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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.

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(f) A licensed business shall notify the Department, in writing and within 30 days, of any changes in any information on its license application.

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

(h) Possession or storage of any pesticide on a commercial vehicle, or on a vehicle which meets the definition of a service vehicle, under circumstances which are not listed as exceptions pursuant to (a) above is considered as evidence that the user, owner, or lessee of the vehicle is engaged in the commercial application of pesticides or the operation of a commercial pesticide applicator business.

7:30-7.2 Right of entry or collection of samples

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

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

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

(c) Those portions of a private residence used for business purposes shall be accessible for inspection and sampling. These portions include, but are not limited to, the office and 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

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application containing the following information, unless it is an aquatic pesticide application, in which case a record shall be kept in accordance with N.J.A.C. 7:30-9.3(j):

1. The date of application;
 - i. For pesticides having a specific REI listed on the label or labeling, the date of application shall include the hour completed (which signals the beginning of the REI); and
 - ii. The re-entry time and date;
2. The place of application, namely the specific address, municipality and county;
 - i. For pesticide applications to an agricultural commodity, place of application shall include:
 - (1) The name and address of the farm;
 - (2) The specific field, greenhouse or land area, including the municipality and county;
 - (3) The crop, commodity or stored product that was treated with the pesticide; and
 - (4) The size of the area treated;
3. The brand or trade name, the active ingredients, and the EPA registration numbers of each pesticide used or symbol representing such information, providing the applicator also keeps a list which clearly correlates the symbol used pursuant to (b)1 below;
4. The "recipe" used to mix the pesticide mixture as required by the label. The recipe shall consist of:
 - i. The total amount of pesticide concentrate; and
 - ii. The total amount of diluent.
5. The total amount of pesticide mixture used for each individual application.
 - i. The size of the area treated, when a rate per given area is specified on the label;
6. The full name and pesticide applicator license number of the person making the application, or a symbol that corresponds to that person's name and license number on a separate list of all commercial applicators and/or commercial pesticide operators.
 - i. If the person making the pesticide application is a handler, the record or list shall include the handler's full name;
7. The site of application; and
8. For pesticide applicator business applications of a termiticide, the record shall also include a diagram of the structure treated, depicting:
 - i. The lower level of the structure;
 - ii. The general location of the termite infestation(s) or re-infestation(s) and visible damage;
 - iii. Areas treated; and
 - iv. Any significant items such as location of known wells, drainage systems, "porch over basement" situations and streams and ponds which may be affected by the application.

(b) In addition to the records required by (a) above, the pesticide applicator business shall also keep, in writing, the information required by (b) 1 through 3 below. This information may be kept separately from the records required by (a) above or may be integrated with such records by including on the record of each pesticide application the full name, active ingredients,

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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 restricted-entry interval subject to the provisions of N.J.A.C 7:30-12, shall notify the agricultural employer, owner or lessee responsible for the field being treated of the following:

1. The specific location and description of the areas to be treated;
2. The start and estimated end time and date of application;
3. The product name, EPA registration number, and active ingredient(s);
4. The restricted-entry interval specified on the pesticide labeling;
5. Whether posting and oral notification, or both, are required; and
6. Any restrictions or use directions that the pesticide labeling indicates must be followed for protection of workers, handlers, or other persons during or after application.

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(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

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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 is not currently 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.

(b) No person shall require any individual to perform any task that falls within the definition of handler, unless the individual has been trained as a handler and complies with all handler requirements pursuant to N.J.A.C. 7:30-12, Agricultural Worker Protection.

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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

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has been revoked or suspended, or pending the outcome of a revocation or suspension action initiated by the Department.

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

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

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

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

7:30-7.8 Advertising

The pesticide applicator business shall advertise in accordance with the requirements of N.J.A.C. 7:30-2.12.

7:30-7.9 Container and Containment Rule

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