

## 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 Element and shall govern the manufacturing, labeling, registration, and classification of pesticides, the registration of pesticide dealers and pesticide dealer businesses, the registration of applicators of pesticides, and the distribution, use, application, storage, handling, transportation, and disposal of pesticides in the State of New Jersey.

(b) **Any fee under this chapter that is subject to N.J.A.C. 7:1L shall be payable in installments in accordance with N.J.A.C. 7:1L. *This does not affect us, since we have no permit fees over \$1000.***

### 7:30-1.2 Definitions

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

**“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 a U.S. Environmental Protection Agency (EPA) testing procedure as 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 USC, Section 136.

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

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

**“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 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 hires or contracts for the services of workers, for any type of compensation, to perform activities related to the production of agricultural plants, or any person who is an owner of or is responsible for the management of an agricultural establishment that uses such workers.

“Agricultural establishment” means any farm, forest, nursery, or greenhouse producing an agricultural commodity.

“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 grown or maintained for commercial or research purposes and includes, but is not limited to, food, feed, and fiber plants; trees; turfgrass; flowers; shrubs; ornamentals; and seedlings.

“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.

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

**“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.

**“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).

“Chemigation” means the application of pesticides through irrigation systems.

“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 or she 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 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.

**“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.

“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(I), 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.)**

“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.

“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 product that is a vapor or gas on application and whose method of pesticidal action is through the 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 surfaces (such as plants, plant parts, or soil) 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 for any type of compensation by an agricultural establishment or commercial pesticide handling establishment to which N.J.A.C 7:30-12 applies and who is:
  - i. Mixing, loading, transferring or applying pesticides;
  - ii. Disposing of pesticides or pesticide containers;
  - iii. Handling open containers of pesticides;
  - 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 a greenhouse or other enclosed area after the application of a pesticide and before the inhalation exposure level listed on the labeling has been reached or one of the ventilation criteria established by 7:30-12.3(c)3 or in the 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 to adjust or remove soil coverings such as tarpaulins; or
  - ix. Performing tasks as a crop advisor:
    - (1) During any pesticide application;
    - (2) Before the inhalation exposure level listed in the 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 labeling has been met; or
    - (3) During any restricted-entry interval.
2. The term does not include any person who is only handling pesticide containers that have been emptied or cleaned according to pesticide product labeling instructions or, in the absence of such instructions, have been subjected to triple rinsing or its equivalent.

“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” includes only spouse, children, stepchildren, foster children, parents, stepparents, foster parents, brothers, and sisters.**

“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.**

**“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 State Departments of Agriculture and Interior, the Department of Health and Human Services, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

“Land” means all land and water areas, including airspace, and all plants, animals, structures, building, 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 to 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 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 requirements imposed by FIFRA, are adequate to prevent injury to plants and animals including man, and protect against any significant risk of injury or damage; or
5. The labeling bears any reference to registration under the provisions of the Act; or
6. The label does not bear the information designated in N.J.A.C. 7:30-2.7(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 areas located within a parcel consisting of more than three acres whether this aggregate is reached over one day or several days. For example, treating a number of areas or shrubs scattered about the same parcel (or treating the whole parcel) that in the aggregate would involve treating more than three acres, would meet the definition of “more than three acres”. In contrast, spraying several small shrubs in one discrete area that is located within a parcel that consists of three or more acres, would not be considered “more than three acres.”**

**“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

- 3. buildings which require structural notification pursuant to N.J.A.C. 7:30-9.12(c); and 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 Nematelminthes and class Nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts; may also be called nemas 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.**

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

“Pest” means (a) any insect, rodent, nematode, fungus, weed, or (b) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organisms (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.

“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 substances 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 a 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.**

“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 any person under his 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 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” means the period of time that must elapse after a field is treated with a pesticide, and before any person is permitted to enter to engage in an activity requiring substantial contact with treated surfaces.**

“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.**

**“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.**

**“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.

**“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. Termiticide baits are normally solid wood, cardboard or paper formulations with little or no hazard of contaminating off target sites.**

“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, even if not physically present. An employer/employee relationship is required for someone to be under direct supervision.**

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

## 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 Sec. 24(c), or Emergency Exemption, FIFRA Sec.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 regulations;
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 re-registered 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 \$250.00 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 thirty (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 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.**

**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, P.O. 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 injury or damage; and
6. When used in accordance with widespread and commonly recognized practices, the pesticide will not generally cause significant risk of injury or damage; and
7. The classification for general or restricted use is in conformity with State of New Jersey regulations and section 3(d) of FIFRA.

(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; and
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; and
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(s) 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 canceled 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 investigation, inspection or sampling.

**(b) Notification pursuant to (a) above may also consist of a "Notice Of Attempt To Contact/Inspect/Investigate" Form DEQ-081 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 record keeping 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.

(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 other 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; and
  - vii. A statement of the use classification, if any, under which the product is federally registered; and
  - viii. Any other information required by Federal regulations or the Act or any rules and regulations promulgated thereunder.
3. Any pesticide which has not been colored or discolored pursuant to the provisions of FIFRA, the Act or rules and regulations promulgated thereunder;
  4. Any pesticide which is adulterated or misbranded;
  5. Any pesticide in containers which have become unsafe.

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

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

#### **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 canceled by the EPA, except as provided for in the suspension or cancellation order.

(b) All marine uses of TBT antifoulant paints 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 naphthalene, ortho-dichlorobenzene, and/or para-dichlorobenzene as the sole active ingredient or in combination with another active ingredient which is not classified for restricted use if the pesticide product is used to control mosquitoes or clothes moths, or to repel warm-blooded animals;
  - ii. Any sulphur candle fumigator intended to control general household pests;
  - iii. Any coils containing pyrethrins and/or allethrin as the active ingredient which are used to control flies and/or mosquitoes;
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:

CAS Number	Common Name
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 (concentration 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
21725-46-2	cyanazine (concentrations above 30%)
596-84-5	daminozide
88-85-7	dinoseb
7784-46-5	sodium arsenite
7775-09-9	sodium chlorate (concentrations above 7%)
<b>159518-97-5</b>	<b>cloransulam</b>
<b>98967-40-9</b>	<b>flumetsulam</b>

iii. Insecticides as follows:

CAS Number	Common Name
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 <b>0.5%</b> ) formerly 3%, but with the resin strip exemption
60-57-1	dieldrin
60-51-5	dimethoate (concentrations above 25%)
298-04-4	disulfoton (concentrations above 2%)
115-29-7	endosulfan

2-20-8	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:

<b>CAS Number</b>	<b>Common Name</b>
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%)
3691-35-8	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:**

<b>CAS Number</b>	<b>Common Name</b>
<b>107-13-1</b>	<b>acrylonitrile</b>
<b>20859-73-8</b>	<b>aluminum phosphide (Phostoxin)</b>
<b>592-01-8</b>	<b>calcium cyanide</b>
<b>75-15-9</b>	<b>carbon disulfide</b>
<b>56-23-5</b>	<b>carbon tetrachloride</b>
<b>7782-50-5</b>	<b>chlorine gas</b>

<b>76-06-2</b>	<b>chloropicrin</b>
<b>533-74-4</b>	<b>dazomet</b>
<b>542-75-6</b>	<b>dichloropropene</b>
<b>106-93-4</b>	<b>ethylene dibromide</b>
<b>107-06-2</b>	<b>ethylene dichloride</b>
<b>75-21-8</b>	<b>ethylene oxide (carboxide)</b>
<b>74-90-8</b>	<b>hydrogen cyanide (hydrocyanic acid gas)</b>
<b>12057-74-8</b>	<b>magnesium phosphide</b>
<b>137-42-8</b>	<b>metam-sodium</b>
<b>74-83-9</b>	<b>methyl bromide</b>
<b>2699-79-8</b>	<b>sulfuryl fluoride (Vikane)</b>

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);
6. Pesticide regulatory history.

(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. 7:30-210(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 pesticides 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 agency 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 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 seller shall meet all the record keeping 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, P.O. 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. The examination shall include, but not be limited to, such areas as pesticide handling and safety, environmental considerations, symptoms of pesticide poisoning, current laws and regulations, and label comprehension.

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

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

### **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 **November 30** 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 November 30 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 or the pesticide dealer is no longer offering for distribution or sale, or supervising the distribution or sale of, restricted use pesticides.

**1. If a dealer retires or otherwise voids his or her license as a dealer of restricted use pesticides, the license shall be returned to the Department, Pesticide Control Program.**

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

### **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/Inspect/Investigate” Form DEQ-081 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 record keeping 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/trade name and the EPA 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 commercial 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(1)) 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 purposes 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 for a veterinarian obtaining 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 record keeping 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 a 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 provides or has previously provided the buyer with the Pesticide Program's information sheet on certification and licensing.**

1. **A record shall be kept for three years of who the information is given to and when.**

**(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 who is given the information sheet and when they receive it from the dealer 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 Department 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 Department receives proof of a valid certification from any state or territory which has been officially recognized by the State of New Jersey as having a dealer certification program substantially equivalent to New Jersey's and which has signed a cooperative agreement with the State of New Jersey relating to the certification of pesticide dealers and the reciprocal acceptance thereof;
2. The registrant demonstrates to the Department **through testing** a knowledge of relevant New Jersey pesticide control laws and regulations; and
3. The Department receives all applicable fees.

## **SUBCHAPTER 4. PESTICIDE DEALER BUSINESS**

### **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; or
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; or
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; or
4. Such person is a State or county agency or instrumentality thereof and is providing pesticides to its employees for its own programs; or
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 November 30 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 November 30 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 (3) 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 thirty (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 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 (j) above may apply, include, but are not be 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 record keeping 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, P.O. 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.**

### **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 Systems License;
  - ii. Public Water Distribution Systems License;
  - iii. Public Wastewater Treatment Systems License;
  - iv. Public Wastewater Collection Systems License; or
  - v. Industrial Wastewater Treatment Systems License, except NN license.
- 4. The exemptions in (a)3 above are valid unless federal regulation is changed to exclude them.**
5. For the purposes 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 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 record keeping 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.

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 a 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 provides the buyer with the Pesticide Program's information sheet on certification and licensing.**

1. **A record shall be kept for three years of who the information is given to and when.**

(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 who is given the information sheet and when they receive it from the dealer 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/Inspect/Investigate” Form DEQ-081 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 record keeping 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. Fail 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.**

## 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 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 insure 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.

### 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 commercial 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 must 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 (b)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.**

### **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, P.O. Box 411, Trenton, NJ 08625-0411.**

**(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 his 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** or if the commercial pesticide operator is no longer engaged in the application of pesticides.

(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/Inspect/Investigate” Form DEQ-081 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 record keeping 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 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.**

#### **7:30-5.8 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.

## 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 section 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 at any one time;
  - 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 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 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 Systems License;
- ii. Public Water Distribution Systems License;
- iii. Public Wastewater Treatment Systems License;
- iv. Public Wastewater Collection Systems License;
- 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 any 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, shall fulfill the following training and certification requirements:**

- 1. 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, which are specific to the commercial category or subcategory in which the applicant has applied to be certified.

2. To be eligible to take the core examination, each applicant shall submit proof of completion of a Department approved basic training course, which shall provide the pesticide applicator with a working knowledge of at a minimum, 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).
3. 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 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 7B - Termites and other wood destroying pests:	6
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 Control:	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;
- 4. If “on-the-job” training is unavailable for reasons deemed sufficient by the Department, the applicant may do one of the following in lieu of (a)3 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 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.
- 5. If the minimum of 40 hours of on-the-job practical training or an internship of 40 hours is determined by the Department to be unavailable then the Department shall waive (a)3 and 4 above and may instead accept completion of a Department approved correspondence course or on-line interactive computer course to satisfy training requirements.
- 6. Proof of the training required in (a)2, 3, 4 or 5. above shall be submitted with the application for examination.
- 7. Certification category 10 is exempt from the training requirements above since training is required related to the specific category or subcategory to be carried out under these categories.
- 8. 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.

(b) 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.

(c) An examination fee of \$10.00 shall be charged for each examination. **This shall be paid by check or money order only, payable to “Treasurer-State of New Jersey.”**

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

**1. Application forms may be obtained by contacting the Pesticide Control Program, P.O. Box 411, Trenton, NJ 08625-0411.**

(e) 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 and pay the examination fee for each exam.

(f) 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.)

**(g) The Pesticide Control Program 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. To become certified and licensed in New Jersey through the examination waiver process, the following items must be submitted:**

- 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; and**
- 4. The examination fee as required in N.J.A.C. 7:30-6.2(c) above.**

### **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 landscaping: This subcategory includes commercial applicators using or supervising the use of pesticides to control pests in the maintenance of interior landscapes.
  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.**
  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 category 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; and**
    - (5) **Unloading the chamber.**

(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 \$75.00.

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 or if he or she is no longer engaged in the application of pesticides.

(f) A commercial pesticide applicator shall maintain his 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 \$75.00.

(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 in N.J.A.C. 7:30-6.2. 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/Inspect/Investigate” Form DEQ-081 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 record keeping 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:

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; 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 crop, place of application shall include:**
    - (1) **The name and address of the farm; and**
    - (2) **The specific field, greenhouse or land area, including the municipality and county; and**
    - (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 of the pesticide used or symbol representing such name, providing the applicator also keeps a list which clearly correlates the symbol used with full and complete pesticide product name(s) **and EPA Registration Number(s) pursuant to (b)1 below;**
4. The **total** amount of each pesticide **concentrate or formulation** used;
5. **The total amount of diluent;**
6. The **full name and pesticide applicator license number** of the person making the application,

**or a symbol which corresponds to that person's name and license number on a separate list of all commercial applicators and/or commercial pesticide operators;**

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 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, shall be 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 treated area;**
2. **The time and date of application;**
3. **The product name, EPA registration number, and active ingredient(s);**
4. **The restricted-entry interval;**
5. **Whether posting and oral notification are required; and**
6. **Any other product-specific requirements on the product labeling concerning protection of workers 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 Need 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 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 are exempt from recordkeeping under the provisions of N.J.S.A. 13:1F-1a.**

#### **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 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**

(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 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 an commercial pesticide operator under his or her direct supervision. This responsibility shall be joint and several.**

#### **7:30-6.12 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 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.**

#### **7:30-6.13 Reciprocity**

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

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

1. The Department receives proof of a valid certification from any state or territory which has been officially recognized by the State of New Jersey as having a certification program substantially equivalent to New Jersey's and which has signed a cooperative agreement with the State of New Jersey relating to the certification of pesticide applicators and the reciprocal acceptance thereof; and
2. The applicant demonstrates through testing by the Department a knowledge of relevant New Jersey Pesticide Control laws and regulations;
3. The Department receives all applicable fees; and
4. **The applicant has no history of violations in his or her state of residence.**

## 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, P.O. 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, or if the business is no longer engaged in the application of pesticides.

- (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/Inspect/Investigate” Form DEQ-081 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 record keeping 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:**

- 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; 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 crop, 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 of the pesticide used or symbol representing such name, providing the applicator also keeps a list which clearly correlates the symbol used with full and complete pesticide product name(s) **and EPA Registration Number(s) pursuant to (b)1 below;**
4. The **total** amount of each pesticide **concentrate or formulation used;**
5. **The total amount of diluent;**
6. The **full name and pesticide applicator license number** of the person making the application, **or a symbol which corresponds to that person's name and license number on a separate list of all commercial applicators and/or commercial pesticide operators;**
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 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, 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 shall be 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 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 reentry time 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 treated area;**
- 2. The time and date of application;**
- 3. The product name, EPA registration number, and active ingredient(s);**
- 4. The restricted-entry interval;**
- 5. Whether posting and oral notification are required; and**
- 6. Any other product-specific requirements on the product labeling concerning protection of workers 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**

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 a pesticide 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 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.**

#### **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.**

## 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;**
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 **that includes 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 which are specific to the type of pesticide use performed by the applicator.**

(b) A **non-refundable** examination fee of \$10.00 may be charged for each examination.

(c) Application for examinations shall be made on a form supplied by the Department which shall be filed, along with the examination fee, with the Department no later than midnight of the closing date for the examination as determined by the Department.

1. **Forms may be obtained by contacting the Pesticide Control Program, P.O. Box 411, Trenton, NJ 08625-0411.**

### **7:30-8.3 Licensing**

(a) Within twelve (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 twelve (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 thirty (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 (2) consecutive years after the expiration date of his 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 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 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.

#### **7:39-8.6 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/Inspect/Investigate” Form DEQ-081 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 record keeping 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:**

- 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; and**
- ii. The re-entry time and date;**

2. The place of application;
    - i. **For pesticide applications to an agricultural crop, 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 of each pesticide used or symbol representing such name, providing the business also keeps a list which clearly correlates the symbol used with full and complete pesticide product name(s) **and EPA Registration Number(s) pursuant to (b)1 below;**
  4. The **total** amount of each pesticide **concentrate or formulation used;**
  5. **The total amount of diluent;** and
  6. **The full name and pesticide applicator license number of the person making the application; or the full name and handler card number of the handler; or a symbol which corresponds to that person's name and license number 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 treated area;**
  2. **The time and date of application;**
  3. **The product name, EPA registration number, and active ingredient(s);**
  4. **The restricted-entry interval;**
  5. **Whether posting and oral notification are required; and**
  6. **Any other product-specific requirements on the product labeling concerning protection of workers 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 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 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 (b) 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 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 Department may waive initial certification testing where an applicant has previously been certified in another state or territory pursuant to a valid certification test given in that state or territory of the United States, provided that the Commissioner, by cooperative agreement, has previously recognized such state or territory as having adopted a certification program substantially equivalent to New Jersey's.

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

1. The Department receives proof of a valid certification from any state or territory which has been officially recognized by the State of New Jersey as having a certification program substantially equivalent to New Jersey's and which has signed a cooperative agreement with the State of New Jersey relating to the certification of pesticide applicators and the reciprocal acceptance thereof;
2. The registrant demonstrates **through testing by** the Department a knowledge of relevant New Jersey Pesticide Control laws and regulations;
3. The Department receives all applicable fees; and
4. **The applicant has no violation history in his or her state of residence.**

## SUBCHAPTER 9. PESTICIDE EXPOSURE MANAGEMENT

### 7:30-9.1 Mosquito/fly control

(a) No person shall apply any pesticide for the community or areawide control of the larval or adult forms of mosquitoes and/or flies (Order Diptera) unless the pesticide application conforms to New Jersey Agricultural Experiment Station Publication No. 40001-01-99, Insecticides Recommended for Mosquito Control in New Jersey, or the most current edition of this publication, which is incorporated herein by reference.

(b) The provisions of (a) above shall not apply to pesticide applications made for agricultural purposes.

### 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 or adult forms of mosquitoes 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) 984-6666.**

**(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 which are not used as a source of potable water and:

1. The application is made to waters which have no outlet and which are bounded by land wholly owned or rented, and controlled, by one person;
2. The application is made for the control of mosquitoes or flies and the application procedure requires approval pursuant to the provisions of N.J.A.C. 7:30-9.2(a) or the application is made by the appropriate lead agency operating under the provisions of the Mosquito Extermination statutes (N.J.S.A. 26:9-1 et seq.);
- 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, 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 submitted.
2. The Department may request any pertinent additional information which it deems necessary to evaluate the application.
3. The Department may require the submission of a report addressing the effectiveness of the

treatment and any environmental effects as a condition for approval. The person performing the application shall submit such information to the Department at the time and in the format as specified on the approved aquatic 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.**

#### **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;**
  - 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 the brand name of the pesticide, date of application 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;
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);
  - 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) that shall pertain 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 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** 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 the actual location of the storage area; provided that the provisions of this subsection shall not apply to individuals who are storing pesticides for their personal use on their private residence or persons who are storing pesticides for less than seven calendar days at loading or application sites in connection with their use.

1. The list 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 from 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 a 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, shall be 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.
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 ingredient(s) 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.

#### **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. The location of the application;
    - 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 Telecommunications Network (now 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; 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.
    - 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 newspapers 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, in addition to the information required in (b)3 above, 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 N.J.A.C. 7:30-9.10(e) 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 apiarists (beekeepers)**

(a) No person shall make an outdoor application of a pesticide product which has information on its label or labeling noting that the product is toxic to bees unless such person first notifies, at least **24 hours** prior to the **date of** application, each apiarist who:

1. Desires notification;
2. Maintains an apiary which is 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 apiarist 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 e-mail. 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 apiarist himself as soon as reasonably possible before or after the application.

(e) If the owner or operator of an apiary does not choose to move, cover, or otherwise protect the apiary, the application may be made without delay; provided that such application complies with the pesticide labeling and any provisions of the Act or any rules and regulations promulgated thereunder.

(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 apiarists pursuant to the provisions of (a) above shall not be responsible for notifying any apiarist who cannot be notified because:

1. The Department failed to provide information deemed necessary by the Department for such notification; provided, that the person required to notify the apiarist requested the information from the Department at least two weeks prior to the application date; or
2. The person required to notify the apiarist was unable to contact the apiarist, providing **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 apiarist 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 which is made for agricultural purposes, except to the following crops within the dates stated below or when in the flowering stage:

- |            |                            |                        |
|------------|----------------------------|------------------------|
| 1.         | Apples                     | April 15 to May 15     |
| 2.         | Pears                      | April 15 to May 15     |
| 3.         | Strawberries               | April 15 to May 15     |
| 4.         | Peaches                    | April 15 to May 15     |
| 5.         | Blueberries                | April 15 to May 31     |
| 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        |
| <b>10.</b> | <b>Cover crop or weeds</b> | <b>Flowering Stage</b> |

**(j) No person shall apply a community or area wide application of a pesticide product, which 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 apiarist signs a waiver which 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 apiarist 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 apiarist 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 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 Telecommunications Network (now 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 for pesticide regulation information, pesticide complaints and health referrals.”;**
  - 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 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 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 Telecommunications Network (now 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 for pesticide regulation information, pesticide complaints, pesticide toxicology information and health referrals.”;**
- 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 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.**

(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:
  - 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 Telecommunications Network (now 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 for pesticide regulation information, pesticide complaints, and health referrals.”;**
  - 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 bear the following information in letters at least one-half inch high: “Pesticide Treated Area”;
  - ii. The signs shall also contain a minimum two inch diameter circular illustration, in standard international signage, depicting an adult and a child on a lawn walking a dog on a leash. The illustration shall depict, with a diagonal line across the circle, that this action is prohibited;
  - iii. The signs shall 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:
  - 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 Telecommunications Network (now 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 for pesticide regulation information, pesticide complaints, and health referrals.”;**
  - 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 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, 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 bear the following information in letters at least one-half inch high: “Pesticide Treated Area”;
  - ii. The signs shall also contain a minimum two inch diameter circular illustration, in standard international signage, depicting an adult and a child on a lawn walking a dog on a leash. The illustration shall depict, with a diagonal line across the circle, that this action is prohibited;
  - iii. **The signs shall 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 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:
    - 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 Telecommunications Network (now 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 for pesticide regulation information, pesticide complaints and health referrals.”;**
    - 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 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, 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 & 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 for pesticide regulation information, pesticide complaints and health referrals.”**
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. **If 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 bear the following information in letters at least one-half inch high: "Pesticide Treated Area."
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:
  - 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 Telecommunications Network (now 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 for pesticide regulation information, pesticide complaints, pesticide toxicology information and health referrals.";**

- 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.”**
- 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 am and 3:00 PM.**
- 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 (formerly Additional 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, P.O. 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 clean-up 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 clean-up; and
3. It can be adequately demonstrated to the Department that the following conditions relevant to the application were met:
  - i. No injury to persons or the environment resulted from the incident or the presence of the pesticide at the non-target site;
  - ii. All persons involved in the application were properly licensed under the provisions of this Chapter;
  - iii. Equipment used during the application was properly maintained and/or calibrated;
  - iv. The record of pesticide application contains all mandated information; and
  - v. The application was performed in a manner consistent with the provisions of the federal registered label of the pesticide used and other restrictions as contained in the Act or this Chapter.

## SUBCHAPTER 10. PESTICIDE USE

### 7:30-10.1 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 USEPA 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 USEPA.

### 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 USEPA 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 insure the safety of any individuals **or the environment** necessarily exposed. Such precautions shall include, but not be limited to, transmittal from the applicator to the exposed and/or potentially exposed individual of precautionary label statements relevant to such individuals 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 3 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 school with grades preschool through 12, during normal school hours, as set by the school administration. After normal school hours, **or for the exceptions in (n)1 through 3 below**, applications

can be made in areas where students will not contact treated areas until sufficient time is allowed for the pesticide to dry or settle, **or to meet label re-entry or ventilation requirements.**

- 1. Athletic fields which are not used by school children during normal school hours may be treated during normal school hours;**
- 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;**
- 3. Structures that are separate from any structure used by school children during normal school hours and which shall not be used by school children during normal school hours may be treated during normal school hours.**
- 4. This subsection is not applicable to the application of pesticides for student instructional purposes and to public health officials during the normal course of their duties.**

- (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 twenty-five 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 (formerly 9.5(d) Containers and container labeling)**

**(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 it or contained therein as part of the actual packaging of the pesticide, a copy of the registered label of the pesticide; or**
  - ii. The bait box or tray has attached to it 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 83-5, incorporated herein by reference; or**
- 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.**

(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, 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, if entry can 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 (m)5v or vi 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. 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.
- vi. Soil within two feet of the water or sewer lines shall be treated as provided in (m)5v 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.**
- vii. 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.
- viii. 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)5vii above, **except when using foam termiticides labeled for this site.**
- ix. 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 when there is evidence of reinfestation **pursuant to (p)2 below** 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)1 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 F.A.R.-137 not covered in this section. In the case of conflict, a regulation of F.A.R.-137 shall take precedence over any of this section.

(b) The pilot of an agricultural aircraft shall, prior to any pesticide application, learn and confirm:

1. The boundaries and exact location of the target area(s); and
2. The identity of non-target areas and safety hazards located on or adjacent to the target area.

(c) Spray and spreading equipment shall be thoroughly rinsed after each agricultural aircraft operation, except when the next application will be made using the same pesticide or, if another pesticide is to be used, it is compatible with that previously in the equipment and will not result in illegal residues or significant risk of injury or damage when applied to the new target site.

(d) During pesticide application, the flow and mixture of the pesticide(s) shall be uniform and applied with spray or spreading equipment suited for the pesticide(s) used. Application equipment shall be properly calibrated, according to the manufacturers' specification for the equipment utilized, for the specific type of pesticide application being performed and proof of this proper calibration shall be maintained by the aerial pesticide applicator business and be 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 pesticides 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) Aerial pesticide application for non-agricultural purposes shall be performed on a target site less than three contiguous acres in size, only in accordance with (o) below.

**(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**

- ii. **the United States Department of Agriculture (USDA) in concurrence with the Department. “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 clean-up shall notify the Department when the clean-up 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 clean-up.

(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 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:             | \$300/sample. |
| 2. Powders:                                | \$340/sample. |
| 3. Aerosols, baits, traps, and detergents: | \$400/sample. |
| 4. User dilution:                          | \$500/sample. |

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

- |                                    |                  |
|------------------------------------|------------------|
| 1. Swab ( <b>surficial wipe</b> ): | \$125.00/sample. |
| 2. Air (puf):                      | \$150/sample.    |
| 3. Air ( <b>sorbent tube</b> ):    | \$100.00/sample. |
| 4. Water:                          | \$150/sample.    |

- 5. Soil: \$225.00/sample.
- 6. **Animal** tissue: \$250.00/sample.

(e) The fee for a pesticide scan shall be \$250 per group.

(f) Any sample requiring extra preparatory work or special analysis shall be charged \$100.00 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 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 PESTICIDE GRACE PERIOD REGULATIONS**

### **7:30-11.1 Grace period**

(a) This subchapter 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. 7:30-11.2 shall achieve compliance within 45 days of the notification of minor violation 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 for 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 which is designated as minor in accordance with the table in N.J.A.C. 7:30-11.2 and in accordance with (b) above, it shall issue a notice of violation to the person responsible for the minor violation which:

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 unless compliance is achieved within the time period provided for the violation as set forth in (a) above.

(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.

(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.

**7:30-11.2 Violation table**

(a) The violations in the table below have been designated as minor or non-minor in accordance with the criteria in N.J.A.C. 7:30-11.1 (c) 2, 3, and 8. In the table, “M” means minor, and “NM” means non-minor. The violation text in the table below is merely a description of a violation and is not intended for use as a guide for regulatory compliance. For the complete text of a rule, refer to the appropriate section and paragraph in this chapter.

Citation (N.J.A.C. 7:30-	Violation	M	NM
2.1(a)	State Unregistered Product	M	
2.1(a)	Federal Unregistered Product		NM
2.1(b)	Failure to register each pesticide product	M	
2.1(c)	At the time of registration, failure to file a statement with the Department with the correct information	M	
2.3(a)	Failure to submit required EUP information	M	
2.3(c)	Failure to notify the Pesticide Control Program of specific EUP information		NM
2.5	Failure to allow the Department to enter and inspect		NM
2.6(a)	Failure of the records to contain the Required information		NM
2.6(a)	Failure to maintain or submit any records concerning the delivery, movement, or holding of a pesticide		NM
2.7(a)	Failure to meet pesticide label or container specifications		NM
2.7(d)	Detach, alter, deface or destroy, wholly or in part, a pesticide label or labeling		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		NM
2.7(f)	Reveal, or use confidential or trade secret information for personal gain		NM
2.7(g)	Refuse access to or to copy records of business transactions involving pesticides		NM

2.7(h)	Registered pesticide label or labeling missing, obscured, altered, etc.		NM
2.7(i)	Use or store a pesticide in a manner that may endanger man or his environment or that may contaminate food, feed, or other products		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		NM
2.9(a)	Distribute, sell, offer for sale, purchase, or use an EPA suspended or canceled pesticide		NM
2.9(b)	Use of a tributyl tin (TBT) paint with an unacceptable release rate		NM
2.9(c)	Distribute or use a state suspended or canceled pesticide		NM
3.1(a)	Unregistered pesticide dealer		NM
3.3(e)	Failure to notify the Department of changes in dealer registration information	M	
3.6(a)	Failure to allow entry for inspection, sampling, or collection of records		NM
3.7(a)	Failure to maintain adequate records of sales of restricted use pesticides		NM
3.7(b)	Failure to maintain records of sales for the minimum three year period		NM
3.7(c)	Failure to make records available to the Department upon request		NM
3.8(a)	Failure to require a purchaser to present a valid license		NM
3.8(b)	Failure to conduct a sale under the direct supervision of a licensed dealer		NM
3.8(c)1	Misrepresent the degree of licensing required by the applicator		NM
3.8(c)2	Disseminate misinformation as to the correct use of a pesticide		NM
3.8(d)	Failure to inform a dealer or distributor that a pesticide is restricted use		NM
3.9	Selling a pesticide(s) to an unlicensed person without providing the required information sheet		NM
3.10	Requiring an unlicensed person to distribute restricted use pesticides		NM
4.1(a)	Unregistered dealer business		NM
4.1(b)	Failure to register each pesticide outlet and/or each name		NM
4.1(f)	Failure of a dealer business to submit names and addresses of all sales persons or agents	M	
4.1(h)	Failure to notify the Department of changes in dealer business registration information	M	

4.1(i)	Failure to post a list of persons to contact in case of a pesticide accident		NM
4.2(a)	Failure to maintain adequate records of sales of restricted use pesticides		NM
4.2(b)	Failure to maintain records of sales for the minimum three year period		NM
4.2(c)	Failure to make records of pesticide sales immediately available to the Department or to medical personnel		NM
4.2(d)	Failure to keep the records of sale for EUP, Section 18, or 24(c) separately from other records of sale		NM
4.3(a)	Failure of a dealer business to require the purchaser to present a valid license		NM
4.3(a)	Selling a restricted use pesticide to an unlicensed person		NM
4.3(b)	Failure to inform a dealer or distributor that a pesticide is restricted use		NM
4.4(a)	Selling a pesticide to an unlicensed person without providing the required information sheet		NM
4.5(a)	Failure to allow entry for inspection, sampling or collection of records		NM
4.6	Requiring an unlicensed person to sell restricted use pesticides		NM
5.1(a)	Unlicensed commercial pesticide operator		NM
5.1(d)	A commercial pesticide operator supervised the use of a pesticide		NM
5.3(f)	Failure to notify the Department of a change in registration information	M	
5.3(g)	Failure of the co-signer for an commercial pesticide operator license to notify the Department of changes in registration information	M	
5.3(h)	Failure of a commercial pesticide operator to maintain his license on his person during pesticide application	M	
5.6	Failure to allow entry for inspection, sampling or collection of records		NM
6.1(a)	Unlicensed commercial applicator		NM
6.4(e)	Failure to notify the Department of changes in commercial pesticide applicator license information	M	
6.4(f)	Failure of a commercial pesticide applicator to maintain his license on his person during pesticide application	M	
6.7(a)	Failure to allow entry for inspection, sampling, or collection of records		NM
6.8(a)	Failure of a commercial pesticide applicator to maintain adequate records of pesticide applications		NM
6.8(b)	Failure of a commercial pesticide applicator to maintain a listing of the pesticides applied		NM

6.8(c)	Failure of a commercial pesticide applicator, to maintain records for the minimum time period required		NM
6.8(d)	Failure to make records of pesticide applications immediately available to the Department or medical personnel		NM
6.8(e)	Failure to provide a copy of the application record to a customer upon written request		NM
6.8(f)	Failure to provide an agricultural employer with the information required.		NM
6.8(g)	Failure to keep records of application for EUP, Section 18, and 24(c) pesticides separately		NM
6.10	Failure to present a valid license when purchasing a restricted use pesticide		NM
6.12	Requiring an unlicensed individual to make a pesticide application		NM
7.1(a)	Unlicensed applicator business		NM
7.1(c)	Failure to register each place of business or each business name		NM
7.1(d)	Failure of a business to employ at least one commercial pesticide applicator certified and registered in the proper category or subcategory.		NM
7.1(e)	Failure of a business to prominently display the required information on every service vehicle	M	
7.1(f)	Failure of a business to notify the Department of changes in license information	M	
7.1(g)	Failure to pay the required fee for each year the unregistered business was in operation		NM
7.2	Failure to allow entry to inspect, sample, or collect records		NM
7.3(a)	Failure to maintain adequate records of application		NM
7.3(b)	Failure of a commercial pesticide applicator business to maintain adequate required records		NM
7.3(c)	Failure of a business to maintain records of pesticide application for the minimum time period		NM
7.3(d)	Failure to make records application immediately available to the Department or medical personnel		NM
7.3(e)	Failure of a business to provide a customer with a copy of the application record upon request		NM
7.3(f)	Failure to provide an agricultural employer with the information required		NM
7.3(g)	Failure to keep records of application for EUP, Section 18, and 24(c) pesticides separately		NM
7.4(a)	No proof of insurance		NM
7.5	Requiring an unlicensed individual to make a pesticide application		NM
8.1(a)	Unlicensed private applicator		NM

8.3(d)	Failure of a private pesticide applicator to notify the Department of changes in license information	M	
8.7(a)	Failure to allow entry for inspection, sampling or collection of records.		NM
8.8(a)	Failure to maintain adequate records of pesticide applications		NM
8.8(b)	Failure of a private pesticide applicator to maintain adequate required records		NM
8.8(c)	Failure of a private pesticide applicator to maintain application records for the minimum of three years		NM
8.8(d)	Failure to make records application immediately available to the Department or to medical personnel		NM
8.8(f)	Failure to keep records of application for EUP, Section 18, and 24(c) pesticides separately		NM
8.9	Failure to present a valid license when purchasing a restricted use pesticide		NM
8.10	Requiring an unlicensed individual or untrained handler to apply pesticides		NM
9.1(a)	Failure to conform to the applicable State guidelines while performing a mosquito or fly control application		NM
9.2(a)	Failure to obtain a Mosquito/Fly permit prior to the application		NM
9.2(f)	Failure to coordinate a community or area wide mosquito control program with the county agency		NM
9.3(a)	Failure to obtain an aquatic pesticide permit		NM
9.3(c)2	Failure to provide the Department with the information required as a condition for evaluation/approval of the aquatic pesticide application	M	
9.3(c)3	Failure to submit the requested report as a condition for aquatic pesticide permit approval	M	
9.3(c)4	Failure to notify the Department of a change in an aquatic pesticide application and failure to obtain approval prior to the application		NM
9.3(e)	Failure to fulfill all conditions of aquatic use permit		NM
9.4(a)	Failure to comply with notification provisions		NM
9.4(b)	Failure to provide label and/or exact treatment date		NM
9.4(c)	Failure to post or inadequate posting		NM
9.4(d)	Failure to notify specific aquatic users		NM
9.4(e)	Failure to comply with Community & Area wide notification		NM
9.5(a)	Storing a restricted use pesticide; not posted with a warning sign.		NM
9.5(a)	Failure to store a restricted use pesticide properly		NM
9.5(b)	Failure to maintain, or send the list of pesticides stored (and location) to the local fire company with cover letter		NM

9.5(c)	Failure to properly store a restricted use pesticide in a building used as a private residence		NM
9.5(d)	Failure to properly store a restricted use pesticide in a commercial building or institution		NM
9.5(e)	Storing a restricted use fumigant in a multi-family private residence, or multi-unit commercial establishment or institutions		NM
9.5(f)	Failure to comply with service vehicle requirements		NM
9.5(g)	Storage of a pesticide near food or animal feed		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.		NM
9.6(a)	EPA registered label is missing, obscured, altered, or unreadable		NM
9.6(b)	Failure to comply with service container requirements		NM
9.6(c)	Placing or keeping a pesticide in a container commonly used for food, drink, or household products		NM
9.7(a)	Disposal of a pesticide in a manner that caused harm or injury to persons or the environment		NM
9.8(a)	Failed to immediately contain, cover, or remove a pesticide spill		NM
9.8(c)	Failure of responsible persons to immediately notify the Department of a spill or incident		NM
9.8(d)	Failure to dispose of any pesticide released as a result of an emergency, in accordance with a Department approved plan		NM
9.8(e)	The written plan for disposal failed to satisfy the Department	M	
9.9(a)	Failure to properly maintain the application equipment		NM
9.9(b)	Failure to properly calibrate the application equipment		NM
9.9(c)	Failure to supply safety equipment in good working order and train employees in its proper use		NM
9.9(d)	Failure to wear the appropriate safety equipment while mixing or loading 2,4-D		NM
9.10(a)	Failure to provide community or area wide notification		NM
9.11(a)	Failure to provide beekeeper notification		NM
9.11(b)	Failure to provide all beekeeper notification information required		NM
9.11(h)	Failure to provide updated notification the night prior to the new application date		NM

9.11(j)	Perform 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.		NM
9.12(b)1	Failure to provide a Consumer Information Notice to a single family resident		NM
9.12(b)2	Failure to provide the specific date of pesticide application or copies of labels upon request		NM
9.12(c)1	Failure to post a decal notice in each unit prior to the start of the application		NM
9.12(c)2	Failure to post the decal prominently in the appropriate location		NM
9.12(c)3	Failure to provide a copy of all information required in N.J.A.C. 7:30-9.11(b)4.i.-ix. Upon request		NM
9.12(c)5	Failure to provide prior notification of the specific date of application upon request by the tenant or resident.		NM
9.12(d)1	Failure to properly notify at institutions, commercial or public buildings		NM
9.12(d)2	Failure to provide prior notification of the specific date of application or a copy of the labels of pesticides upon request		NM
9.12(d)3	Failure to post notification information in the institution, commercial or public building		NM
9.12(d)4	Failure to post and maintain appropriate notification sign in a large public place		NM
9.12(e)	Failure to properly notify adjoining residents when using aerosols or fogs		NM
9.13(b)1	Failure to post signs when making turf and/or ornamental applications		NM
9.13(b)2	Failure to provide a Consumer Information Notice		NM
9.13(b)3	Failure to provide prior notification of the specific date of the pesticide application upon request		NM
9.13(c)1	Failure to post signs at a multi-family residence, industrial or commercial building		NM
9.13(c)2	Failure to provide a Consumer Information Notice at a multi-family residence industrial or commercial building		NM
9.13(c)3	Failure to provide the specific date of pesticide application upon request		NM
9.13(d)1	Failure to post proper notification signs at a golf course		NM
9.13(d)1ii	Failure to make the necessary changes to the required notification information on the signs at the starting tees.		NM
9.13(d)2	Failure to supply information requested by any person in writing		NM

9.13(d)3	Failure to supply notification information to the residents pursuant to 9.13(a)2., and post pursuant to 9.13(a)1		NM
9.13(d)4	Failure to post treated areas not part of the actual playing course pursuant to 9.13(a)1.		NM
9.13(e)1-6	Failure to post properly at a school, institution, park, or similar site		NM
9.13(e)7	Failure to provide a Consumer Information Notice to contracting party		NM
9.14	School notification concepts. Actual citations will be supplied in the proposal		NM
9.15(a)	Failure to give notification when requested or under conditions which indicated that notification was necessary		NM
9.15(b)	Failure to give notification or take reasonable precautions before application may commence		NM
9.16	Failure to comply with or inadequate general agricultural notification		NM
9.17(a)	Failure to notify the Department of a reportable pesticide spill		NM
9.17(b)	Failure to immediately report a spill by telephone to the Department Hotline, and file a written report within 10 days		NM
10.2(a)	Pesticide label violation		NM
10.2(b)	Transporting, handling, storing, mixing or loading a pesticide that caused harm injury or damage or risk		NM
10.2(c)	Applying a pesticide that causes harm, injury or damage or risk		NM
10.2(d)	Directly applying a pesticide to a non-target site		NM
10.2(e)	Applying a pesticide without taking reasonable precautions, before, during and after the application		NM
10.2(f)	Drift or other movement of a pesticide to a non-target site		NM
10.2(g)	Cleaning or rinsing container or application equipment in a manner that caused harm, damage or injury, or risk		NM
10.2(h)	Failure to have back-flow prevention		NM
10.2(i)	Failure to have the label for the pesticide at the application or mixing site		NM
10.2(j)	Applying a pesticide when people were within the boundaries of the target site to which the pesticide was applied		NM
10.2(k)	Performing a community or area wide pesticide application for gypsy moth control during normal student commuting times		NM
10.2(l)	Failure to have a properly licensed applicator present at a fumigation location for the duration of the application		NM

10.2(m)	Application of a pesticide containing diazinon to a sod farm, golf course, or other turf areas greater than three acres.		NM
10.2(n)	Applying a pesticide in or around a school during normal school hours where students would contact treated areas		NM
10.2(o)1	Application of a TBT antifoulant paint outside of a commercial boat yard.		NM
10.2(o)2	Application of a TBT antifoulant paint to a vessel which did not exceed 25 meters (82.02 feet) in length and/or which did not have an aluminum hull.		NM
10.2(p)	Pinelands use restriction		NM
10.3(a)	Failure to use tamper-resistant bait boxes when needed		NM
10.3(b)	Failure to properly label a bait box		NM
10.3(b)	Failure to secure bait box when necessary		NM
10.3(d)	Failure to remove all accessible bait		NM
10.4(a)	Failure to have licensed applicator on site for termite application		NM
10.4(b)	Failure to pressure test termite application equipment		NM
10.4(c)	Failure to have a properly operating pressure gauge		NM
10.4(d)	Cite 10.2(h)		NM
10.4(e)	Failure to properly route hoses through a structure		NM
10.4(g)1	Failure to follow termiticide restrictions for hollow block, brick, or tile foundation		NM
10.4(g)2	Failure to follow termiticide restrictions for rubble/stone foundations		NM
10.4(h)	Failure to follow termiticide restrictions for basement floors		NM
10.4(i)	Failure to follow termiticide restrictions for crawlspaces		NM
10.4(i)3	Failure to follow termiticide restrictions for plenum crawlspaces		NM
10.4(j)	Failure to follow termiticide restrictions for inaccessible spaces.		NM
10.4(k)	Failure to follow termiticide restrictions for slabs		NM
10.4(m)1	Failure to follow termiticide restrictions for wells		NM
10.4(n)	Failure to follow retreatment restrictions		NM
10.4(p)	Failure to provide proper notification for termiticide treatment		NM
10.4(r)	Failed to keep a proper diagram of the structure treated		NM
10.5	Organochlorine restrictions		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		NM
10.6(c)	Failure to thoroughly rinse spray and spreading equipment after each application		NM
10.6(d)	Failure to maintain proof of proper calibration of aerial application equipment		NM
10.6(d)	Failure to provide proof of calibration of application equipment to the Department upon request		NM
10.6(d)	Failure to properly calibrate application equipment		NM
10.6(i)	Failure to have spray or spreading equipment free of leaks and/or have a positive shutoff system		NM
10.6(j)	The shape of the tank or hopper of the spray or spreading equipment did not allow for complete drainage		NM
10.6(l)	Aerially releasing a pesticide more than 15 feet above the target, or more than 50 feet above a forest and/or trees		NM
10.6(m)	Aerially releasing a pesticide formulated as dry granules or pellets more than 40 feet above the target		NM
10.6(n)	Making an aerial pesticide application for a non-agricultural purpose using any aircraft on a target site less than three contiguous acres in size.		NM
10.6(o)	Failure to obtain the required information for the consent agreement	M	
10.6(o)	Failure to obtain consent for aerial application		NM
10.6(p)	Making an aerial pesticide application to a field which was not part of a larger field of 3 or more acres		NM
10.6(q)	Failure to follow buffer zone restrictions for aerial applications		NM
10.6(r)	Directly applying a pesticide by aircraft to a right-of-way of a public road which was not included in the target site		NM
10.6(s)	Depositing a pesticide by aircraft within 100 feet of a private residence without obtaining written consent or without including required information		NM
10.6(s)4ii	Failure to maintain copies of consent agreements obtained		NM
10.6(s)4iii	Failure to provide a copy of a consent agreement to the Department upon request		NM
10.6(t)	Aerially applied a broad-spectrum pesticide for non-agricultural purposes.		NM

10.6(u)	Failed to petition the Department for approval to use a broad-spectrum pesticide		NM
10.6(v)	Failed to inform the Department of the application and provide justification		NM
10.6(w)	Failed to request a waiver from the provisions of 9.10		NM
10.6(x)	Applied a pesticide by aerial application equipment, without the pesticide being specifically labeled for aerial application		NM
10.7(a)	Failure to conduct a clean up		NM
10.7(b)	Failure to notify the Department that a clean up had been completed and/or failure to provide analytical results		NM
10.9(a)	Failure to submit to the Department the required information regarding pesticide use	M	
10.9(b)	Failure to provide additional information relating a specific pesticide or type of pesticide requested by the Department		NM
12.1(a)	Failure of an agricultural employer or the handler employer to meet the requirements of this section		NM
12.1(b)	Preventing, discouraging or taking retaliatory action for attempts made by any worker or handler from complying or attempting to comply with any of the requirements of this subchapter		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		NM
12.3(b)	During a pesticide application in a nursery, allowing or directing a person, other than an appropriately trained and equipped handler, to enter or to remain in the entry-restricted area		NM
12.3(c)1	Allowing or directing a person, other than an appropriately trained and equipped handler, to enter or remain in a greenhouse prohibited area prior to the inhalation exposure level the labeling requires is achieved or ventilation criteria is met		NM
12.3(c)2	Allowing or directing a worker to enter a greenhouse restricted-entry area before the restricted-entry interval expires		NM
12.3(c)3	Failure to achieve inhalation exposure requirements in a greenhouse as indicated on the pesticide label		NM
12.4(a)	Allowing or directing a worker to enter or remain in the treated area before the restricted-entry interval expires		NM
12.4(a)3	Failing to assure that any worker who enters a treated area under a restricted-entry interval uses the personal protective equipment specified in the product labeling		NM

12.5(a)1	Failure of an agricultural employer to notify workers of any pesticide application in a greenhouse by posting		NM
12.5(a)2	Failure of an agricultural employer to notify workers of a pesticide application in a greenhouse by posting and oral notification when necessary		NM
12.5(b)1	Failure of an agricultural employer to notify workers of any pesticide application on a farm, nursery or forest, by posting and by oral notification when necessary		NM
12.5(b)2	Failure of an agricultural employer to inform workers of which method of notification is in effect		NM
12.5(b)2	Failure of an agricultural employer to notify workers of a pesticide application on a farm, in a nursery or a forest either orally or by posting		NM
12.5(c)	Failure of an agricultural employer to properly post warning signs		NM
12.5(d)	Failure of an agricultural employer to provide oral warnings to workers		NM
12.6(a)	Failure of an agricultural employer to display specific information about a pesticide		NM
12.6(b)	Failure of an agricultural employer to display information about a pesticide application in the proper location		NM
12.6(c)	Failure to post specific information about a pesticide application at the correct time or for the correct duration		NM
12.6(d)	Failure of an agricultural employer to display specific information about a pesticide		NM
12.6(e)	Failure to keep an approved fact sheet on file and make it readily available to the workers in a language they understand		NM
12.7(a)	Failure of an agricultural employer to provide to a handler employer specific information about treated areas		NM
12.8(a)	Failure of the agricultural employer to assure that each worker has been trained properly		NM
12.8(b)	Failure of an agricultural employer to assure that a worker has been trained before a worker enters a treated area		NM
12.8(c)	Failure of the agricultural employer to assure that the worker has been provided necessary pesticide safety information		NM
12.8(c)1	Failure of the agricultural employer to train workers prior to the sixth day that the workers enter any areas treated within the last 30 days		NM

12.8(e)	Failure to provide the required pesticide safety information to workers or failure to provide the information in a manner that the workers can understand		NM
12.8(f)	Failure to present pesticide safety information to workers either orally or audiovisually in a manner they can understand		NM
12.8(f)1	The person conducting the worker training failed to meet the criteria		NM
12.8(f)2	Failure to assure that a worker who received a card had been trained		NM
12.8(f)3	The training materials did not convey the required information		NM
12.8(i)	Failure to provide educational pamphlets		NM
12.8(n)	Failure to cease training during the time period for which trainer recognition has been revoked or suspended		NM
12.8(q)	Failure of a trainer to keep a training roster for each worker or handler trained in New Jersey		NM
12.8(r)	Failure to maintain all training rosters for a minimum of five years		NM
12.8(s)	Failure to provide all training rosters immediately upon request by the Department		NM
12.8(t)	Failure to send a list of all workers trained to the Department	M	
12.9(a)	Failure of an agricultural employer to display pesticide safety information when required		NM
12.9(b)	Failure to display a safety poster that conveys, at a minimum, the required basic concepts		NM
12.9(c)	Failure to display emergency medical care information		NM
12.9(c)1	Failure of the agricultural employer to inform workers promptly of any changes to the emergency medical care information		NM
12.9(d)	Failure to post safety information in the proper location		NM
12.9(e)	Failure to inform workers of the location of the safety poster or allow access to the information		NM
12.9(f)	Failure to assure that safety poster information remained legible		NM
12.10(a)	Failure of an agricultural employer to provide a decontamination site		NM
12.10(b)	Failure of the agricultural employer to provide workers with enough water of required quality for routine washing and emergency eye flushing		NM
12.10(b)1	Failure to equip a water tank with properly functioning valves that prevent movement of pesticides into the tank, when necessary		NM

12.10(b)2	Failure of the agricultural employer to provide sufficient soap and single-use towels at each decontamination site		NM
12.10(b)3	Failure of the agricultural employer to provide sufficient water when labeling requires protective eyewear		NM
12.10(c)	Failure to place the decontamination site at the same site as the portable toilet or make it reasonably accessible to workers		NM
12.10(c)2	Placing the decontamination site in an area being treated with pesticides		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		NM
12.10(d)	Failure of the agricultural employer to provide early-entry workers soap, clean towels, and a sufficient amount of water so that the workers may wash thoroughly		NM
12.11(a)1	Failure of an agricultural employer to provide emergency medical transportation		NM
12.11(a)2	Failure of an agricultural employer to provide information in a medical emergency		NM
12.13(a)	Allow pesticide drift onto anyone other than an appropriately trained and equipped handler		NM
12.13(b)	Failure of the handler employer to assure that a handler is monitored visually or by voice communication at least every 2 hours when required		NM
12.13(c)	Failure of the handler employer to assure that a handler maintains continuous visual or voice contact with another handler when required, and that there is immediate access to the necessary PPE		NM
12.14(a)	Failure of an agricultural employer to display specific information when required		NM
12.14(b)	Failure to display specific information about pesticides for pesticide handlers in the correct location or in the correct manner		NM
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.		NM
12.14(c)1	Failure to post specific application information at the correct time or for the correct duration		NM
12.14(d)	Failure to post the required information for a pesticide application for the benefit of handlers		NM

12.14(e)1	Failure to keep an approved fact sheet on file and made readily available to the handlers in a language they understand		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		NM
12.16(a)	Failure to train a handler		NM
12.16(c)	Failure to present pesticide safety information either orally or audiovisually in a manner that the handlers can understand		NM
12.16(c)1	Failure of a person conducting handler training to meet the required criteria		NM
12.16(c)2	Failure to assure that a handler who received a verification card was trained		NM
12.16(c)3	The materials used to train handlers did not convey the required minimum information		NM
12.16(f)	Failure to annually provide educational pamphlets as required		NM
12.16(k)	Training handlers or workers during the time period for which trainer recognition has been suspended or revoked		NM
12.16(n)	Failure of a handler trainer to keep a training roster for each handler or worker trained		NM
12.16(o)	Failure to maintain all handler training rosters for a minimum of five years		NM
12.16(p)	Failure to provide all handler training rosters immediately upon request by the Department		NM
12.16(q)	Failure to send a list of all handlers and workers trained to the Department	M	
12.17(a)	Failure of the handler employer to assure that the handler either read the product labeling or had been informed of necessary labeling requirements		NM
12.17(a)1	Failure of the handler employer to assure that the handler has access to the product labeling information during handling activities		NM
12.17(b)	Failure of a handler employer to assure that a handler is aware of the required information concerning any pesticide treated areas		NM
12.18(a)	Failure of the handler employer to assure that a handler is instructed in the safe operation of equipment, including, when relevant, chemigation safety requirements and drift avoidance		NM
12.18(b)	Failure of the handler employer to assure that equipment is in good working order		NM

12.18(c)	Failure of the handler employer to assure that pesticide residues have been removed from equipment before allowing any person to repair, clean, or adjust the equipment, or the person is informed of appropriate safety precautions		NM
12.19(a)	Failure of a handler employer to display pesticide safety information for handlers who are not employed by a commercial handling establishment		NM
12.19(b)	Failure of a handler employer to display a safety poster that conveys, at a minimum, the required basic pesticide safety concepts		NM
12.19(c)	Failure of a handler employer to display emergency medical care information		NM
12.19(c)1	Failure of a handler employer to inform handlers promptly of any change to the information on emergency medical care		NM
12.19(d)	Failure of a handler employer to display safety information in a central location where it can be readily seen and read by handlers		NM
12.19(e)	Failure of a handler employer to inform handlers of the location of, or allow access to, the information concerning emergency medical care facilities		NM
12.19(f)	Information concerning emergency medical care facilities was not legible during the time it was posted		NM
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		NM
12.20(c)	Failure of the handler employer to provide appropriate PPE to the handler when required		NM
12.20(d)	Failure to follow conditions for exception to PPE requirements		NM
12.20(e)	Failure of a handler employer to assure that PPE is used correctly and maintained properly		NM
12.20(f)	Failure of handler employer to assure that all PPE is cleaned, maintained, stored, disposed, or used according to the manufacturer's instructions, pesticide label, or regulations		NM
12.20(g)	Failure of a handler employer to take appropriate measures, if necessary, to prevent heat-related illness		NM
12.21(a)	Failure of a handler employer to provide a decontamination site		NM
12.21(b)	Failure of a handler employer to provide water for routine washing, for emergency eye flushing, and for washing the entire body in case of an emergency		NM

12.21(b)	Failure of the handler employer to assure 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		NM
12.21(b)	Failure to equip a water tank with properly functioning valves or other mechanisms that prevent movement of pesticides into the tank, when necessary		NM
12.21(b)	Failure of a handler employer to provide sufficient soap and single-use towels, and a change of clothing, at each decontamination site		NM
12.21(c)	Failure of a handler employer to provide a decontamination site and/or provide it at the required location		NM
12.21(c)3	Failure of a handler employer to provide soap, single-use towels, and water at the location required		NM
12.21(d)	Failure of a handler employer to assure that at least 1 pint of water is immediately available to each handler when required		NM
12.21(e)	Failure of a handler employer to provide, at the site where handlers remove PPE, soap, clean towels, and a sufficient amount of water		NM
12.22(a)	Failure to provide a handler with transportation, or provide medical personnel with required information in a medical emergency involving pesticides		NM

## **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; and
  4. Require each person who supervises any worker or handler to assure compliance by the worker or handler with the provisions of this subchapter and to assure that the worker or handler receives the protection required by this subchapter.
- (b) The agricultural employer or the handler employer shall not take any retaliatory action for attempts to comply with this subchapter or any action having the effect of preventing or discouraging any worker or handler from complying or attempting to comply with any of the requirements of this subchapter.

### **7:30-12.2 Standard for workers**

- (a) Except as provided by (b) and (c), below this subchapter applies when any pesticide product is used on an agricultural establishment.
- (b) This subchapter does not apply when any pesticide is applied to an agricultural establishment in the following circumstances:
1. For mosquito abatement, Mediterranean fruit fly eradication, or similar community or area-wide public pest control programs sponsored by government entities;
  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 that are in ornamental gardens, parks, and public or private lawns and grounds that are intended only for aesthetic purposes or climatic modification;
  5. Applied by injection directly into agricultural plants. Direct injection does not include “hack and squirt”, “frill and spray”, chemigation, soil incorporation or soil-injection;
  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, and pasture and rangeland use;
  7. For control of vertebrate pests;
  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 workers listed in this subsection are exempt from the specified provisions of this subchapter.
1. The owner of an agricultural establishment is not required to provide to himself or herself or members of his immediate family who are performing tasks related to the production of agricultural plants on their own agricultural establishment the protections of the following

subchapter provisions:

- i. N.J.A.C. 7:30-12.4(c)5 through 9;
  - ii. N.J.A.C. 7:30-12.4(c) 5 through 9 as referenced in N.J.A.C. 7:30-12.4(d)2iii and (e);
  - 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
  - viii. N.J.A.C. 7:30-12.11
2. The owner of an agricultural establishment shall provide the protections listed in (c)1 above 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, USEPA, or another State or Tribal lead agency for pesticide enforcement and persons performing crop advising tasks under such qualified crop advisor's direct supervision, are exempt from the provisions of N.J.A.C. 7:30-12.10 and 12.11.
    - i. A person is under the direct supervision of a crop advisor when the crop advisor exerts the supervisory controls set out in (c)3ii(3) and (4) below. Direct supervision does not require that the crop advisor be physically present at all times, but the crop advisor shall be readily accessible to the employees at all times.
    - 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) The exemption applies only when performing crop advising tasks in the treated area.
      - (3) The crop advisor shall make specific determinations regarding the appropriate personal protective equipment (PPE), appropriate decontamination supplies, and how to conduct the tasks safely. The crop advisor shall convey this information to each person under his or her direct supervision in a language that the person understands.
      - (4) Before entering a treated area, the certified or licensed crop advisor shall inform, through an established practice of communication, each person under his or her direct supervision of the pesticide product and active ingredient(s) applied, method of application, time of application, the restricted entry interval, which tasks to undertake, and how to contact the crop advisor.

### **7:30-12.3 Restrictions associated with pesticide applications**

(a) During the application of any pesticide on a farm or in a forest, the agricultural employer shall not allow or direct any person, other than an appropriately trained and equipped handler, to enter or to remain in the treated area.

(b) In a nursery, during any pesticide application described in column A of Table 1 of this subsection, the agricultural employer shall not allow or direct any person, other than an appropriately trained and equipped handler, to enter or to remain in the area specified in column B of Table 1 of this subsection. After the application is completed, until the end of any restricted-entry interval, the entry-restricted area is the treated area.

**Table 1- Entry Restricted Areas in Nurseries During Pesticide Applications**

A. During applications:	B. Workers Prohibited in:
1. Applied: <ol style="list-style-type: none"> <li>i. Aerially, or</li> <li>ii. In an upward direction, or</li> <li>iii. Using a spray pressure greater than 150 psi, or</li> <li>iv. As a fumigant, or</li> <li>v. Smoke, or</li> <li>vi. Mist, or</li> <li>vii. Fog, or</li> <li>viii. Aerosol.</li> </ol>	Treated area plus 100 feet in all directions on the nursery
2. Applied downward using: <ol style="list-style-type: none"> <li>i. A height of greater than 12 inches from the planting medium, or</li> <li>ii. A fine spray, or</li> <li>iii. A spray pressure greater than 40 psi and less than 150 psi</li> <li>iv. For which a respiratory protection device is required for application by the product labeling.</li> </ol>	Treated area plus 25 feet in all directions on the nursery
3. Applied otherwise.	Treated area.

- (c) The following apply to pesticide application in greenhouses:
1. When a pesticide application of the type described in column A of Table 2 of this subsection takes place in a greenhouse, 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 2 until the time specified in column C of Table 2 has expired.
  2. After the time specified in column C of Table 2 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 2 under this subsection, except as provided for in section N.J.A.C. 7:30-12.2.
  3. When column C of Table 2 of this subsection specifies that ventilation criteria must be met, ventilation shall continue until the air concentration is measured to be equal to or less than the inhalation exposure level the labeling requires to be achieved. If no inhalation exposure level is listed on the labeling, ventilation shall continue until after:
    - 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 2 applies to (c)1, 2, and 3 above.

**Table 2-Greenhouse Entry Restrictions**

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A. When a Pesticide is Applied:	B. Workers are Prohibited In:	C. Until:	D. After the Expiration of Time in Column C Until the Restricted-Entry Interval Expires, the Restricted-Entry Area Is:
1. As a fumigant	Entire greenhouse plus any adjacent structure that cannot be sealed off from the treatment area	The ventilation criteria of subsection (c)3 are met	No entry restrictions after criteria in column C are met
2. As a: i. Smoke, or ii. Mist, or iii. Fog, or iv. Aerosol	Entire enclosed area	The ventilation criteria of subsection (c)3 are met	Entire enclosed area is the treated area
3. Not in 1 or 2 above, and for which a respiratory protection device is required for application by the product labeling	Entire enclosed area	The ventilation criteria of subsection (c)3 are met	Treated area
4. Not in 1,2 or 3 above and: i. From a height of greater than 12 inches from the planting medium, or ii. As a fine spray, or iii. Using a spray pressure greater than 40 psi	Treated area plus 25 feet in all directions in the enclosed area	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, except as provided in this section.

1. Entry restricted areas in greenhouses are specified in column D in Table 2, N.J.A.C. 7:30-12.3(c)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 assure that any worker who enters a treated area under a

restricted-entry interval as permitted in (c), (d), and (e) below uses the personal protective equipment (**PPE**) specified in the product labeling for early-entry workers and follows any other requirements on the pesticide labeling regarding early entry.

(b) A worker may enter a treated area during a restricted-entry interval if the agricultural employer assures that both of the following are met:

1. The worker will have no contact with any thing 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; and
2. No such entry is allowed until any inhalation exposure level listed in the labeling has been reached or any ventilation criteria established by N.J.A.C. 7:30-12.3(c)3 or in the 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 assures 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 1 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 labeling has been reached or any ventilation criteria established by N.J.A.C. 7:30-12.3(c)3 or in the labeling have been met;
4. The personal protective equipment (PPE) specified on the product 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, socks, and other items of work clothing are not considered personal protective equipment for the purposes of this section and are not subject to the requirements of this section, although pesticide labeling may require that such work clothing be worn during some activities.
  - 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 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 a layer of clothing. If a chemical-resistant suit is substituted for coveralls, it need not be worn over a layer of clothing.
  - vii. Gloves shall be of the type specified by the product labeling. Gloves or glove linings made of leather, cotton, or other adsorbent materials shall not be worn for early-entry activities unless these materials are listed on the product labeling as acceptable for such use. If chemical-resistant gloves with sufficient durability and suppleness are not obtainable for tasks with roses or other

- plants with sharp thorns, leather gloves may be worn for this use, thereafter they shall be worn only with chemical-resistant liners and they shall not be worn for any other use.
- viii. When “chemical-resistant footwear” is specified by the product 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 for workers, then leather boots may be worn in such terrain.
  - ix. When “protective eyewear” is specified by the product 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 product labeling, it shall be either a chemical-resistant hood or a chemical-resistant hat with a wide brim;
5. The agricultural employer shall assure that the worker, before entering the treated area, either has read the product labeling or has been informed, in a manner that the worker can understand, of all the labeling requirements related to human hazards or precautions, first aid, symptoms of poisoning, personal protective equipment specified for early entry, and any other labeling requirements related to safe use;
  6. The agricultural employer shall assure 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 be cleaned properly is disposed of in accordance with any applicable Federal, State, and local regulations;
    - 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 clean PPE is dried thoroughly or is put in a well-ventilated place to dry;
    - vi. PPE contaminated with pesticides is kept separately 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;
    - x. Each worker is instructed in the prevention, recognition, and first aid treatment of heat-related illness; and
    - xi. 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.
  7. When PPE is required by the labeling of any pesticide for early entry, the agricultural employer shall assure that no worker is allowed or directed to perform early-entry activity without implementing, when appropriate, measures to prevent heat related illness.
  8. 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
  9. 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 assures that all of the following criteria are met:

1. The Department, Pesticide Control Program, declares the existence of circumstances that could cause an agricultural emergency on that agricultural establishment.
2. The agricultural employer determines the agricultural establishment is subject to the circumstances declared under (d)1i above; and
3. The requirements of (c)3 through 9 above are met.

(e) The US EPA may, in accordance with (e)1 through 3 below, grant an exception from the requirements of this subsection. An exception may be withdrawn in accordance with (e)6 below.

1. A request for exception shall be submitted first to the Department, Pesticide Control Program, **P.O. Box** 411, Trenton, NJ 08625-0411, and shall be accompanied by two copies of the following information:
  - i. The name, address and telephone number of the submitter;
  - ii. The time period for which the exception is requested;
  - iii. A description of the crop(s) and specific crop production task(s) for which the exception is requested. Such a description shall include an explanation as to the necessity of applying pesticides of a type and at a frequency that the restricted-entry interval would interfere with necessary and time-sensitive hand labor tasks for the period for which the exception is sought;
  - iv. A description of the geographic area for which the exception is requested. If the exception request is for a limited geographic area, the explanation shall include a description as to why the circumstances of exposure or economic impact resulting from the prohibition of routine hand labor tasks during the restricted-entry interval are unique to the geographic area named in the exception request;
  - v. An explanation as to why, for each requested crop-task combination, alternative practices would not be technically or financially viable. Such alternative practices might include: rescheduling the pesticide application or hand labor activity; using non-chemical pest control alternatives; using an alternative to hand labor tasks, such as machine cultivation; or substituting a pesticide with a shorter restricted-entry interval. This information should include estimates or data on the per acre revenue and cost of production for the crop and area for which the exception is requested. These estimates or data should include: the situation prior to June 3, 1996, the situation after June 3, 1996 if the exception is not granted, the situation after June 3, 1996 if the exception is granted, and specific information on individual factors which cause differences in revenues and costs among the three situations; and
  - vi. A description or documentation of the safety and feasibility of such an exception, including, but not limited to, the feasibility of performing necessary hand labor activity while wearing the PPE required for early entry for the pesticide(s) expected to be applied, the means of mitigating heat related illness concerns, the period of time required daily per worker to perform the hand labor activity, any suggested methods of reducing the worker's exposure, and any other mitigating factors, such as the availability of running water for routine and emergency decontamination and mechanical devices that would reduce the worker's contact with the treated surfaces. The information should include the costs associated with early-entry, such as decontamination facilities, special information and training for the workers, heat stress avoidance procedures, and provision, inspection, cleaning, and maintenance of PPE. The EPA will not grant exceptions where the costs of early entry equal or exceed the expected loss in value of the crop yield or

- quality.
2. When a request for exception is submitted to the Department along with all of the information required in (e)1 above, the Department shall forward the request to EPA. The EPA shall issue a notice in the Federal Register stating that an exception is being considered, describing the nature of the exception, and allowing at least 30 days for interested parties to comment.
    - i. If a request for exception is submitted to the Department without all of the information required in (e)1 above, the Department shall not submit the request to EPA, but shall return the request to the submitter.
  3. The EPA will publish in the Federal Register its decision whether to grant the request for exception. The EPA will base its decision on whether the benefits of the exception outweigh the costs, including the value of the health risks attributable to the exception. If the exception is granted, the notice will state the nature of and the reasons for the exception.
  4. Except as provided for in (e)4i below, persons requesting an exception may assume that the exception has been denied if the US EPA has not issued its decision whether to grant the exception within nine months from the comment closure date specified in the Federal Register notice in which the exception request was announced pursuant to (e)2 above, that EPA would consider the exception.
    - i. Persons requesting an exception shall not assume that the request has been denied as provided above if action has been taken to extend the review period for a specified time interval due to the complexity of the exception request or to the number of exception requests concurrently under review. The EPA will state the reasons for the delay in issuing a decision on the exception request. A notice of such action may be published in the Federal Register or the persons who requested the exception may be notified directly.
  5. When a worker enters a treated area during a restricted-entry interval under an exception granted under this subsection, the agricultural employer shall assure that the requirements of (c)3 through 9 above are met, unless the notice granting the exception specifically states otherwise.
  6. An exception may be withdrawn by the EPA at any time if the EPA receives poisoning information or any other data that indicate that the health risks imposed by this early-entry exception are unacceptable; or if the EPA receives other information that indicates that the exception is no longer necessary or prudent. If the EPA determines that an exception should be withdrawn, it will publish notice in the Federal Register, stating the basis for its determination. Affected parties would then have 30 days to request a hearing on the EPA's determination. The exception, however, would be discontinued as of the date specified by the EPA in the notice, which may include any of the 30 day period and the time required for any subsequent hearing process. Thereafter the EPA will decide whether to withdraw the exception and will publish a notice in the Federal Register stating its decision.
  7. The following administrative exceptions from the requirements of 40 CFR Part 170 have been granted by EPA. Each exception granted by EPA is also granted an exception under this subchapter unless specifically noted below. Each exception listed in this paragraph contains a reference to the Federal Register notice in which EPA has granted the exception and the effective dates of the exception. The terms and conditions of the exception appear in the referenced Federal Register notice.
    - i. Exception for hand labor to harvest greenhouse-grown cut roses published in the Federal Register of June 10, 1994, effective from June 10, 1994 to June 10, 1996.
    - ii. Exception to perform irrigation tasks under specified conditions published in the Federal Register of May 3, 1995, effective May 3, 1995.
    - iii. Exceptions to perform limited contact tasks under specified conditions published in the Federal Register of May 3, 1995, effective May 3, 1995.

## 7:30-12.5 Notice of applications to workers

(a) The agricultural employer shall notify workers of any pesticide application in the greenhouse in accordance with the following:

1. All pesticide applications shall be posted in accordance with (c) below.
2. 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.
3. Notice need not be given to the worker if the agricultural employer can assure 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, work in, remain in, or pass through the greenhouse; or
  - ii. The worker(s) applied or supervised the application of the pesticide(s) for which the notice is intended and is aware of all the information required by (d)1 through 3 below.

(b) The agricultural employer shall notify workers of any pesticide application on the farm or in the nursery or forest in accordance with the following:

1. 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.
2. For any pesticide other than those for which the labeling requires both posting and oral notification of applications, the agricultural employer shall give notice of the application to the worker(s) either by the posting of warning signs in accordance with (c) below or orally in accordance with (d) below and shall inform the worker(s) as to which method of notification is in effect.
3. Notice need not be given to a worker if the agricultural employer can assure that one of the following is met:
  - i. From the start of the application until the end of the application and during any 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; or
  - ii. The worker applied, or supervised the application of, the pesticide for which the notice is intended and is aware of all information required by (d)1 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 background color that contrasts with red;
  - 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 a shade that contrasts with red;
  - iv. The length of the hand shall be twice the height of the smallest letters. The length of the face shall be only slightly smaller than the hand; and
  - 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:



2. The 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 must meet the proportions and other requirements described in (c)1 above.
3. On farms and in forests and nurseries, the signs shall be visible from all points of worker entry to the treated area, including at least each access road, each border with any labor camp adjacent to 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. In greenhouses, the signs shall be posted so they are visible from all usual 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. The signs shall:
  - i. Be posted no sooner 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 within three days after the end of any application and any restricted-entry interval and before agricultural-worker entry is permitted, other than entry permitted by N.J.A.C. 7:30-12.4.
6. The signs shall remain visible and legible during the time they are posted.
7. 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;
2. The time during which entry is restricted; and
3. Instructions not to enter the treated area until the restricted-entry interval has expired.

#### **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 poster in N.J.A.C. 7:30-12.9(e) and (f).

(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;
    - 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, and active ingredient(s) of the pesticide;
  3. The time and date the pesticide is to be applied;
  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 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 from the Department by mail at the following address:

Pesticide Control Program  
Farm worker Information  
**P.O. Box 411**  
Trenton, NJ 08625-0411

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) No person shall apply a pesticide to a farm or crop unless:
1. A fact sheet (when made available by the Department) is kept on file and made readily available to the workers for each agricultural plant pesticide chemical used or stored on the agricultural establishment.
  2. Such fact sheets shall be approved by the Department and shall contain the following information:
    - i. Chemical name(s);
    - ii. Common name(s);
    - iii. Acute health hazards;
    - iv. Chronic health hazards;
    - v. Symptoms of poisonings;
    - vi. Necessary personal protective equipment & practices;

- vii. Re-entry times;
- viii. Emergency first aid procedure.
3. The fact sheets in (e)2 above shall be written in English and in the native language(s) of the workers employed at the agricultural establishment.
4. The fact sheets in (e)2 above shall be written at no more than a fifth grade level.
5. The provisions of (e)2 above shall not apply if the Department is unable to supply the fact sheets and translations.

#### **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. Specific location and description of any such areas; and
2. Restrictions on entering those areas.

#### **7:30-12.8 Worker pesticide safety training**

(a) The agricultural employer shall assure that each worker, required by this section to be trained, has been trained according to this section during the last five years, counting from the end of the month in which the training was completed.

1. The agricultural employer for each agricultural establishment shall also assure that each worker has received a employee orientation at least once each year for each agricultural establishment on which the worker is employed, on the first day of their employment, or at least one day prior to any work in a field which has been treated within the past 30 days. The agricultural employer may delegate such orientation to the crew leader(s); however the agricultural employer is responsible to assure that the orientation is given.
2. Employee orientation training shall meet or exceed the following course content requirements:
  - i. Re-entry, and how workers are informed about re-entry;
  - ii. The location of hand washing facilities, clean clothes and protective clothing;
  - iii. Where to obtain immediate decontamination;
  - iv. A review of bulletin board information;
  - v. The availability of pesticide fact sheets;
  - vi. Hand out the educational pamphlet required pursuant to (i) below, when available.

(b) Before a worker enters a treated area on the agricultural establishment during a restricted-entry interval to perform early-entry activities permitted by N.J.A.C. 7:30-12.4 and contacts anything that has been treated with a pesticide to which the restricted-entry interval applies, including, but not limited to, soil, water, or surfaces of plants, the agricultural employer shall assure that the worker has been trained.

(c) Except as provided for in (b) above, before a worker enters any areas on the agricultural establishment where, within the last 30 days a pesticide to which this subchapter applies has been applied or the restricted-entry interval for such pesticide has been in effect, the agricultural employer shall assure that the worker has been provided the pesticide safety information specified in (e) below, in a manner that agricultural workers can understand, such as by providing written materials or oral communication or by other means. The agricultural employer shall be able to verify compliance with this requirement.

1. Except as provided for in (b) above, before the sixth day that a worker enters any areas on an agricultural establishment where, within the last 30 days a pesticide, to which this subchapter applies, has been applied or a restricted-entry interval for such pesticide has been in effect, the agricultural employer shall assure that the worker has been trained.
  
- (d) 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.
  
- (e) The pesticide safety information required by (c) above shall be presented to the workers in a manner that the workers can understand. At a minimum, the following information shall be provided:
  1. Pesticides may be on or in plants, soil, irrigation water, or drifting from nearby applications.
  2. Prevent pesticides from entering your body by:
    - i. Following directions and/or signs about keeping out of treated or restricted areas.
    - ii. Washing before eating, drinking, using chewing gum or tobacco, or using the toilet.
    - iii. Wearing work clothing that protects the body from pesticide residues.
    - iv. Washing/showering with soap and water, shampoo hair, and put on clean clothes after work.
    - v. Washing work clothes separately from other clothes before wearing them again.
    - vi. Washing immediately in the nearest clean water if pesticides are spilled or sprayed on the body. As soon as possible, shower, shampoo, and change into clean clothes.
  3. Further training will be provided within 5 days.
  
- (f) General pesticide safety information shall be presented to workers either orally from written materials or audiovisually. 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; or
    - ii. Be currently recognized as a trainer of pesticide handlers by a State, Federal, or Tribal agency having jurisdiction; or
    - iii. Have completed a Train-the-trainer program approved by a State, Federal or Tribal agency having jurisdiction.
  2. Any person who issues an EPA-approved Worker Protection Standard worker verification card shall assure that the worker who receives the card has been trained in accordance with (f)3 below.
  3. The training materials shall convey, at a minimum, the following information:
    - i. Where and in what form pesticides may be encountered during work activities;
    - ii. Hazards of pesticides resulting from toxicity and exposure, including acute and chronic effects, delayed effects and sensitization;
    - iii. Routes through which pesticides can enter the body;
    - iv. Signs and symptoms of common types of pesticide poisoning;
    - v. Emergency first aid for pesticide injuries or poisonings;
    - vi. How to obtain emergency medical care;
    - vii. Routine and emergency decontamination procedures, including emergency eye flushing techniques;

- viii. Hazards from chemigation and drift;
  - ix. Hazards from pesticide residues on clothing;
  - x. Warnings about taking pesticides or pesticide containers home or to living quarters;
  - xi. Requirements of this subchapter designed to reduce the risks of illness or injury resulting from workers' occupational exposure to pesticides, including application and entry restrictions, the design of the warning sign, posting of warning signs, oral warnings, the availability of specific information about applications, and the protection against retaliatory acts;
  - xii. A general explanation of the format and content of the pesticide fact sheet (when approved and made available by the Department); and
  - xiii. Worker rights under other state and federal laws concerning:
    - (1) Hazard communication (written information and training), protection from exposure to pesticides, and field sanitation;
    - (2) Agencies responsible for enforcing State and federal laws and regulations regulating the use of pesticides;
    - (3) Procedures for filing complaints to, and obtaining information from, these agencies;
- (g) Except as provided in (g)1 below, if the agricultural employer assures that a worker possesses an EPA-approved Worker Protection Standard worker verification card, then the requirements of (a) above shall have been met.
- 1. A worker's possession of a verification card does not meet the requirements of (a) above if:
    - i. The card has not been issued in accordance with (a) above; or
    - ii. The card has not been issued to the worker bearing the card; or
    - iii. The training was completed more than five years before the beginning of the current month.
- (h) 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.
- (i) Every agricultural employer shall provide the pamphlets prepared pursuant to (h) above, to all workers. Such pamphlets shall be presented to workers at least once annually as part of the employee orientation training required in (a) above, unless the workers already have an updated pamphlet in their possession.
- (j) The Department may waive the initial recognition, or attendance at the Department's "Train-the-Trainer" course, where an applicant has previously been recognized by another State, Territory or Tribal agency pursuant to the regulations of that State, Territory, or Tribal agency, provided that the Department, by cooperative agreement, has previously recognized such State, Territory or Tribal agency as having adopted a trainer recognition program substantially similar to New Jersey's.
- (k) A New Jersey Trainer recognition shall be issued pursuant to (f)1 above, if the following conditions are satisfied:

1. The Department receives proof of a valid recognition from any State, Territory, or Tribal agency which meets the requirements in (j) above; and
2. The trainer demonstrates to the Department a knowledge of relevant New Jersey pesticide laws and regulations.

(l) 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.

(m) Each of the following acts shall constitute a ground for which any of the disciplinary actions described in (l) 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.

(n) 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.

(o) Where the Department acts pursuant to (l) above, the Department shall afford a hearing in accordance with the Administrative Procedures Act, N.J.S.A. 52:14B-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 within 15 days of issuance of the order.

(p) 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.

(q) A trainer shall keep a training roster for each worker or handler trained in New Jersey. This requirement shall include a roster for the annual employee orientation training. Such a roster shall contain the following information:

1. The full name of the worker or handler;
2. The date of training;
3. The name of trainer;
4. The worker's or handler's native language;
5. The training card number;
6. The worker's or handler's birth date; and

7. The place of agricultural employment (if available).
- (r) All rosters required to be kept pursuant to (q) above shall be kept for a minimum of five years.
- (s) All rosters shall be immediately provided upon request by the Department.
- (t) A list of all workers trained shall be sent to the Department, Pesticide Control Program after each training session, within 30 days.

#### **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.
- (b) A safety poster shall be displayed that conveys, at a minimum, the following basic concepts:
  1. Help keep pesticides from entering your body. At a minimum, the following points shall be conveyed:
    - i. Avoid getting any on your skin or into your body any pesticides that may be on plants or soil, in irrigation water, or 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, such as 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. Wash immediately in the nearest clean water if pesticides are spilled or sprayed on the body. As soon as possible, shower, shampoo, and change into clean clothes.
    - vii. Follow directions about keeping out of treated or restricted areas.
  2. There are Federal/ State rules to protect workers and handlers, including a requirement for safety training.
- (c) The name, address, and telephone number of the nearest emergency medical care facility shall be on the safety poster or displayed close to the safety poster.
  1. The agricultural employer shall inform workers promptly of any change to the information on emergency medical care facilities.
- (d) The information shall be displayed in a central location on the farm or in the nursery or greenhouse where it can be readily seen and read by workers.
  1. For forests, the information shall be displayed in a location in or near the forest in a place where it can be readily seen and read by workers and where workers are likely to congregate or pass by, such as at a decontamination site or an equipment storage site.
- (e) Workers shall be informed of the location of the information and shall be allowed access to it.
- (f) 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, within the last 30 days, a pesticide has been applied or a restricted-entry interval has been in effect and contacts anything

that has been treated with the pesticide, including but not limited to, soil, water, or surfaces of plants, the agricultural employer shall provide, in accordance with this section, a decontamination site for washing off pesticide residues.

(b) The agricultural employer shall provide workers with enough water for routine washing and emergency eye flushing. At all times when water is available to workers, the employer shall assure 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. When water stored in a tank is to be used for mixing pesticides, it shall not be used for decontamination or eye flushing, unless the tank is equipped with properly functioning valves or other mechanisms that prevent movement of pesticides into the tank.
2. The agricultural employer shall provide soap and single-use towels at each decontamination site in quantities sufficient to meet workers' needs.
3. To provide for emergency eye flushing, the agricultural employer shall assure that at least one pint of water is immediately available to each worker who is performing early-entry activities permitted by N.J.A.C. 7:30-12.4 and for which the pesticide labeling requires protective eyewear. The eye flush water shall be carried by the early-entry worker, or shall be on the vehicle the early-entry worker is using, or shall be otherwise immediately accessible.

(c) The decontamination site shall be reasonably accessible to where workers are working, placed at the same site as the portable toilet(s).

1. For worker activities 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.
  - ii. The agricultural employer may permit workers to use clean water from springs, streams, lakes, or other sources for decontamination at the remote work site, if such water is more accessible than the water at the decontamination site located 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 exposure period for workers engaged in early-entry activities permitted by 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 surfaces of plants, the agricultural employer shall provide, at the site where workers remove PPE, soap, clean towels, and a sufficient amount of water so that the workers may wash thoroughly.

#### **7:30-12.11 Emergency assistance**

(a) If there is reason to believe that a person who is or has been employed on an agricultural establishment to perform tasks related to the production of agricultural plants has been poisoned or injured by exposure to pesticides used on the agricultural establishment, including, but not limited to, exposures from application, splash, spill, drift, or pesticide residues, the agricultural employer shall:

1. Make available to that person prompt transportation from the agricultural establishment, including any labor camp on the agricultural establishment, to an appropriate medical facility.
2. Provide to that person or to treating medical personnel, promptly upon request, any obtainable information on:

- i. Product name, EPA Registration Number, and active ingredients of any product to which that person might have been exposed;
- ii. Antidote, first aid, and other medical information from the product labeling;
- iii. The circumstances of application or use of the pesticide on the agricultural establishment;
- iv. The circumstances of 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 is handled for use on an agricultural establishment.

(b) This subchapter does not apply when any pesticide is handled for use on an agricultural establishment in the following circumstances:

1. For mosquito abatement, Mediterranean fruit fly eradication, or similar community or area-wide public pest control programs sponsored by governmental entities;
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 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;
7. As attractants or repellents in traps;
8. On the harvested portions of agricultural plants or on harvested timber;
9. For research uses of unregistered pesticides.

(c) The handlers listed in this subchapter are exempt from the specified provisions of this subchapter.

1. 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 through 12.19;
  - 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 any protection listed in (c)1 above 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, and persons performing crop advising tasks under such qualified crop advisor's direct supervision, are exempt from the provisions of: N.J.A.C. 7:30-12.17, 12.20, 12.21 and 12.22.
  - i. A person is under the direct supervision of a crop advisor when the crop advisor exerts the supervisory controls set out in (c)3ii (4) and (5) below. Direct supervision does not require that

the crop advisor be physically present at all times, but the crop advisor shall be readily accessible to the employees at all times.

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.
- (4) The crop advisor shall make specific determinations regarding the appropriate PPE, appropriate decontamination supplies, and how to conduct the tasks safely. The crop advisor shall convey this information to each person under his or her direct supervision in a language that person understands.
- (5) Before entering a treated area, the certified or licensed crop advisor shall inform, through an established practice of communication, each person under his or her direct supervision of the pesticide products and active ingredient(s) applied, method of application, time of application, the restricted entry interval, which tasks to undertake, and how to contact the crop advisor.

### **7:30-12.13 Restrictions during applications**

(a) The handler employer and the handler shall assure 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.

(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 assure:

1. That any handler who handles a fumigant in a greenhouse, including a handler who enters a greenhouse before the acceptable exposure level or ventilation criteria have been met to monitor air levels or to initiate ventilation, maintains continuous visual or voice contact with another handler; and
2. That the other handler has immediate access to the PPE required by the fumigant labeling for handlers in the event entry into the fumigated greenhouse becomes necessary for rescue.

### **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 poster in N.J.A.C. 7:30-12.19(d) and shall be accessible and legible, as specified in N.J.A.C. 7:30-12.19(e) and (f).

(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, and active ingredient(s) of the pesticide;
  3. The time and date the pesticide is to be applied;
  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 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 from the Department by mail at the following address:

Pesticide Control Program  
Farmworker Information  
**P.O. Box 411**  
Trenton, NJ 08625-0411
- 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) No person shall apply a pesticide to a farm or crop unless:
1. A fact sheet (when made available by the Department) is kept on file and made readily available to the handlers, for each agricultural plant pesticide chemical used or stored on the agricultural establishment.
  2. Such fact sheets shall be approved by the Department (when money and resources become available) and must contain the following information:
    - i. Chemical name(s);
    - ii. Common name(s);
    - iii. Acute health hazards;
    - iv. Chronic health hazards;
    - v. Symptoms of poisonings;
    - vi. Necessary personal protective equipment & practices;

- vii. Re-entry times; and
- viii. Emergency first aid procedure.
- 3. The fact sheets in (e)2 above shall be written in English and in the native language(s) of the handlers employed at the agricultural establishment.
- 4. The fact sheets in (e)2 above shall be written at no more than a fifth grade level.
- 5. The provisions of (e)2 above shall not apply if the Department is unable to supply the fact sheets and translations.

**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 treated area;
- 2. The time and date of application;
- 3. The product name, EPA registration number, and active ingredient(s);
- 4. The restricted-entry interval;
- 5. Whether posting and oral notification are required; and
- 6. Any other product-specific requirements on the product labeling concerning protection of workers or other persons during or after application.

**7:30-12.16 Pesticide safety training for handlers**

(a) Before any handler performs any handling task, the handler employer shall assure that the handler has been trained in accordance with this section during the last five years, counting from the end of the month in which the training was completed.

- 1. No handler employer shall require any person under 16 years of age to perform any handling task.**

(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. 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 pesticide handlers by a State, Federal, or Tribal agency having jurisdiction; or
  - iii. Have completed a Train-the-trainer program approved by a State, Federal or Tribal agency having jurisdiction.
- 2. Any person who issues an EPA-approved Worker Protection Standard handler verification card

shall assure that the handler who receives the card has been trained in accordance with (c)3 below.

3. The training materials shall convey, at a minimum, the following information:
  - i. How to read and interpret the pesticide product label and labeling;
  - ii. The proper use of personal protective equipment;
  - iii. The safe operation of equipment for mixing, loading, transferring, or applying pesticides;
  - iv. Applicable New Jersey pesticide regulations;
  - v. Where and in what form pesticides may be encountered during handling activities;
  - vi. Hazards of pesticides resulting from toxicity and exposure, including acute and chronic effects, delayed effects and sensitization;
  - vii. Routes through which pesticides can enter the body;
  - viii. Signs and symptoms of common types of pesticide poisoning;
  - ix. Emergency first aid for pesticide injuries or poisonings;
  - x. How to obtain emergency medical care;
  - xi. Routine and emergency decontamination procedures, including emergency eye flushing techniques;
  - xii. Hazards from chemigation and drift;
  - xiii. Hazards from pesticide residues on clothing;
  - xiv. Warnings about taking pesticides or pesticide containers home;
  - xv. Requirements of this subchapter designed to reduce the risks of illness or injury resulting from workers' and handlers' occupational exposure to pesticides, including application and entry restrictions, the design of the warning sign, posting of warning signs, oral warnings, the availability of specific information about applications, and the protection against retaliatory acts;
  - xvi. General explanation of the format and content of the pesticide fact sheet (if available from the Department); and
  - xvii. Worker and Handler rights under other state and federal laws concerning:
    - (1) Hazard communication (written information and training), protection from exposure to pesticides, and field sanitation;
    - (2) Agencies responsible for enforcing State and federal laws and regulations regulating the use of pesticides; and
    - (3) Procedures for filing complaints to, and obtaining information from, these agencies.

(d) Except as provided in (d)1 below, if the handler employer assures that a handler possesses an EPA-approved Worker Protection Standard handler verification card, then the requirements of (a) above will have been met.

1. If the handler employer hires a handler that an EPA-approved Worker Protection Standard handler verification card has not been issued in accordance with (a) above, or has not been issued to the handler bearing the card, or the training was completed more than five years before the beginning of the current month, a handler's possession of that card does not meet the requirements of (a) above.

(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) The Department may waive the initial recognition, or attendance at the Department's "Train-the-Trainer" course, where an applicant has previously been recognized by another State, Territory or Tribal agency pursuant to the regulations of that State, Territory, or Tribal agency, provided that the Department, by cooperative agreement, has previously recognized such State, Territory or Tribal agency as having adopted a trainer recognition program substantially similar to New Jersey's.

(h) A New Jersey Handler Trainer recognition will be issued pursuant to (c)1 above, if the following conditions are satisfied:

1. The Department receives proof of a valid recognition from any State, Territory, or Tribal agency which meets the requirements in (g) 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,
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. Issuing false or fraudulent Worker Protection Standard handler training certificates;
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;
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 Procedures Act, N.J.S.A. 52:14B-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 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) A handler trainer shall keep a training roster for each handler or worker trained in New Jersey. Such roster shall contain the following information:

1. The full name of the handler;
2. The date of training;
3. The name of the trainer;
4. The handler or worker's native language;
5. The verification card number;
6. The handler or worker's birth date;
7. The place of agricultural employment (if available).

(o) All rosters required to be kept pursuant to (n) above shall be kept for a minimum of five years.

(p) All rosters shall be immediately provided upon request by the Department.

(q) A list of all handlers and workers trained shall be sent to the Department, Pesticide Control Program after each training session within 30 days. This requirement includes the annual employee orientation training.

#### **7:30-12.17 Knowledge of labeling and other site specific information**

(a) The handler employer shall assure that before the handler performs any handling activity, the handler either has read the product labeling or has been informed in a manner the handler can understand of all labeling requirements related to safe use of the pesticide, such as signal words, human hazard precautions, PPE requirements, first aid instructions, environmental precautions, and any additional precautions pertaining to the handling activity to be performed.

1. The handler employer shall assure that the handler has access to the product labeling information during handling activities.

(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 assure 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. If pesticide residue removal is not feasible, the handler employer shall assure that the person who repairs, cleans, or adjusts such equipment is informed:

1. That such equipment is contaminated with pesticides;
2. Of the potentially harmful effects of exposure to pesticides; and
3. Of the correct way to handle such equipment.

### **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 handler employer shall display, in accordance with (b) through (f) below, pesticide safety information.

(b) A safety poster shall be displayed that conveys, at a minimum, 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 plants and soil, in irrigation water, or 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, namely 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. Wash immediately in the nearest clean water if pesticides are spilled or sprayed on the body. As soon as possible, shower, shampoo, and change into clean clothes.
  - vii. Follow directions about keeping out of treated or restricted areas.
2. There are Federal/State rules to protect workers and handlers, including a requirement for safety training.

(c) The name, address, and telephone number of the nearest emergency medical care facility shall be on the safety poster or displayed close to the safety poster.

1. The handler employer shall inform the handlers promptly of any change to the information on emergency medical care facilities.

(d) The information shall be displayed in a central location on the farm or greenhouse where it can be readily seen and read by handlers.

1. For forests, the information shall be displayed in a location in or near the forest in a place where it can be readily seen and read by handlers and where handlers are likely to congregate or pass by, such as at a decontamination site or an equipment storage site.

- (e) Handlers shall be informed of the location of the information and shall be allowed access to it.
- (f) 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 subject 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;
  - 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. 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. When a respirator is specified by the product labeling, it shall be appropriate for the pesticide product used and the activity to be performed. The handler employer shall assure that the

respirator fits correctly.

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 product 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. If handling tasks are performed using properly functioning systems that enclose the pesticide to prevent it from contacting handlers or other persons, and if such systems are used and are maintained in accordance with the manufacturer's written operating instructions, exceptions to labeling-specified PPE for the handling activity are permitted as provided in (d)4i and ii below:
  - i. Persons 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, and any protective gloves specified on the labeling for handlers for the labeling-specified PPE.
  - ii. Persons using a closed system to mix or load pesticides other than those in (d)4i above or to perform other handling tasks may substitute a long-sleeved shirt, long pants, shoes, and socks for the labeling-specified PPE.
  - iii. Persons using a closed system that operates under pressure shall wear protective eyewear.
  - iv. Persons using closed systems shall have all labeling-specified PPE immediately available for use in an emergency.
5. If handling tasks are performed from inside a cab that has a nonporous barrier which totally surrounds the occupants of the cab and prevents contact with pesticides outside of the cab, exceptions to PPE specified on the product labeling for that handling activity are permitted as provided in (d)5i through iv below:
  - i. Persons occupying an enclosed cab may substitute a long-sleeved shirt, long pants, shoes, and socks for the labeling-specified PPE. If a respiratory device is specified on the product labeling for the handling activity, it shall be worn.
  - ii. Persons occupying an enclosed cab that has a properly functioning ventilation system which is used and maintained in accordance with the manufacturer's written operating instructions and which is declared by the manufacturer or by a governmental agency to provide respiratory protection equivalent to or greater than a dust/mist filtering respirator may substitute a long-sleeved shirt, long pants, shoes, and socks for the labeling-specified PPE. If a respiratory protection device other than a dust/mist filtering respirator is specified on the product labeling, it shall be worn.
  - iii. Persons occupying an enclosed cab that has a properly functioning ventilation system which is used and maintained in accordance with the manufacturer's written operating instructions and which is declared in writing by the manufacturer or by a government agency to provide respiratory protection equivalent to or greater than the vapor or gas removing respirator specified

on pesticide product labeling may substitute a long-sleeved shirt, long pants, shoes, and socks for the labeling specified PPE. If an air-supplying respirator or a self-contained breathing apparatus (SCBA) is specified on the pesticide product labeling, it shall be worn.

- iv. Persons occupying an enclosed cab shall have all labeling-specified equipment immediately available and stored in a chemical-resistant container, such as a plastic bag. They shall wear such PPE if it is necessary to exit the cab and contact pesticide-treated surfaces in the treated area. Once PPE is worn in the treated area, it shall be removed before reentering 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 visor 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. Crop advisors entering treated areas while a restricted-entry interval is in effect may wear the PPE specified on the pesticide labeling for early-entry activities instead of the PPE specified on the pesticide labeling for handling activities, provided:
  - i. Application has been completed for at least four hours.
  - ii. Any inhalation exposure level in the labeling has been reached or any ventilation criteria established by 7:30-12.4(c)3 or in the labeling have been met.
- (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 assure 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 be cleaned properly, 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 an undiluted pesticide that has the signal word DANGER or WARNING on the label shall not be reused.
  2. The handler employer shall assure that contaminated PPE is kept separately and washed separately from any other clothing or laundry.
  3. The handler employer shall assure that all clean PPE shall be either dried thoroughly before being stored or shall be put in a well ventilated place to dry.
  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 assure that when dust/mist filtering respirators are used, the filters shall be replaced:
    - 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 assure that when gas or vapor-removing respirators are used, the gas or vapor-removing canisters or cartridges shall be replaced:
  - i. At the first indication of odor, taste, or irritation;
  - ii. According to the manufacturer's recommendations or pesticide product labeling, whichever is more frequent; or
  - iii. 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 personal protective equipment (PPE):
  - i. That such equipment may be contaminated with pesticides;
  - ii. Of the potentially harmful side effects of exposure to pesticides; and
  - iii. Of the correct way(s) to clean PPE and to protect themselves when handling such equipment.
8. The handler employer shall assure that handlers have a clean place(s) away from storage and pesticide use areas where they may:
  - i. Store personal clothing not in use;
  - 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 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) During any handling activity, the handler employer shall provide for handlers, in accordance with this section, a decontamination site for washing off pesticides and pesticide residues.

(b) The handler employer shall provide handlers with enough water for routine washing, for emergency eye flushing, and for washing the entire body in case of an emergency. At all times when the water is available to handlers, the handler employer shall assure 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. When water stored in a tank is to be used for mixing pesticides, it shall not be used for decontamination or eye flushing, unless the tank is equipped with properly functioning valves or other mechanisms that prevent movement of pesticides into the tank.
2. The handler employer shall provide soap and single-use towels at each decontamination site in quantities sufficient to meet handlers' needs.
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 site shall be reasonably accessible to 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. For mixing activities, the decontamination site shall be at the mixing site.
2. The decontamination site for a pilot who is applying pesticides aerially shall be in the airplane 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.

- ii. The handler employer may permit handlers to use clean water from springs, streams, lakes, or other sources for decontamination at the remote work site, if such water is more accessible than the water at the decontamination site located at the nearest place of vehicular access.
- 4. The decontamination site shall not be in an area being treated with pesticides or in an area that is under a restricted-entry interval, unless:
  - i. The decontamination site is in the area where the handler is performing handling activities;
  - ii. The soap, single use towels, and clean change of clothing are in enclosed containers; and
  - iii. The water is running tap water or is enclosed in a container.

(d) To provide for emergency eye flushing, the handler employer shall assure that at least 1 pint of water is immediately available to each handler who is performing tasks for which the pesticide labeling requires protective eyewear. The eye flush water shall be carried by the handler, or shall be on the vehicle or aircraft the handler is using, or shall be otherwise immediately accessible.

(e) 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**

(a) If there is reason to believe that a person who is or has been employed by an agricultural establishment or commercial pesticide handling establishment to perform pesticide handling tasks has been poisoned or injured by exposure to pesticides as a result of that employment, including, but not limited to, exposures from handling tasks or from application, splash, spill, drift, or pesticide residues, the handler employer shall:

- 1. Make available to that person prompt transportation from the place of employment or the handling site to an appropriate emergency medical facility.
- 2. Provide to that person or to treating medical personnel, promptly upon request, any obtainable information on:
  - i. The product name, EPA registration number, and active ingredients of any product to which that person may have been exposed;
  - ii. The antidote, first aid, and other medical information from the product labeling;
  - iii. The circumstances of handling of the pesticide; and
  - iv. The circumstances of exposure of that person to the pesticide.