school to maintain pesticide application records or make them available upon request	NA	NM	
13.4(b)	Failure of a school to maintain pest surveillance data and other non-pesticide related records	NA	M	30
13.5(a)	Failure of a school to provide annual notification of the IPM policy	NA	M	30
13.5(b)	Failure of a school to provide the annual notice to new staff members or parents or guardians of new students	NA	M	30
13.6(b)	Failure of a school to provide notification 72 hours before the use of a pesticide other than a low-impact pesticide	NA	NM	

13.6(d)	Failure of a school to reissue required notification when a pesticide application has been rescheduled	NA	NM	
13.6(e)	Failure of a school to meet the requirements of posted notification signs	NA	NM	
13.6(f)	Failure of a school to include on the posted sign, three dates in chronological order on which the pesticide application may take place	NA	NM	
13.7(b)	Failure of a school to provide notice of an emergency application of pesticides	NA	NM	
13.7(c)	Failure of a school to post notification signs for an emergency application of pesticides	NA	NM	
13.7(e)	Failure of a school to modify its IPM Plan in response to an emergency application of pesticides	NA	M	30
13.8(a)	Failure to comply with re-entry requirements for a pesticide application	NA	NM	
13.8(b)	Application of a pesticide other than a low-impact pesticide when students are present	NA	NM	
13.8(c)	Failure to comply with re-entry requirements for low-impact pesticides	NA	NM	

7:30-11.7 Civil administrative penalty amount: matrix

(a) The Department shall assess penalties under this section, and not under *N.J.A.C. 7:30-11.6*, when:

1. Because of the specific circumstances of the violation, the Department determines that the penalty amount under *N.J.A.C. 7:30-11.6* would be too low to provide a sufficient deterrent effect as required by the Act;

2. The table in *N.J.A.C. 7:30-11.6* refers to the matrix in this section; or

3. The violation is not listed under *N.J.A.C. 7:30-11.6*.

(b) The Department shall assess a civil administrative penalty for violations described in this section on the basis of the seriousness of the violation and the conduct of the violator as set forth below, unless the violation is eligible for a minor designation and a grace period under *N.J.A.C. 7:30-11.5*. The Department's assessment shall begin at the midpoint of range and be adjusted in accordance with the factors in (e) below:

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		SERIOUSNESS OF VIOLATION		
		MAJOR	MODERATE	MINOR
CONDUCT	MAJOR	$15,000 - $25,000	$5,000 - $15,000	$2,500 - $7,500
	MODERATE	$5,000 - $15,000	$2,500 - $5,000	$1,000 - $2,500
	MINOR	$2,500 - $7,500	$1,000 - $2,500	$0 - $1,000, or as set forth in N.J.A.C. 7:30-11.6

(c) The "seriousness" of the violation shall be classified as major, moderate, or minor as follows:

1. "Major" seriousness shall include any violation that has caused, or has the potential to cause, substantial harm to human health, safety, or the environment, or seriously deviates from the applicable law. Serious deviations include, but are not limited to, those violations that are in complete contravention of the law, requirement, and/or severely impair or undermine the protection, operation, or intent of the law, requirement, or condition. Violations of "major" seriousness include, but are not limited to, direct application to, or pesticide drift onto persons or domestic animals, or damage to property; pesticide spills or runoff causing harm to fish or other aquatic life; and failure to ensure use of proper safety equipment resulting in pesticide exposure.

2. "Moderate" seriousness shall include any violation that has caused or has the potential to cause some degree of harm to human health, safety, the Act regulatory program, or the environment, or substantially deviates from the applicable law. Substantial deviation shall include, but not be limited to, violations that are in substantial contravention of the law and/or impair or undermine the protection, operation, or intent of the law. Violations of "moderate" seriousness also include, but are not limited to, pesticide drift onto non-target property; failure to notify the Department of a pesticide spill requiring Department notice; and failure to notify a person that requests pesticide application notice.

3. "Minor" seriousness shall include any violation not included in (c)1 or 2 above.

(d) The "conduct" of the violator shall be classified as major, moderate, or minor as follows:

1. "Major" conduct shall include any intentional, deliberate, purposeful, knowing, or willful act or omission by the violator;

2. "Moderate" conduct shall include any unintentional, but foreseeable act or omission by the violator; and

3. "Minor" conduct shall include any other conduct not included in (d)1 or 2 above.

(e) The Department may adjust the amount determined pursuant to (b), (c), and (d) above to assess a civil administrative penalty in an amount no greater than the maximum amount nor less than the minimum amount in the range described in (b) above, on the basis of the following factors:

1. The compliance history of the violator;

2. The nature, timing, and effectiveness of any measures taken by the violator to mitigate the effects of the violation for which the penalty is being assessed;

3. The nature, timing, and effectiveness of any measures taken by the violator to prevent future similar violations;

4. Any unusual or extraordinary costs or impacts directly or indirectly imposed on the public or the environment as a result of the violation;

5. The deterrence value of a penalty within the prescribed range; and/or

6. Other circumstances specific to the violator or the violation.

7:30-11.8 Economic benefit

The Department may add to a civil or civil administrative penalty assessed under this subchapter based on the amount of economic benefit that the violator has realized as the result of not complying, or by delaying compliance with the Act or this chapter.

7:30-11.9 Civil action

(a) Whenever, on the basis of available information, the Department finds a person in violation of the Act, or any rule promulgated, and any administrative order, permit, license, or other operating authority issued pursuant to the Act, the Department may institute a civil action in Superior Court for appropriate relief. Such relief may include, singly or in combination:

1. A temporary or permanent injunction;

2. Assessment against the violator for the costs of any investigation, inspection, or monitoring survey that led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this section;

3. Assessment against the violator for any costs incurred by the State in removing, correcting, or terminating the adverse effects upon the environment resulting from any unauthorized regulated activity for which legal action under this section may have been brought;

4. Assessment against the violator for compensatory damages for any loss or destruction of wildlife, fish, or aquatic life, plants, and for any other actual damages caused by an unauthorized regulated activity. Assessments under this section shall be paid to the State Treasurer, except that compensatory damages shall be paid by specific order of the court to any persons who have been aggrieved by the unauthorized regulated activity; and/or

5. A requirement that the violator restore or rehabilitate the site of the violation to the maximum extent practicable and feasible, or in the event that restoration of the site of the violation is not practicable and feasible, provide for off-site restoration alternatives as approved by the Department.

7:30-11.10 Civil penalty

(a) Each person who does any of the following shall be subject, upon the order of a court, to a civil penalty not to exceed $25,000 per day of the violation, not including any amount assessed for economic benefit as determined under *N.J.A.C. 7:30-11.8*:

1. Violates the Act or this chapter;

2. Violates an administrative order or a court order issued pursuant to the Act or this chapter;

3. Fails to pay in full a civil administrative penalty assessed under this chapter, or fails to make a payment pursuant to a penalty payment schedule entered with the Department; or

4. Knowingly makes any false or misleading statement on any application, record, report, or other document required to be submitted to the Department.

(b) A civil penalty imposed under this section may be collected, with costs, in a summary proceeding pursuant to the Penalty Enforcement Law, *N.J.S.A. 2A:58-1* et seq. The Superior Court shall have jurisdiction to enforce the Penalty Enforcement Law in conjunction with the Act and this chapter.

(c) The amount of a civil penalty for a violation of this chapter shall be calculated in accordance with *N.J.A.C. 7:30-11.7*, Civil administrative penalty amount: matrix.

7:30-11.11 Criminal action

(a) The Department, upon petition to the Attorney General, may bring a criminal action in court for certain violations of the Act, or any rule promulgated, and any administrative order, permit, license, certification, or other operating authority issued pursuant to the Act.

(b) A person who purposely, knowingly, or recklessly violates the Act, or including any rule promulgated, and any administrative order, permit, license, certification, or other operating authority issued pursuant to the Act, shall be guilty, upon conviction, of a crime of the third degree and shall be subject to a fine of no less than $5,000, nor more than $50,000 per day of violation.

(c) A person shall, upon conviction, be subject to a fine of no more than $50,000 if the person purposely, knowingly, or recklessly:

1. Makes a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under the Act, or any rule promulgated, and any administrative order, permit, license, certification, or other operating authority issued pursuant to the Act; or

2. Falsifies, tampers with, or renders inaccurate, any record or monitoring device to be maintained under the Act, or any rule promulgated, and any administrative order, permit, license, certification, or other operating authority issued pursuant to the Act.

SUBCHAPTER 12. AGRICULTURAL WORKER PROTECTION

§ 7:30-12.1 General duties, prohibited actions

(a) The agricultural employer or the handler employer, as appropriate, shall:

1. Assure that each worker or handler subject to this subchapter receives the protection required by this subchapter;

2. Assure that any pesticide handled for use on an agricultural establishment is used in a manner consistent with the labeling of the pesticide, and the requirements of this subchapter;

3. Provide to each person who supervises any worker or handler, information and directions sufficient to assure that each worker or handler receives the protection required by this subchapter. Such information and directions shall specify which persons are responsible for actions required to comply with this subchapter;

4. Provide to each person, including any labor contractor, who supervises any worker or handler sufficient information and direction to ensure that the worker or handler can comply with the provisions of this subchapter and receives the protection required by this subchapter. The information shall include the tasks for which the supervisor is responsible under this subchapter;

5. Require each person, including any labor contractor, who supervises any worker or handler to provide sufficient information and direction to each worker and handler to ensure that the worker or handler can comply with the provisions of this subchapter;

6. When the pesticide labeling provides directions for use or other requirements that are inconsistent with the Worker Protection Standard, 40 CFR Part 170, incorporated herein by reference, as supplemented or amended, or this subchapter, the use shall comply with the pesticide labeling, except as provided at *N.J.A.C. 7:30-12.2(c)*, 12.4(b), (c), and (d), and 12.20(d); and

7. Ensure that any handler and any early entry worker is at least 18 years old.

(b) A person is liable for violations of this subchapter if another person employed by or acting for that person violates any provision of this subchapter. The term ''acting for'' includes both employment and contractual relationships, including, but not limited to, a relationship with a labor contractor.

(c) No agricultural employer, commercial pesticide handler employer, or other person involved in the use of a pesticide to which this subchapter applies, shall intimidate, threaten, coerce, or discriminate against any worker or handler for:

1. Complying with, or attempting to comply with, this subchapter;

2. Providing, causing to be provided, or being about to provide information to the employer, the EPA, or any duly authorized representative of the Federal, state, or Tribal government regarding conduct that the worker or handler reasonably believes violates this subchapter;

3. Making a complaint, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing concerning compliance with this subchapter; or

4. Objecting to, or refusing to participate in, any activity, policy, practice, or assigned task that the worker or handler reasonably believed to be in violation of this subchapter.

(d) If any requirement of the Worker Protection Standard, 40 CFR Part 170, is more stringent than the requirements of this subchapter, the more stringent requirement at 40 CFR Part 170 shall prevail.

§ 7:30-12.2 Standard for workers

(a) Except as provided by (b) and (c) below, this subchapter applies when any pesticide product bearing a label requiring compliance with the Worker Protection Standard, 40 CFR Part 170, is used on an agricultural establishment.

(b) This subchapter does not apply when any pesticide bearing a label requiring compliance with the Worker Protection Standard, 40 CFR Part 170, is applied to an agricultural establishment in the following circumstances:

1. As part of government-sponsored public pest control programs over which the owner, agricultural employer, and handler employer have no control, such as mosquito abatement, Mediterranean fruit fly eradication, or similar community or area-wide public pest control programs;

2. On livestock or other animals, or in or about animal premises;

3. On plants grown for other than commercial or research purposes, which may include plants in habitations, home fruit and vegetable gardens, and home greenhouses;

4. On plants other than agricultural plants, which may include plants in home fruit and vegetable gardens and home greenhouses, and permanent plantings for ornamental purposes, such as plants that are in ornamental gardens, parks, and public or private lawns and grounds that are intended only for aesthetic purposes or climatic modification;

5. On pasture and rangeland where the forage will not be harvested for hay;

6. In a manner not directly related to the production of agricultural plants, or animals, including, but not limited to, structural pest control, control of vegetation along rights-of-way and in other noncrop areas;

7. For control of vertebrate pests, unless the control is directly related to the production of an agricultural plant;

8. As attractants or repellents in traps;

9. On the harvested portions of agricultural plants or on harvested timber; or

10. For research uses of unregistered pesticides.

(c) The following exemptions to this subchapter apply:

1. On any agricultural establishment where a majority of the establishment is owned by one or more members of the same immediate family, the owner is not required to provide to himself or herself or members of his or her immediate family who are performing tasks related to the production of agricultural plants the protections identified in:

i. *N.J.A.C. 7:30-12.4(a)5*, *6*, and *7*;

ii. *N.J.A.C. 7:30-12.4(c)*5, *6*, *7*, and *8*;

iii. *N.J.A.C. 7:30-12.5*;

iv. *N.J.A.C. 7:30-12.6*;

v. *N.J.A.C. 7:30-12.8*;

vi. *N.J.A.C. 7:30-12.9*;

vii. *N.J.A.C. 7:30-12.10*; and

viii. *N.J.A.C. 7:30-12.11*.

2. The owner of an agricultural establishment shall provide all of the applicable protections required by this subchapter to other workers and other persons who are not members of his or her immediate family.

3. Provided that the conditions of (c)3ii below are met, a person who is certified or licensed as a crop advisor by a program acknowledged as appropriate in writing by the Department, Pesticide Control Program, EPA, or another state or Tribal lead agency for pesticide enforcement are exempt from the provisions of *N.J.A.C. 7:30-12.10* and *12.11*.

i. A certified or licensed crop advisor may determine what personal protective equipment is appropriate for a person entering into a treated area during a restricted-entry interval and may substitute that personal protective equipment for the personal protective equipment that the pesticide labeling identifies as required.

ii. Conditions of the crop advisor exemption in (c)3i above are as follows:

(1) The certification or licensing program requires pesticide safety training that includes, at least, all the information in *N.J.A.C. 7:30-12.16(c)*3.

(2) The exemption applies only when performing crop advising tasks in the treated area.

iii. An employer of a crop advisor shall provide all protection that this subchapter requires to any crop advisor employee who is performing the duties of a crop advisor but is not a licensed or certified crop advisor.

§ 7:30-12.3 Entry restrictions associated with pesticide applications

(a) During the application of any pesticide for outdoor production, the agricultural employer shall not allow or direct any person, other than an appropriately trained and equipped handler involved in the application, to enter or to remain in the treated area or in an application exclusion zone that is within the boundaries of the establishment until the application is complete. The application exclusion zone is:

1. The area that extends 100 feet horizontally from the application equipment in all directions during application, when the pesticide is applied by any of the following methods:

i. Aerially;

ii. Air blast application;

iii. As a spray using a spray quality (droplet spectrum) of smaller than medium (volume median diameter of less than 294 microns); or

iv. As a fumigant, smoke, mist, or fog;

2. The area that extends 25 feet horizontally from the application equipment in all directions during application when the pesticide is applied by a method other than in (a)1 above and is sprayed from a height of greater than 12 inches from the planting medium using a spray quality (droplet spectrum) of medium or larger (volume median diameter of 294 microns or greater); and

3. There is no application exclusion zone when the pesticide is applied in a manner other than as described in (a)1 and 2 above.

(b) The following apply to pesticide application in an area of enclosed space production:

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1. When a pesticide application of the type described in column A of Table 1 of this subsection takes place in an area of enclosed space production, the agricultural employer shall not allow or direct any person, other than an appropriately trained and equipped handler, to enter or remain in the area specified in column B of Table 1 until the time specified in column C of Table 1 has expired.

2. After the time specified in column C of Table 1 under this subsection has expired, until the expiration of any restricted-entry interval, the agricultural employer shall not allow or direct any worker to enter or to remain in the treated area as specified in column D of Table 1 under this subsection, except as provided for in section *N.J.A.C. 7:30-12.2*.

3. When column C of Table 1 of this subsection specifies that ventilation criteria shall be met, ventilation shall continue until the air concentration is measured to be equal to or less than the inhalation exposure level the pesticide labeling requires to be achieved. If no inhalation exposure level is listed on the pesticide labeling, ventilation shall continue until after one of the following conditions is met:

i. Ten air exchanges are completed;

ii. Two hours of ventilation using fans or other mechanical ventilating systems;

iii. Four hours of ventilation using vents, windows or other passive ventilation;

iv. Eleven hours with no ventilation followed by one hour of mechanical ventilation;

v. Eleven hours of ventilation followed by two hours of passive ventilation; or

vi. Twenty four hours with no ventilation.

4. The following Table 1 applies to (b)1, 2, and 3 above.

TABLE 1

Entry Restrictions During Pesticide Application in an Area of Enclosed Space Production

a. When a Pesticide is Applied:	B. Workers and Persons, Other than Appropriately Trained and Equipped Handlers are Prohibited in:	C. Until:	D. After the Expiration of Time in Colum C Until the Restricted-Entry Interval Expires, the Restricted-Entry Area Is:
1. As a fumigant	Entire area of enclosed space production plus any adjacent structure or area that cannot be sealed off from the treatment area	The ventilation criteria of (b)3 above are met	No post-application entry restrictions after criteria in column C are met
2. As a: i. Smoke; ii. Mist; iii. Fog; or iv. As a spray quality (droplet spectrum) of smaller than medium (volume median diame-	Entire enclosed space	The ventilation criteria of (b)3 above are met	Treated area

ter of less than 294 microns)			
3. Not as in 1 or 2 above, and for which a respiratory protection device is required for application by the pesticide labeling	Entire enclosed space	The ventilation criteria of (b)3 above are met	Treated area
4. Not as in 1, 2 or 3 above and: i. From a height of greater than 12 inches from the planting medium; or ii. As a spray using a spray quality (droplet spectrum) of medium or larger (volume median diameter of 294 microns or greater)	Treated area plus 25 feet in all directions in the treated area, but not outside the area of enclosed space production	Application is complete	Treated area
5. Otherwise	Treated area	Application is complete	Treated area

§ 7:30-12.4 Worker entry restrictions

(a) After the application of any pesticide on an agricultural establishment, the agricultural employer shall not allow or direct any worker to enter or remain in the treated area before the restricted-entry interval specified on the pesticide labeling has expired and all treated area warning signs have been removed or covered, except as provided in this section.

1. Entry restricted areas in enclosed space production are specified in column D in Table 1, *N.J.A.C. 7:30-12.3(b)*4.

2. When two or more pesticides are applied at the same time, the restricted-entry interval shall be the longest of the applicable intervals.

3. The agricultural employer shall ensure that any worker who enters a treated area under a restricted-entry interval as permitted in (c), (d), and (e) below is provided with, and uses the personal protective equipment (PPE) specified in the pesticide labeling for early-entry workers as intended according to the manufacturer's instructions, and that the worker follows any other requirements on the pesticide labeling regarding early entry.

i. The PPE shall conform to the standards in (c)4 below.

ii. The PPE shall be maintained in accordance with (c)6 below.

iii. If the labeling of the pesticide to be applied states that protective eyewear is required, the agricultural employer shall provide at least one pint of water per worker in portable containers for eyeflushing. The water shall be immediately available to each worker who is performing early-entry activities.

iv. At the end of any early-entry activities the agricultural employer shall provide soap, single-use towels, and at least three gallons of water per worker at the site where the worker removes PPE, so that the worker may wash thoroughly.

4. The agricultural employer shall ensure that each worker is at least 18 years old.

5. Prior to early entry, the agricultural employer shall provide to each early-entry worker the information in (a)5i through viii below. The information shall be provided orally in a manner that the worker can understand.

i. Location of the early-entry area where work activities are to be performed.

ii. Pesticide(s) applied.

iii. Dates and times that the restricted-entry interval begins and ends.

iv. Which exception in (b) through (e) below is the basis for the early entry, and a description of tasks that may be performed under the exception.

v. Whether contact with treated surfaces is permitted under the exception.

vi. Amount of time the worker is allowed to remain in the treated area.

vii. PPE required by the pesticide labeling for early entry.

viii. Location of the pesticide safety information required by N.J.A.C. 7:30-12.6 and 12.9, and the location of the decontamination supplies required by N.J.A.C. 7:30-12.10.

6. Prior to early entry, the agricultural employer shall ensure that each worker either has read the applicable pesticide labeling or has been informed, in a manner that the worker can understand, of all labeling requirements and statements related to human hazards or precautions, first aid, and user safety.

7. The agricultural employer shall ensure that no worker is allowed or directed to wear PPE without first implementing measures sufficient to prevent heat-related illness, and that each worker is instructed in the prevention, recognition, and first aid treatment of heat-related illness.

(b) A worker may enter a treated area during a restricted-entry interval if the agricultural employer ensures that both of the following conditions are met:

1. The worker will have no contact with anything that has been treated with the pesticide to which the restricted-entry interval applies, including, but not limited to, soil, water, air, or surface of plants. This condition does not allow a worker to perform any activity that involves contact with treated surfaces even if the worker is wearing PPE.

2. No such entry is allowed until any inhalation exposure level listed in the pesticide labeling has been reached or any ventilation criteria established by *N.J.A.C. 7:30-12.3(b)*3 or in the pesticide labeling have been met.

(c) Exception for short-term activities. A worker may enter a treated area during a restricted-entry interval for short-term activities if the agricultural employer ensures that the following requirements are met:

1. No hand labor activity is performed;

2. The time in treated areas under a restricted-entry interval for any worker does not exceed one hour in any 24 hour period;

3. No such entry is allowed for the first four hours following the end of the application, and no such entry is allowed thereafter until any inhalation exposure level listed in the pesticide labeling has been reached or any ventilation criteria established by *N.J.A.C. 7:30-12.3(b)*3 or in the pesticide labeling have been met;

4. The PPE specified on the pesticide labeling for early entry is provided to the worker. Such PPE shall conform to the following standards:

i. PPE means devices and apparel that are worn to protect the body from contact with pesticides or pesticide residues, including, but not limited to, coveralls, chemical-resistant suits, chemical-resistant gloves, chemical-resistant footwear, respiratory protection devices, chemical-resistant aprons, chemical-resistant headgear, and protective eyewear.

ii. Long-sleeved shirts, short-sleeved shirts, long pants, short pants, shoes, and socks are not considered personal protective equipment for the purposes of this section and are not subject to the requirements of this section, although such work clothing shall be worn if required by the pesticide labeling.

iii. When "chemical-resistant" PPE is specified by the product labeling, it shall be made of material that allows no measurable movement of the pesticide being used through the material during use.

iv. When "waterproof" PPE is specified by the product labeling, it shall be made of material that allows no measurable movement of water or aqueous solutions through the material during use.

v. When a "chemical-resistant suit" is specified by the product labeling, it shall be a loose fitting, one or two piece, chemical-resistant garment that covers, at a minimum, the entire body except head, hands, and feet.

vi. When "coveralls" are specified by the pesticide labeling, they shall be a loose fitting, one or two piece garment that cover, at a minimum, the entire body except head, hands, and feet. A chemical-resistant suit may be substituted for coveralls and a chemical-resistant apron. If a chemical-resistant suit is substituted for coveralls, any labeling requirement for an additional layer of clothing beneath the coveralls is waived.

vii. Gloves shall be of the type specified by the pesticide labeling. Gloves made of leather, cotton, or other absorbent materials shall not be worn for early-entry activities unless these materials are listed on the pesticide labeling as acceptable for such use. If chemical-resistant gloves with sufficient durability and suppleness are not obtainable, then during activities with plants with sharp thorns, leather gloves may be worn over chemical-resistant glove liners. However, once leather gloves are worn for this use, thereafter they shall be worn only with chemical-resistant liners and they shall not be worn for any other use.

(1) Separable glove liners may be worn beneath chemical-resistant gloves, unless the pesticide labeling specifically prohibits their use. Separable glove liners are defined as separate glove-like hand coverings, made of lightweight material, with or without fingers. Work gloves made from lightweight cotton or poly-type material are considered to be glove liners if worn beneath chemical-resistant gloves. Separable glove liners may not extend outside the chemical-resistant gloves under

which they are worn. Chemical-resistant gloves with nonseparable absorbent lining materials are prohibited.

(2) If used, separable glove liners shall be discarded immediately after a total of no more than 10 hours of use or within 24 hours of when they are first put on, whichever comes first. The liners shall be replaced immediately if they come in direct contact with a pesticide. Used glove liners shall not be reused. Contaminated liners shall be disposed of in accordance with any Federal, State, or local laws, rules, and regulations.

viii. When "chemical-resistant footwear" is specified by the pesticide labeling, it shall be one of the following types of footwear: chemical-resistant shoes, chemical-resistant boots, or chemical-resistant shoe coverings worn over shoes or boots. If chemical-resistant footwear with sufficient durability and a tread appropriate for wear in rough terrain is not obtainable, then leather boots may be worn in such terrain.

ix. When "protective eyewear" is specified by the pesticide labeling, it shall be one of the following types of eyewear: goggles; face shield; safety glasses with front, brow, and temple protection; or a full face respirator.

x. When "chemical-resistant headgear" is specified by the pesticide labeling, it shall be either a chemical-resistant hood or a chemical-resistant hat with a wide brim;

xi. When a ''chemical-resistant apron'' is specified by the pesticide labeling, it shall be a chemical resistant apron that covers the front of the body from mid-chest to the knees;

5. The agricultural employer shall ensure that:

i. Workers wear the PPE correctly for its intended purpose and use PPE according to manufacturer's instructions;

ii. Before each day of use, all PPE is inspected for leaks, holes, tears, or worn places, and any damaged equipment is repaired or discarded;

iii. PPE that cannot or will not be cleaned properly is made unusable as apparel or is made unavailable for further use by an employee or third party. The contaminated PPE shall be disposed of in accordance with any applicable Federal, State, and local regulations. Coveralls or other absorbent materials that have been drenched or heavily contaminated with a pesticide that has the signal word ''DANGER'' or ''WARNING'' on the label shall not be reused and shall be disposed of as specified in this paragraph. The employer shall ensure that any person who handles contaminated PPE described in this paragraph wears the gloves specified on the pesticide labeling for mixing and loading the pesticide(s) comprising the contaminant(s) on the equipment. If two or more pesticides are included in the contaminants, the gloves worn shall meet the requirements for mixing and loading each of the pesticides;

iv. All PPE is cleaned according to manufacturer's instructions or pesticide product labeling instructions before each day of reuse. In the absence of any such instructions, it shall be washed thoroughly in detergent and hot water;

v. Before being stored, all washed PPE is dried thoroughly before being stored or reused;

vi. PPE contaminated with pesticides is kept separate from non-contaminated PPE, other clothing, or laundry, and washed separately from any other clothing or laundry;

vii. Any person who cleans or launders PPE is informed that such equipment may be contaminated with pesticides, of the potentially harmful effects of exposure to pesticides, and the correct way(s) to handle and clean PPE and to protect themselves when handling equipment contaminated with pesticides;

viii. All clean PPE is stored separately from personal clothing and apart from pesticide-contaminated areas;

ix. Each worker is instructed how to put on, use, and remove the PPE and is informed about the importance of washing thoroughly after removing PPE; and

x. Workers have a clean place(s) away from pesticide storage and pesticide use areas for storing personal clothing not in use; putting on PPE at the start of any exposure period; and removing PPE at the end of any exposure period;

6. When PPE is required by the labeling of any pesticide for early entry, the agricultural employer shall ensure that no worker is allowed or directed to perform early-entry activity without implementing, when appropriate, measures to prevent heat related illness;

7. During any early-entry activity, the agricultural employer shall provide a decontamination site in accordance with *N.J.A.C. 7:30-12.10*; and

8. The agricultural employer shall not allow or direct any worker to wear home or take home PPE contaminated with pesticides.

(d) A worker may enter a treated area under a restricted-entry interval in an agricultural emergency to perform tasks, including hand labor tasks, necessary to mitigate the effects of the agricultural emergency, if the agricultural employer ensures that all of the following criteria are met:

1. The Department, Pesticide Control Program, declares an agricultural emergency that applies to the treated area or the agricultural employer determines the agricultural establishment is subject to circumstances that were previously declared an agricultural emergency;

2. The agricultural employer determines that the agricultural establishment is subject to the circumstances that result in an agricultural emergency;

3. The requirements of (c)3 through 8 above are met;

4. If the labeling of any pesticide applied to the treated area requires workers to be notified of the location of treated areas by both posting and oral notification, then the agricultural employer shall ensure that no individual worker spends more than four hours out of any 24-hour period in treated areas where such a restricted-entry interval is in effect;

5. No such entry is allowed during the first four hours after the application ends; and

6. No such entry is allowed until any inhalation exposure level listed in the pesticide labeling has been reached or any ventilation criteria required pursuant to *N.J.A.C. 7:30-12.3(b)3* or the pesticide labeling have been met.

(e) A worker may enter a treated area during a restricted-entry interval for limited contact or irrigation activities, if the agricultural employer ensures that all of the following requirements are met:

1. No hand labor activity is performed;

2. No worker is allowed in the treated area for more than eight hours in a 24-hour period;

3. No such entry is allowed during the first four hours after the application ends;

4. No such entry is allowed until any inhalation exposure level listed in the pesticide labeling has been reached or any ventilation criteria required pursuant to *N.J.A.C. 7:30-12.3(b)3* or the pesticide labeling have been met;

5. The task is one that, if not performed before the restricted-entry interval expires, would cause substantial economic loss, and there are no alternative tasks that would prevent substantial loss;

6. With the exception of irrigation tasks, the need for the task could not have been foreseen;

7. The worker has no contact with pesticide-treated surfaces, other than minimal contact with feet, lower legs, hands, and forearms; and

8. The labeling of the pesticide that was applied does not require that workers be notified of the location of treated areas by both posting and oral notification.

§ 7:30-12.5 Notice of applications to workers

(a) The agricultural employer shall notify workers of any pesticide application in an area of enclosed space production in accordance with the following:

1. When a pesticide with a restricted-entry interval on the pesticide labeling greater than four hours is applied, the agricultural employer shall post warning signs in accordance with (c) below.

2. When a pesticide with a restricted-entry interval on the pesticide labeling equal to or less than four hours is applied, the agricultural employer shall notify workers either by posting warning signs in accordance with (c) below or by providing workers with an oral warning in accordance with (d) below.

3. If the pesticide product labeling has a statement requiring both the posting of treated areas and oral notification to workers, the agricultural employer shall also provide oral notification of the application to the worker(s) in accordance with (d) below.

4. Notice need not be given to the worker if the agricultural employer can ensure that one of the following is met:

i. From the start of the application until the end of the restricted-entry interval, the worker(s) will not enter any area of the entire enclosed space; or

ii. The worker(s) was involved in the application of the pesticide(s) as a handler and is aware of all the information required pursuant to (d)1, 2, and 3 below.

(b) The agricultural employer shall notify workers of any pesticide application for outdoor production in accordance with the following:

1. When a pesticide with labeling that requires a restricted-entry interval greater than 48 hours is applied to an outdoor production area, the agricultural employer shall notify workers of the application by posting warning signs in accordance with (c) below.

2. When a pesticide with labeling that requires a restricted-entry interval equal to or less than 48 hours is applied to an outdoor production area, the agricultural employer shall notify workers of the

application either by posting warning signs in accordance with (c) below or by providing workers with an oral warning in accordance with (d) below.

3. If the pesticide product labeling has a statement requiring both the posting of treated areas and oral notification to workers, the agricultural employer shall post signs in accordance with (c) below and shall provide oral notification of the application to the worker in accordance with (d) below.

4. Notice need not be given to a worker if the agricultural employer can ensure that one of the following is met:

i. From the start of the application to an outdoor production area until the end of the restricted-entry interval, the worker will not enter, work in, remain in, or pass through on foot the treated area or any area within one-quarter mile of the treated area on the agricultural establishment; or

ii. The worker was involved in the application of the pesticide as a handler and is aware of all information required by (d)1, 2, and 3 below.

(c) The agricultural employer shall post warning signs in accordance with the following criteria:

1. The warning signs shall match the following description:

i. The warning sign(s) shall have a white background;

ii. The words "DANGER" and "PELIGRO," plus "PESTICIDES" and "PESTICIDAS," shall be at the top of the sign; and the words "KEEP OUT" and "NO ENTRE," shall be at the bottom of the sign. Letters for all words shall be clearly legible;

iii. A circle containing an upraised hand on the left and a stern face on the right shall be near the center of the sign. The inside of the circle shall be red, except that the hand and a large portion of the face shall be in white;

iv. The length of the hand shall be at least twice the height of the smallest letters. The length of the face shall be only slightly smaller than the hand;

v. Additional information such as the name of the pesticide and the date of application may appear on the warning sign if it does not detract from the appearance of the sign or change the meaning of the required information. A black-and-white example of a warning sign meeting these requirements, other than the following size requirements in (c)2 below, follows:

vi. The agricultural employer may replace the Spanish language portion of the warning sign with equivalent terms in an alternative non-English language, if that alternative language is the language read by the largest group of workers at that agricultural establishment who do not read English. The alternative language sign shall be in the same format as the original sign and conform to all other requirements of this section.

2. The standard warning sign shall be at least 14 inches by 16 inches in size, and the letters shall be at least one inch in height unless a smaller sign and smaller letters are necessary because the

treated area is too small to accommodate a sign of this size. If a smaller sign is used, it shall meet the proportions and other requirements described in (c)1 above.

3. When posted in an outdoor production area, the signs shall be visible from all reasonably expected points of worker entry to the treated area, including at least each access road, each border with any worker housing area within 100 feet of the treated area, and each footpath and other walking route that enters the treated area. When there are no defined points of worker entry, signs shall be posted in the corners of the treated area or in any other location affording maximum visibility.

4. When standard signs are posted in an area of enclosed space production and the entire structure or space is subject to the restricted-entry interval specified on the pesticide labeling and the post-application entry restrictions specified in *N.J.A.C. 7:30-12.4*, the signs shall be posted so they are visible from all reasonably expected points of worker entry to the structure or space. When the standard signs are posted in a treated area of an enclosed space production and the treated area comprises only a portion of the structure or space, the signs shall be posted so they are visible from all reasonably expected points of worker entry to the treated area, including each aisle or other walking route that enters the treated area. When there are no usual points of worker entry to the treated area, signs shall be posted in the corners of the treated area or in any other location affording maximum visibility.

5. When smaller warning signs with ''DANGER'' and ''PELIGRO'' in letters at least 7/8 inch in height, remaining letters at least 1/2 inch in height, and a red circle at least three inches in diameter containing an upraised hand and a stern face, are posted, the signs shall be posted no farther than 50 feet apart around the perimeter of the treated area in addition to the locations specified in (c)3 and 4 above.

6. When smaller warning signs with ''DANGER'' and ''PELIGRO'' in letters at least 7/16 inch in height, remaining letters at least 1/4 inch in height, and a red circle at least one and a half inches in diameter containing an upraised hand and a stern face, are posted, the signs shall be posted no farther than 25 feet apart around the perimeter of the treated area in addition to the locations specified in (c)3 and 4 above.

7. The signs shall:

i. Be posted prior to, but no earlier than, 24 hours before the scheduled application of the pesticide;

ii. Remain posted throughout the application and any restricted-entry interval; and

iii. Be removed or covered within three days after the end of any application and any restricted-entry interval, whichever is later, except that signs may remain posted after the restricted entry-interval has expired, provided the following conditions are met:

(1) The agricultural employer instructs any workers on the establishment that may come within 1⁄4 mile of the treated area not to enter that treated area while the signs are posted; and

(2) The agricultural employer ensures that workers do not enter the treated area while the signs remain posted, other than as permitted by *N.J.A.C. 7:30-12.4*.

8. The signs shall remain visible and legible during the time they are posted.

9. When several contiguous areas are to be treated with pesticides on a rotating or sequential basis, the entire area may be posted. Worker entry, other than entry permitted by *N.J.A.C. 7:30-12.4*, is prohibited for the entire area while the signs are posted.

(d) The agricultural employer shall provide oral warnings to workers in a manner that the worker can understand. If a worker will be on the premises during the application, the warning will be given before the application takes place. Otherwise, the warning shall be given at the beginning of the worker's first work period during which the application is taking place or the restricted-entry interval for the pesticide is in effect. The warning shall consist of:

1. The location and description of the treated area subject to the entry restrictions during and after application;

2. The dates and times during which entry is restricted; and

3. Instructions not to enter the treated area or an application exclusion zone during application, and that entry to the treated area is not allowed until the restricted-entry interval has expired and all treated area warning signs have been removed or covered, except for entry permitted under *N.J.A.C. 7:30-12.4*.

§ 7:30-12.6 Providing specific information about applications

(a) When workers are on an agricultural establishment and, within the last 30 days, a pesticide covered by this subchapter has been applied on the establishment, or a restricted-entry interval has been in effect, the agricultural employer shall display, in accordance with this section, specific information about the pesticide.

(b) The information shall be displayed in the location specified for the pesticide safety information in *N.J.A.C. 7:30-12.9(b)* and shall be accessible and legible.

(c) If warning signs are posted for the treated area before an application, the specific application information for that application shall be posted at the same time or earlier.

1. The information shall be posted before the application takes place, if workers will be on the establishment during application. Otherwise, the information shall be posted at the beginning of any worker's first work period.

2. The information displayed shall continue to be displayed for at least 30 days after the end of the restricted-entry interval; or if there is no restricted-entry interval, for at least 30 days after the end of the application; or, at least until workers are no longer on the establishment, whichever is earlier.

(d) The information shall include:

1. The location and description of the treated area.

i. The crop or site treated.

ii. The location of the application, to be shown on the map required in 12.6(d)6 below;

2. The pesticide brand or trade name, EPA Registration Number, active ingredient(s) of the pesticide, and the pesticide safety data sheet;

3. The time and date the pesticide application is starting and ending;

4. The restricted-entry interval for the pesticide and the exact date and time for safe re-entry by workers and handlers;

5. The posted information, pursuant to (d)1, 2, 3 and 4 above shall have the following column headings printed in English and in the native language(s) understood by farm workers employed by the farm:

i. Crop;

ii. Name of Pesticide;

iii. Safe Reentry Time;

iv. Application date;

v. Application start and finish time; and

vi. Application Location.

6. A map of the farm shall be posted at the same location as the written information designated in (d)1 above and shall be used to clearly designate the fields treated with pesticides;

7. The Department will develop and make available an example format for proper posting of written information. This example will be made available through agriculture-related organizations including the New Jersey Department of Agriculture, Rutgers Cooperative Extension, and the New Jersey Farm Bureau and posted by the Department at **http://www.nj.gov/dep/enforcement/pcp/pcp-wps.htm.** In lieu of the example format developed by the Department, a farm owner or lessee may use a different format if it conforms to the requirements of this subsection.

(e) Whenever pesticide safety information and pesticide application and hazard information are required to be displayed in accordance with this section, the agricultural employer shall retain the pesticide application and hazard information required pursuant to (d) above on the agricultural establishment for three years after the date of expiration of the restricted-entry interval applicable to the pesticide application conducted.

(f) If a person is, or was, employed as a worker or handler by an establishment during the period that particular pesticide application and hazard information was required to be displayed and retained for three years in accordance with this section, and the person requests a copy of such application and/or hazard information, or requests access to such application and/or hazard information after it is no longer required to be displayed, the agricultural employer shall provide the worker or handler with a copy of or access to all of the requested information within 15 days of the receipt of any such request. The worker or handler may make the request orally or in writing.

1. Whenever a record has been previously provided without cost to a worker or handler or their designated representative, the agricultural employer may charge reasonable, non-discriminatory administrative costs (that is, search and copying expenses, but not including overhead expenses) for a request by the worker or handler for additional copies of the record.

(g) Any treating medical personnel, or any person acting under the supervision of treating medical personnel, may request, orally or in writing, access to, or a copy of, any information required to be retained for three years by this section in order to inform diagnosis or treatment of a worker or handler who was employed on the establishment during the period that the information was required

to be displayed. The agricultural employer shall promptly provide a copy of, or access to, all of the requested information applicable to the worker's or handler's time of employment on the establishment after receipt of the request.

(h) Any worker's or handler's designated representative may request access to, or a copy of, any information required to be retained for three years by this section on behalf of a worker or handler employed on the establishment during the period that the information was required to be displayed. The agricultural employer shall provide access to, or a copy of, the requested information applicable to the worker's or handler's time of employment on the establishment within 15 days after receiving any such request, provided the request meets the requirements of (i) below.

(i) A request by a designated representative for access to or a copy of any pesticide application and/or hazard information shall be in writing and contain all of the following:

1. The name of the worker or handler being represented;

2. A description of the specific information being requested. The description should include the dates of employment of the worker or handler, the date or dates for which the records are requested, type of work conducted by the worker or handler (for example, planting, harvesting, applying pesticides, mixing, or loading pesticides) during the period for which the records are requested, and the specific application and/or hazard information requested;

3. A written statement clearly designating the representative to request pesticide application and hazard information on the worker's or handler's behalf, bearing the worker's or handler's printed name and signature, the date of the designation, and the printed name and contact information for the designated representative;

4. If the worker or handler requests that the pesticide application and/or the hazard information be sent, direction for where to send the information (for example, mailing address or email address); and

5. A fee, if any, in accordance with (f)1 above.

§ 7:30-12.7 Notice of application to handler employers

(a) Whenever handlers who are employed by a commercial pesticide handling establishment will be performing pesticide handling tasks on an agricultural establishment, the agricultural employer shall provide to the handler employer, or assure that the handler employer is aware of, the following information concerning any areas on the agricultural establishment that the handler may be in, or may walk within one-quarter mile of, and may be treated with a pesticide, or that may be under a restricted-entry interval while the handler will be on the agricultural establishment:

1. The specific location and description of any such areas; and

2. Restrictions on entering those areas.

§ 7:30-12.8 Worker pesticide safety training

(a) Before any worker performs any task in a treated area on an agricultural establishment where within the last 30 days a pesticide has been used or a restricted-entry interval for such pesticide has

been in effect, the agricultural employer shall ensure that each worker, required by this section to be trained, has been trained according to this section within the previous 12 months.

1. Before any worker performs any activity in a treated area on an agricultural establishment where within the previous 30 days a pesticide product has been used, or a restricted-entry interval for such pesticide has been in effect, the agricultural employer shall ensure that each worker has received an employee orientation to provide establishment-specific information. The agricultural employer may delegate such orientation to the crew leader(s); however, the agricultural employer is responsible to ensure that the orientation is given.

2. Employee orientation training shall be provided in a manner the worker can understand and meet or exceed the following course content requirements:

i. Re-entry, and how workers are informed about re-entry;

ii. The location of handwashing facilities, clean clothes and protective clothing;

iii. The location of decontamination supplies and where to obtain immediate decontamination;

iv. A review of the location of pesticide application, safety, and hazard information required pursuant to *N.J.A.C. 7:30-12.6* and *12.9*;

v. The availability of pesticide safety data sheets (SDS);

vi. Hand out the educational pamphlet required pursuant to (e) below, when available.

(b) The following persons need not be trained under this section:

1. A worker who is currently certified as an applicator of pesticides under *N.J.A.C. 7:30-8.1*;

2. A worker who satisfies the training requirements of 40 CFR part 171;

3. A worker who satisfies the handler training requirements under *N.J.A.C. 7:30-12.16*; and

4. A worker who is certified or licensed as a crop advisor by a program acknowledged as appropriate in writing by the Department, the EPA, or another state or Tribal lead agency for pesticide enforcement, provided that a requirement for such certification or licensing is pesticide safety training that includes all of the information set out in *N.J.A.C. 7:30-12.16(c)*3.

(c) General pesticide safety information shall be presented to workers either orally from written materials or audiovisually at a location that is reasonably free from distraction and conducive to training. All training materials shall be EPA-approved. The information shall be presented in a manner that workers can understand, such as through a translator, using nontechnical terms. The presenter also shall respond to workers' questions.

1. The person who conducts the training shall meet at least one of the following criteria:

i. Be currently certified as an applicator of restricted use pesticides under 40 CFR Part 171;

ii. Be currently recognized as a trainer of certified applicators or pesticide handlers by a state, Federal, or Tribal agency having jurisdiction; or

iii. Have completed an EPA-approved pesticide safety train-the-trainer program for trainers of workers.

2. Any person who completes a roster required pursuant to (q) below indicating a worker has completed the required training shall ensure that the worker has been trained in accordance with (c)3 below.

3. The training materials shall convey, at a minimum, the following information:

i. The responsibility of an agricultural employer to provide the worker and handler with information and protections designed to reduce work-related pesticide exposure and illness, which includes:

(1) Ensuring that the worker and handler have been trained on pesticide safety;

(2) Providing pesticide safety and application and hazard information, decontamination supplies, and emergency medical assistance;

(3) Notifying workers of restrictions during applications and on entering pesticide treated areas; and

(4) Providing access to pesticide application and hazard information for the worker or handler through a request by a designated representative, designated by the worker or handler in writing;

ii. How to recognize and understand the posted warning signs used for notifying workers of restrictions on entering pesticide treated areas on the establishment;

iii. How to follow directions and/or signs about keeping out of pesticide treated areas subject to a restricted-entry interval and application exclusion zones;

iv. Where and in what forms pesticides may be encountered during work activities and potential sources of pesticide exposure on the agricultural establishment. This includes exposure to pesticide residues that may be on, or in, plants, soil, tractors, application and chemigation equipment, or used personal protective equipment, and that pesticides may drift through the air from nearby applications or be in irrigation water;

v. Potential hazards from toxicity and exposure that pesticides present to workers and their families, including acute and chronic effects, delayed effects, and sensitization;

vi. Routes through which pesticides can enter the body;

vii. Signs and symptoms of common types of pesticide poisoning;

viii. Emergency first aid for pesticide injuries or poisonings;

ix. Routine and emergency decontamination procedures, including emergency eye flushing techniques, and, if pesticides are spilled or sprayed on the body, to use decontamination supplies to wash immediately or rinse off in the nearest clean water, including springs, streams, lakes, or other sources if more readily available than decontamination supplies, and as soon as possible, wash or shower with soap and water, shampoo hair, and change into clean clothes;

x. How and when to obtain emergency medical care;

xi. The need, when working in a pesticide treated area, to wear work clothing that protects the body from pesticide residues and wash hands before eating, drinking, using chewing gum or tobacco, or using the toilet;

xii. The need to wash or shower with soap and water, shampoo hair, and change into clean clothes as soon as possible after working in pesticide treated areas;

xiii. Potential hazards from pesticide residues on clothing;

xiv. The need to wash work clothes before wearing them again and wash them separately from other clothes;

xv. Instruction not to take pesticides or pesticide containers used at work to the worker's home;

xvi. Notice that safety data sheets provide hazard, emergency medical treatment, and other information about the pesticides used on the establishment that the worker may come in contact with. The responsibility of agricultural employers to do all of the following:

(1) Display safety data sheets for all pesticides used on the establishment;

(2) Provide workers and handlers information about the location of the safety data sheets on the establishment; and

(3) Provide workers and handlers unimpeded access to safety data sheets during normal work hours;

xvii. Notice that the rule prohibits agricultural employers from allowing or directing any worker to mix, load, or apply pesticides or assist in the application of pesticides unless the worker has been trained as a handler;

xviii. The responsibility of the agricultural employer to provide specific information to workers before directing them to perform early-entry activities, and notice that workers must be 18 years old to perform early-entry activities;

xix. Potential hazards to children and pregnant women from pesticide exposure;

xx. Notice to keep children and nonworking family members away from pesticide treated areas;

xxi. The need to, after working in pesticide treated areas, remove work boots or shoes before entering a home, and remove work clothes and wash or shower before physical contact with children or family members;

xxii. How to report suspected pesticide use violations to the State or Tribal agency responsible for pesticide enforcement; and

xxiii. Notice that the rule prohibits agricultural employers from intimidating, threatening, coercing, or discriminating against any worker or handler for:

(1) Complying with, or attempting to comply with, this subchapter;

(2) Providing, causing to be provided, or being about to provide information to the employer, the EPA, or any duly authorized representative of a Federal, state, or Tribal government regarding conduct that the worker or handler reasonably believes violates this subchapter;

(3) Making a complaint, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing concerning compliance with this subchapter.

(d) If the resources become available, the Department shall prepare educational pamphlets, written at a fifth grade level, in English and in the native languages of the major groups of workers, working in New Jersey. These pamphlets will be available to agricultural employers, owners, agricultural extension and other agricultural organizations. The pamphlet shall include, but not be limited to, the following areas:

1. General pesticide health and safety information, preventive practices in the field and in the worker residential area, signs and symptoms of pesticide poisoning, first aid and medical care, and methods of seeking assistance from State and Federal agencies if a pesticide problem occurs;

2. The names and addresses of health providers in the vicinity who are trained in pesticide evaluation and have bi-lingual or multi-lingual staff; and

3. The rights of workers to obtain the pesticide information and training pursuant to this subchapter, as well as rights under other Federal and State laws.

(e) Every agricultural employer shall provide the pamphlets prepared pursuant to (d) above, to all workers. Such pamphlets shall be presented to workers at least once annually as part of the employee orientation training required pursuant to (a) above, unless the workers already have an updated pamphlet in their possession.

(f) No trainer shall conduct training of workers or handlers required by this subchapter without receiving recognition as a trainer by the Department.

1. A person currently licensed in New Jersey as a pesticide applicator is exempt from the need to receive recognition as a trainer by the Department, unless training workers or handlers of an employer other than the trainer's employer.

(g) A New Jersey Trainer recognition shall be issued if the following conditions are satisfied:

1. The Department receives proof that the person meets at least one of the criteria at (c)1 above; and

2. The trainer demonstrates to the Department a knowledge of relevant New Jersey pesticide laws and regulations.

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

1. Deny an application for recognition as a trainer;

2. Revoke recognition as a trainer; or

3. Suspend recognition as a trainer.

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

1. Failing to receive prior Department approval for a training program;

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

3. Training in a manner that may result in harm, injury, or damage to persons, property, or the environment, or a significant risk of such harm, injury, or damage;

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

5. Issuing false or fraudulent Worker Protection Standard worker verification card;

6. Failing to keep or falsification of required records;

7. Falsifying, or making misleading statements in the application for trainer recognition;

8. Evading, or attempting to evade, or aiding, abetting, combining with, or conspiring with any person for any purpose which will evade or be in violation of the provisions of the Act or this subchapter; or

9. Providing less information than is required pursuant to this section.

(j) No person who has had their trainer recognition revoked or suspended shall train during the time period for which the revocation or suspension is in effect.

(k) Where the Department acts pursuant to (h) above, the Department shall afford a hearing in accordance with the Administrative Procedure Act, *N.J.S.A. 52:14B-1* et seq., and *52:14F-1* et seq., and the Uniform Administrative Procedure Rules, *N.J.A.C. 1:1*, to any person who is aggrieved by the order and who has applied to the Department for a hearing in accordance with *N.J.A.C. 7:30-11.4* within 15 days of issuance of the order.

(l) In the event of the issuance by EPA of a final order assessing a civil penalty under section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, *7 U.S.C. §§135* et seq. or a criminal conviction under section 14(b), the Department may suspend or revoke worker trainer recognition of any person so assessed or convicted.

(m) The trainer and agricultural employer shall keep a training roster for each worker trained in New Jersey. Such a roster shall contain the following information:

1. The full printed name of the worker or handler;

2. The date of training;

3. The name of the trainer and the pesticide applicator license number or Department-issued trainer identification number for the trainer;

4. The worker's native language;

5. The email address of the trainer;

6. The worker's birth date;

7. The name of the agricultural employer and address of agricultural employment;

8. The signature of the worker trained; and

9. Information identifying which EPA-approved training materials were used.

(n) All rosters required to be kept pursuant to (m) above shall be kept for a minimum of three years.

(o) All rosters shall be immediately provided upon request by the Department.

(p) An agricultural employer who provides, directly or indirectly, training required under this section shall provide, to the worker upon request, a copy of the record of the training that contains the information required pursuant to (m) above.

(q) The Department may require the periodic submission by an agricultural employer of annual data on worker training, including, but not limited to:

1. The number of workers trained in a specified year;

2. The native language spoken by the trained workers; and

3. The name of the agricultural employer and address of agricultural employment of the trained workers.

§ 7:30-12.9 Posted pesticide safety information

(a) When workers are on an agricultural establishment and, within the last 30 days a pesticide covered by this subchapter has been applied on the establishment or a restricted-entry interval has been in effect, the agricultural employer shall display, in accordance with this section, pesticide safety information. The safety information shall convey, in a manner the workers can understand, all of the following points:

1. Help keep pesticides from entering your body. At a minimum, the following points shall be conveyed:

i. Avoid getting on your skin or into your body any pesticides that may be on or in plants, soil, irrigation water, tractors and other equipment, or used personal protective equipment, or pesticides drifting from nearby applications.

ii. Wash before eating, drinking, using chewing gum or tobacco, or using the toilet.

iii. Wear work clothing that protects the body from pesticide residues (long-sleeved shirts, long pants, shoes and socks, and a hat or scarf).

iv. Wash/shower with soap and water, shampoo hair, and put on clean clothes after work.

v. Wash work clothes separately from other clothes before wearing them again.

vi. If pesticides are spilled or sprayed on the body, use decontamination supplies to wash immediately, or rinse off in the nearest clean water, including springs, streams, lakes, or other sources if more readily available than decontamination supplies, and, as soon as possible, wash or shower with soap and water, shampoo hair, and change into clean clothes.

vii. Follow directions about keeping out of treated areas and application exclusion zones.

viii. Instructions to employees to seek medical attention as soon as possible if they believe they have been poisoned, injured, or made ill by pesticides.

ix. The following contact information for New Jersey's pesticide regulatory agency:

New Jersey Department of Environmental Protection
Bureau of Pesticide Compliance and Enforcement
Mail Code 401-04A
401 East State Street
PO Box 420
Trenton, New Jersey 08625-0420
Telephone: (609) 984-6568
Internet address: http://www.nj.gov/dep/enforcement/pcp/pcp-wps.htm

2. There are Federal/State rules to protect workers and handlers, including a requirement for safety training.

3. The name, address, and telephone number of a nearby operating medical care facility capable of providing emergency medical treatment. This information shall be clearly identified as emergency medical contact information on the display.

i. The agricultural employer shall update the pesticide safety information display within 24 hours of notice of any change to the information on emergency medical care facilities.

(b) The pesticide safety information shall be displayed at each of the following sites on the agricultural establishment:

1. A location where it can be readily seen and read by workers and where workers are likely to congregate or pass by.

2. Locations on the agricultural establishment where decontamination supplies shall be provided, but only when the decontamination supplies are located at permanent sites or being provided at locations and in quantities to meet the requirements for 11 or more workers.

(c) Workers shall be informed of the location of the information and shall be allowed access to it at all times during normal work hours.

(d) The information shall remain legible during the time it is posted.

§ 7:30-12.10 Decontamination

(a) If any worker on an agricultural establishment performs any activity in an area where a pesticide has been applied and who contacts anything that has been treated with the pesticide, including, but not limited to, soil, water, and plants, the agricultural employer shall provide, in accordance with this section, a decontamination site for routine washing and emergency decontamination.

1. If any pesticide with a restricted-entry interval greater than four hours was applied, the decontamination supplies shall be provided from the time workers first enter the treated area until at least 30 days after the restricted-entry interval expires.

2. If the only pesticides applied in the treated area are products with restricted-entry intervals of four hours or less, the decontamination supplies shall be provided from the time workers first enter the treated area until at least seven days after the restricted-entry interval expires.

3. If an agricultural employer directs a worker to perform activities in a treated area where a restricted-entry interval is in effect, the agricultural employer shall provide decontamination supplies in accordance with handler decontamination pursuant to *N.J.A.C. 7:30-12.21*.

i. The decontamination supplies for early-entry workers shall be outside any area being treated with pesticides or subject to a restricted-entry interval, unless the decontamination supplies would otherwise not be reasonably accessible to workers performing early-entry tasks.

ii. If the pesticide product labeling of the product applied requires protective eyewear, the agricultural employer shall provide at least one pint of water per worker in portable containers for eyeflushing that is immediately available to each worker who is performing early-entry activities.

iii. At the end of any early-entry activities the agricultural employer shall provide, at the site where the workers remove personal protective equipment, soap, single-use towels, and at least three gallons of water per worker so that the workers may wash thoroughly.

(b) The agricultural employer shall provide workers with at least one gallon of water per worker at the beginning of each worker's work period for routine washing and emergency decontamination. At all times when water is available to workers, the employer shall ensure that it is of a quality and temperature that shall not cause illness or injury when it contacts the skin or eyes or if it is swallowed.

1. If a water source is to be used for mixing pesticides, it shall not be used for decontamination, unless equipped with properly functioning valves or other mechanisms that prevent contamination of the water with pesticides, such as anti-backflow siphons, one-way or check valves, or an air gap sufficient to prevent contamination.

2. The agricultural employer shall provide soap and single-use towels for drying at each decontamination site in quantities sufficient to meet workers' reasonable needs. Neither hand sanitizing gels and liquids, nor wet towelettes meet the requirements for soap. Wet towelettes do not meet the requirement for single-use towels.

(c) The decontamination supplies shall be located together and reasonably accessible to where workers are working.

1. For worker activities performed more than one-quarter mile from the nearest place of vehicular access or more than one-quarter mile from any non-treated area:

i. The soap, single-use towels, and water may be at the nearest place of vehicular access.

2. The decontamination site shall not be in an area being treated with pesticides.

3. The decontamination site shall not be in an area that is under a restricted-entry interval, unless the workers for whom the site is provided are performing early-entry activities permitted by *N.J.A.C. 7:30-12.4* and involving contact with treated surfaces and the decontamination site would otherwise not be reasonably accessible to those workers.

(d) At the end of any early-entry activities permitted under *N.J.A.C. 7:30-12.4* and involving contact with anything that has been treated with a pesticide to which the restricted-entry interval applies, including, but not limited to, soil, water, air, or plants, the agricultural employer shall provide, at the site where workers remove PPE, soap, single-use towels, and at least three gallons of water per worker so that the workers may wash thoroughly.

§ 7:30-12.11 Emergency assistance by agricultural establishments

(a) If there is reason to believe that a worker or handler has experienced a potential pesticide exposure during employment on the agricultural establishment or shows symptoms similar to those associated with acute exposure to pesticides during or within 72 hours after employment on the agricultural establishment, and needs emergency medical treatment, the agricultural employer shall do all of the following promptly after learning of the possible poisoning or injury:

1. Make available to that person transportation from the agricultural establishment, including any worker housing on the agricultural establishment, to an operating medical care facility capable of providing emergency medical treatment to a person exposed to pesticides.

2. Promptly provide all of the following information to that person and to treating medical personnel:

i. A copy of the applicable safety data sheet and the product name, EPA Registration Number, and active ingredients of any pesticide product to which that person might have been exposed;

ii. The circumstances of application or use of the pesticide on the agricultural establishment;

iii. The circumstances that could have resulted in exposure of that person to the pesticide.

§ 7:30-12.12 Standard for pesticide handlers

(a) Except as provided for by (b) and (c) below, this subchapter applies when any pesticide product bearing a label requiring compliance with the Worker Protection Standard, 40 CFR Part 170, is handled for use on an agricultural establishment.

(b) This subchapter does not apply when any pesticide product bearing a label requiring compliance with the Worker Protection Standard, 40 CFR Part 170, is handled for use on an agricultural establishment in the following circumstances:

1. As part of government-sponsored public pest control programs over which the owner, agricultural employer, and handler employer have no control, such as mosquito abatement, Mediterranean fruit fly eradication, or similar community or area-wide public pest control programs;

2. On livestock or other animals, or in or about animal premises;

3. On pasture and rangeland where the forage will not be harvested for hay;

4. On plants other than agricultural plants, which may include plants in home fruit and vegetable gardens and home greenhouses, and permanent plantings for ornamental purposes, such as plants that are in ornamental gardens, parks, and public and private lawns and grounds that are intended only for aesthetic purposes or climatic modification;

5. In a manner not directly related to the production of agricultural plants and animals including, but not limited to, structural pest control, control of vegetation along rights-of-way and in other noncrop areas;

6. For control of vertebrate pests unless the control is directly related to the production of an agricultural plant;

7. As attractants or repellents in traps;

8. On the harvested portions of agricultural plants or on harvested timber; or

9. For research uses of unregistered pesticides.

(c) The handlers listed in this subsection are exempt from the specified provisions of this subchapter.

1. On any agricultural establishment where a majority of the establishment is owned by one or more members of the same immediate family, the owner of an agricultural establishment is not required to provide to himself or herself or members of his or her immediate family who are performing handling tasks on their own agricultural establishment the protections of:

i. *N.J.A.C. 7:30-12.13(b)* and (c);

ii. *N.J.A.C. 7:30-12.14*;

iii. *N.J.A.C. 7:30-12.16, 12.17, 12.18, and 12.19,* except for *12.16(a)1*;

iv. *N.J.A.C. 7:30-12.20(e)* through (g);

v. *N.J.A.C. 7:30-12.21*; and

vi. *N.J.A.C. 7:30-12.22*.

2. The owner of the agricultural establishment shall provide all of the applicable protections required by this subchapter to other handlers and other persons who are not members of his or her immediate family.

3. Provided that the conditions of (c)3ii below are met, a person who is certified or licensed as a crop advisor by a program acknowledged as appropriate by the Department, the EPA, or another state or Tribal lead agency for pesticide enforcement are exempt from the provisions of: *N.J.A.C. 7:30-12.17*, *12.20*, *12.21* and *12.22*.

i. Certified crop advisors may make their own determination as to appropriate PPE for entry into a treated area during a restricted-entry interval and may substitute their self-determined set of personal protective equipment for the labeling-required personal protective equipment. However, the employer of a crop advisor shall provide all required protections of this subchapter to any crop advisor employee who is performing the duties of a crop advisor, but who is not a certified crop advisor.

ii. Conditions of crop advisor exemption are as follows:

(1) The certification or licensing program requires pesticide safety training that includes, at least, all the information in *N.J.A.C. 7:30-12.16(c)*3.

(2) No entry into the treated area shall occur until after the application ends.

(3) The exemption applies only when performing crop advising tasks in the treated area.

§ 7:30-12.13 Restrictions during applications

(a) The handler employer and the handler shall ensure that no pesticide is applied so as to contact, either directly or through drift, any worker or other person, other than an appropriately trained and equipped handler involved in the application.

(b) The handler employer shall assure that any handler who is performing any handling activity with a product that has the skull and crossbones symbol on the front panel of the label is monitored visually or by voice communication at least every two hours.

(c) The handler employer shall ensure:

1. That any handler in an area of enclosed space production during a fumigant application maintains continuous visual or voice contact with another handler stationed immediately outside of the area of enclosed space production; and

2. That the handler stationed outside the area of enclosed space production has immediate access to and uses the PPE required by the fumigant labeling for applicators in the event that entry becomes necessary for rescue.

(d) A handler performing a pesticide application shall immediately suspend the application if any worker or other person, other than an appropriately trained and equipped handler involved in

the application, is in the application exclusion zone set forth at *N.J.A.C. 7:30-12.3(a)* or the area specified in the Table at *N.J.A.C. 7:30-12.3(b)4*.

§ 7:30-12.14 Providing specific information about applications

(a) When handlers, except those employed by a commercial pesticide handling establishment and, within the last 30 days, a pesticide covered by this subchapter has been applied on the establishment or a restricted-entry interval has been in effect, the handler employer shall display, in accordance with this section, specific information about the pesticide.

(b) The information shall be displayed in the same location specified for the pesticide safety information in *N.J.A.C. 7:30-12.19(b)* and shall be accessible and legible, as specified in *N.J.A.C. 7:30-12.19(c)* and (d).

(c) If warning signs are posted for the treated area before an application, the specific application information for that application shall be posted at the same time or earlier.

1. The information shall be posted before the application takes place, if handlers, except those employed by a commercial handling establishment, will be on the establishment during application. Otherwise, the information shall be posted at the beginning of any such handler's first work period.

2. The information shall continue to be displayed for at least 30 days after the end of the restricted-entry interval; or, if there is no restricted-entry interval, for at least 30 days following the end of the application; or at least until the handlers are no longer on the establishment; whichever is earlier.

(d) The information posted shall include:

1. The location and description of the treated area;

i. The crop;

ii. The location of the application, to be shown on the map required in (d)6 below;

2. The pesticide brand or trade name, EPA Registration Number, active ingredient(s) of the pesticide, and the pesticide safety data sheet;

3. The time and date the pesticide application is starting and ending;

4. The restricted-entry interval for the pesticide and the exact date and time for safe re-entry by handlers;

5. The posted information, pursuant to (d)1, 2, 3, and 4 above shall have the following column headings printed in English and in the native language(s) understood by farm workers employed by the farm:

i. Crop;

ii. Name of pesticide;

iii. Safe re-entry time;

iv. Application date;

v. Application start and finish time; and

vi. Application location.

6. A map of the farm shall be posted at the same location as the written information designated in (d)1 above and shall be used to clearly designate the fields treated with pesticides.

7. The Department shall develop and make available an example format for proper posting of written information. This example will be made available through agriculture-related organizations including the New Jersey Department of Agriculture, Rutgers Cooperative Extension, and the New Jersey Farm Bureau, and posted by the Department at the following internet website address: **http://www.nj.gov/dep/enforcement/pcp/pcp-wps.htm**. In lieu of the example format developed by the Department, a farm owner or lessee may use a different format if it conforms to the requirements of this subsection.

(e) Whenever pesticide safety information and pesticide application and hazard information are required to be displayed in accordance with this section, the agricultural employer shall retain the pesticide application and hazard information required pursuant to (d) above on the agricultural establishment for three years after the date of expiration of the restricted-entry interval applicable to the pesticide application conducted.

(f) If a person is, or was, employed as a worker or handler by an establishment during the period that particular pesticide application and hazard information was required to be displayed and retained for three years in accordance with this section, and the person requests a copy of such application and/or hazard information, or requests access to such application and/or hazard information after it is no longer required to be displayed, the agricultural employer shall provide the worker or handler with a copy of, or access to, all of the requested information within 15 days of the receipt of any such request. The worker or handler may make the request orally or in writing.

(g) Any treating medical personnel, or any person acting under the supervision of treating medical personnel, may request, orally or in writing, access to, or a copy of, any information required to be retained for three years by this section in order to inform diagnosis or treatment of a worker or handler who was employed on the establishment during the period that the information was required to be displayed. The agricultural employer shall promptly provide a copy of, or access to, all of the requested information applicable to the worker's or handler's time of employment on the establishment after receipt of the request.

(h) Any worker's or handler's designated representative may request access to, or a copy of, any information required to be retained for three years by this section on behalf of a worker or handler employed on the establishment during the period that the information was required to be displayed. The agricultural employer shall provide access to, or a copy of, the requested information applicable to the worker's or handler's time of employment on the establishment within 15 days after receiving any such request, provided the request meets the requirements specified in (i) below.

(i) A request by a designated representative for access to, or a copy of, any pesticide application and/or hazard information shall be in writing and shall contain all of the following:

1. The name of the worker or handler being represented;

2. A description of the specific information being requested, including the dates of employment of the worker or handler, the date or dates for which the records are requested, type of work conducted by the worker or handler (for example, planting, harvesting, applying pesticides, mixing,

or loading pesticides) during the period for which the records are requested, and the specific application and/or hazard information requested;

3. A written statement clearly designating the representative to request pesticide application and hazard information on the worker's or handler's behalf, bearing the worker's or handler's printed name and signature, the date of the designation, and the printed name and contact information for the designated representative; and

4. If the worker or handler requests that the pesticide application and/or the hazard information be sent, directions for where to send the information (for example, mailing address or email address).

(j) Whenever a record has been previously provided without cost to a worker or handler or their designated representative, the agricultural employer may charge reasonable, non-discriminatory administrative costs (that is, search and copying expenses but not including overhead expenses) for a request by the designated representative for additional copies of the record.

§ 7:30-12.15 Notice of applications to agricultural employers

(a) Before the application of any pesticide on or in an agricultural establishment, any handler employer, commercial pesticide applicator, and/or pesticide applicator business performing any application of a pesticide having a reentry time subject to the provisions of 40 CFR Part 156, shall notify the agricultural employer, owner, or lessee responsible for the field being treated of the following:

1. The specific location and description of the areas to be treated;

2. The start and estimated end time and date of application;

3. The product name, EPA registration number, and active ingredient(s);

4. The labeling-specified restricted-entry interval;

5. Whether posting and oral notification, or both, are required; and

6. Any restrictions or use directions on the product labeling that shall be followed protection of workers, handlers, or other persons during or after application.

(b) If there are any changes to the information provided in (a)1, 4, 5, or 6 above, or if the start time for the application will be earlier than originally forecasted or scheduled, the commercial pesticide handler employer shall ensure that the agricultural employer is provided updated information prior to the application.

1. If there are any changes to any other information provided pursuant to (a) above, the commercial pesticide handler employer shall provide updated information to the agricultural employer within two hours after completing the application.

2. Changes to the estimated application end time of less than one hour need not be reported to the agricultural employer.

§ 7:30-12.16 Pesticide safety training for handlers

(a) Before any handler performs any handling task, the handler employer shall ensure that the handler has been trained in accordance with this subsection within the last 12 months.

1. No handler employer shall require any person under 18 years of age to perform any handling task.

2. Before any handler performs any handler activity on an agricultural establishment where within the last 30 days a pesticide product has been used, or a restricted-entry interval for such pesticide has been in effect, the handler employer shall ensure that each handler has received, in a manner the handler can understand, an employee orientation covering all of the following establishment-specific information:

i. The location of pesticide safety information required pursuant to *N.J.A.C. 7:30-12.19*;

ii. The location of pesticide application and hazard information required pursuant to *N.J.A.C. 7:30-12.14*; and

iii. The location of decontamination supplies required pursuant to *N.J.A.C. 7:30-12.21*.

(b) The following persons need not be trained under this section:

1. A handler who is currently certified as an applicator of pesticides under *N.J.A.C. 7:30-6.1* or *8.1*;

2. A handler who satisfies the training requirements of 40 CFR Part 171;

3. A handler who is certified or licensed as a crop advisor by a program acknowledged as appropriate in writing by the Department, Pesticide Control Program, the EPA, or by another State or Tribal lead agency for pesticide enforcement, provided that a requirement for such certification or licensing is pesticide safety training that includes all information set out in (c)3 below.

(c) General pesticide safety information shall be presented to handlers either orally from written materials or audiovisually at a location that is reasonably free from distraction and conducive to training. All training materials shall be EPA-approved. The information shall be presented in a manner that the handlers can understand, such as through a translator. The presenter shall also respond to the handlers' questions.

1. The person who conducts the training shall meet at least one of the following criteria:

i. Be currently certified as a pesticide applicator pursuant to *N.J.A.C. 7:30-6.1* or *8.1*;

ii. Be currently recognized as a trainer of certified pesticide applicators or pesticide handlers by a state, Federal, or Tribal agency having jurisdiction; or

iii. Have completed an EPA-approved pesticide safety Train-the-trainer program for trainers of handlers.

2. Any person who completes a roster required pursuant to (n) below indicating a handler has completed required training shall ensure the handler has been trained in accordance with (c)3 below.

3. The training materials shall convey, at a minimum, the following information:

i. The responsibility of the agricultural employer to provide each worker and handler with information and protections designed to reduce work-related pesticide exposures and illnesses. This responsibility includes ensuring that the workers and handlers have been trained on pesticide safety; providing pesticide safety and application and hazard information, decontamination supplies, and

emergency medical assistance; and notifying workers of restrictions during pesticide application and when entering pesticide treated areas. A worker or handler may designate, in writing, a representative to request access to pesticide application and hazard information.

ii. How to recognize and understand the meaning of the posted warning signs used for notifying workers of restrictions on entering pesticide treated areas on the establishment.

iii. How to follow directions and/or signs about keeping out of pesticide treated areas subject to a restricted-entry interval and application exclusion zones.

iv. Where, and in what forms, pesticides may be encountered during work activities and potential sources of pesticide exposure on the agricultural establishment. This includes exposure to pesticide residues that may be on or in plants, soil, tractors, application, and chemigation equipment, or used personal protective equipment, and the fact that pesticides may drift through the air from nearby applications or be in irrigation water.

v. Potential hazards from toxicity and exposure that pesticides present to workers and their families, including acute and chronic effects, delayed effects, and sensitization.

vi. Routes through which pesticides can enter the body.

vii. Signs and symptoms of common types of pesticide poisoning.

viii. Emergency first aid for pesticide injuries or poisonings.

ix. Routine and emergency decontamination procedures, including emergency eye flushing techniques, and if pesticides are spilled or sprayed on the body to use decontamination supplies to wash immediately or rinse off in the nearest clean water, including springs, streams, lakes, or other sources if more readily available than decontamination supplies, and as soon as possible, wash or shower with soap and water, shampoo hair, and change into clean clothes.

x. How and when to obtain emergency medical care.

xi. When a person is, or has been, working in pesticide treated areas, the need for that person to wear work clothing that protects the body from pesticide residues and to wash hands before eating, drinking, using chewing gum or tobacco, or using the toilet.

xii. The need to wash or shower with soap and water, shampoo hair, and change into clean clothes as soon as possible after working in pesticide treated areas.

xiii. Potential hazards from pesticide residues on clothing.

xiv. The need to wash work clothes before wearing them again and wash them separately from other clothes.

xv. The instruction not to take pesticides or pesticide containers used at work to your home.

xvi. Safety data sheets that provide hazard, emergency medical treatment, and other information about the pesticides used on the establishment that the worker may come in contact with. The responsibility of agricultural employers to do all of the following:

(1) Display safety data sheets for all pesticides used on the establishment;

(2) Provide workers and handlers information about the location of the safety data sheets on the establishment; and

(3) Provide workers and handlers unimpeded access to safety data sheets during normal work hours.

xvii. The prohibition on an agricultural employer allowing or directing any worker to mix, load, or apply pesticides or assist in the application of pesticides, unless the worker has been trained as a handler.

xviii. The responsibility of agricultural employers to provide specific information to workers before directing them to perform early-entry activities. Workers shall be a minimum of 18 years old to perform early-entry activities.

xix. Potential hazards to children and pregnant women from pesticide exposure.

xx. The need to keep children and nonworking family members away from pesticide treated areas.

xxi. After a person has worked in pesticide treated areas, the need for that person to remove work boots or shoes before entering his or her home and to remove his or her work clothes and wash or shower before physical contact with children or family members.

xxii. How to report suspected pesticide use violations to the State or Tribal agency responsible for pesticide enforcement.

xxiii. The prohibition of an agricultural employer intimidating, threatening, coercing, or discriminating against any worker or handler for:

(1) Complying with or attempting to comply with this subchapter;

(2) Providing, causing to be provided, or being about to provide information to the employer, the EPA, or any duly-authorized representative of a Federal, state, or Tribal government regarding conduct that the worker or handler reasonably believes violates this subchapter;

(3) Making a complaint, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing concerning compliance with this subchapter; or

(4) Objecting to, or refusing to participate in, any activity, policy, practice, or assigned task that the worker or handler reasonably believed to be in violation of this subchapter;

xxiv. Information on proper application and use of pesticides;

xxv. The requirement that a handler follow the portions of the labeling applicable to the safe use of the pesticide;

xxvi. The format and meaning of information contained on pesticide labels and in labeling applicable to the safe use of the pesticide;

xxvii. The need for and appropriate use and removal of all personal protective equipment;

xxviii. How to recognize, prevent, and provide first aid treatment for heat-related illness;

xxix. Safety requirements for handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup;

xxx. Environmental concerns, such as drift, runoff, and wildlife hazards;

xxxi. The requirement that a handler not apply pesticides in a manner that results in contact with workers or other persons;

xxxii. The responsibility of a handler employer to provide each handler with information and protections designed to reduce work-related pesticide exposures and illnesses. This includes providing, cleaning, maintaining, storing, and ensuring proper use of all required PPE; properly disposing of contaminated PPE that cannot or will not be cleaned; providing decontamination supplies; and providing specific information about pesticide use and labeling information;

xxxiii. The requirement that a handler suspend a pesticide application if a worker or other person is in the application exclusion zone;

xxxiv. The requirement that a handler be at least 18 years old;

xxxv. The responsibility of a handler employer to ensure that each handler has received respirator fit-testing, training, and medical evaluation if the pesticide labeling requires the handler to wear a respirator; and

xxxvi. The responsibility of an agricultural employer to post treated areas as required by this subchapter.

(d) If the handler employer ensures that a handler possesses a copy of a roster indicating that the handler has been trained within the previous 12 months, then the requirements of (a) above will have been met.

(e) When resources become available the Department shall prepare educational pamphlets, written at a fifth grade level, in English and in the native languages of the major groups of handlers working in New Jersey. These pamphlets will be provided to agricultural employers, handler employers, owners, agricultural extension and other agricultural organizations. The pamphlet shall include, but not be limited to, the following areas:

1. General pesticide health and safety information, preventive practices in the field and in the farm worker residential area, signs and symptoms of pesticide poisoning, first aid and medical care, and methods of seeking assistance from State and Federal agencies if a pesticide problem occurs;

2. The names and addresses of health providers in the vicinity who are trained in pesticide evaluation and have bi-lingual or multi-lingual staff; and

3. The rights of handlers to obtain the pesticide information and training pursuant to this subchapter, as well as rights under other Federal and State laws.

(f) Every handler employer shall provide the pamphlets prepared pursuant to (e) above (if made available by the Department) to all handlers on the first day of their employment, or at least one day prior to the performance of any handling task. Such pamphlets shall be presented to handlers at least once annually.

(g) No trainer shall conduct training of workers or handlers required by this subchapter without receiving recognition as a trainer by the Department.

1. A person currently licensed in New Jersey as a pesticide applicator is exempt from the need to receive recognition as a trainer by the Department, unless training workers or handlers of an employer other than the trainer's employer.

(h) A New Jersey Handler Trainer recognition will be issued if the following conditions are satisfied:

1. The Department receives proof that the person meets at least one of the criteria in (c)1 above; and

2. The trainer demonstrates to the Department a knowledge of relevant New Jersey pesticide laws and regulations.

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

1. Deny an application for recognition as a handler trainer;

2. Revoke recognition as a handler trainer; or

3. Suspend recognition as a handler trainer;

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

1. Failing to receive prior Department approval for a handler training program;

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

3. Training in a manner that may result in harm, injury, or damage to persons, property, or the environment, or a significant risk of such harm, injury, or damage;

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

5. Recording or submitting false or fraudulent Worker Protection Standard handler training rosters;

6. Failing to keep or falsification of required records;

7. Falsifying, or making misleading statements in the application for handler trainer recognition;

8. Evading or attempting to evade or aiding, abetting, combining with, or conspiring with any person for any purpose which will evade or be in violation of the provisions of the Act or this subchapter; or

9. Providing less information than that required pursuant to this section.

(k) No person who has had their handler trainer recognition revoked or suspended shall train handlers or workers during the time period for which the revocation or suspension is in effect.

(l) Where the Department acts pursuant to (i) above, the Department shall afford a hearing in accordance with the Administrative Procedure Act, *N.J.S.A. 52:14B-1* et seq., and the Uniform Administrative Procedures Rules, *N.J.A.C. 1:1*, to any person who is aggrieved by the order and who has applied to the Department for a hearing within 15 days of issuance of the order.

(m) In the event of the issuance by EPA of a final order assessing a civil penalty under section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, *7 U.S.C. §§135* et seq. or a criminal conviction under section 14(b), the Department may suspend or revoke handler trainer recognition of any person so assessed or convicted.

(n) The handler trainer and agricultural employer shall keep a training roster for each handler trained in New Jersey. Such roster shall contain the following information:

1. The full printed name and signature of the handler;

2. The date of training;

3. The name of the trainer and the pesticide applicator license number or Department-issued trainer identification number for the trainer;

4. The handler's native language;

5. The handler's birth date;

6. The name of the agricultural employer and address of agricultural employment;

7. Information identifying which EPA-approved training materials were used; and

8. The email address of the trainer.

(o) All rosters required to be kept pursuant to (n) above shall be kept for a minimum of three years.

(p) All rosters shall be immediately provided upon request by the Department.

(q) The roster of all handlers trained shall be sent to the Department by the trainer or agricultural employer after each training session within 30 days. This requirement includes employee orientation training.

§ 7:30-12.17 Knowledge of labeling and other site-specific information

(a) The handler employer shall ensure that before the handler performs any handling activity involving a pesticide product, the handler either has read the pesticide labeling or has been informed in a manner the handler can understand of all labeling requirements and use directions related to safe use of the pesticide.

1. The handler employer shall ensure that the handler has access to the applicable pesticide labeling at all times during handling activities.

2. The handler employer shall ensure that the handler is aware of requirements for any entry restrictions, application exclusion zones, and restricted-entry intervals that may apply based on the handler's activity.

(b) Whenever a handler who is employed by a commercial pesticide handling establishment will be performing pesticide handling tasks on an agricultural establishment, the handler employer shall assure that the handler is aware of the following information concerning any areas on the agricultural establishment that the handler may be in, or may walk within one-quarter mile of, and that may be treated with a pesticide or that may be under a restricted-entry interval while the handler will be on the agricultural establishment:

1. The specific location and description of any such areas; and

2. Restrictions on entering those areas.

§ 7:30-12.18 Safe operation of equipment

(a) The handler employer shall assure that before the handler uses any equipment for mixing, loading, transferring, or applying pesticides, the handler is instructed in the safe operation of such equipment, including, when relevant, chemigation safety requirements and drift avoidance.

(b) The handler employer shall assure that, before each day of use, equipment used for mixing, loading, transferring, or applying pesticides is inspected for leaks, clogging, and worn or damaged parts, and any damaged equipment is repaired or replaced.

(c) Before allowing any person to repair, clean, or adjust equipment used to mix, load, transfer, or apply pesticides, the handler employer shall ensure that pesticide residues have been removed from the equipment, unless the person doing the cleaning, repairing, or adjusting is a handler employed by the agricultural or commercial pesticide handling establishment. Before allowing any person not directly employed by the handler employer to clean, repair, or adjust equipment that has been used to mix, load, transfer, or apply pesticides, the handler employer shall provide all of the following information to such person:

1. That pesticide application equipment may be contaminated with pesticides;

2. The potentially harmful effects of exposure to pesticides;

3. Procedures for handling pesticide application equipment and for limiting exposure to pesticide residues; and

4. Personal hygiene practices and decontamination procedures for preventing pesticide exposure and removing pesticide residues.

§ 7:30-12.19 Posted pesticide safety information

(a) When handlers, except those employed by a commercial handling establishment, are on an agricultural establishment and, within the last 30 days, a pesticide has been applied on the establishment or a restricted-entry interval has been in effect, the agricultural employer shall display, in accordance with this section, pesticide safety information. The safety information shall convey, in a manner the handler can understand, all of the following basic pesticide safety concepts:

1. Help keep pesticides from entering your body. At a minimum, the following points shall be conveyed:

i. Avoid getting on your skin or into your body any pesticides that may be on, or in, plants, soil, irrigation water, tractors and other equipment, or used personal protective equipment, or pesticides drifting from nearby applications.

ii. Wash before eating, drinking, using chewing gum or tobacco, or using the toilet.

iii. Wear work clothing (long-sleeved shirts, long pants, shoes and socks, and a hat or scarf) that protects the body from pesticide residues.

iv. Wash/shower with soap and water, shampoo hair, and put on clean clothes after work.

v. Wash work clothes separately from other clothes before wearing them again.

vi. If pesticides are spilled or sprayed on the body, use decontamination supplies to wash immediately, or rinse off in the nearest clean water, including a spring, stream, lake, or other sources of

water if more readily available than decontamination supplies, and as soon as possible, wash or shower with soap and water, shampoo hair, and change into clean clothes.

vii. Follow directions about keeping out of treated areas and application exclusion zones.

2. There are Federal/State rules to protect workers and handlers, including a requirement for safety training.

3. The name, address, and telephone number of a nearby operating medical care facility capable of providing emergency medical treatment. This information shall be clearly identified as emergency medical contact information on the display.

i. The agricultural employer shall update the pesticide safety information display within 24 hours of any change to the information on emergency medical care facilities.

4. The following contact information for New Jersey's pesticide regulatory agency:

New Jersey Department of Environmental Protection
Bureau of Pesticide Compliance and Enforcement
Mail Code 401-04A
401 East State Street
PO Box 420
Trenton, New Jersey 08625-0420
Telephone: (609) 984-6568
Internet address: http://www.nj.gov/dep/enforcement/pcp/pcp-wps.htm

(b) The pesticide safety information shall be displayed at each of the following sites on the agricultural establishment:

1. A location where it can be readily seen and read by handlers and where handlers are likely to congregate or pass by.

2. Each location on the agricultural establishment where decontamination supplies are provided, but only where the decontamination supplies are located at a permanent site or are provided at a location and in a quantity to meet the requirements of 11 or more workers.

(c) Handlers shall be informed of the location of the information and shall be allowed access to it.

(d) The information shall remain legible during the time it is posted.

§ 7:30-12.20 Handler personal protective equipment

(a) Any person who performs tasks as a pesticide handler shall use the clothing and PPE specified on the labeling for the use of the product.

(b) Personal protective equipment (PPE) means devices and apparel that are worn to protect the body from contact with pesticides or pesticide residues, including, but not limited to, coveralls, chemical-resistant suits, chemical-resistant gloves, chemical-resistant footwear, respiratory protection devices, chemical-resistant aprons, chemical-resistant headgear, and protective eyewear.

1. Long-sleeved shirts, short-sleeved shirts, long pants, short pants, shoes, socks, and other items of work clothing are not considered PPE for the purposes of this subchapter and are not sub-

ject to the requirements of this section, although pesticide labeling may require that such clothing be worn during some activities.

(c) When personal protective equipment is specified by the labeling of any pesticide for any handling activity, the handler employer shall provide the appropriate PPE in clean and operating condition to the handler.

1. When "chemical-resistant" PPE is specified by the product labeling, it shall be made of material that allows no measurable movement of the pesticide being used through the material during use.

2. When "waterproof" PPE is specified by the product labeling, it shall be made of material that allows no measurable movement of water or aqueous solutions through the material during use.

3. When a "chemical-resistant suit" is specified by the product labeling, it shall be a loose-fitting, one or two piece chemical-resistant garment that covers, at a minimum, the entire body except head, hands, and feet.

4. When "coveralls" are specified by the product labeling, they shall be a loose-fitting, one or two piece garment, such as a cotton or cotton and polyester coverall, that covers at a minimum, the entire body except head, hands, and feet. The pesticide product labeling may specify that the coveralls be worn over another layer of clothing.

5. Gloves shall be of the type specified by the product labeling. Gloves or glove linings made of leather, cotton, or other absorbent material shall not be worn for handling activities unless such materials are listed on the product labeling as acceptable for such use.

6. When "chemical-resistant footwear" is specified by the product labeling, one of the following types of footwear shall be worn:

i. Chemical-resistant shoes;

ii. Chemical-resistant boots; or

iii. Chemical-resistant shoe coverings worn over shoes or boots.

7. When "protective eyewear" is specified by the product labeling, one of the following types of eyewear shall be worn:

i. Goggles;

ii. A face shield;

iii. Safety glasses with front, brow, and temple protection; or

iv. A full-face respirator.

8. When a "chemical-resistant apron" is specified by the product labeling, an apron that covers the front of the body from mid-chest to the knees shall be worn.

9. If a pesticide label requires that a specific respirator be worn, then that respirator shall be used. Further, the handler employer shall ensure that the requirements of (c)9i, ii, and iii below are met before the handler performs any handler activity where the pesticide label requires a respirator to be worn.

i. Handler employers shall provide handlers with fit testing using the respirator specified on the pesticide product labeling in a manner that conforms to the provisions of the Occupational Safety and Health Administration (OSHA) requirements for respiratory protection at *29 CFR 1910.134*, incorporated herein by reference, as supplemented or amended.

ii. Handler employers shall provide handlers with training in the use of the respirator specified on the pesticide product labeling in a manner that conforms to the provisions of OSHA respiratory protection at *29 CFR 1910.134(k)(1)(i)* through *(vi)*.

iii. Handler employers shall provide handlers with a medical evaluation by a physician or other licensed health care professional that conforms to the provisions of OSHA respiratory protection at *29 CFR 1910.134* to ensure the handler's physical ability to safely wear the respirator specified on the pesticide product labeling.

iv. The handler employer shall maintain for three years, on the establishment, records documenting the completion of the requirements of (c)9i, ii, and iii above.

10. When "chemical-resistant headgear" is specified by the product labeling, it shall be either a chemical-resistant hood or a chemical-resistant hat with a wide brim.

(d) The following are exceptions to personal protective equipment specified on the pesticide labeling:

1. Concerning body protection.

i. A chemical-resistant suit may be substituted for "coveralls," and any requirement for an additional layer of clothing beneath is waived.

ii. A chemical-resistant suit may be substituted for "coveralls" and a chemical-resistant apron.

2. If chemical-resistant footwear with sufficient durability and a tread appropriate for wear in rough terrain is not obtainable, then leather boots may be worn in such terrain.

3. If chemical-resistant gloves with sufficient durability and suppleness are not obtainable, then during handling activities with roses or other plants with sharp thorns, leather gloves may be worn over chemical-resistant glove liners. However, once leather gloves are worn for this use, thereafter they shall be worn only with chemical-resistant liners and they shall not be worn for any other use.

4. When pesticides are being mixed or loaded using a closed system that meets all of the requirements in (d)4iii below, and the handler employer demonstrates that the requirements of (d)4iv below have been met, the exceptions to labeling-specified PPE for the handling activity are permitted as provided in (d)4i and ii below.

i. Handlers using a closed system to mix or load pesticides with a signal word of DANGER or WARNING may substitute a long-sleeved shirt, long pants, shoes, socks, chemical-resistant apron, protective eyewear, and any protective gloves specified on the labeling for handlers for the labeling-specified PPE.

ii. Handlers using a closed system to mix or load pesticides other than those in (d)4i above may substitute protective eyewear, a long-sleeved shirt, long pants, shoes, and socks for the labeling-specified PPE.

iii. The exceptions in (d)4i and ii above apply only in the following situations:

(1) Where the closed system removes the pesticide from its original container and transfers the pesticide product through connecting hoses, pipes, and couplings that are sufficiently tight to prevent exposure of handlers to the pesticide product, except for the negligible escape associated with normal operation of the system.

(2) When intact, sealed, water soluble packaging is loaded into a mixing tank or system. If the integrity of a water-soluble packaging is compromised (for example, if the packaging is dissolved, broken, punctured, torn, or in any way allows its contents to escape), it is no longer a closed system and the labeling-specified PPE shall be worn.

iv. The exceptions in (d)4i and ii above apply only where the handler employer has satisfied the requirements for handler employers in this subchapter and the following conditions:

(1) The handler employer shall provide, for each closed system, written operating instructions that are clearly legible and include: operating procedures for use, including the safe removal of a probe; maintenance, cleaning, and repair; known restrictions or limitations relating to the system, such as incompatible pesticides, sizes (or types) of containers, or closures that cannot be handled by the system; any limits on the ability to measure a pesticide; and special procedures or limitations regarding partially-filled containers.

(2) The written operating instructions for the closed system shall be available at the mixing or loading site and shall be made available to any handlers who use the system.

(3) Any handler operating the closed system shall be trained in its use and operate the closed system in accordance with its written operating instructions.

(4) The closed system shall be cleaned and maintained as specified in the written operating instructions and, as needed, to make sure the system functions properly.

(5) All PPE specified in the pesticide product labeling is immediately available to the handler for use in an emergency.

5. If handling tasks are performed from inside a vehicle's enclosed cab, exceptions to PPE specified on the product labeling for that handling activity are permitted as provided in (d)5i, ii, and iii below.

i. Handlers occupying an enclosed cab may substitute a long-sleeved shirt, long pants, shoes, and socks for the labeling-specified PPE for skin and eye protection. If a respiratory device other than that described in (d)5ii below is specified on the product labeling for the handling activity, it shall be worn.

ii. If the pesticide labeling requires applicators to wear a particulate filtering face-piece respirator (NIOSH approval number prefix TC-84A) or a respirator with a dust/mist (particulate) filter as the only respiratory protection, then that respirator need not be worn inside the enclosed cab if the enclosed cab has a properly functioning air ventilation system that is used and maintained in accordance with the manufacturer's written operating instructions.

iii. Handlers occupying an enclosed cab shall have all PPE required by the pesticide labeling immediately available and stored in a sealed container to prevent contamination. They shall wear such PPE if it is necessary to exit the cab within a treated area during application or when a restricted-entry interval is in effect. Once PPE is worn in the treated area, it shall be removed before reentering the cab to prevent contamination of the cab.

6. Chemical-resistant gloves shall be worn when entering or leaving an aircraft contaminated by pesticide residues. In the cockpit, the gloves shall be kept in an enclosed container to prevent contamination of the inside of the cockpit.

i. Persons occupying an open cockpit shall use the personal protective equipment specified in the product labeling for use during application, except that chemical-resistant footwear need not be worn. A helmet may be substituted for chemical-resistant headgear. A helmet with a face shield lowered to cover the face may be substituted for protective eyewear.

ii. Persons occupying an enclosed cockpit may substitute a long-sleeved shirt, long pants, shoes, and socks for labeling-specified PPE.

7. If the conditions in (d)7i, ii, and iii below are met, crop advisors and their employees entering treated areas to perform crop advising tasks while a restricted-entry interval is in effect may substitute either of the following sets of PPE for the PPE specified on the pesticide labeling for handler activities, the personal protective equipment specified on the pesticide label for early entry or coveralls, shoes plus socks, and chemical-resistant gloves made of any waterproof material, and eye protection if the pesticide labeling requires protective eyewear for handlers.

i. The application has been completed for at least four hours;

ii. No such entry is allowed until any inhalation exposure level listed in the pesticide labeling has been reached or any ventilation criteria required by *N.J.A.C. 7:30-12.4(c)*3 or in the labeling have been met; and

iii. The crop advisor or crop advisor employee who enters a treated area during a restricted-entry interval performs only crop advising tasks while in the treated area.

(e) The handler employer shall assure that PPE is used correctly for its intended purpose and is used according to the manufacturer's instructions.

1. The handler employer shall assure that, before each day of use, all PPE is inspected for leaks, holes, tears, or worn places, and any damaged equipment is repaired or discarded.

(f) The handler employer shall ensure that all PPE is cleaned according to the manufacturer's instructions or pesticide product labeling instructions before each day of reuse. In the absence of any such instructions, it shall be washed thoroughly in detergent and hot water.

1. If any PPE cannot, or will not, be cleaned properly, the handler employer shall ensure that the contaminated PPE is made unusable as apparel or is made unavailable for further use by employees or third parties. The handler employer shall dispose of the PPE in accordance with any applicable Federal, State, or local regulations. Coveralls or other absorbent materials that have been drenched or heavily contaminated with a pesticide that has the signal word DANGER or WARNING on the label shall not be reused and shall be disposed of as specified in this paragraph. Handler employers shall ensure that any person who handles contaminated PPE described in this paragraph wears the gloves specified on the pesticide labeling for mixing and loading the product(s) comprising the contaminant(s) on the equipment. If two or more pesticides are included in the contaminants, the gloves worn shall meet the requirements for mixing and loading all of the pesticide products. Handler employers shall ensure that any person who handles contaminated PPE described in this paragraph wears the gloves specified on the pesticide product labeling for mixing and loading the product(s) comprising the contaminant(s) on the equipment. If two or more pesticides are included in the con-

taminants, the gloves worn shall meet the requirements for mixing and loading each of the pesticide products.

2. The handler employer shall ensure that contaminated PPE is kept separately from non-contaminated PPE, other clothing, or laundry, and washed separately from any other clothing or laundry.

3. The handler employer shall ensure that all clean PPE shall be dried thoroughly before being stored or reused.

4. The handler employer shall assure that all PPE is stored separately from personal clothing and apart from pesticide contaminated areas.

5. The handler employer shall ensure that when dust/mist (particulate) filtering facepiece respirators or a respirator with a dust/mist (particulate) filter are used, the filters shall be replaced when one of the following conditions is met:

i. When breathing resistance becomes excessive;

ii. When the filter element has physical damage or tears;

iii. According to manufacturer's recommendations or pesticide product labeling, whichever is more frequent; or

iv. In the absence of any other instructions or indications of service life, at the end of each day's work period.

6. The handler employer shall ensure that when gas or vapor-removing respirators are used, the gas or vapor-removing canisters or cartridges shall be replaced before further respirator use when one of the following conditions is met:

i. At the first indication of odor, taste, or irritation;

ii. When breathing resistance becomes excessive;

iii. When required according to the manufacturer's recommendations or pesticide labeling, whichever is more frequent;

iv. When the maximum use time is reached as determined by a change schedule conforming to the provisions of the Occupational Safety and Health Administration regulations at *29 CFR 1910.134(d)(3)(iii)(B)(2)*; or

v. In the absence of any other instructions or indications of service life, at the end of each day's work period.

7. The handler employer shall inform any person who cleans or launders PPE:

i. That such equipment may be contaminated with pesticides;

ii. Of the potentially harmful side effects of exposure to pesticides;

iii. Of the correct way(s) to clean PPE and to protect themselves when handling such equipment; and

iv. Of the proper decontamination procedures that should be followed after handling contaminated personal protective equipment.

8. The handler employer shall ensure that handlers have a clean place(s) away from pesticide storage and pesticide use areas where they may:

i. Store personal clothing not worn during handling activities;

ii. Put on PPE at the start of any exposure period; and

iii. Remove PPE at the end of any exposure period.

9. The handler employer shall not allow or direct any handler to wear home or take home employer-provided PPE contaminated with pesticides.

(g) When the use of personal protective equipment is specified by the labeling of any pesticide for the handling activity, the handler employer shall assure that no handler is allowed or directed to perform the handling activity unless appropriate measures are taken, if necessary, to prevent heat-related illness.

§ 7:30-12.21 Handler decontamination

(a) The handler employer shall provide decontamination and eyeflushing supplies in accordance with this section for any handler that is performing any handler activity or removing personal protective equipment at the place for changing required pursuant to *N.J.A.C. 7:30-12.20(f)8*.

(b) The handler employer shall provide handlers with at least three gallons of water per handler at the beginning of each handler's work period for routine washing and potential emergency decontamination. At all times when the water is required to be available to handlers, the handler employer shall ensure that it is of a quality and temperature that will not cause illness or injury when it contacts the skin or eyes or if it is swallowed.

1. If a water source is to be used for mixing pesticides, it shall not be used for decontamination or eyeflushing, unless equipped with properly functioning valves or other mechanisms that prevent contamination of the water with pesticides, such as anti-backflow siphons, one-way or check valves, or an air gap sufficient to prevent contamination.

2. The handler employer shall provide soap and single-use towels for drying at each decontamination site in quantities sufficient to meet handlers' needs. Hand-sanitizing gels and liquids, or wet towelettes do not meet the requirements for soap. Wet towelettes do not meet the requirement for single use towels.

3. The handler employer shall provide one clean change of clothing, such as coveralls, at each decontamination site for use in an emergency.

(c) The decontamination supplies shall be located together and reasonably accessible to each handler during the handler activity and not more than one-quarter mile from each handler during the handling activity; or at the site of a required toilet, whichever is closer.

1. Decontamination supplies shall be provided at any mixing site.

2. The decontamination supplies for a pilot who is applying pesticides aerially shall be in the aircraft or at the aircraft's loading site.

3. When handling activities are performed more than one-quarter mile from the nearest place of vehicular access:

i. The soap, single-use towels, and water may be at the nearest place of vehicular access outside the treated area.

4. The decontamination supplies shall not be in an area being treated with pesticides or in an area that is under a restricted-entry interval, unless the soap, single use towels, water and clean change of clothing are protected from pesticide contamination in enclosed containers.

(d) Whenever a handler is mixing or loading a pesticide that has labeling requiring protective eyewear for handlers, or is mixing or loading any pesticide using a closed system operating under pressure, the handler employer shall provide at each mixing/loading site immediately available to the handler, at least one system that is capable of delivering gently running water at a rate of least 0.4 gallons per minute for at least 15 minutes, or at least six gallons of water in containers suitable for providing a gentle eye-flush for about 15 minutes.

(e) Whenever a handler is applying a pesticide that has labeling requiring protective eyewear for handlers, the handler employer shall provide at least one pint of water per handler in portable containers that are immediately available to each handler.

(f) At the end of any exposure period, the handler employer shall provide, at the site where handlers remove PPE, soap, clean towels, and a sufficient amount of water so that the workers may wash thoroughly.

§ 7:30-12.22 Emergency assistance by commercial pesticide handling establishments

(a) If there is reason to believe that a handler employed by the commercial pesticide handling establishment has experienced a potential pesticide exposure during employment by the commercial pesticide handling establishment or shows symptoms similar to those associated with acute exposure to pesticides during or within 72 hours after employment by the commercial pesticide handling establishment, and needs emergency medical treatment, the commercial pesticide handler employer shall do all of the following promptly after learning of the possible poisoning or injury:

1. Make available to that person transportation from the commercial pesticide handling establishment, or any agricultural establishment on which that handler may be working on behalf of the commercial pesticide handling establishment, to an operating medical care facility capable of providing emergency medical treatment to a person exposed to pesticides; and

2. Provide all of the following information to that person and to treating medical personnel:

i. A copy of the applicable safety data sheet and the product name, EPA registration number, and active ingredients of any pesticide to which that person may have been exposed;

ii. The circumstances of application or use of the pesticide; and

iii. The circumstances that could have resulted in exposure of that person to the pesticide.

§ 7:30-12.23 (Reserved)

SUBCHAPTER 13. INTEGRATED PEST MANAGEMENT IN SCHOOLS

§ 7:30-13.1 Scope and purpose; Integrated Pest Management Policy

(a) Integrated Pest Management (IPM) is a way to manage pest control through practical and preventive methods that eliminate or reduce damage caused by pests with a goal of reducing the reliance on pesticide use. This subchapter establishes the requirements for IPM in schools in accordance with the School Integrated Pest Management Act, *N.J.S.A. 13:1F-19* et seq. A school shall outline its obligations to perform IPM by adopting an IPM Policy as described in (b) below.

(b) The superintendent of a school district for each school in the district, the board of trustees of a charter school, and the principal or lead administrator of a private school shall adopt an IPM Policy that covers the following elements:

1. A description of IPM procedures to be followed at the school;

2. The local school board, board of trustees, principal or lead administrator, as appropriate, that is responsible for designating an IPM coordinator for the school;

3. Education of the school community about IPM fundamentals;

4. The establishment of recordkeeping requirements for pesticide and pest information;

5. The establishment of notification and posting requirements;

6. The establishment of re-entry requirements after a pesticide application;

7. The establishment of pesticide applicator oversight requirements;

8. Requirements for the development and implementation of an IPM Plan; and

9. The requirement for an annual evaluation of the IPM Plan.

§ 7:30-13.2 Integrated Pest Management Plan

(a) As a requirement of its IPM Policy, each school shall develop and implement a site-specific IPM Plan that describes how the school will manage pests through IPM methods and comply with all aspects of the IPM Policy. The site specific IPM Plan shall be maintained at the school for which it was developed. The Department shall provide a model IPM Plan for schools and make this available as part of training and compliance assistance materials.

1. For public schools, the local school board, in collaboration with the school building administrator (principal), is responsible for the development of the IPM Plan for the school.

2. For charter schools and non-public schools, the board of trustees or principal or the lead administrator is responsible for the development of the IPM Plan.

3. The IPM Plan shall contain at minimum, the following:

i. The school's goals regarding the management of pests and the use of pesticides;

ii. The school's site-specific needs regarding the management of pests;

iii. A description of how each component of the school's IPM Policy will be implemented at the school; and

iv. The name of the IPM coordinator designated by the appropriate school authority identified in accordance with *N.J.A.C. 7:30-13.1(b)*2.

(b) When implementing its IPM Plan, each school shall use IPM methods to determine when to control pests, including:

1. Considering the full range of pest management options, including no action at all;

2. Using non-pesticide pest management methods whenever possible; and

3. Choosing to use a pesticide based on a review of all other available options and a determination that these options are not effective or not reasonable.

i. When it is determined that a pesticide must be used, low impact pesticides and methods are preferred and shall be considered for use first.

(c) As part of its IPM Plan, the school and the IPM coordinator shall be responsible for educating the school community, including, but not limited to, teachers, staff, students, and parents or guardians, about potential pest problems and IPM methods used to achieve pest management objectives.

1. School staff involved with implementation of the school IPM Policy and Plan shall be trained by the IPM coordinator in appropriate components of IPM as it pertains to the school environment.

2. Students, their parents or guardians, and school staff, shall be provided information and instructed by the IPM coordinator on how they can contribute to the success of IPM in their school.

(d) Annually, at the close of each school year, each school shall report on the effectiveness of its IPM Plan and make recommendations for improvements as needed.

1. For public schools, the principal shall be responsible for reporting to the local school board.

2. For non-public schools and charter schools, the lead administrator or principal shall be responsible for reporting to the governing boards.

§ 7:30-13.3 Integrated pest management coordinator

(a) Each local school board of a school district, each board of trustees of a charter school, and each principal or lead administrator of a private school, as appropriate, shall designate an IPM coordinator to implement the IPM Plan.

1. The IPM coordinator shall be responsible for:

i. Implementing the IPM Policy and Plan;

ii. Maintaining information about the school or school district's school IPM Policy and Plan, and about pesticide applications on the school property of the school or the schools within the school district;

iii. Acting as a contact for inquiries about the school IPM Policy and Plan;

iv. Maintaining material safety data sheets, when available, and labels for all pesticides that are used on the school property of the school or of the schools in the school district; and

v. Ensuring that commercial pesticide applicators operating on school property are in compliance with the following:

(1) Licensing requirements at N.J.A.C. 7:30-6 and *7.1*;

(2) Applicable notification and posting requirements at N.J.A.C. 7:30-9;

(3) Label precautions from the Federal registered label of each pesticide used on school property; and

(4) All applicable provisions of the school IPM Policy and Plan.

(b) The IPM coordinator for a school or school district shall obtain Department-approved training sufficient to implement an IPM Policy and IPM Plan. This training may include classroom training, publicly available website presentations, or other means. The training shall include at a minimum, the following:

1. A general overview of the principles of IPM;

2. Information on regulations pertaining to IPM in schools; and

3. An overview of a model IPM Policy, and a model IPM Plan that can be adapted to address the site-specific conditions at the IPM coordinator's school or schools.

(c) Each school shall submit the following information to the Department:

1. The name, title, date of birth, and the telephone number, work address and electronic mail address of the IPM coordinator;

2. The name and physical address (and mailing address if different) of the school(s) or school district for which the IPM coordinator is responsible;

3. The name, title, mailing address and telephone number of the head of the local school board or the lead administrator of a private or charter school;

4. The county, district and school code of each school for which the IPM Coordinator is responsible, or any other identifying school information;

5. A statement certifying that the IPM coordinator has received DEP approved training in order to implement the IPM Policy and Plan; and

6. Any changes in the designation of the IPM coordinator shall be submitted to the Department within 30 days, including the name of the former IPM coordinator, and the name of the newly designated IPM coordinator.

§ 7:30-13.4 Records

(a) The local school board of a school district, the board of trustees of a charter school, or the principal or lead administrator of a private school, as appropriate, shall request from the commercial pesticide applicator and shall maintain records of pesticide applications used on school property in accordance with the following:

1. Records for all pesticide applications at a school shall be maintained at that school;

2. Records shall be maintained for three years after the application, and maintained for five years after the application of a pesticide designed to control termites;

3. Records shall be available upon request to the public for review;

4. Records shall be immediately provided to the Department upon request;

5. Records shall be provided immediately to medical personnel in emergency situations; and

6. Records shall include, at a minimum, the application records required at *N.J.A.C. 7:30-6.8* and *7.3*.

(b) Records shall also include, but are not limited to, pest surveillance data sheets and other non-pesticide pest management methods and practices utilized.

§ 7:30-13.5 Annual notification

(a) Annually, at the beginning of each school year, each local school board, each board of trustees of a charter school, or each principal or lead administrator of a private school, as appropriate, shall include a notice of the school IPM Policy of the school or school district in school calendars or other forms of universal notification.

1. The notice shall include:

i. The IPM Policy of the school or school district;

ii. A list of any pesticide that is in use or that has been used in the last 12 months on school property;

iii. The name, address, and telephone number of the IPM coordinator of the school or school district;

iv. A statement that:

(1) The IPM coordinator maintains the product label and material safety data sheet, when available, of each pesticide that may be used on school property;

(2) The label and data sheet is available for review by a parent, guardian, staff member, or student attending the school; and

(3) The IPM coordinator is available to parents, guardians, staff members, and students to provide information for, and receive comments about, IPM activities and pesticide use;

v. The time and place of any meetings that will be held to adopt the school integrated pest management policy; and

vi. The statement: "As part of a school pest management plan, (insert school name) may use pesticides to control pests. The United States Environmental Protection Agency (EPA) and the New Jersey Department of Environmental Protection (DEP) register pesticides to determine that the use of a pesticide in accordance with instructions printed on the label does not pose an unreasonable risk to human health and the environment. Nevertheless, the EPA and DEP cannot guarantee that registered pesticides do not pose any risk to human health, thus unnecessary exposure to pesticides should be avoided. The EPA has issued the statement that where possible, persons who are potentially sensitive, such as pregnant women, infants and children, should avoid unnecessary pesticide exposure."

(b) After the beginning of each school year, each local school board, each board of trustees of a charter school, or each principal or lead administrator of a private school, as appropriate, shall provide the notice required in (a) above to:

1. Each new staff member who is employed during the school year; and

2. The parent or guardian of each new student enrolled during the school year.

§ 7:30-13.6 Notification: other than low impact pesticide use

(a) If a local school board, board of trustees of a charter school or principal or lead administrator of a private school, as appropriate, determines that a pesticide, other than a low impact pesticide, must be used on school property, such pesticide shall be used only in accordance with this section.

1. The provisions of this section shall apply to a school during the school year, and during holidays and the summer months, only if the school is in use by children during those periods. During those periods, notices shall be provided to all staff members and the parents or guardians of the students that are using the school in an authorized manner; and

2. The provisions of this section shall apply if any person applies a pesticide, other than a low impact pesticide, on school property, including a custodian, staff member, or commercial applicator.

(b) At least 72 hours before a pesticide, other than a low impact pesticide, is used on school property, the local school board, the board of trustees of a charter school, or the principal or lead administrator of a private school, as appropriate, shall provide to a parent or guardian of each student enrolled at the school and each staff member of the school, notice that includes:

1. The common name, trade name, and Federal Environmental Protection Agency registration number of the pesticide;

2. A description of the location of the application of the pesticide;

3. A description of the date and time of application, except that, in the case of outdoor pesticide applications, one notice shall include three dates, in chronological order, on which the outdoor pesticide applications may take place if the preceding application date is canceled;

4. A statement that The Office of Pesticide Programs of the United States Environmental Protection Agency has stated: "Where possible, persons who potentially are sensitive, such as pregnant women, infants, and children, should avoid any unnecessary pesticide exposure";

5. A description of potential adverse effects of the pesticide based on the material safety data sheet, if available, for the pesticide;

6. A description of the reasons for the application of the pesticide;

7. The name and telephone number of the IPM coordinator for the school or the school district; and

8. Any additional label instruction and precautions related to public safety.

(c) The local school board of a school district, the board of trustees of a charter school, or the principal or lead administrator of a private school, as appropriate, may provide the notice required in (b) above by any of the methods listed at (c)1 through 5 below. This notice may be combined with any other notice provided to students, parents or guardians, and staff:

1. Written notice sent home with the student and provided to each staff member;

2. A telephone call;

3. Direct contact;

4. Written notice mailed at least one week before the application; or

5. Electronic mail.

(d) If the date of the application of the pesticide must be extended beyond the period required for notice under this section, the local school board, the board of trustees of a charter school, or the principal or lead administrator of a private school, as appropriate, shall reissue the notice required under this section for the new date of application.

(e) The local school board, the board of trustees of a charter school, or the principal or lead administrator of a private school, as appropriate, shall post signs that provide notice of the application of a pesticide, other than a low impact pesticide.

1. Signs shall be posted at least 72 hours before a pesticide is used on school property:

i. In a prominent place that is in or adjacent to the location to be treated; and

ii. At each entrance to the building or school ground to be treated.

2. The sign for the application of a pesticide shall:

i. Be at least 8 1/2 inches by 11 inches; and

ii. State the same information as that required for prior notification of the pesticide application required in (b) above.

3. Signs shall remain posted for at least 72 hours after the end of the treatment.

(f) In the case of outdoor pesticide applications, each sign shall include three dates, in chronological order, on which the outdoor pesticide application may take place if the preceding application date is canceled due to weather. A sign shall be posted after an outdoor pesticide application as required by (e) above.

(g) The Department shall develop and make available to commercial pesticide applicators a form, which a commercial pesticide applicator may request an IPM coordinator to sign prior to the application of a pesticide, other than a low impact pesticide, on school property.

1. The form shall set forth a certification by the IPM coordinator that the notice and posting requirements for the application of a pesticide, or the posting requirement, established pursuant to the School Integrated Pest Management Act and this subchapter, have been complied with.

2. Upon being presented by a commercial pesticide applicator with a form pursuant to this paragraph, the signature of the IPM coordinator shall be required as a condition for the application of the pesticide.

§ 7:30-13.7 Notification: emergency application of a pesticide other than a low impact pesticide

(a) A pesticide, other than a low impact pesticide, may be applied on school property in response to an emergency, without complying with the requirements of *N.J.A.C. 7:30-13.6*, provided the requirements of (b) below are met.

(b) Within 24 hours after the application of a pesticide pursuant to this section, or on the morning of the next school day, whichever is earlier, the local school board, the board of trustees of a charter school, or the principal or lead administrator of a private school, as appropriate, shall pro-

vide to each parent or guardian of a student enrolled at the school, and staff member of the school, notice of the application of the pesticide for emergency pest control that includes:

1. The information required for a notice under *N.J.A.C. 7:30-13.6*;

2. A description of the problem and the factors that qualified the problem as an emergency that threatened the health or safety of a student or staff member; and

3. If necessary, a description of the steps that will be taken in the future to avoid emergency application of a pesticide pursuant to this section.

(c) When a pesticide is applied pursuant to this section, the local school board, the board of trustees of a charter school, or the principal or lead administrator of a private school, as appropriate, shall post a sign warning of the pesticide application at the time of the application of the pesticide, in accordance with the provisions *N.J.A.C. 7:30-13.6(e)*.

(d) The local school board, the board of trustees of a charter school, or the principal or lead administrator of a private school, as appropriate, may provide the notice required by (b) above by:

1. Written notice sent home with the student and provided to the staff members;

2. A telephone call;

3. Direct contact; or

4. Electronic mail.

(e) If there is an application of a pesticide pursuant to this section, the local school board, the board of trustees of a charter school, or the principal or lead administrator of a private school, as appropriate, shall modify the IPM Plan of the school or school district if necessary, to minimize the future emergency applications of pesticides under this section.

§ 7:30-13.8 Other than low impact pesticide applications: prohibitions

(a) A pesticide, other than a low impact pesticide, shall not be applied on school property where students are expected to be present for academic instruction or for organized extra-curricular activities prior to the time prescribed for re-entry to the application site by the United State Environmental Protection Agency on the pesticide label, except that if no specific numerical re-entry time is prescribed on a pesticide label, such a pesticide, other than a low impact pesticide, shall not be applied on school property where students are expected to be present for academic instruction or for organized extra-curricular activities within seven hours of the application.

(b) A pesticide, other than a low impact pesticide, shall not be applied in a school building when students are present, unless in accordance with (a) above, and (b)1 and 2 below:

1. Students may not be present in an untreated portion of a school building unless the area being treated with a pesticide, other than a low impact pesticide, is served by a separate ventilation system and is separated from the untreated area by smoke or fire doors; and

2. Residential areas for students not used by school children during normal school hours may be treated during normal school hours, provided that the notification requirements of *N.J.A.C. 7:30-9.12(b)* have been carried out.

(c) A low impact pesticide may be applied in areas of a school building where students will not contact treated areas until sufficient time is allowed for the substance to dry or settle, or after the period of time prescribed for re-entry or for ventilation requirements on the pesticide label has elapsed.

(d) This section shall not apply when pesticides are applied on school property for student instructional purposes or by public health officials during the normal course of their duties, such as inspections of food service locations.

(e) A commercial pesticide applicator shall not be liable to any person for damages resulting from the application of a pesticide at a school if the damages are solely due to the failure of the local school board, the board of trustees of a charter school, or the principal or lead administrator of a private school, as appropriate, to provide the notice required prior to the application of a pesticide pursuant to the School Integrated Pest Management Act, and this subchapter at *N.J.A.C. 7:30-13.5*, *13.6* and *13.7*.

§ 7:30-13.9 Enforcement action

(a) The Department may issue an administrative order against a local school board, the board of trustees of a charter school, or a principal or chief administrator of a private school that fails to comply with the provisions of this subchapter or the provisions of the IPM Act, *N.J.S.A. 13:1F-19* et seq.

(b) Upon identification of a violation, the Department will notify the violator by certified mail (return receipt requested) or by personal service. The notice shall:

1. Identify each section or requirement of this subchapter violated;

2. Concisely state the facts alleged to constitute the violation;

3. Specify action necessary to cure the violation; and

4. Advise the violator of the right to request an adjudicatory hearing.

(c) A person requesting an adjudicatory hearing shall provide the following information in writing to the Department at the address in (e) below within 20 days from receipt of the notice:

1. The name, address, and telephone number of the person requesting the hearing;

2. A copy of the administrative order;

3. A brief description of any findings of fact or conclusions of law which are challenged or contested;

4. A description of any facts or issues which the person believes constitute a defense to the administrative order;

5. Information supporting the request and specific reference to or copies of other written documents relied upon to support the request;

6. An estimate of the time required for the hearing (in days and/or hours); and

7. A request, if necessary, for a barrier-free hearing location for physically disabled persons.

(d) If the person fails to include all of the information required by (c)1 through 7 above, the Department may deny the hearing request.

(e) A request for an adjudicatory hearing shall be submitted to the Department at the address listed below, with a copy to the Pesticide Control Program at PO Box 411, Trenton, New Jersey 08625-0411:

Office of Legal Affairs

New Jersey Department of Environmental Protection

PO Box 402

Trenton, New Jersey 08625-0402

Attention: Adjudicatory Hearing Requests

(f) A notice of administrative order shall become a final order as follows:

1. If no hearing is requested, a notice of administrative order becomes a final order on the 21st day after the violator receives the notice;

2. If the Department denies a hearing request, a notice of administrative order becomes a final order upon the violator's receipt of the denial; or

3. If the Department grants an adjudicatory hearing, the resolution of the contested case shall constitute a final order. Hearings shall be conducted in accordance with the Administrative Procedure Act, *N.J.S.A. 52:14B-1* et seq., and the Uniform Administrative Procedure Rules, *N.J.A.C. 1:1*.

(g) The penalty provisions of the "Pesticide Control Act of 1971," *N.J.S.A. 13:1F-10*, shall not apply to this subchapter.