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ENVIRONMENTAL PROTECTION

COMPLIANCE AND ENFORCEMENT

Pesticide Control Code

Proposed Amendments: N.J.A.C. 7:30-1.2, 3.2, 3.12, 4.4, 5.2, 6.2, 6.8, 6.11, 6.12, 6.13, 7.3, 7.5, 8.2, 8.8, 8.12, 9.11, 11.1, 12.1 through 12.6, and 12.8 through 12.22

Proposed Repeal and New Rule: N.J.A.C. 7:30-11.2

Proposed New Rules: N.J.A.C. 7:30-11.1, 11.3 through 11.12

Authorized By: Catherine R. McCabe, Commissioner, Department of Environmental Protection.

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

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

DEP Docket Number: 03-19-04.

Proposal Number: PRN 2019-060.

A **public hearing** concerning this rulemaking will be held on Tuesday, June 25, 2019, at 9:30

A.M. at:

Department of Environmental Protection

401 East State Street

Trenton, NJ 08625

1st Floor Hearing Room

Submit comments by July 19, 2019, electronically at <http://www.nj.gov/dep/rules/comments>.

Each comment should be identified by the applicable N.J.A.C. citation, with the commenter's name and affiliation following the comment.

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The Department of Environmental Protection (Department) encourages electronic submittal of comments. In the alternative, comments may be submitted on paper to:

Nathalie Verhaegen, Esq.

Attn.: DEP Docket No. 03-19-04

Office of Legal Affairs

New Jersey Department of Environmental Protection

401 East State Street, 7th Floor

Mail Code 401-04L

PO Box 402

Trenton, New Jersey 08625-0402

Written comments may also be submitted at the public hearing. It is requested (but not required) that anyone providing testimony at the public hearing submit a copy of any prepared text to the stenographer at the hearing.

This notice of proposal may be viewed or downloaded from the Department's website at <http://www.nj.gov/dep/rules>.

The agency proposal follows:

Summary

As the Department is providing a 60-day comment period on this notice of proposal, this

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3.3(a)5.

The Pesticide Control Act (Act), N.J.S.A. 13:1F-1 et seq., authorizes the Department to formulate and promulgate, amend and repeal orders, rules, and regulations prohibiting, conditioning, and controlling the sale, purchase, transportation, labeling, use, and application of pesticides that cause, or may tend to cause, adverse effects on people or the environment by any person within this State. The Pesticide Control Code, N.J.A.C. 7:30, was originally adopted on January 18, 1974, and is based, in part, on the U.S. Environmental Protection Agency (EPA) regulations under the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 136 et seq. (FIFRA). Through a FIFRA-authorized agreement, the EPA delegated enforcement of pesticide laws to the Department. The Department's rules must be at least as stringent as the Federal requirements; the Department may regulate the sale or use of pesticides, provided the Department does not allow any sale or use prohibited by FIFRA.

In 2015, the EPA amended the Federal Worker Protection Standard, 40 CFR Part 170, to enhance the protections provided to agricultural workers, pesticide handlers, and other persons, by strengthening the training and notification requirements, pesticide safety and hazard communication information, use of personal protective equipment, and the providing of supplies for routine washing and emergency decontamination. The Department proposes to amend the Agricultural Worker Protection provisions at N.J.A.C. 7:30-12 to ensure that the State's requirements will be no less stringent than the Federal requirements.

The Department also proposes to amend N.J.A.C. 7:30-11, Pesticide Grace Period

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through an administrative process and provide for criminal prosecution of violations in accordance with the Environmental Enforcement Enhancement Act, P.L. 2007, c. 246, which amended the Act.

Amendments to the examination and certification provisions of N.J.A.C. 7:30-3, 5, 6, and 8 allow a Department-approved third-party to administer examinations, and to charge a fee for the service it provides; the proposed amendments also authorize the Department to charge a fee for examinations.

Lastly, the Department proposes to amend N.J.A.C. 7:30-9.11, Notice to apiarists (beekeepers), to define the term “beekeeper” and extend the existing requirement for notice of pesticide application for beekeepers of honeybees to also include beekeepers of native bees. The Department proposes these amendments to conform with N.J.S.A. 13:1F-4.1, which was enacted by the Legislature in 2018.

In addition to the above four categories of amendments and in the sections that it is otherwise amending, the Department proposes to correct grammar and punctuation, and replace the name “Pesticide Program” with “Department.” Examples of amendments for grammar and punctuation include replacing “which” with “that,” replacing “assure” with “ensure,” and adding appropriate commas to lists. Proposed amendments also change plural to singular. Where appropriate, the Department prefers this construction. Throughout the rules, as provisions are added or deleted, the remaining provisions are recodified and cross-references are updated, as needed. Where the existing rules provide the Department address for obtaining forms and information, the proposed amendments provide a website address. In the subchapter regulating

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Agricultural Worker Protection

The EPA amended its Worker Protection Standard, 40 CFR Part 170, in 2015 (80 FR 67496). The amendments to the Federal rules enhanced the protections provided to agricultural workers, pesticide handlers, and other persons, by strengthening the training and notification requirements, pesticide safety and hazard communication information, use of personal protective equipment, and the providing of supplies for routine washing and emergency decontamination. The Federal rules became effective on January 1, 2016, with agricultural employers and handler employers given until January 1, 2018, to comply with most of the new requirements. Accordingly, although the Department's existing rules do not include the new requirements, affected employers in the State have been subject to the requirements of the Federal rules since at least that date. Where the Department proposes to incorporate the Federal rules by reference, the incorporation includes the rules as amended or supplemented.

Assignment of Work (N.J.A.C. 7:30-6.12 and 7.5)

Commercial applicators and businesses are responsible for providing the handler training set forth at N.J.A.C. 7:30-12.16, Pesticide safety training for handlers, to employees who meet the definition of a pesticide handler. The amendments to N.J.A.C. 7:30-6.12, Assignment of work (applicable to commercial pesticide applicators), and 7.5, Assignment of work (applicable to pesticide applicator businesses), mandate that any person who performs a task that falls within

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amended rules when a trained and licensed commercial operator who ordinarily applies pesticides for commercial lawn care purposes is assigned to apply pesticides to nursery stock for transplant to customer properties, which is a task that falls within the definition of “handler,” the operator must receive handler training before he or she may apply the pesticides to the nursery stock.

Records Retention for Agricultural Worker Protection (N.J.A.C. 7:30-12.8, 12.6, 12.14, 12.16, and 12.20)

The Federal rule requires a two-year retention of records for training and pesticide application-related activities for workers and handlers. (See 40 CFR 170.401(d), 170.501(d), and 170.311(b).) The Department proposes a standard retention period of three years to be consistent with its longstanding requirement at N.J.A.C. 7:30-8.8 for private applicators to retain pesticide application records and a list of handlers employed. The Department proposes a retention period of three years in the following sections: N.J.A.C. 7:30-12.6, Providing specific information about applications, for pesticide application information and “safety data sheets” for workers; N.J.A.C. 7:30-12.8, Worker pesticide safety training, for rosters of workers trained; N.J.A.C. 7:30-12.14, Providing specific information about applications, for pesticide application information and safety data sheets for handlers; N.J.A.C. 7:30-12.16, Pesticide safety training for handlers, for rosters of handlers trained; and N.J.A.C. 7:30-12.20, Handler personal protective equipment, for handler respirator training, fit test and medical evaluation.

Pesticide Safety Training for Workers and Handlers (N.J.A.C. 7:30-12.8 and 12.16)

A “worker,” defined at existing N.J.A.C. 7:30-1.2, is an employee who performs field

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tasks, such as weeding and harvesting, and may, thus, contact pesticide residues from applications, but does not handle or apply the pesticide. The “handler,” defined at existing N.J.A.C. 7:30-1.2, mixes, applies, and otherwise handles pesticides. Existing N.J.A.C. 7:30-12.8, Worker pesticide safety training, and 12.16, Pesticide safety training for handlers, require employers to ensure that workers and handlers are trained once every five years. Under the proposed amendments, the workers and handlers must receive full pesticide training annually. The training must take place before any worker or handler performs any task in an area of an agricultural establishment where, within the last 30 days, a pesticide has been used, or a restricted-entry interval has been in effect. The provisions of existing N.J.A.C. 7:30-12.8 that allow a worker to enter pesticide-treated areas without training are proposed to be deleted.

The EPA’s rules now require employers to maintain a training roster to record worker training. Rosters replace the EPA’s former requirement that the worker or handler keep a verification card in his or her possession to indicate that the worker or handler had been trained. Although the roster is new to the Federal rules, existing N.J.A.C. 7:30-12.8 and 12.16 require training rosters, as well as the verification cards. Therefore, to be consistent with the EPA rules, the Department proposes to delete the requirements at N.J.A.C. 7:30-12.8 and 12.16 regarding worker and handler verification cards. The Department also proposes to amend its rules related to training rosters to include the new EPA-required information.

Existing N.J.A.C. 7:30-12.8 and 12.16 require training rosters for workers and handlers to be sent to the Department after each training session. For handler training, this requirement will continue. Existing N.J.A.C. 7:30-12.16(q) requires trainers to send a “list” of

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handlers trained to the Department within 30 days of the training. Since 1993, the Department- required roster has served as the only proof of training that lists the trained handlers. The Department proposes to clarify N.J.A.C. 7:30-12.16(q) by deleting the word “list” and replacing it with “roster.” The Department keeps records to identify and track trained handlers, allowing the handler’s compliance history to be accessible when the handler moves from one agricultural employer to another. As to workers, however, proposed N.J.A.C. 7:30-12.8 no longer requires training rosters to be submitted to the Department. Rather, the Department proposes to periodically survey farm owners to obtain a summary of information from the rosters. The Department anticipates that the survey will be every third year, to coincide with the survey of farm pesticide use that is required at existing N.J.A.C. 7:30-10.9, Submission of data on pesticide distribution or use. In the survey, the Department will request the number of workers trained in a specified year, the native languages of the trained workers (and how many workers spoke each native language), the name of the agricultural employer, and the employment address of the trained worker. Under the proposed, rules training of the workers must take place every year, rather than every five years under the existing rule. The proposed requirement to respond to a periodic survey is less burdensome for the farm owner because the farm owner is not required to submit training rosters for every worker every year. Training rosters must be kept on site for three years, reduced from the five years that the existing rules require, for the reason discussed above in the discussion of records retention for agricultural worker protection.

The proposed requirement to submit a survey is not in the Federal rules; however, the

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Department has an interest in the information because it helps the Department identify the number of workers on farms in the State and languages other than English that are native to the workers. The information collected benefits both the workers and employers by allowing the Department to assess training needs in New Jersey; to determine the amounts or type of printed or online training materials and safety information; to determine the proportion of materials needed in the various languages; to help prepare trainers to be effective during presentations; and to assess needed bilingual skills for Department inspectors. In New Jersey, there are more than a dozen languages spoken among the worker population, including Spanish, Vietnamese, Cambodian, Laotian, Tagalog, Creole, and the indigenous Mayan language of Mexico.

The Department proposes to amend the training requirements for workers at N.J.A.C. 7:30-12.8, and for handlers at N.J.A.C. 7:30-12.16, to meet Federal requirements. For both, the training must be in a location conducive to training and reasonably free from distractions. As in the Federal rules, there are 23 topics of training for workers (replacing the existing 13 topics), and 36 for handlers (replacing the existing 17 topics). The new training topics for workers include, for example, information on emergency assistance and the use of decontamination supplies and medical assistance, symptoms of pesticide poisoning, how to reduce pesticide take-home exposure, the availability of hazard communication materials, minimum age requirements, and the obligations of agricultural employers to provide protections to workers and handlers. The training also includes the meaning of warning signs and how to follow directions and signs regarding keeping out of pesticide-treated areas.

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The Department proposes a new definition of “employ” at N.J.A.C. 7:30-1.2, to describe the circumstances under which a work arrangement is governed by the rules. Because N.J.A.C. 7:30-12 provides protections for workers, identification of who employs another is significant. The proposed replacement definition of “agricultural employer” at N.J.A.C. 7:30-1.2 is rephrased for clarity and includes owners or managers of establishments that hire farm workers or pesticide handlers. The Department proposes to amend the definition of “agricultural establishment” to specify that it includes only the production of agricultural plants and that an establishment that is not primarily agricultural, but produces agricultural plants for transplantation elsewhere, is also considered an agricultural establishment. “Agricultural plant,” as proposed for amendment, specifically excludes pasture and rangeland used for grazing. The proposed definition is more specific about the types of plants that fall within the definition. A “restricted-entry interval” or “REI” refers to the amount of time after the application of a pesticide during which a person may not enter an area. The Department proposes to replace the definition of “restricted-entry interval” to make it clearer; substantively, the definition is unchanged. A “handler” is, generally, a person who is employed to apply pesticides used in the production of agricultural plants. The definition of handler provides the specific criteria for a person to be considered a handler. Consistent with the amendments to the Federal rules, the Department proposes to amend the definition of “handler” to identify the types of employers that employ handlers. The amendments also clarify the activities that a handler performs.

The Department proposes to define “use,” as in “to use a pesticide,” in order to make it clear what constitutes “use” for the purposes of N.J.A.C. 7:30-12. The term includes not only the

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Notification (N.J.A.C. 7:30-12.5)

Existing N.J.A.C. 7:30-12.5, Notification of applications to workers, provides requirements for notice to workers of pesticide application. The Department proposes to amend the notification requirements for both outdoor and greenhouse applications. The Department proposes new definitions of “enclosed space production,” “outdoor production,” and “worker housing area” at N.J.A.C. 7:30-1.2. The term “enclosed space production” replaces “greenhouse” in the rules; “enclosed space production” encompasses more than greenhouses, as described in the definition. “Outdoor production” refers to production in a location that is not enclosed or covered, unlike “enclosed space production.” A definition of “worker housing area” is included to clearly describe living quarters or premises that would determine proper safety posting within certain proximities to the worker housing and a location from which the employer is required to provide emergency transportation in a health emergency.

If a pesticide requires that access to a treated area be restricted for a period of time after application (a “restricted-entry interval”), the proposed amended rule specifies the type of notice, including the type, content, and location, that the agricultural employer must provide to workers. The nature of the notice (whether posted signs or oral warning) depends on how long the restricted-entry interval is. A new provision allows an agricultural employer to use on the warning sign a non-English language other than the required Spanish language, if that language is read by

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the largest group of workers that do not read English. The warning signs must be posted in visible locations, and at all reasonably expected points of worker entry to the treated area, must remain in place during the restricted-entry interval and then be removed. If they remain in place after the restricted-entry interval, the agricultural employer must continue to restrict entry by workers for as long as the warning signs remain posted. In this way, workers will not be conditioned to ignore the notices. However, in some instances, no notice may be required. For example, if the worker is a handler who was involved in the application of the pesticide, and is aware of the restrictions, or if no worker will enter the treated area, then no notice is required. The proposed amended rule, like the existing rule, specifies the content and required locations of the warning sign.

Hazard Communication (N.J.A.C. 7:30-12.6 and 12.14)

N.J.A.C. 7:30-12.6 and 12.14, Providing specific information about applications, requires an agricultural employer to display information about pesticide applications at a central location, when a restricted-entry interval has been in effect within the past 30 days, or there has been an application of a pesticide that is subject to Subchapter 12. The proposed amendments, which conform the rules to the Federal Worker Protection Standard, replace the requirement to post a “fact sheet,” with a “safety data sheet” or “SDS,” proposed to be defined at N.J.A.C. 7:30-1.2 as it is defined in the Federal rule, incorporated by reference, as supplemented or amended. A safety data sheet is written or printed material that the chemical manufacturer or importer prepares and distributes with the chemical – in this instance, a pesticide – to provide safe handling, use, disposal, and other information necessary to protect employees and others who may come in contact with the chemical. Because the Federally defined safety data sheet replaces the fact sheet

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In addition to the posting requirements of the existing rule, the proposed amended rule requires the agricultural employer to also post the application start and finish time, and the site to be treated. The employer must keep the application/hazard information on site for three years after the expiration of the restricted entry interval.

The proposed rule allows workers and handlers, medical personnel, or a designated representative to obtain a copy of any hazard or application information related to the pesticide. A “designated representative,” proposed to be defined at N.J.A.C. 7:30-1.2, is a person that a worker or handler designates in writing as authorized to obtain a copy of pesticide application and hazard information. A request other than by medical personnel must be in writing, and contain the name of the worker or handler, a description of the specific information being requested, the worker’s or handler’s written designation of the person requesting the information, a direction where to send the information (if it is not to be provided in person). The employer may charge a reasonable, non-discriminatory administrative fee to a worker, handler, or designated representative for a copy of information that has already been provided free to the worker or handler.

In addition to the above information regarding pesticide applications, N.J.A.C. 7:30-12.9 and 12.19, Posted pesticide safety information, requires an agricultural employer to display general pesticide safety information. The required safety information relates to keeping pesticides from entering the workers’ or handlers’ bodies, availability of emergency medical treatment

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Department's (as the regulatory agency) contact information. The existing rule requires the information to be displayed in a central location or, if the establishment is a forest, where workers and handlers will readily see it. The proposed amended rule does not require that the safety information be posted in a central location; instead, it requires posting at a location where it can readily be seen, and also where decontamination supplies are provided, if those supplies are located at a permanent site, or are at locations and in quantities to meet the requirements of 11 or more workers.

Information Exchange between Handler and Agricultural Employers (N.J.A.C. 7:30-12.15)

The proposed rules require handler employers that provide pesticide application services to agricultural establishments to provide pesticide application notice to agricultural employers, that is, farm owners. A commercial business that provides pesticide application services to a farm is a "commercial pesticide handler employer," a new term at N.J.A.C. 7:30-1.2. "Commercial pesticide handler employer" does not include a "labor contractor," who provides handlers, but does not supervise or oversee the handlers' work. "Labor contractor" is also a proposed new term. Proposed amendments to N.J.A.C. 7:30-12.15, Notice of application to agricultural employers, are intended to further enhance notice to workers and handlers. The proposed amendments require a handler employer, such as a commercial pesticide handler employer, to provide pesticide application information to an agricultural employer (farm owner), in order that the farm owner can post the information for workers and handlers.

As with the notice requirements of proposed amended N.J.A.C. 7:30-12.6, discussed above,

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Restricted entry requirements (N.J.A.C. 7:30-12.13)

A number of the proposed amendments to the worker protection provisions are intended to decrease the number of incidents in which workers or others are exposed to pesticides through unintentional contact during application. The Department proposes to amend N.J.A.C. 7:30-12.13, Restrictions during applications, to immediately suspend the application of pesticides if any person, other than an appropriately trained handler involved in the application, is within the application exclusion zone. "Application exclusion zone" is a proposed new term at N.J.A.C. 7:30-1.2, referring to the area surrounding the pesticide application equipment that must be free of all persons other than a trained and equipped handler. For the same reason, the Department proposes to amend N.J.A.C. 7:30-12.3, Entry restrictions associated with pesticide applications. Under the proposed amended rule, when pesticides are being applied for outdoor production, only an appropriately trained and equipped handler "involved in the application" may remain in the treated area or the application exclusion zone. The proposed rule identifies the boundaries of the application exclusion zone. To better describe the section, the Department proposes to amend the heading to refer specifically to "entry" restrictions, rather than merely "restrictions"

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Existing N.J.A.C. 7:30-12.3(b) contains entry restrictions during pesticide applications in a nursery. The Department proposes to delete these requirements. The existing restrictions for entry into a greenhouse during pesticide application are proposed to be amended to refer to enclosed spaces. Existing Table 2 is proposed for amendment to be retitled “Entry restrictions during pesticide application in an area of enclosed space production,” and to be recodified as Table 1, provides the criteria for the entry restrictions. The existing table includes restrictions based on the pressure of the pesticide application; the proposed table bases the restrictions (in part) on the size of the droplets being sprayed, consistent with the Federal requirements.

Minimum Age for Handling Pesticides and Working in a Treated Area While a Restricted-Entry Interval is in Effect (N.J.A.C. 7:30-12.1, 12.4, and 12.16)

Proposed amended N.J.A.C. 7:30-12.1, General duties, prohibited actions, establishes a minimum age of 18 for handlers and early entry workers, as required under the Federal rules. An early entry worker is one who enters a treated area after a pesticide application is complete, but before any restricted-entry interval has ended. This age restriction is repeated for early entry workers at proposed amended N.J.A.C. 7:30-12.4, Worker entry restrictions, and for handlers at proposed amended N.J.A.C. 7:30-12.16, Pesticide safety training for handlers. The existing rules established a minimum age of 16 years for handlers.

Restriction on Early Entry into Treated Areas (N.J.A.C. 7:30-12.4)

The existing rules allow workers to enter pesticide-treated areas while a restricted-entry interval is in effect, under certain circumstances. As stated above, this is known as “early entry,” a

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defined term, and the workers are identified as “early-entry workers.” The rules require that the workers be informed of human health hazards, provided with personal protection equipment (called PPE), and instructed on various safety measures. Proposed amended N.J.A.C. 7:30-12.4, Worker entry restrictions, identifies the tasks that the early-entry worker may perform and the specific personal protection equipment that the worker must wear. The agricultural employer must provide the worker with information about the activities and the pesticides, as well as about safety and health precautions, and the need for and use of personal protective equipment. The information must be provided in a manner the worker can understand.

Existing N.J.A.C. 7:30-12.4 places restrictions on the early entry. A worker can have no contact with anything that has been treated with the pesticide, including soil, water, air, or surfaces of plants, and the inhalation exposure level or ventilation requirement listed on the pesticide labeling has been met. The proposed amended rule clarifies that even if the worker is wearing personal protective equipment, the prohibition on contact with anything treated with pesticide remains. The rule is specific regarding the personal protective equipment that is required during early-entry activities. The Department proposes to amend the personal protective equipment requirements to provide further specification regarding the required equipment, including gloves, glove liners, and aprons. The proposed amendments provide further restrictions on the reuse of contaminated personal protective equipment that cannot be cleaned properly.

The existing rule provides that a worker may enter a treated area before the restricted-area interval ends, in order to mitigate the effects of an agricultural emergency, defined at existing N.J.A.C. 7:30-1.2. The proposed amended rule allows the agricultural employer to evaluate

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Consistent with the Federal rules, the Department proposes to delete the provision of the rule that allows the EPA to grant an exception to the early-entry requirements. In its place, the Department proposes exceptions for limited contact and irrigation activities. The proposed rule limits the number of hours of exposure, how much time must have elapsed after the area was treated before the worker may enter the area, the type of pesticide to which the exception applies, and the nature of the limited contact. Further, the task that the worker performs during the entry-restricted interval must be one that, if not performed before the interval expires, would cause substantial economic loss, and there must be no alternative task that would prevent substantial loss. Other than irrigation activities, the need for the task must not have been foreseen.

Decontamination (N.J.A.C. 7:30-12.10 and 12.21)

Existing N.J.A.C. 7:30-12.10, Decontamination, and N.J.A.C. 7:30-12.21, Handler decontamination, require an agricultural employer to provide a decontamination site for washing off pesticide residues. The proposed amendments recharacterize the site as one for routine washing and emergency decontamination. The proposed amendments to the rule specify the nature of the decontamination supplies, and when, where, and to whom they must be made available. In particular, the rule deletes the existing requirement that the employer provide enough water for routine washing and emergency eye flush and replaces it with the requirement to provide a specific amount of water for each employee. The proposed amendments also specify

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Employers may no longer direct workers and handlers to use clean water from springs, streams, lakes, or other sources of water in remote locations, rather than provide decontamination supplies. Employers are required to make the decontamination supplies available as close as possible to the remote site. Although workers and handlers in remote areas should rely primarily on decontamination supplies from the employer, they should rinse immediately using the nearest source of clean water to mitigate exposure, if the natural source is more readily available than decontamination supplies; as soon as possible thereafter they should use the employer-provided supplies. Amended training requirements at N.J.A.C. 7:30-12.8 and 12.16, and posted safety information at N.J.A.C. 7:30-12.19, include the proper use of natural waters at remote sites.

Emergency assistance (N.J.A.C. 7:30-12.11 and 12.22)

Existing N.J.A.C. 7:30-12.11, Emergency assistance (for an employee of an agricultural establishment), and 12.22, Emergency assistance (for a handler employed by an agricultural establishment or a commercial pesticide handling establishment), require employers of workers or handlers, including those handlers employed by the agricultural establishment or those working for a pesticide handling establishment, to provide prompt transportation to an emergency medical facility for employees who have been poisoned or injured by exposure to pesticides used on the establishment. Emergency medical assistance under the existing rule consists of the prompt provision of transportation to an emergency medical facility for the worker or handler and the

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The proposed amendments require the employer to provide treating medical personnel a copy of the safety data sheet and other information about the pesticide, the circumstances of the application or use of the pesticide on the agricultural establishment, and the circumstances that could have resulted in exposure. The amended rules apply only to currently employed workers and handlers, or recently employed workers and handlers within 72 hours after their employment.

Personal Protective Equipment (N.J.A.C. 7:30-12.4 and 12.20)

Existing N.J.A.C. 7:30-12.20, Handler personal protective equipment, requires that when pesticide labeling specifies that a respirator be worn, the employer must ensure that the respirator fits properly. The existing rule does not provide instruction on how to ensure that the respirator fits properly, nor does it require an employer to conduct an evaluation to determine whether the handler is medically fit to use the respirator, or to provide training.

The proposed amendments to the rule require handler employers to comply with Federal Occupational Safety and Health Administration (OSHA) respirator fit testing, training, and medical evaluation requirements whenever a respirator other than a dust or mist filtering mask is required. This will be done by referencing the OSHA requirement at 29 CFR 1910.134(k). The Federal standard includes fitting a user for a respirator, training on whether the respirator seal is intact, and how to properly use and maintain a respirator. Further, the user of the respirator must be medically evaluated to ensure that using a respirator will not cause undue stress on the user's body. The Federal rules require the handler employer to maintain records of the fit test, training,

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The existing rules require employers to ensure that personal protective equipment is cleaned before each day of reuse or disposed of if it cannot be properly cleaned. Proposed amendments require the employer to ensure that contaminated personal protective equipment be rendered unusable as apparel or disposed of in such a way that it is unavailable for further use. Further, a person who cleans, disposes, or otherwise handles contaminated personal protective equipment must wear the gloves that the pesticide labeling identifies as required for mixing and loading the pesticide that contaminated the personal protective equipment. These requirements are in proposed amended N.J.A.C. 7:30-12.4, Worker entry restrictions, and 12.20, Handler personal protective equipment.

Exemptions and Exceptions (N.J.A.C. 7:30-12.2, 12.12, and 12.20)

Certain Pesticide Uses Exempt from Worker Protection Rules

Existing N.J.A.C. 7:30-12.2(b) lists exemptions from worker protection regulations when using a pesticide with worker protection requirements on the pesticide label. These exemptions have been amended to reflect new Federal rules. At N.J.A.C. 7:30-12.2(b)5, plant injection has been deleted and, thus, becomes a covered pesticide use, and clarified language for pesticide use on pasture and rangeland has been inserted. At N.J.A.C. 7:30-12.2(b)6, text on pasture and rangeland use has been deleted, having been covered in paragraph (b)5. At N.J.A.C. 7:30-12.2(b)7, language has been added to clarify that control of vertebrate pests is not exempted from worker protection rules if it is directly related to production of an agricultural plant.

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Immediate Family

Existing N.J.A.C. 7:30-12.2, Standard for workers, and 12.12, Standard for pesticide handlers, exempt the owners of agricultural establishments from the requirements to provide certain protections to themselves and their immediate family members. "Immediate family" includes only the spouse, children, stepchildren, foster children, parents, stepparents, foster parents, brothers, and sisters. The Department proposes to amend the definition of "immediate family" at N.J.A.C. 7:30-1.2 to include in-laws, grandparents, aunts, uncles, nieces, nephews, and first cousins, to match the Federal definition. The exemptions apply to owners and members of their immediate family on any agricultural establishment where a majority of the establishment is owned by one or more members of the same immediate family. The exemption does not apply to family members under 18 years of age. See the New Jersey Child Labor rules at N.J.A.C. 12:58-4.15, which preclude employing minors under 18 years of age as applicators of pesticides or allowing them in any area when such pesticides are being applied.

Certified or Licensed Crop Advisor

Under N.J.A.C. 7:30-12.2, Standard for workers, employers are not required to comply with certain existing handler requirements when an employee performs crop advising tasks in a treated area under a restricted-entry interval, if the employee is a certified or licensed crop advisor or is directly supervised by a certified or licensed crop advisor. A certified or licensed crop advisor is qualified to make specific determinations regarding the appropriate personal protective equipment, decontamination, and safe conduct of persons who work under his or her direct supervision. Accordingly, employers do not need to comply with worker requirements, such as

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The Department proposes to delete the provision of N.J.A.C. 7:30-12.2 that identifies when a person is under the direct supervision of a crop advisor. Also deleted is the provision regarding the crop advisor's determinations regarding what is the appropriate means of personal protection, decontamination, and performance of tasks, and the crop advisor's communication of those determinations to persons under his or her supervision. The proposed replaced rule allows a certified or licensed crop advisor to determine what personal protective equipment is appropriate for themselves before entering a treated area during a restricted-entry interval, and to substitute that equipment for what the pesticide labeling identifies as required. An employer must provide all of the protections that the subchapter requires to an employee who is acting as a crop advisor, but who is not licensed or certified as a crop advisor.

Closed Systems

Existing N.J.A.C. 7:30-12.20, Handler personal protective equipment, permits exceptions to the personal protective equipment specified on pesticide labeling, if the handler is using a closed system to perform handling tasks, identified in the definition of "handler" at N.J.A.C. 7:30-1.2. However, the existing rule does not define "closed system."

"Closed system" is a proposed new term at N.J.A.C. 7:30-1.2, referring to an engineering control that is used to protect handlers from pesticide exposure hazards when they are mixing and loading pesticides. As amended, the exemption in proposed N.J.A.C. 7:30-12.20 requires the handler employer to make available written operating instructions for the closed system, train the

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Aerial Applications – Eyewear Protection

Existing N.J.A.C. 7:30-12.20, Handler personal protective equipment, allows a person in an open cockpit of an aircraft contaminated with pesticide residues to wear a visor, rather than protective eyewear. The proposed amended rule replaces “visor” with “helmet with a face shield lowered to cover the face.”

Enclosed Cabs – Personal Protective Equipment

If a handler is working in an enclosed cab, as proposed to be defined at existing N.J.A.C. 7:30-1.2, existing N.J.A.C. 7:30-12.20, Handler personal protective equipment, provides an exception to the skin and respiratory protection requirements that would otherwise be required due to the protection from exposure provided by a properly enclosed cab. As amended, the rule requires handlers in enclosed cabs to wear the respirator that the pesticide labeling requires, unless the only labeling-specified respirator is a filtering facepiece respirator, or a dust/mist filtering respirator. If either of these respirators is specified, the handler does not need to wear the respirator in the enclosed cab, if the cab has a properly functioning air ventilation system. Otherwise, the handler must wear a respirator inside the enclosed cab during handling activities. The handler may substitute long-sleeved shirts, long pants, shoes, and socks, for the skin and eye protection that the labeling specifies.

Miscellaneous Amendments

The Department proposes new requirements, consistent with the Federal rules, at N.J.A.C.

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7:30-12.1, General duties, prohibited actions. The general responsibilities of the agricultural employer, or handler employer, at N.J.A.C. 7:30-12.1(a)5 will require a supervisor to provide workers and handlers sufficient information to comply with safety requirements. The employer, and supervisor, are advised at N.J.A.C. 7:30-12.1(a)6 that the pesticide label directions are to be followed in the event of inconsistencies with the regulations, although certain exceptions apply. Proposed new N.J.A.C. 7:30-12.1(b) is added to clarify that liability for violations of the worker protection requirements can apply to any person employed or contracted by an agricultural establishment. At N.J.A.C. 7:30-12.1(c), anyone required to comply with the worker protection requirements is prohibited from taking retaliatory action against workers or handlers that comply with, or identify or object to non-compliance, with the rules.

Existing N.J.A.C. 7:30-6.11, Responsibility for commercial pesticide operators, provides that a commercial pesticide applicator is jointly and severally responsible for the violations committed by a commercial pesticide operator under his or her direct supervision. The commercial pesticide applicator may also supervise the work of a pesticide handler, in an agricultural setting; however, the rule is silent as to the commercial pesticide applicator's liability for the handler's violations. The proposed amendment makes it clear that the commercial pesticide applicator is jointly and severally liable for the violations of both the commercial pesticide operator and the pesticide handler whom the commercial pesticide applicator supervises. The Department proposes to amend the heading of the section to include handlers.

Throughout the subchapter, the Department proposes to replace "labeling" with "pesticide

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The Department proposes to amend the definition of “commercial pesticide handling establishment” at N.J.A.C. 7:30-1.2 to replace the descriptions of persons and activities in the definition with the defined terms, “handler,” “crop advising services,” and “agricultural establishment.” The proposed amended definition of “fumigant” clarifies that a pesticide that does not begin as a vapor or gas, but becomes one on application, and that acts as a pesticide when in a gaseous or vapor state, constitutes a fumigant. The Department proposes to amend the definition of “hand labor” to rephrase the surfaces to which the worker has contact and restructure the list of exceptions. The proposed amendments to “person” cause the definition to refer to singular individuals or entities, rather than plural. The Department prefers to regulate in the singular, rather than the plural, when appropriate.

The Department proposes to correct an error at N.J.A.C. 7:30-12.12(c)1, to accurately cite to the rule provisions regarding handler exemptions.

Enforcement and Requests for Adjudicatory Hearings (N.J.A.C. 7:30-11)

Existing N.J.A.C. 7:30-11 contains the Department’s rules governing grace periods for violations of the Act and the Pesticide Control Code. The Department proposes to change the

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The Environmental Enforcement Enhancement Act, P.L. 2007, c. 248 (EEEA), N.J.S.A. 13:1F-10, authorizes the Department to pursue separate non-exclusive paths, singly or in combination. The Department may issue an administrative enforcement order or assess a civil administrative penalty, for which there is a right to an adjudicatory hearing. A civil administrative penalty may not exceed \$25,000 for each violation; however, the Department may additionally assess any economic benefits from the violation that were gained by the violation. The statute also authorizes the Department to commence a civil action in Superior Court for appropriate relief, which may include a civil penalty of not more than \$25,000 for each day that the violation continues; a temporary or permanent injunction; recovery of reasonable costs of enforcement and correcting adverse effects resulting from the violation; an order requiring the violator to restore the site of the violation where possible or provide for off-site restoration alternatives; or recover compensatory damages for any loss or destruction of natural resources. Another enforcement option is to petition the attorney general to bring a criminal action against the violator, bring civil actions, levy civil administrative penalties, and petition the Attorney General to bring criminal actions to enforce the provisions of the Act and rules promulgated under the Act. Before the EEEA, the Department’s only recourse for enforcement of the Act was to institute a civil action.

Purpose and General Provisions (N.J.A.C. 7:30-11.1)

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As stated in proposed new N.J.A.C. 7:30-11.1, Purpose and general provisions, the subchapter governs the Department's assessment of civil administrative penalties and commencement of a civil or criminal action for violations of the Act. The maximum civil penalty the Department may assess is \$25,000; each day that a violation continues is an additional, separate, and distinct offense. The maximum penalty is increased from the maximum of \$3,000 in the Act prior to the EEEA.

To the extent that other recourse is available to the Department, such as suspending a permit, license, or certification, or further enforcement under the Act or another statute, then that recourse remains available to the Department.

Administrative Orders and Civil Administrative Penalties (N.J.A.C. 7:30-11.2 and 11.3)

If the Department determines that there has been a violation, it may issue an administrative order under proposed new N.J.A.C. 7:30-11.2 and assess a civil administrative penalty under proposed new N.J.A.C. 7:30-11.3. The two sections describe the administrative action, the method that the Department will use to notify the violator, and the contents of the administrative order and notice of civil administrative penalty. The Department must notify the violator of the availability of an adjudicatory hearing in accordance with N.J.A.C. 7:30-11.4. Proposed N.J.A.C. 7:30-11.3 also governs when payment of a penalty is due, if an adjudicatory hearing is requested. As the Act, at N.J.S.A. 13:1F-10.d allows, the Department may compromise any civil administrative penalty in an amount and under conditions that the Department determines are appropriate.

Adjudicatory Hearings (N.J.A.C. 7:30-11.4)

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A request for an adjudicatory hearing is governed by proposed new N.J.A.C. 7:30-11.4, Adjudicatory hearings. The new section describes the contents of the request. These include a completed Adjudicatory Hearing Request Checklist, which the Department includes with every administrative order and notice of civil administrative penalty assessment issued under the subchapter. The rule not only requires the requestor to provide identifying information and the document for which a hearing is sought, but also provides that any general denial of the Department's findings will have the effect of an admission of each finding. The Department has found that more detailed responses to the findings result in a more complete factual record. The Department will deny the request for a hearing if it is untimely or incomplete. The hearing will be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Office of Administrative Law's Uniform Administrative Procedure Rules, N.J.A.C. 1:1. Pursuant to N.J.S.A. 52:14B-3.1 through 3.3, a third party may request a hearing only under specific circumstances; accordingly, the proposed rule does not provide a right to a hearing in contravention of the statute.

Civil Administrative Penalty Amount: Base Penalty (N.J.A.C. 7:30-11.6)

Existing N.J.A.C. 7:30-11.2 provides a table of violations and indicates whether the violation is considered minor or non-minor for purposes of a grace period. The Department proposes to repeal N.J.A.C. 7:30-11.2, Pesticide Control Code violation table. Proposed new N.J.A.C. 7:30-11.6, Civil administrative penalty amount: base penalty, identifies violations of the

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N.J.S.A. 13:1F-10.d requires the Department to take into account the type, seriousness, and duration of the violation, and the conduct of the violator. Accordingly, the Department proposes to establish a base penalty for each violation. The base penalty reflects the scenario in which the violator does not have a history of violations, and there are no aggravating factors. For some violations identified in the base penalty table, there is no penalty; instead, the table states, “use matrix.” These violations are those that the Department has determined are likely to have aggravating factors and possibly mitigating factors, as well as making a base penalty inappropriate; accordingly, for those violations the Department will determine the penalty based on the matrix in proposed N.J.A.C. 7:30-11.7.

Civil Administrative Penalty Amount: Matrix (N.J.A.C. 7:30-11.7)

There may be a violation of the Act or N.J.A.C. 7:30 that is not identified in the table at N.J.A.C. 7:30-11.6 or, because of the specific circumstances of the violation, the Department may determine that the penalty amount under N.J.A.C. 7:30-11.6 is too low to account for the seriousness of the violation or the conduct of the violator. This could include, for example, the frequency of a violation. The Department would make such a determination based upon its evaluation of the harm to public health or the environment resulting from the violation, or the lack of cooperation or recalcitrance of the violator in remedying the violation, or any other pertinent factors that the Department determines measure the seriousness or frequency of the

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11.7, Civil administrative penalty amount: matrix. In applying the matrix, the Department will rely on the factors in proposed N.J.A.C. 7:30-11.7, determining the seriousness of the violation, and evaluating the conduct of the violator. As stated above, a violation in which the Department has determined an appropriate base penalty absent a previous history of that violation or other aggravating factors would be subject to the penalty in the base penalty table in N.J.A.C. 7:30-11.6. Otherwise, the Department would determine an appropriate penalty based on the matrix.

For example, if the violation has caused, or has the potential to cause, serious harm to human health or the environment, the seriousness of the violation may be deemed “major” under N.J.A.C. 7:30-11.7(c)1. The violation would be assessed a penalty of between \$7,500 and \$25,000, depending on the conduct of the violator. If the violator’s conduct is determined to be “major” in accordance with N.J.A.C. 7:30-11.7(d)1, then the Department would assess a penalty of between \$15,000 and \$25,000, the statutory maximum. Once a penalty range has been established with the matrix, the calculation of the penalty will begin with the mid-point of the range, then may increase or decrease depending upon factors proposed at N.J.A.C. 7:30-11.7, such as a person’s previous record of violations and corrective actions taken in response to the alleged violation.

The proposed new penalty provisions follow the existing methodology that the Department uses in other enforcement-related rules to base administrative penalties on whether the violation is major or minor, isolated or ongoing. The Department presently uses

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penalty matrices in the penalty provisions of the Freshwater Wetlands Protection Act Rules at N.J.A.C. 7:7A-22, the Water Pollution Control Act rules at N.J.A.C. 7:14-8, the Coastal Zone Management Rules at N.J.A.C. 7:7-29, the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-24, the Solid Waste rules at 7:26-5, and the Hazardous Waste rules at 7:26G-2. The use of the matrix-based approach to establishing base penalties will enable the Department to efficiently create base penalties for new violations and non-routine violations. This will further enhance the predictability of the penalty assessment procedure, and will allow the Department to devote greater resources to addressing those violations that pose a substantial threat to the public.

Grace Period (N.J.A.C. 7:30-11.5)

The Department's existing rules provide a grace period to correct some violations, as required under the Grace Period Law at N.J.S.A. 13:1D-125. The Department is recodifying the grace period provisions as N.J.A.C. 7:30-11.5. Under the Grace Period Law, the Department designates a violation as "minor" for purposes of a grace period if it meets all the statutory criteria for a minor violation, and then assigns a grace period of 30 to 90 days to correct the violation. Note that a minor designation for purposes of a grace period is not necessarily the same as a minor designation for application of the penalty matrix.

To determine whether a violation or category of violation is minor or non-minor for purposes of a grace period, the Department is required to apply the criteria set forth in the Grace Period Law at N.J.S.A. 13:1D-129.b. The existing rule recites the statutory criteria at recodified N.J.A.C. 7:30-11.5(c). In applying the criteria in the Grace Period Law, the

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Department has determined that violations that pose minimal risk to public health, safety, and natural resources, do not undermine or impair the goals of the program, and can be corrected within a designated grace period, would be designated in the penalty table at N.J.A.C. 7:30-11.6 as minor. A designation of a violation as minor is not absolute. The additional statutory criteria regarding the intent of the violator, the duration of the violation, and whether the violation is a repeat offense, are fact-specific for each violation and must be considered on a case-by-case basis. Thus, each violation listed in the table that is identified as minor will be eligible for a grace period only if it meets these additional criteria.

Because the Department proposes a table of violations and penalties at proposed N.J.A.C. 7:30-11.6, the Department proposes to amend the grace period provisions to delete the blanket 45-day grace period and replace it with a reference to the grace period identified in the penalty table.

Existing N.J.A.C. 7:30-11.2 identifies 25 violations as minor for purposes of a grace period. These violations are administrative in nature, and the Department believes (based on its experience administering the existing rules) they can be corrected without undue burden within 30 days; therefore, although the grace period for these violations is 45 days under the existing rule, it is 30 days under the proposed rule. These violations are as follows:

State registration of pesticides: N.J.A.C. 7:30-2.1(a) and (b);

Information submittals such as for experimental pesticides, lists of employees trained, and permit information: N.J.A.C. 7:30-2.1(c), 2.3(a), 9.3(c)2 and (c)3, 9.8(e), 10.9(a), 12.8(t), and 12.16(q);

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Changes in license information such as a new address: N.J.A.C. 7:30-3.3(e), 4.1(h), 5.3(f)

and (g), 6.4(e), 6.11(c), 7.1(f), and 8.3(d);

Submitting names of all pesticide dealer sales agents: N.J.A.C. 7:30-4.1(f);

Operator or applicator license to be carried on one's person: N.J.A.C. 7:30-5.3(h) and 6.4(f);

Information posted on service vehicle: N.J.A.C. 7:30-7.1(e);

Obtaining required information for an aerial application: N.J.A.C. 7:30-10.6(o); and

Providing IPM information to the school community: N.J.A.C. 7:30-13.2(c) and 45-days for N.J.A.C. 7:30-13.2(d).

The Department is also reclassifying some existing violations from non-minor to minor, including violations related to recordkeeping, consumer and public notification, and posting of information. These violations were not subject to a grace period under the existing rule but are subject to a grace period under the proposed rule, if the violation meets the eligibility criteria of proposed N.J.A.C. 7:30-11.2(c). The Department proposes to divide some violations in the existing table of violation into separate violations for being "partially" out of compliance, and "substantially" out of compliance. Violations for being partially out of compliance are eligible for a grace period. As the Grace Period Law allows, the Department is establishing a special category of minor violations that is related to health and safety and for which a grace period of less than 30 days may be required.

Economic Benefit (N.J.A.C. 7:30-11.8)

As provided in the Act at N.J.S.A. 13:1F-10.d, the Department may assess in an

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administrative action against the violator, the amount of any economic benefit that the violator gains from the violation. Similarly, the economic benefit is also available through a civil action that the Department may pursue before the Superior Court, as stated at N.J.S.A. 13:1F-10.e. Therefore, proposed new N.J.A.C. 7:30-11.8, Economic benefit, provides that the Department may add to a civil administrative penalty, an assessment for the economic benefit that the violator has realized as the result of not complying with, or by delaying compliance with, an applicable law or condition. The amount of economic benefit can be assessed in addition to the assessed civil administrative penalty, notwithstanding the penalty maximum of \$25,000, as provided in the Act.

Civil Actions and Penalties (N.J.A.C. 7:30-11.9 and 11.10)

In addition to bringing an administrative action to enforce the Act and the rules, the Act allows the Department to bring a civil action in Superior Court in accordance with N.J.S.A. 13:1F-10.c. The Department proposes at N.J.A.C. 7:30-11.9, Civil action, and 11.10, Civil penalty, to include in the rules, the authority provided in the Act. The maximum civil penalty per violation per day is \$25,000. The Department will base the amount of the civil penalty for violation of N.J.A.C. 7:30 on the penalty matrix at proposed N.J.A.C. 7:30-11.7. The maximum penalty is exclusive of any economic benefit that may be assessed under N.J.A.C. 7:30-11.10. As provided in the Act, the Department may bring a civil action in Superior Court for any violation and seek compensation for environmental damage and restoration of any site damaged. Further, the Department may recover a penalty if a person fails to pay a penalty in full or fails to make payments in accordance with a payment schedule. A civil penalty may also be imposed if

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Criminal Actions (N.J.A.C. 7:30-11.11)

Proposed new N.J.A.C. 7:30-11.11, Criminal action, places into the rules the provisions of the Act at N.J.S.A. 13:1F-10.f, which allow the Department to petition the Attorney General to bring a criminal action in court for violations of the Act or the rules. If convicted, such persons will be found guilty of a crime of the third degree and subject to a fine ranging from \$5,000 to \$50,000 per day of violation, or imprisonment, or both. This section also provides that a violator convicted of knowingly, purposely, or recklessly making a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under the Act or rules, or falsifies or tampers with any monitoring device will be found guilty of a crime of the third degree and subject to a maximum fine of \$50,000 per day of violation, or imprisonment, or both.

Examinations (N.J.A.C. 7:30-3, 5, 6, and 8)

In order to be a pesticide dealer (N.J.A.C. 7:30-3), commercial pesticide applicator (such as for lawn care or pest control in structures) (N.J.A.C. 7:30-6), or private pesticide applicator (a farmer who applies pesticides) (N.J.A.C. 7:30-8), a person must be Department-certified. To become certified, a person must pass one or more examinations. For commercial applicators, a training requirement is a prerequisite to take the examinations.

Under the existing rules at N.J.A.C. 7:30-3, 6, and 8, the Department reviews and

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approves prerequisite courses for credit; tracks required course credits as a prerequisite for examination or qualification for license renewal; processes applications for examination; hosts and grades examinations; notifies applicants of the result of the examination; and maintains examination records. N.J.S.A. 13:1F-9.j allows the Department to “[c]ooperate with, and enter into agreement with, any other agency of this State, or the United States, and any other state or agency thereof for the purpose of carrying out the provisions of this act ...” Based on this authority, the Department proposes to amend N.J.A.C. 7:30-3.2, 3.12, 6.2, 6.13, 8.2, and 8.12 to allow a Department-authorized third party to administer the certification examinations and perform the related duties. The examination provider could be either the Department, or the Department-approved third party; therefore, throughout N.J.A.C. 7:30-3, 6, and 8, the Department proposes to replace references to the Department with references to the examination provider. The third party would charge a fee for its services, as approved by the Department. The proposed rules do not preclude the Department from administering an examination; however, it is not the Department’s goal to continue administering examinations in the long-term. The Department proposes to charge a fee of \$100.00 for each examination that it administers. A description of how the Department determined its fee is set forth in the Economic Impact statement below.

Under the existing reciprocity provisions at N.J.A.C. 7:30-3.12, 6.13, and 8.12, the Department may waive initial certification testing if it determines that the applicant has been certified in another state or territory, under certain conditions. The waiver is part of the examination application process, for which the Department does not charge a fee under the

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As indicated in the proposed amendments at N.J.A.C. 7:30-3.2, 3.12, 5.2, 6.2, 6.13, 8.2, and 8.12, if a third party develops an examination, form, or required training course or materials under an agreement with the Department, then the examination, form, course, or materials are considered Department-approved. Therefore, where the existing rules require a person to complete a Department-approved training course, for example, as in N.J.A.C. 7:30-5.2(a)1, a training course that a Department-approved third party provides will meet the rule's requirements. The Department proposes to restructure N.J.A.C. 7:30-6.2(a) to accommodate the amendments related to the administration of the examination. Other than as set forth above, the substance of the rule remains the same.

Notification to Beekeepers (N.J.A.C. 7:30-9.11)

Existing N.J.A.C. 7:30-9.11, Notice to apiarists (beekeepers), contains the Department's rules requiring notice to beekeepers, voluntarily registered on an annual basis with the Department, of the application of certain pesticides within a three-mile radius. N.J.S.A. 13:1F-4.1, enacted in 2018, codifies into statute, the requirements of the existing rule, and expands its scope. The Senate's statement to bill S2076 explains that the term "apiary" is traditionally

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The Department proposes to amend N.J.A.C. 7:30-9.11 to expand the notice provisions to include both honeybees and native bees. The Department proposes a new definition of "beekeeper" at N.J.A.C. 7:30-1.2, to refer to a person who owns, operates, or maintains a beeyard or beehive inhabited by honeybees or native bees. The Department proposes to replace the term "apiarist" at N.J.A.C. 7:30-9.11 with the new term "beekeeper" to conform to the statute and to include honeybees and native bees. Similarly, the Department proposes to replace the term "apiary" at N.J.A.C. 7:30-9.11 with "beeyard or beehive inhabited by honeybees or native bees."

Social Impact

The Department anticipates that the proposed amendments, repeal, and new rules will have a positive social impact. As to the agricultural worker protection standards, with limited exceptions discussed in the Federal Standards Analysis below, the proposed requirements are the same as the Federal requirements already in effect. Accordingly, the proposed amendments related to agricultural worker protection will have no additional social impact. Likewise, the proposed amendments requiring notice to keepers of native bees will not have a social impact.

The proposed amendments, repeal, and new rules related to enforcement and requests for adjudicatory hearings will have also a positive social impact. The proposed rules enable the

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The proposed amendments related to examinations will also have a positive social impact. By allowing a third party to administer examinations, the Department anticipates that examinations will be available more frequently and, in more locations, than under the existing framework. This will provide the regulated community with more opportunities to become licensed.

Economic Impact

The Department anticipates that the proposed amendments, repeal, and new rules will have minimal economic impact on the regulated community and the Department. The proposed changes apply to approximately 3,000 commercial pesticide applicator businesses; 8,400 individual commercial applicators of pesticides and 4,000 commercial operators under their supervision; 100 pesticide dealer businesses and 200 individual dealers; 200 manufacturers; 1,700 private pesticide applicators (farmers) and 3,000 farming establishments that employ farm workers; 900 recognized trainers of farm workers and handlers; and up to 2,000 pesticide handlers.

Agricultural Worker Protection Standards

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Requirements pertaining to agricultural worker protection standards are proposed to be amended to meet Federal requirements, with two exceptions that will have limited economic impact to the approximately 3,000 employers of pesticide handlers and workers subject to these requirements. These exceptions are retaining records related to training, respirator use, and pesticide application information for a minimum of three years rather than the two-year Federal requirement, and responding to periodic survey by the Department of annual worker training data. A standard record retention period of three years is a reduction from the five years for training records (rosters) that the existing rules require at N.J.A.C. 7:30-12.8 and 12.16, as well as consistent with the Department's current pesticide application and employed handlers' records requirement at N.J.A.C. 7:30-8.8. The Department's five-year retention period for training rosters was based on the previous Federal requirement that comprehensive training for workers and handlers be done every five years. Since the Federal rules now require comprehensive training for workers and handlers annually, a five-year retention period of these records would be excessive. The Department does not anticipate that the additional year of records retention beyond the two-year Federal requirement will result in a cost to the regulated community. In practice, as observed by the Department's inspectors, the regulated community often retains records for even longer than the Department-required period. Completing a periodic survey of workers trained in a given year is not expected to be significantly more time-consuming than the current requirement of faxing or mailing worker training rosters after every training session.

Enforcement and Requests for Adjudicatory Hearings

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The proposed amendments, repeal, and new rules at N.J.A.C. 7:30-11, Enforcement and Requests for Adjudicatory Hearings, will have an economic impact on those persons to whom the Department issues a notice of action or civil administrative penalty assessment. Also, under the existing rules, because the enforcement action is brought before the Superior Court, the regulated community is responsible for Superior Court filing fees in response to an enforcement action. Under the proposed amendments, a violator may file a request for adjudicatory hearing or related motion before the Office of Administrative Law, for which there is currently no filing fee.

Examinations

While the Department currently does not charge for pesticide license certification examinations, the Pesticide Control Act authorizes the Department to establish and charge a fee for the service it performs to cover the Department's actual or projected expenses. Accordingly, the Department proposes to charge \$100.00 for each examination that it administers. The Department currently administers approximately 4,500 "core" and "category" certification exams each year to individuals seeking to qualify for a pesticide license. The core exam covers basic pesticide information, and the category exams cover specific sites treated (such as "ornamental and turf") or pests controlled (such as "termites and other wood destroying pests"). An applicant must pass the core exam and at least one category exam to qualify for a license. At the time of this rulemaking, the Department's costs to administer examinations are budgeted at approximately \$300,000, as set forth below.

Department salaries (2.3 Full Time Equivalent (FTE)):	\$129,856
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Fringe and indirect costs, fiscal year (FY) 2018:	\$107,186
Contractual salary adjustments through FY 2019:	\$13,063
Temporary employee salaries:	\$37,525
Equipment and supplies (Scantron scoring machine, Exam “bubble” sheets, exam booklets, computers):	\$10,000
Travel:	\$2,000
Total:	\$299,630

The Department anticipates that the number of examinations administered annually will decrease to approximately 3,000 if a fee is charged by either the Department or a third party. Therefore, the Department’s cost per examination, if the Department were required to administer all the anticipated examinations, would be approximately \$100.00 (\$300,000 divided by 3,000 examinations). Although the Department may not be required to administer all the examinations in the future, it must anticipate that possibility when it establishes the applicable fee. Moreover, even if the Department itself administers fewer than 3,000 examinations per year, some of the costs associated with the examinations are fixed and will not change. As those fixed costs are spread among fewer examinations, the share of those costs per examination may increase. Therefore, the Department has determined that the proposed fee is a reasonable estimate of anticipated costs to provide the service.

Although the proposed fee applies to exams the Department administers, it is not the goal of the Department to continue administering exams in the long term. The Department anticipates that a third-party entity, will administer future examinations, and charge applicants

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It is anticipated that engaging a third-party entity will save approximately 2.3 FTE in Department staff resources. There will be a one-time start-up cost to the Department of approximately \$275,000 during the first year, in order to fund exam administration until revenues begin covering costs, as set forth below.

Personnel wages/salaries:	\$134,900
Fringe benefits:	\$70,148
Indirect costs:	\$56,746
Hosting/networking services:	\$11,000
Computer supplies:	\$500.00
Computer software:	\$500.00
Project supplies:	\$450.00
Travel:	\$756.00
Total:	\$274,244

The Department will also incur some information and technology (IT) costs of between \$10,000 and \$15,000. This IT investment will enable the Department to upload electronic information from the exam provider to populate existing databases used to issue licenses and license-related invoices by the Department.

Under the existing framework, the Department assigns 2.3 FTE to administering examinations, as shown above. If the Department administers fewer examinations, not all of

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Notification to Beekeepers

Proposed amended N.J.A.C. 7:30-9.11 requires notice to beekeepers of the application of an outdoor pesticide product that according to its label is toxic to bees. The existing rule applies to keepers of honeybees; the proposed amendments expand the notice provisions to keepers of native bees. Persons who apply pesticides subject to the notice requirements may notify beekeepers by certified mail, telephone, facsimile, email, or in person; therefore, there are low-cost and no-cost notification methods available. The Department is not able to estimate the cost to pesticide applicators as a result of the proposed rule since it does not know how many keepers of native bees will register for notification.

Environmental Impact

The Department anticipates that the proposed amendments, repeal, and new rules will have a positive environmental impact, insofar as they allow keepers of native bees to register for notification of pesticide application. The proposed rules related to agricultural worker protection standards are consistent with the Federal rules, which are already in effect. Therefore, they will have no environmental impact beyond the Federal requirements. The proposed rules related to examinations may have some positive environmental impact, because the Department intends to redirect the efforts of up to 2.3 FTE to education and

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Federal Standards Analysis

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq., require State agencies that adopt, readopt, or amend State rules that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. The proposed rules related to enforcement and adjudicatory hearings, examinations, and notice to beekeepers are not promulgated in order to comply with Federal requirements. Accordingly, as to these proposed changes no further analysis is required.

The proposed agricultural worker protection standards at N.J.A.C. 7:30-12 are promulgated in order to maintain compliance with the Federal standards at 40 CFR Part 170. Except as set forth below, the proposed amendments, repeal, and new rules are consistent with Federal requirements.

As discussed in the Summary above, the Department proposes to delete the requirement that a farm employer fax or mail to the Department a worker training roster after each training session. Instead, under proposed amended N.J.A.C. 7:30-12.8, the Department will periodically survey farm owners to obtain a summary of information from the rosters. This includes not only information on the training of workers, but also the native languages of the workers. The periodic survey is not in the Federal rules. However, both the Federal rules and

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the proposed Department rules focus on proper health and safety training for workers. The training for workers is focused on pesticide exposure prevention since the tasks they perform are often in fields that have been treated with pesticides; thus, the worker may spend months or years of daily exposure to pesticide residue. The Department has an interest in knowing the total population of workers in New Jersey together with the languages they speak, in order that the Department may tailor training strategies for the greatest worker benefit. The benefits of knowing the language, including identification of indigenous languages spoken by workers are the same as described for handlers above. Although the proposed requirement will result in less frequent reporting than the existing rule, the Department will obtain a more accurate assessment of the trained worker community in New Jersey.

The Department's proposed rules at N.J.A.C. 7:30-12.12(c) are more stringent than the Federal rules as to exemptions for agricultural establishments owned by one or more members of the same immediate family. Unlike the Federal rules, the proposed rules do not exempt family members who are minors under 18 years of age, because New Jersey child labor laws preclude the exemption.

The last area in which the Department's proposed rules are more stringent than the Federal rules is record retention. At proposed N.J.A.C. 7:30-12.6, 12.8, 12.14, 12.16, and 12.20, the Department requires that records be maintained for three years. This is consistent with the Department's current retention requirement for farm pesticide application records and a farm owners' list of handlers employed at the farm, but is more stringent than the two years that the Federal rules require. Also, the Department recognizes that pesticide effects or illnesses that a

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Retaining pesticide use, safety information, or respirator-related records for three years rather than two, increases the Department's ability to effectively investigate a potential latent pesticide-related health effect.

Jobs Impact

The Department anticipates that the proposed amendments, repeal, and new rules will have little or no impact on job retention or creation in the State. The proposed amendments to the examination provisions may have an impact on job creation, since the examination provider may need additional staff to administer the several thousand examinations per year. However, the Department is not able to estimate the number of jobs that may be created as a result.

Agricultural Industry Impact

The Department anticipates that the proposed amendments, repeal, and new rules will have a small impact on the agricultural industry in the State. In particular, the proposed agricultural worker protection standards will affect the agricultural industry; however, as stated above, the proposed agricultural worker protection standards are largely the same as the Federal requirements, to which the agricultural industry in the State is already subject. Therefore, any impact will be a result of only those two instances in which the proposed rules differ from the Federal requirements. These are the record retention requirements, and the periodic submission of worker training information to the Department. Each of these requirements is discussed in the Summary above.

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Regulatory Flexibility Analysis

The proposed amendments, repeal, and new rules apply to 3,000 commercial pesticide applicator businesses, 100 pesticide dealer businesses, and approximately 3,000 farming establishments that employ farm workers. Most of these businesses fall under the definition of a “small business” under the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., which defines small businesses as those that are independently owned and operated, not dominant in their field, and that employ fewer than 100 full-time employees.

The proposed reporting, recordkeeping, and compliance requirements and their associated costs are discussed in the Summary and Economic Impact above. The Department does not anticipate that professional services will be required to comply with the proposed changes. The rules do not exempt small businesses from the reporting, recordkeeping, or other compliance requirements; improper pesticide use endangers public health, safety, and welfare, which cannot be correlated to the size of the business.

Housing Affordability Impact Analysis

Pursuant to N.J.S.A. 52:14B-4, the Department has evaluated the proposed amendments, repeal, and new rules to determine the impact, if any, on the affordability of housing. The proposed rules regulate users and sellers of pesticides, making it extremely unlikely that they will have an impact on the affordability of housing units or result in a change in the average costs associated with such housing.

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Smart Growth Development Impact Analysis

Pursuant to N.J.S.A. 52:14B-4, the Department has evaluated the proposed amendments, repeal, and new rules to determine the impact, if any, on housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The proposed rules regulate pesticide use and application, making it extremely unlikely that that they will evoke a change in housing production in Planning Areas 1 or 2, or within designated centers.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the rule proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 7:30-11.2.

Full text of the proposed amendments and new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. SCOPE AND DEFINITIONS

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7:30-1.2 Definitions

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

...

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

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

...

"Agricultural plant" means any plant, **or part thereof,** grown, [or] maintained, **or otherwise produced** for commercial [or research] purposes [and includes, but is not limited to, food, feed, and fiber plants;], **including any plant grown, maintained, or otherwise produced for sale or trade, for research or experimental purposes, or for use in part or their entirety in another**

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location. “Agricultural plant” includes, but is not limited to, grains, fruits, and vegetables; wood fiber or timber products; flowering and foliage plants and trees; seedlings and transplants; and turfgrass[; flowers; shrubs; ornamentals; and seedlings] produced for sod. “Agricultural plant” does not include pasture or rangeland used for grazing.

...

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

...

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

...

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

.....

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

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“Commercial pesticide handling establishment” means any [establishment] **enterprise**, 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.] **provides pesticide handler or crop advising services to an agricultural establishment.**

...

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

...

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

...

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

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

...

“Fumigant” means any pesticide [product] that is a vapor or gas [on], or forms a vapor or gas upon application, and whose [method of] pesticidal action is through the vapor or gaseous state.

...

“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[]), and other surfaces that may contain pesticide residues. These activities include, but are not limited to, harvesting, detasseling, thinning, weeding, topping, planting, sucker removal, pruning, disbudding, roguing, and packing produce into containers in the field. Hand labor does not include operating, moving, or repairing irrigation or watering equipment, or performing the tasks of crop advisors.

“Handler” means any person, including a self-employed person:

1. Who is employed [for any type of compensation] by an agricultural [establishment] **employer** or commercial pesticide [handling establishment to which N.J.A.C 7:30-12 applies] **handler employer** and who is:

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- i. Mixing, loading, [transferring] or applying pesticides;
- ii. Disposing of pesticides [or pesticide containers];
- iii. Handling [open] **opened** containers of pesticides[;], **emptying, triple-rinsing, or cleaning pesticide containers according to the instructions on the pesticide labeling, or disposing of pesticide containers that have not been cleaned. The term does not include any person who is handling only unopened pesticide containers or pesticide containers that have been emptied or cleaned according to the instructions on the pesticide labeling;**
- iv.- vi. (No change.)
- vii. Entering [a greenhouse or other] **an** enclosed [area] **space** after the application of a pesticide and before the inhalation exposure level listed on the **pesticide** labeling has been reached or one of the ventilation criteria established by N.J.A.C. 7:30-12.3(c)3 or [in] the **pesticide** labeling has been met:
 - (1)-(3) (No change.)
- viii. Entering a treated area outdoors after application of any soil fumigant **during the period of restricted entry specified on the pesticide labeling** to adjust or remove [soil] coverings [such as tarpaulins] **used in fumigation**; or
- ix. Performing tasks as a crop advisor:
 - (1) (No change.)
 - (2) Before the inhalation exposure level listed in the **pesticide** labeling has been reached or one of the ventilation criteria established by N.J.A.C. 7:30-12.3(c)3 or in the

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pesticide labeling has been met; or

(3) (No change.)

[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.]

...

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

...

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

...

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

...

"Person[s]" means and shall include a corporation[s], [companies] **company**, association[s], [societies] **society**, firm[s], partnership[s], and joint stock [companies] **company**, as well as **an**

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agency or [instrumentalities] **instrumentality** thereof.

...

“Restricted-entry interval” or “REI” 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] **time during which entry into the treated area is restricted**. The restricted entry interval begins at the time that the pesticide application is completed.

...

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

...

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

1. Pre-application activities, including, but not limited to:
 - i. Arranging for the application of the pesticide;
 - ii. Mixing and loading the pesticide; and/or
 - iii. Making necessary preparations for the application of the pesticide, including responsibilities related to worker notification, training of workers or handlers, providing decontamination supplies, providing pesticide safety information and pesticide application and hazard information, use and care of personal protective equipment, providing emergency assistance, and heat stress management;

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2. Application of the pesticide;

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

- i. Worker notification;**
- ii. Training of workers or early-entry workers;**
- iii. Providing decontamination supplies;**
- iv. Providing pesticide safety information and pesticide application and hazard information;**
- v. Use and care of personal protective equipment; and**
- vi. Providing emergency assistance and heat stress management; and**

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

...

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

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SUBCHAPTER 3. PESTICIDE DEALERS

7:30-3.2 Certification

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

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

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

(b) (No change.)

(c) Application for examination[s] shall be made on a form [supplied] **approved** by the Department[, which]. **The application** shall be [filed with the Department] **submitted to the examination provider** no later than midnight of the closing date for the examination as determined by the [Department] **examination provider**.

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

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

7:30-3.12 Reciprocity

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

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

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

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

[3. The department receives all applicable fees.]

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

SUBCHAPTER 4. PESTICIDE DEALER BUSINESSES

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7:30-4.4 Sale of general use pesticides

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

1. A record equivalent to that required under N.J.A.C. 7:30-[4.3(a)]**4.2(a)** shall be kept for each sale referenced in N.J.A.C. 7:30-4.4(a) above (except the license number of the certified pesticide applicator and license number of the pesticide applicator business).

(b)-(c) (No change.)

SUBCHAPTER 5. COMMERCIAL PESTICIDE OPERATORS

7:30-5.2 Training

(a)-(b) (No change.)

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

SUBCHAPTER 6. COMMERCIAL PESTICIDE APPLICATORS

7:30-6.2 Certification and training

(a) In order to become certified, an applicant for a commercial pesticide applicator license who has never before been licensed or who has lost certification pursuant to the requirements of N.J.A.C. 7:30-6.5 or 6.6(b), shall [fulfill the following training and certification requirements:

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1. Pass] **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]. **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] **that** are specific to the commercial category or subcategory in which the applicant has applied to be certified.

1. **The examination shall be Department-approved and administered by the Department or a third party approved by the Department.**
2. **The third party may charge a fee for administering an examination.**
3. **The Department will charge \$100.00 for each examination that it administers.**

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

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

i.-viii. (No change.)

[3.] **2.** (No change in text.)

[4.] **3.** If “on-the-job” training is unavailable for reasons deemed sufficient by the [Department] **examination provider**, the applicant may do one of the following in lieu of

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[(a)3] **(b)2** above:

i.-ii. (No change.)

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

[5.] **4.** If the minimum of 40 hours of [on the job] **on-the-job** practical training or an internship of 40 hours is determined by the [Department] **examination provider** to be unavailable, then the [Department] **examination provider** shall waive [(a)3 and 4] **(b)2 and 3** above and may instead accept completion of a Department-approved correspondence course or [on-line] **online** interactive computer course to satisfy training requirements.

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

Recodify existing 7.-9. as **6.-8.** (No change in text.)

Recodify existing (b)-(c) as **(c)-(d)** (No change in text.)

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

[1. Application forms may be obtained by contacting the Pesticide Control Program, PO

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Box 411, Trenton, NJ 08625-0411.]

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

Recodify existing (e)-(f) as **(f)-(g)** (No change in text.)

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

1.-3. (No change.)

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

7:30-6.8 Records

(a) A commercial pesticide applicator shall keep, for each application of pesticides made by him or her or under his or her direct supervision, a record of application containing the following information, unless it is an aquatic pesticide application, in which case a record shall

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1.-5. (No change.)

6. The full name and pesticide applicator license number of the person making the application, or a symbol [which] **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.-8. (No change.)

(b)-(e) (No change.)

(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] **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] areas **to be treated;**
2. The **start and estimated end** time and date of application;
3. (No change.)
4. The restricted-entry interval **specified on the pesticide labeling;**
5. Whether posting and oral notification, **or both**, are required; and

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6. Any [other product-specific requirements on the product labeling concerning]

restrictions or use directions that the pesticide labeling indicates must be followed for

protection of workers, **handlers**, or other persons during, or after, application.

(g)-(h) (No change.)

7:30-6.11 Responsibility for commercial pesticide operators **and handlers**

(a) (No change.)

(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]**5.3(d)1**, shall be responsible for any violation of the Act committed by [an] **a** commercial pesticide operator under his or her direct supervision. This responsibility shall be joint and several.

(c) (No change.)

(d) Notwithstanding the responsibility of any other person or the exemption of the pesticide applicator from the provisions of this subchapter, the pesticide applicator shall be responsible for any violation of the Act committed by a handler under his or her direct supervision. This responsibility shall be joint and several.

7:30-6.12 Assignment of work

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

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

7:30-6.13 Reciprocity

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

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

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

2. The applicant demonstrates **to the examination provider**, through testing [by the Department], a knowledge of relevant New Jersey Pesticide Control laws and regulations;

[3. The Department receives all applicable fees; and]

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

4. (No change.)

SUBCHAPTER 7. PESTICIDE APPLICATOR BUSINESSES

7:30-7.3 Records

(a) Every business required to become licensed pursuant to the provisions of N.J.A.C. 7:30-7.1 shall keep, for each application of pesticides made by that business, a record of application containing the following information, unless it is an aquatic pesticide application, in which case a record shall be kept in accordance with N.J.A.C. 7:30-9.3(j):

1.-5. (No change.)

6. The full name and pesticide applicator license number of the person making the

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application, or a symbol [which] **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.-8. (No change.)

(b)-(e) (No change.)

(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] **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] areas **to be treated**;

2. The **start and estimated end** time and date of application;

3. (No change.)

4. The restricted-entry interval **specified on the pesticide labeling**;

5. Whether posting and oral notification, **or both**, are required; and

6. Any [other product-specific requirements on the product labeling concerning]

restrictions or use directions that the pesticide labeling indicates must be followed for protection of workers, handlers, or other persons during or after application.

(g) (No change.)

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7:30-7.5 Assignment of work

(a) (No change.)

(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.

SUBCHAPTER 8. PRIVATE PESTICIDE APPLICATORS

7:30-8.2 Certification

(a) In order to become certified, an applicant shall pass an examination [that includes] **administered by the Department or a third party approved by the Department. The examination shall include** core subject matter, as well as specific category subject matter. The examinations may be written, and when deemed necessary by the Department, may include performance testing, and shall include, but not be limited to, all areas of required knowledge set forth in Federal regulations 40 CFR 171. The core subject matter shall include such areas as pesticide safety and handling, current laws and regulations, understanding of label and labeling information, including the name of the pesticide, the crop, animal, or site to which it will be applied, pest(s) to be controlled, when and how to apply, harvest intervals, related environmental hazards, poisoning symptoms, and disposal techniques. The specific category subject matter shall include areas of required knowledge [which] **that** are specific to the type of pesticide use performed by the applicator.

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

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

(b) (No change.)

(c) Application for examination[s] shall be made on a form [supplied] **approved** by the Department [which]. **The application** shall be [filed with the Department] **submitted to the examination provider** no later than midnight of the closing date for the examination, as determined by the [Department] **examination provider**.

[1. Forms may be obtained by contacting the Pesticide Control Program, PO Box 411, Trenton, NJ 08625-0411.]

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

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

7:30-8.8 Records

(a) Any person required to be licensed as a private pesticide applicator shall keep, for each application of a pesticide made by him or her or under his or her direct supervision, a record of application containing the following information, unless the application is of aquatic pesticide, in which case a record shall be kept in accordance with N.J.A.C. 7:30-9.3(j):

1.-5. (No change.)

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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] **that** corresponds to that person's name [and license number] on a separate list of all private applicators and/or handlers.

(b)-(d) (No change.)

(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] areas **to be treated**;
2. The **start and estimated end** time and date of application;
3. (No change.)
4. The restricted-entry interval **specified on the pesticide labeling**;
5. Whether posting and oral notification, **or both**, are required; and
6. Any [other product-specific requirements] **restrictions or use directions** on the [product labeling concerning protection of workers] **pesticide labeling that are to be followed in order to protect workers, handlers**, or other persons during or after application.

(f) (No change.)

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7:30-8.12 Reciprocity

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

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

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

2. The registrant demonstrates **to the examination provider**, through testing, [by the Department] a knowledge of relevant New Jersey Pesticide Control laws and regulations;

[3. The Department receives all applicable fees; and]

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

4. (No change.)

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SUBCHAPTER 9. PESTICIDE EXPOSURE MANAGEMENT

7:30-9.11 Notification to [apiarists (]beekeepers[)]

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

1. (No change.)
2. [Maintains an apiary, which is] **Owns, operates, or maintains a beeyard or beehive inhabited by honeybees or native bees** located within three miles of the target site; and
3. (No change.)

(b) (No change.)

(c) Notification may be made to the [apiarist] **beekeeper** by telephone; in person; by regular or certified mail with sufficient lead time to arrive the day prior to the application; by facsimile (fax) or [e-mail] **email**. If no application is made on the intended date, then the individual shall be notified again according to (h) below.

(d) The Department may alter the interval of time needed for notification if any person can demonstrate to the satisfaction of the Department that an emergency situation has occurred and an immediate application is required to control a sudden and unexpected pest infestation, but time does not reasonably allow the giving of an advance 24-hour notice; provided, however, that notice of emergency applications shall be given to the [apiarist himself] **beekeeper** as soon as reasonably possible before or after the application.

(e) If the [owner or operator of an apiary] **beekeeper** does not choose to move, cover, or

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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) (No change.)

(g) Any person required to notify [apiarists] **beekeepers** pursuant to the provisions of (a) above shall not be responsible for notifying any [apiarist] **beekeeper** who cannot be notified because:

1. The Department failed to provide information deemed necessary by the Department for such notification[;], provided[,], that the person required to notify the [apiarist] **beekeeper** requested the information from the Department at least two weeks prior to the application date; or

2. The person required to notify the [apiarist] **beekeeper** was unable to contact the [apiarist, providing] **beekeeper, provided that** one telephone contact is attempted between the hours of 9:00 A.M. and 10:00 P.M. on the last day before the 24-hour notification limit.

(h) If the application date is changed so that the application will not occur on the intended date specified in the original notification of application but will be conducted during the next consecutive day, notification shall be given to the individual [apiarist] **beekeeper** as soon as reasonably possible but not later than 10:00 P.M. the night prior to the new application date.

(i) The provisions of this section shall not apply to any pesticide application [which] **that** is made for agricultural purposes, except to the following crops within the dates stated below or

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when in the flowering stage:

1. – 10. (No change.)

(j) No person shall apply a community or area wide application of a pesticide product[, which] **that** has information on its label or labeling noting that the product is toxic to bees, on forest or shade tree hardwood tree species[,] within one mile of a commercial blueberry field during the period April 15 through May 31 unless:

1. – 2. (No change.)

(k) (No change.)

(l) The applicator or applicator business is exempt from the provisions of (a) above if the [apiarist] **beekeeper** signs a waiver [which] **that** states that notification is declined:

1. (No change.)

2. The waiver may be withdrawn by the [apiarist] **beekeeper** at any time by notifying the applicator or applicator business, in writing.

3. – 4. (No change.)

5. Waivers do not relieve the applicator or applicator business from responsibility to transmit appropriate warnings or precautions to the [apiarist] **beekeeper**, pursuant to N.J.A.C. 7:30-10.2.

SUBCHAPTER 11 [PESTICIDE GRACE PERIOD REGULATIONS] **ENFORCEMENT AND REQUESTS FOR ADJUDICATORY HEARINGS**

7:30-11.1 Purpose and general provisions

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(a) This subchapter governs the Department's assessment of civil administrative penalties, and commencement of a civil or criminal action for violations of the Act. This subchapter also governs the procedures for requesting an adjudicatory hearing on a notice of civil administrative penalty assessment or an administrative order.

(b) Nothing in this subchapter is intended to affect the Department's authority to revoke or suspend any permit, license, or other operating authority issued under the Act. Specifically, the Department may revoke or suspend a permit, license, certification, or other operating authority, without regard to whether a civil administrative penalty has been or will be assessed pursuant to this subchapter.

(c) Neither the assessment of a civil administrative penalty nor the payment of same shall be deemed to affect the availability to the Department of any other enforcement provision provided for by the Act, or any other statute, in connection with the violation for which the assessment is levied.

(d) For purposes of this subchapter, any person who undertakes or performs an obligation imposed upon another person pursuant to the Act, including any rule promulgated, and any administrative order, permit, license, certification, or other operating authority issued pursuant to the Act, may at the discretion of the Department be subject to a civil administrative penalty pursuant to this subchapter in the same manner and in the same amount as the person to which the obligation was initially imposed.

(e) Each violation of the Act, or violation of any rule promulgated, any administrative order, permit, license, or other operating authority issued pursuant to the Act, shall

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constitute an additional, separate, and distinct violation.

(f) Each day during which a violation continues shall constitute an additional, separate, and distinct violation.

7:30-11.2 Administrative order

(a) Whenever, on the basis of available information, the Department finds a person in violation of any provision of the Act, or any rule promulgated, any administrative order, permit, license, or other operating authority issued pursuant to the Act, the Department may issue an administrative order:

- 1. Specifying each provision of the applicable law that has been, or is being, violated;**
- 2. Citing the action that constituted the violation;**
- 3. Requiring immediate compliance with the provision, or provisions, violated;**
- 4. Requiring the person responsible for the violation to return to the site location and conduct a clean-up to reduce or remove the pesticide to a level deemed acceptable by the Department in accordance with N.J.A.C. 7:30-10.7; and**
- 5. Providing notice of the right to a hearing on the matters contained in the order.**

(b) An administrative order issued pursuant to (a) above may include a notice of civil administrative penalty pursuant to N.J.A.C. 7:30-11.3.

7:30-11.3 Civil administrative penalty

(a) Whenever, on the basis of available information, the Department finds a person in

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violation of any provision of the Act, or in violation of any rule promulgated, any

administrative order, permit, license, or other operating authority issued pursuant to the Act, the Department may assess a civil administrative penalty of no more than \$25,000 for each violation, not including any amount assessed for economic benefit as determined under N.J.A.C. 7:30-11.8. The amount of the civil administrative penalty for a violation of the Act shall be determined pursuant to N.J.A.C. 7:30-11.6, 11.7, and 11.8.

(b) To assess a civil administrative penalty, the Department shall notify the violator by certified mail (return receipt requested) or by personal service. This notice of civil administrative penalty assessment shall:

- 1. Identify each section of the applicable law violated;**
- 2. Concisely state the facts alleged to constitute the violation;**
- 3. Specify the amount of the civil administrative penalty; and**
- 4. Advise the violator of the right to request an adjudicatory hearing under N.J.A.C.**

7:30-11.4.

(c) The violator shall pay a civil administrative penalty immediately upon receipt of the Department's final order in a contested case, or as soon as a notice of civil administrative penalty assessment becomes a final order, as follows:

- 1. If no hearing is requested pursuant to N.J.A.C. 7:30-11.4, a notice of civil administrative penalty assessment becomes a final order on the 36th day after the violator receives the notice of civil administrative penalty assessment.**

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2. If the Department denies a hearing request pursuant to N.J.A.C. 7:30-11.4(c) or (d),

a notice of civil administrative penalty assessment becomes a final order upon the violator's receipt of the denial.

3. If the Department grants a hearing, a notice of civil administrative penalty assessment becomes a final order upon the violator's receipt of a final order in the contested case.

(d) The Department may, in its discretion, settle any civil administrative penalty assessed pursuant to this subchapter, based on an evaluation of the following factors:

1. Mitigating or extenuating circumstances not previously considered in the assessment of penalties;

2. The violator's timely implementation of measures leading to compliance, which measures were not previously considered in the assessment of penalties, including measures to clean up, reverse, or repair environmental damage caused by the violation, or to remove the violation; or

3. Any other terms or conditions acceptable to the Department.

7:30-11.4 Adjudicatory hearing

(a) A person requesting an adjudicatory hearing shall send a completed Adjudicatory Hearing Request Checklist and written request for a hearing to:

1. Office of Legal Affairs

ATTENTION: Adjudicatory Hearing Requests

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Department of Environmental Protection

Mail Code 401-04L

PO Box 402

401 East State Street, 7th Floor

Trenton, New Jersey 08625-0402; and

2. Bureau of Pesticide Compliance and Enforcement

PO Box 420

Mail Code 401-04A

Trenton, New Jersey 08625-0420

(b) The person requesting a hearing shall include with the completed Adjudicatory

Hearing Request Checklist the following information:

1. The name, address, telephone number, and email address of:

i. The person the Department named in the document for which the hearing is sought;

ii. A contact person or authorized representative, if the person the Department named in the document is other than an individual; and

iii. The person's attorney, if any;

2. The date the person received the document for which a hearing is sought;

3. A copy of the document for which a hearing is sought, pursuant to (a) above;

4. An admission, a denial, or an averment of insufficient knowledge or information of the findings listed in the document being contested, as follows:

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i. If the person is without knowledge or information sufficient to form a belief as to the truth of a specific finding, the person shall so state and this shall have the effect of a denial;

ii. If a person intends to deny any finding or portion of the finding in the document:

(1) The person shall identify the finding or portion of the finding that is denied.

A general denial of some or all of the findings shall have the effect of an admission of each finding generally denied;

(2) For each finding or portion of a finding the person denies, the person shall explain the factual and legal basis of the denial. Any failure to provide a factual and legal basis for a denial shall have the effect of an admission of the finding; and

(3) The person shall ensure that each denial fairly meets the substance of the finding or portion of the finding denied. A denial that does not meet the substance of the finding denied shall have the effect of an admission of the finding; and

iii. If a person fails to either admit or deny any specific finding or portion of a finding, this shall have the effect of an admission of that finding.

5. A list of all factual and legal issues that the person is contesting, with each defense position stated in short and plain terms;

6. If the person's response to the Department allegation of noncompliance is that the person has complied with some or all of the applicable requirements, a description of all such compliance, including specific citation to each applicable requirement with which the

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person alleges it has complied; the facts and circumstances of the compliance, including a copy of any submission that is required by that applicable requirement; or other evidence of compliance and the date of compliance;

7. Documents or information supporting the request for a hearing, and specific reference to, or copies of other written documents relied on to, support the request;

8. An estimate of the time required for the hearing (in days and/or hours); and

9. A request, if necessary, for a barrier-free hearing location for physically disabled persons.

(c) If the Department does not receive the hearing request within the number of days specified in the notice or order that is being contested, the Department shall deny the hearing request.

(d) If the violator fails to include all the information required under (b) above, the Department shall deny the hearing request.

(e) Any adjudicatory hearing shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(f) Nothing in this section shall be construed to provide a right to an adjudicatory hearing in contravention of N.J.S.A. 52:14B-3.1 through 3.3.

7:30-[11.1]11.5 Grace period

(a) This [subchapter] section identifies violations of this chapter as minor or non-minor in

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(b) The person responsible for any minor violations listed in the table at N.J.A.C. 7:30-[11.2]**11.6(a)5** shall achieve compliance within [45 days of the notification of minor violation] **the number of days specified in the table**, unless otherwise noted.

(c) (No change.)

(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] **that** is designated as minor in accordance with the table [in] **at** N.J.A.C. 7:30-[11.2]**11.6** and in accordance with (c) above, it shall issue a notice of violation to the person responsible for the minor violation [which] **that**:

1. (No change.)

2. Notifies the person responsible for the violation that a penalty may be imposed under the Pesticide Control Act and this chapter, as applicable, unless compliance is achieved within the time period provided for the violation as set forth in [(a) above] **N.J.A.C. 7:30-11.6**.

(e)-(g) (No change.)

7:30-11.6 Civil administrative penalty amount: base penalty

(a) **When the Department assesses a civil administrative penalty for a violation of this chapter, the Department shall use the penalty schedule in the table at (a)5 below, except for circumstances listed at N.J.A.C. 7:30-11.7, and subject to the conditions in (a)1 through 5**

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below and any other Department statutory or regulatory powers.

1. The Department reserves the right to impose the statutory maximum penalty for any violation.
2. For a repeat violation of the same rule where the previous violation occurred less than two years prior, the Department shall double the base penalty.
3. For the purpose of this section, violation of the “same rule” means violation of the same specific requirement of a rule. Where a rule has a list of specific requirements, the same item on the list must be violated to be considered violation of the “same rule.”
4. If “Use Matrix” appears in place of a base penalty in the table at (a)5 below, refer to N.J.A.C. 7:30-11.7 for the Department method for calculating a penalty.
5. The table below provides the rule citation, description, base penalty, type of violation under the Grace Period Law (“Minor” or “M” and “Non-Minor” or “NM”), and the grace period in days, if applicable. For N.J.A.C. 7:30-13, the base penalty is listed as N/A (not applicable) since there is no penalty assessed for violations of the subchapter.

<u>Citation</u> (N.J.A.C. 7:30-)	<u>Violation</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
2.1(a)	State Unregistered Product (per product)	\$1,000	M	30
2.1(a)	Federal Unregistered Product (per	Use Matrix	NM	

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	product)			
2.1(b)	Failure to register each pesticide product requiring Department registration	\$1,000	M	30
2.1(c)	At the time of registration, failure to file a statement with the Department with the correct information	\$1,000	M	30
2.1(o)	Failure of registrant to follow the requirements of the Federal Container and Containment regulations, as incorporated by reference	\$1,000	NM	
2.3(a)	Failure to submit required EUP information	\$1,000	M	30
2.3(c)	Failure to notify the Department of specific EUP information	\$1,000	NM	
2.5(a)	Failure to allow the Department to enter and inspect	Use Matrix	NM	
2.6(a)	Failure of the records to contain the required information	\$1,000	M	30

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2.6(a)	Failure to maintain or submit a record concerning the delivery, movement, or holding of a pesticide	\$1,000	NM	
2.6(b)	Failure to allow access to records and/or provide copies of records	Use Matrix	NM	
2.7(a)	Failure to meet pesticide label or container specifications	\$1,000	NM	
2.7(d)	Detach, alter, deface, or destroy, wholly or in part, a pesticide label or labeling (per product)	Use Matrix	NM	
2.7(e)	Add a substance to, or remove a substance from, a pesticide in a manner that may defeat the purpose of the Act or regulations (per product)	\$1,000	NM	
2.7(f)	Reveal or use confidential or trade secret information for personal gain	\$25,000	NM	
2.7(g)	Refuse access to or to copy records of business transactions involving	Use Matrix	NM	

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	pesticides			
2.7(h)	Registered pesticide label or labeling missing, obscured, altered, etc.	\$1,000	NM	
2.7(i)	Use or store a pesticide in a manner that may endanger a man or woman or his or her environment or that may contaminate food, feed, or other products	\$1,000	NM	
2.7(j)	Making false or misleading claims through the media relating to the effects of a pesticide, the degree of certification required, or the application methods to be utilized	\$1,000	NM	
2.7(k)	Failure of any person to follow the requirements of the Federal Container and Containment regulations, as incorporated by reference	\$1,000	NM	
2.9(a)	Distribute, sell, offer for sale,	\$1,000	NM	

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	purchase, or use an EPA-suspended or canceled pesticide			
2.9(b)	Use of a tributyl tin (TBT) paint with an unacceptable release rate	\$1,000	NM	
2.9(c)	Distribute or use a State-suspended or canceled pesticide	\$1,000	NM	
2.11(f)	Distributing or selling a restricted use pesticide for resale only, to a retail dealer or distributor without first informing the purchaser in writing that the pesticide being distributed or sold is a restricted use pesticide	\$1,000	NM	
2.12(a)	Advertising in a manner that implies EPA- or Department-approval of the person, the pesticide, or the pest control technique used	\$1,000	M	30
2.12(b)1 through 7	Advertising in a manner that states or implies that a pesticide, pesticides, pest control technique or services that include the use of	\$1,000	M	30

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	pesticides, are non-toxic or safe			
2.12(c)	Advertising or representing oneself in any manner to the public, as performing a service for which licensing is required without being licensed	\$1,000	M	30
2.12(d)	Advertising in a manner that is in violation of State or Federal law	\$1,000	NM	
3.1(a)	Unregistered pesticide dealer (Federally restricted pesticides)	\$1,750	NM	
3.1(a)	Unregistered pesticide dealer (New Jersey-restricted pesticides)	\$1,000	NM	
3.3(e)	Failure to notify the Department of changes in dealer registration information	\$1,000	M	30
3.6(a)	Failure to allow entry for inspection, sampling, or collection of records	Use Matrix	NM	
3.7(a)	Failure to maintain a record of the sale of a restricted use pesticide, or the record is substantially deficient	\$1,000	NM	

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3.7(a)	A record of the sale of a restricted use pesticide is partially deficient	\$1,000	M	30
3.7(b)	Failure to maintain a record of a sale for the minimum three-year period	\$1,000	NM	
3.7(c)	Failure to make a record available to the Department upon request	Use Matrix	NM	
3.7(c)	Failure, upon request, to immediately provide a record to medical personnel in emergency cases	Use Matrix	NM	
3.7(d)	Failure to keep a record of the sale of pesticides used under a State or Federal Experimental Use Permit, FIFRA Section 18, or Section 24(c) registration separately from the other records of sale	\$1,000	M	30
3.8(a)	Failure to require a purchaser to present a valid license	\$1,000	NM	
3.8(a)5ii	Failure to obtain a statement signed by the end user that the	\$1,000	M	30

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	New Jersey-restricted use pesticide shall not be used in New Jersey			
3.8(b)	Failure to conduct a sale under the direct supervision of a licensed dealer	\$1,000	NM	
3.8(c)1	Misrepresentation of the degree of licensing required by the applicator	\$1,000	NM	
3.8(c)2	Dissemination of misinformation as to the correct use of a pesticide	\$1,000	NM	
3.8(d)	Failure to inform a dealer or distributor that a pesticide is restricted use	\$1,000	NM	
3.9(a)	The sale of a pesticide to an unlicensed person without giving the required information sheet or failure to maintain a record of who is given the information sheet	\$1,000	M	30
3.9(c)	Failure to provide a record of sale to the Department upon request	Use Matrix	NM	
3.10	Requiring an unlicensed person to distribute a restricted use pesticide	\$1,000	NM	

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3.11(e)	Failure to return a dealer and/or dealer business license to the Department within two weeks of a suspension or revocation	\$3,750	NM	
3.13	Failure of any person who is a dealer to follow the requirements of the Federal Container and Containment regulations, as incorporated by reference	\$1,000	NM	
4.1(a)	Unregistered dealer business (Federally restricted pesticide sale)	\$3,750	NM	
4.1(a)	Unregistered dealer business (State-restricted pesticide sale)	\$1,750	NM	
4.1(b)	Failure to register each pesticide outlet and/or each name (Federal-restricted pesticide sale)	\$1,000	NM	
4.1(b)	Failure to register each pesticide outlet and/or each name (State-restricted pesticide sale)	\$1,000	NM	
4.1(f)	Failure of a dealer business to submit the name and address of a	\$1,000	M	30

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	sales person or agent			
4.1(h)	Failure to notify the Department of changes in dealer business registration information	\$1,000	M	30
4.1(i)	Failure to post a list of persons to contact in case of a pesticide accident	\$1,000	M	1
4.2(a)	Failure to maintain a record of the sale of a restricted use pesticide or the record is substantially deficient	\$1,000	NM	
4.2(a)	A record of the sale of a restricted use pesticide is partially deficient	\$1,000	M	30
4.2(b)	Failure to maintain records of a sale for the minimum three-year period	\$1,000	NM	
4.2(c)	Failure to make a record of pesticide sale immediately available to the Department or to medical personnel	Use Matrix	NM	
4.2(d)	Failure to keep the record of sale for EUP, Section 18, or 24(c)	\$1,000	M	30

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	separate from other records of sale			
4.3(a)	Failure of a dealer business to require the purchaser to present a valid license	\$1,000	NM	
4.3(a)	The sale of a restricted use pesticide to an unlicensed person	\$1,000	NM	
4.3(a)	The sale of a State-restricted use pesticide to an out-of-State purchaser without obtaining a signed statement or keeping a record of the sale	\$1,000	M	30
4.3(b)	Failure to inform a dealer or distributor that a pesticide is restricted use	\$1,000	NM	
4.3(c)	Failure to conduct restricted use pesticide sale under the supervision of a dealer employed at the outlet	\$1,000	NM	
4.4(a)	The sale of a pesticide to an unlicensed person without providing the required information	\$1,000	M	30

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	sheet or failure to maintain a record of who is given the information sheet			
4.5(a)	Failure to allow entry for inspection, sampling, or collection of records	\$5,000	NM	
4.6	Requiring an unlicensed person to sell restricted use pesticides	\$1,000	NM	
4.7(e)	Failure of the pesticide dealer business to return the pesticide dealer business license to the Department within two weeks of a suspension or revocation	\$3,750	NM	
4.8	Failure of any person who is a dealer business to follow the requirements of the Federal Container and Containment regulations, as incorporated by reference	\$1,000	NM	
5.1(a)	Unlicensed commercial pesticide operator	\$1,000	NM	

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5.1(d)	A commercial pesticide operator supervised the use of a pesticide	\$1,000	NM	
5.2(a)	Failure to meet the requirements for training as a commercial pesticide operator	\$1,000	NM	
5.3(d)1i	Failure to obtain and/or send a signed statement about a change in supervisor	\$1,000	M	30
5.3(d)2	Failure to apply for a new commercial pesticide operator's license due to a change in employer	\$1,000	NM	
5.3(f)	Failure to notify the Department of a change in registration information	\$1,000	M	30
5.3(g)	Failure of the cosigner for a commercial pesticide operator license to notify the Department of changes in registration information	\$1,000	M	30
5.3(h)	Failure of a commercial pesticide operator to maintain his or her	\$1,000	M	30

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	license on his or her person during pesticide application			
5.6	Failure to allow entry for inspection, sampling, or collection of records	Use Matrix	NM	
5.7(d)1	Failure to return a pesticide operator's license to the Department within two weeks of a suspension or revocation	\$3,750	NM	
6.1(a)	Unlicensed commercial applicator	Use Matrix	NM	
6.4(e)	Failure to notify the Department of a change in commercial pesticide applicator license information	\$1,000	M	30
6.4(f)	Failure of a commercial pesticide applicator to maintain his or her license on his or her person during pesticide application	\$1,000	M	30
6.7(a)	Failure to allow entry for inspection, sampling, or collection of records	Use Matrix	NM	

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6.8(a)	Failure to maintain a record of pesticide application or the record is substantially deficient	\$1,000	NM	
6.8(a)	A record of pesticide application is partially deficient	\$1,000	M	30
6.8(b)	Failure of a commercial pesticide applicator to maintain a listing of the pesticide applied or to keep training records separate	\$1,000	M	30
6.8(c)	Failure of a commercial pesticide applicator to maintain a record for the minimum time period required	\$1,000	NM	
6.8(d)	Failure to make a record of pesticide application immediately available to the Department or medical personnel	Use Matrix	NM	
6.8(e)	Failure to provide a copy of the application record to a customer upon written request	\$1,000	NM	
6.8(f)	Failure to provide an agricultural employer with required	\$1,000	NM	

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	information or the information is substantially deficient			
6.8(f)	The information given to an agricultural employer is partially deficient	\$1,000	M	
6.8(g)	Failure to keep records of application for EUP, Section 18, and 24(c) pesticides separately	\$1,000	M	30
6.9(d)1	Failure to return the commercial pesticide applicator license to the Department within two weeks of a suspension or revocation	\$3,750	NM	
6.10	Failure to present a valid license when purchasing a restricted use pesticide	\$1,000	NM	
6.11(a)	Failure of the cosigner for a commercial pesticide operator license to ensure that the commercial pesticide operator obtained adequate training as required pursuant to N.J.A.C. 7:30-	\$1,000	NM	

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	5.2(a)			
6.11(c)	Failure of the co-signer for a commercial pesticide operator license to notify the Department of changes in the registration information	\$1,000	M	30
6.12	Requiring an unlicensed individual or untrained handler to use or apply a pesticide	Use Matrix	NM	
6.14	Failure of any person who is a commercial pesticide applicator to follow the requirements of the Federal Container and Containment regulations, as incorporated by reference	\$1,000	NM	
7.1(a)	Unlicensed applicator business	Use Matrix	NM	
7.1(c)	Failure to register each place of business	\$1,000	NM	
7.1(c)	Failure to register each business name	\$1,000	M	30
7.1(d)	Failure of a business to employ at	\$1,000	NM	

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	least one commercial pesticide applicator certified and registered in the proper category or subcategory			
7.1(e)	Failure of a business to prominently display the required information on each service vehicle	\$1,000	M	30
7.1(f)	Failure of a business to notify the Department of changes in license information	\$1,000	M	30
7.2	Failure to allow entry to inspect, sample, or collect records	Use Matrix	NM	
7.3(a)	Failure to maintain a record of pesticide application or the record is substantially deficient	\$1,000	NM	
7.3(a)	A record of pesticide application is partially deficient	\$1,000	M	30
7.3(b)	Failure of a commercial pesticide applicator business to maintain adequate required list of pesticides applied, applicators employed, or	\$1,000	M	30

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	training records			
7.3(c)	Failure of a business to maintain a record of pesticide application for the minimum time period	\$1,000	NM	
7.3(d)	Failure to make a record of application immediately available to the Department or medical personnel	Use Matrix	NM	
7.3(e)	Failure of a business to provide a customer with a copy of the application record upon request	\$1,000	NM	
7.3(f)	Failure of the pesticide applicator or business to provide an agricultural employer with the information required or the information is substantially deficient	\$1,000	NM	
7.3(f)	The information given to an agricultural employer is partially deficient	\$1,000	M	
7.3(g)	Failure to keep a record of	\$1,000	M	30

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	application for EUP, Section 18, and 24(c) pesticides separately			
7.4(a)	No proof of insurance	\$1,000	NM	
7.5	Requiring an unlicensed individual or untrained handler to use or apply a pesticide	Use Matrix	NM	
7.6(d)1	Failure of the pesticide applicator business to return the pesticide applicator business license to the Department within two weeks of a suspension or revocation	\$3,750	NM	
7.9	Failure of any person who is a commercial pesticide applicator business to follow the requirements of the Federal Container and Containment regulations, as incorporated by reference	\$1,000	NM	
8.1(a)	Unlicensed private applicator	Use Matrix	NM	
8.3(d)	Failure of a private pesticide applicator to notify the	\$1,000	M	30

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	Department of a change in license information			
8.7(a)	Failure to allow entry for inspection, sampling, or collection of records	Use Matrix	NM	
8.8(a)	Failure to maintain a record of a pesticide application or the record is substantially deficient	\$1,000	NM	
8.8(a)	A record of pesticide application is partially deficient	\$1,000	M	30
8.8(b)	Failure of a private pesticide applicator to maintain a required record, specifically a list of pesticides used, or handlers employed	\$1,000	M	30
8.8(c)	Failure of a private pesticide applicator to maintain an application record for the minimum of three years	\$1,000	NM	
8.8(d)	Failure to make a record of application immediately available	Use Matrix	NM	

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	to the Department or to medical personnel			
8.8(f)	Failure to keep records of application for EUP, Section 18, and 24(c) pesticides separately	\$1,000	M	30
8.9	Failure to present a valid license when purchasing a restricted use pesticide	\$1,000	NM	
8.10	A private applicator requiring an unlicensed individual or untrained handler to apply a pesticide	\$1,000	NM	
8.14	Failure of any person who is a private pesticide applicator to follow the requirements of the Federal Container and Containment regulations, as incorporated by reference	\$1,000	NM	
9.2(a)	Failure to obtain a mosquito/fly permit prior to the application	\$1,000	NM	
9.2(c)4	Applying a pesticide prior to receiving written approval from the	\$1,000	NM	

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	Department for a change to an approved mosquito/fly control permit			
9.2(f)	Failure to coordinate a community or area wide mosquito control program with the county agency	\$1,000	NM	
9.2(g)	Failure to fulfill a condition of a mosquito/fly control permit	\$1,000	NM	
9.3(a)	Failure to obtain an aquatic pesticide permit	\$1,000	NM	
9.3(c)2	Failure to provide the Department with the information required as a condition for evaluation/approval of the aquatic pesticide permit application	\$1,000	M	30
9.3(c)3	Failure to submit the Department requested report	\$1,000	M	30
9.3(c)4	Failure to notify the Department of a change in an aquatic pesticide permit and failure to obtain approval prior to the application	\$1,000	NM	

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9.3(e)	Failure to fulfill a condition of an aquatic use permit	\$1,000	NM	
9.3(j)	Failure to conform to the recordkeeping requirements of the “Record of Actual Treatment” (BPO-03 and BPO-06)	\$1,000	NM	
9.4(a)	Failure to comply with a notification provision	\$1,000	NM	
9.4(b)	Failure to provide label and/or exact treatment date	\$1,000	NM	
9.4(c)	Failure to comply with posting requirements	\$1,000	NM	
9.4(d)	Failure to notify specific aquatic users	\$1,000	NM	
9.4(e)	Failure to comply with community and area-wide notification	\$1,000	NM	
9.4(f)3	Failure to maintain a copy of a notification waiver on file for at least three years	\$1,000	M	30
9.4(f)4	Failure to provide a copy of a notification waiver to the	Use Matrix	NM	

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	Department immediately upon request			
9.5(a)	Storing a restricted use pesticide; not posted with a warning sign	\$1,000	M	3
9.5(a)	Failure to store a restricted use pesticide properly	\$1,000	NM	
9.5(b)	Failure to maintain, or send, a list of pesticides stored (and a written description or diagram depicting the exact location) to the local fire company with cover letter (no fire has occurred)	\$1,000	M	3
9.5(b)	Failure to maintain, or send, a list of pesticides stored (and a written description or diagram depicting the exact location) to the local fire company with cover letter (a fire has occurred)	Use Matrix	NM	
9.5(b)1	Failure to send a list of pesticides stored to the local fire company each year by May 1	\$1,000	M	7

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9.5(b)2	Failure to keep a list of pesticides stored at a location that is separate from the actual storage site	\$1,000	M	7
9.5(b)3	Failure to explain, in a cover letter, that the list of pesticides stored has been sent pursuant to N.J.A.C. 7:30-9.5(b)	\$1,000	M	30
9.5(b)4	Failure to maintain a copy of each year's cover letter on file for three years	\$1,000	M	30
9.5(c)	Failure to properly store a restricted use pesticide in a building used as a private residence	\$1,000	NM	
9.5(d)	Failure to properly store a restricted use pesticide in a commercial building or institution	\$1,000	NM	
9.5(e)	Storing a restricted use fumigant in a multi-family private residence, or multi-unit commercial establishment or institutions	\$1,000	NM	
9.5(f)	Failure to comply with any service	\$1,000	NM	

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	vehicle requirement, or service vehicle is substantially deficient			
9.5(f)	Service vehicle is partially deficient	\$1,000	M	3
9.5(g)	Storage of a pesticide near food or animal feed	\$1,000	NM	
9.5(h)	Failure of any person who stores or displays any pesticide to have equipment immediately available for spill response and clean up	\$1,000	M	1
9.6(a)	EPA-registered label is partially missing, obscured, altered, or unreadable	\$1,000	M	3
9.6(a)	EPA-registered label is missing	\$1,000	NM	
9.6(b)	Failure to comply with any service container labeling requirement or the labeling is substantially deficient	\$1,000	NM	
9.6(b)	Service container labeling is partially deficient	\$1,000	M	1
9.6(c)	Placing or keeping a pesticide in a container commonly used for food,	\$1,000	NM	

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	drink, or household products			
9.6(d)	Failure to conform to the requirements of the Federal Container and Containment regulations, as incorporated by reference	\$1,000	NM	
9.7(a)	Disposal of a pesticide in a manner that caused harm or injury to persons or the environment	Use Matrix	NM	
9.8(a)	Failure to immediately contain, cover, or remove a pesticide spill in an emergency	Use Matrix	NM	
9.8(c)	Failure of a responsible person to immediately notify the Department of a spill or incident	Use Matrix	NM	
9.8(d)	Failure to dispose of any pesticide released as a result of an emergency, in accordance with a Department-approved plan	Use Matrix	NM	
9.8(e)	The written plan for disposal as a result of an emergency failed to	\$1,000	M	30

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	satisfy the Department			
9.9(a)	Failure to properly maintain the application equipment	\$1,000	NM	
9.9(b)	Failure to properly calibrate the application equipment	\$1,000	NM	
9.9(c)	Failure to supply safety equipment in good working order and train employees in its proper use	\$1,750	NM	
9.9(d)	Failure of an applicator, operator, or handler to wear the appropriate safety equipment while mixing or loading 2,4-D	\$1,000	NM	
9.10(b)	Failure to provide community or area-wide notification	\$1,000	NM	
9.10(b)5	Failure of the pesticide applicator to provide information at least 12 hours prior to the community or area-wide application when requested by a person residing in the vicinity.	\$1,000	NM	
9.10(e)	Failure to provide additional	\$1,000	NM	

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	notification for publicly sponsored/funded community or area-wide pesticide applications			
9.11(a)	Failure to provide beekeeper notification	\$1,000	NM	
9.11(b)	Beekeeper notification substantially deficient	\$1,000	NM	
9.11(b)	Beekeeper notification partially deficient	\$1,000	M	1
9.11(d)	Notice of emergency applications was not given to a beekeeper as soon as reasonably possible before or after the application	\$1,000	NM	
9.11(h)	Failure to provide updated notification the night prior to the new application date	\$1,000	NM	
9.11(j)	Performing a community or area-wide application on hardwood tree species within one mile of a commercial blueberry field during the period April 15 through May 31	\$1,000	NM	

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9.11(k)	Applying a microencapsulated formulation, known to be toxic to bees, either in the crop or in the ground cover below or abutting the crop, while the crop or the ground cover was in bloom	\$1,000	NM	
9.12(b)1	Failure to provide a Consumer Information Notice to a single-family resident, or the notice provided is substantially deficient	\$1,000	NM	
9.12(b)1	Consumer Information Notice provided to a single-family resident is partially deficient	\$1,000	M	7
9.12(b)2	Failure to provide the specific date of pesticide application or a copy of a label upon request	\$1,000	NM	
9.12(b)4	Failure to provide household or structural pesticide application notification requested by the new homeowner of a single-family residence that was treated pursuant	\$1,000	NM	

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	to a real estate transaction			
9.12(c)1	Failure to post a decal notice in each unit prior to the start of the application	\$1,000	M	15
9.12(c)2	Failure to post a decal prominently in the appropriate location	\$1,000	M	7
9.12(c)3	Failure to provide a copy of all information required in N.J.A.C. 7:30-9.12(c)4i through ix upon request	\$1,000	NM	
9.12(c)4	Failure to provide a consumer information notice or the notice provided is substantially deficient	\$1,000	NM	
9.12(c)4	Consumer information notice provided is partially deficient	\$1,000	M	7
9.12(c)5	Failure to provide prior notification of the specific date of application upon request by the tenant or resident	\$1,000	NM	
9.12(d)1	Failure to notify at an institution, or commercial or public building, or	\$1,000	NM	

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	the notification provided is substantially deficient			
9.12(d)1	Notification provided at an institution, or commercial or public building is partially deficient	\$1,000	M	7
9.12(d)2	Failure to provide prior notification of the specific date of application or a copy of a label upon request of the contracting party or occupant	\$1,000	NM	
9.12(d)3	Failure to post notification information in an institution, or commercial or public building, or the posted notification information is substantially deficient	\$1,000	NM	
9.12(d)3	Notification information posted in an institution, or commercial or public building is partially deficient	\$1,000	M	7
9.12(d)4	Failure to post and maintain appropriate notification sign in a large public place	\$1,000	M	7
9.12(e)	Failure to properly notify an	\$1,000	NM	

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	adjoining resident before using an aerosol or fog			
9.13(b)1	Failure to post the proper sign when making a turf and/or ornamental application	\$1,000	M	1
9.13(b)2	Failure to provide a Consumer Information Notice, or the notice provided is substantially deficient	\$1,000	NM	
9.13(b)2	The Consumer Information Notice provided is partially deficient	\$1,000	M	7
9.13(b)3	Failure to provide prior notification of the specific date of a pesticide application upon request by the contracting party	\$1,000	NM	
9.13(c)1	Failure to post the proper signs at a multi-family residence, or industrial or commercial building	\$1,000	M	1
9.13(c)2	Failure to provide a Consumer Information Notice at a multi-family residence, or industrial or commercial building, or the notice	\$1,000	NM	

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	provided is substantially deficient			
9.13(c)2	Consumer Information Notice provided is partially deficient	\$1,000	M	7
9.13(c)3	Failure to provide the specific date of pesticide application upon request	\$1,000	NM	
9.13(d)1	Failure to post the proper notification sign at a golf course	\$1,000	M	3
9.13(d)1ii	Failure to make a necessary change to the required notification information on the signs at the starting tees	\$1,000	M	3
9.13(d)2	Failure to supply information requested by any person in writing	\$1,000	NM	
9.13(d)3	Failure to supply notification information to the residents pursuant to 9.13(b)2, or the notification is substantially deficient, and/or failure to post pursuant to 9.13(b)1	\$1,000	NM	
9.13(d)3	The notification to residents	\$1,000	M	7

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	pursuant to 9.13(b)2 is partially deficient			
9.13(d)3	Failure to post pursuant to 9.13(b)1	\$1,000	M	1
9.13(d)4	Failure to post pursuant to 9.13(b)1 when the treated area is not part of the actual playing course	\$1,000	M	1
9.13(e)1 through 6	Failure to post properly at a school, institution, park, or similar site	\$1,000	M	1
9.13(e)7	Failure to provide a Consumer Information Notice to contracting party, or the notice provided is substantially deficient	\$1,000	NM	
9.13(e)7	The Consumer Information Notice is partially deficient	\$1,000	M	7
9.13(e)8	Upon request by the contracting party, failure to provide a specific date of application, or a copy of the label of the pesticides used to control turf or ornamental pest at a school, institution, park, or similar	\$1,000	NM	

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	site			
9.14(a)	Failure to provide notification to a school, or the notification provided is substantially deficient	\$1,000	NM	
9.14(a)	The school notification provided is partially deficient	\$1,000	M	1
9.15(a)	Failure to give notification when requested or under conditions that indicated that notification was necessary	Use Matrix	NM	
9.15(b)	Failure to give notification or take a reasonable precaution before application may commence	Use Matrix	NM	
9.16	Failure to comply with or inadequate general agricultural notification	\$1,000	NM	
9.17(a)	Failure to notify the Department of a reportable pesticide spill	Use Matrix	NM	
9.17(b)	Failure to immediately report a reportable spill by telephone to the Department Hotline, and file a	Use Matrix	NM	

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	written report within 10 days			
10.2(a)	Pesticide label violation	Use Matrix	NM	
10.2(a)	Technical pesticide label violation, with no risk or damage	\$1,000	M	7
10.2(b)	Transporting, handling, storing, mixing, or loading a pesticide that caused harm, injury, damage, or risk	Use Matrix	NM	
10.2(c)	Applying a pesticide that causes harm, injury, damage, or risk	Use Matrix	NM	
10.2(d)	Directly applying a pesticide to a non-target site	Use Matrix	NM	
10.2(e)	Applying a pesticide without taking reasonable precautions, before, during and after the application	Use Matrix	NM	
10.2(f)	Drift or other movement of a pesticide to a non-target site	Use Matrix	NM	
10.2(g)	Cleaning or rinsing container or application equipment in a manner that caused harm, injury, damage, or risk	Use Matrix	NM	

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10.2(h)	Failure to have back-flow prevention, causing significant risk of harm or injury, or actual harm or injury	Use Matrix	NM	
10.2(h)	Failure to have back-flow prevention, but no significant risk of harm or injury	Use Matrix	M	1
10.2(i)	Failure to have the label for the pesticide at the application or mixing site	\$1,000	M	1
10.2(j)	Applying a pesticide when people were within the boundaries of the target site to which the pesticide was applied	\$1,000	NM	
10.2(k)	Performing a community or area-wide pesticide application for gypsy moth control during normal student commuting times	\$1,000	NM	
10.2(l)	Failure to have a properly licensed applicator present at a fumigation location for the duration of the	Use Matrix	NM	

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	application			
10.2(m)	Application of a pesticide containing diazinon to a sod farm, golf course, or other turf areas greater than three acres, or other turf areas of three acres or less where evidence indicates the presence of waterfowl	\$1,000	NM	
10.2(n)	Applying a pesticide in or around a day care facility during normal operating hours where children would contact treated areas	Use Matrix	NM	
10.2(o)1	Application of a TBT antifoulant paint outside of a commercial boat yard	\$1,000	NM	
10.2(o)2	Application of a TBT antifoulant paint to a vessel that did not exceed 25 meters (82.02 feet) in length and/or did not have an aluminum hull	\$1,000	NM	
10.2(p)	Failure to comply with the	\$1,000	NM	

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	Pinelands use restriction of herbicides			
10.3(a)	Failure to use tamper-resistant rodent bait boxes when needed	\$1,000	NM	
10.3(b)	Failure to properly label a rodent bait box	\$1,000	NM	
10.3(b)	Failure to secure a rodent bait box when necessary	\$1,000	NM	
10.3(d)	Failure to remove all accessible bait	\$1,000	NM	
10.4(a)	Failure to have licensed applicator on-site for termite application	Use Matrix	NM	
10.4(b)	Failure to pressure test termite application equipment	\$1,000	NM	
10.4(c)	Failure to have a properly operating pressure gauge	\$1,000	NM	
10.4(d)	Failure to have adequate backflow prevention pursuant to N.J.A.C. 7:30-10.2(h)	\$1,000	NM	
10.4(e)	Failure to properly route a hose through a structure	\$1,000	NM	
10.4(g)1	Failure to follow termiticide	\$1,000	NM	

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	restrictions for hollow block, brick, or tile foundation			
10.4(g)2	Failure to follow a termiticide restriction for rubble/stone foundations	\$1,000	NM	
10.4(h)	Failure to follow termiticide restrictions for basement floors	\$1,000	NM	
10.4(i)	Failure to follow termiticide restrictions for a crawlspace	\$1,000	NM	
10.4(i)3	Failure to follow termiticide restrictions for a plenum crawlspace	\$1,000	NM	
10.4(j)	Failure to follow termiticide restrictions for an inaccessible space	\$1,000	NM	
10.4(k)	Failure to follow termiticide restrictions for a slab	\$1,000	NM	
10.4(m)1	Failure to follow termiticide restrictions for a well	\$1,000	NM	
10.4(n)	Failure to follow a retreatment restriction	\$1,000	NM	

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10.4(p)	Failure to provide proper notification for termiticide treatment	\$1,000	M	7
10.4(q)	Failed to keep a proper diagram of the structure treated	\$1,000	M	30
10.5	Failure to comply with organochlorine restrictions in N.J.A.C. 7:30-10.5	\$1,000	NM	
10.6(b)	Failure of a pilot to learn and confirm: 1. The boundaries and exact location of the target area 2. The identity of non-target area and safety hazards	\$1,000	NM	
10.6(c)	Failure to thoroughly rinse spray and spreading equipment after each application	\$1,000	NM	
10.6(d)	Failure to maintain proof of proper calibration of aerial application equipment	\$1,000	NM	
10.6(d)	Failure to provide proof of	Use Matrix	NM	

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	calibration of application equipment to the Department upon request			
10.6(d)	Failure to properly calibrate application equipment	\$1,000	NM	
10.6(i)	Failure to have spray or spreading equipment free of leaks and/or have a positive shutoff system	\$1,000	NM	
10.6(j)	The shape of the tank or hopper of the spray or spreading equipment did not allow for complete drainage	\$1,000	NM	
10.6(l)	Aerially releasing pesticide more than 15 feet above the target or more than 50 feet above trees	\$1,000	NM	
10.6(m)	Aerially releasing a pesticide formulated as dry granules or pellets more than 40 feet above the target	\$1,000	NM	
10.6(o)	Failure to obtain the required information for the consent	\$1,000	M	30

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	agreement			
10.6(o)	Failure to obtain property owner(s) consent for aerial application	\$1,000	NM	
10.6(o)	Making an aerial application to a site of less than three acres that was not part of a larger property or contiguous properties that together totaled more than three acres	\$1,000	NM	
10.6(p)	Making an aerial pesticide application to a field that was not part of a larger field of three or more acres	\$1,000	NM	
10.6(q)	Failure to follow buffer zone restrictions for an aerial application	\$1,000	NM	
10.6(r)	Directly applying a pesticide by aircraft to a right-of-way of a public road that was not included in the target site	Use Matrix	NM	
10.6(s)	Depositing a pesticide by aircraft within 100 feet of a private	\$1,000	NM	

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	residence without obtaining written consent or failing to include information required for such agreements			
10.6(s)4ii	Failure to maintain copies of a consent agreement obtained	\$1,000	NM	
10.6(s)4ii i	Failure to provide a copy of a consent agreement to the Department upon request	Use Matrix	NM	
10.6(t)	Aerially applying a broad-spectrum pesticide for a non-agricultural purpose	Use Matrix	NM	
10.6(u)	Failure to petition the Department for approval to use a broad-spectrum pesticide	Use Matrix	NM	
10.6(v)	Failure to inform the Department of the application and provide justification	Use Matrix	NM	
10.6(w)	Failure to request a waiver from the provisions of N.J.A.C. 7:30-9.10	\$1,000	NM	
10.6(x)	Applying a pesticide by aerial	\$1,000	NM	

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	application equipment, without the pesticide being specifically labeled for aerial application			
10.7(a)	Failure to conduct a clean up	Use Matrix	NM	
10.7(b)	Failure to notify the Department that a clean up had been completed and/or failure to provide analytical results	\$1,000	NM	
10.9(a)	Failure to submit to the Department the required information regarding pesticide use	\$1,000	M	30
10.9(b)	Failure to provide additional information relating to a specific pesticide or type of pesticide requested by the Department	\$1,000	NM	
12.1(a)	Failure of an agricultural employer or the handler employer to meet the requirements of N.J.A.C. 7:30-12.1	Use Matrix	NM	
12.1(c)	Preventing, discouraging, or taking retaliatory action for attempts	Use Matrix	NM	

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	<p>made by any worker or handler</p> <p>from complying or attempting to</p> <p>comply with any requirement of</p> <p>N.J.A.C. 7:30-12</p>			
12.3(a)	<p>Allowing or directing a person,</p> <p>other than an appropriately trained</p> <p>and equipped handler, to enter or</p> <p>to remain in the treated area</p>	\$1,000	NM	
12.3(b)	<p>Allowing or directing a person,</p> <p>other than an appropriately trained</p> <p>and equipped handler, to enter or</p> <p>to remain in the restricted-entry</p> <p>area of an enclosed space</p>	\$1,000	NM	
12.3(c)1	<p>Allowing or directing a person,</p> <p>other than an appropriately trained</p> <p>and equipped handler, to enter or</p> <p>remain in the restricted-entry area</p> <p>of an enclosed space prior to the</p> <p>inhalation exposure level the</p> <p>labeling requires is achieved or</p> <p>ventilation criteria are met</p>	\$1,000	NM	

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12.3(c)2	Allowing or directing a worker to enter an enclosed space restricted-entry area before the restricted-entry interval expires	\$1,000	NM	
12.3(c)3	Failure to achieve inhalation exposure requirements in an enclosed space as indicated on the pesticide labeling	\$1,000	NM	
12.4(a)	Allowing or directing a worker to enter or remain in the treated area before the restricted-entry interval expires and all warning signs have been removed	\$1,000	NM	
12.4(a)3	Failure to ensure that any worker who enters a treated area during a restricted-entry interval uses the personal protective equipment specified in the product labeling	\$1,000	NM	
12.5(a)1	Failure of an agricultural employer to notify workers of any pesticide application in an enclosed space by	\$1,000	M	1

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	posting when necessary			
12.5(a)2	Failure of an agricultural employer to notify workers of a pesticide application in an enclosed space by posting or oral notification when necessary	\$1,000	M	1
12.5(a)3	Failure of an agricultural employer to notify workers of any pesticide application in an enclosed space by posting and by oral notification when necessary	\$1,000	NM	
12.5(b)1	Failure of an agricultural employer to post warning signs when the restricted-entry interval is greater than 48 hours for outdoor production	\$1,000	NM	
12.5(b)2	Failure of an agricultural employer to notify workers of a pesticide application either orally or by posting when the restricted entry interval is less than 48 hours for	\$1,000	M	1

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	outdoor production			
12.5(b)3	Failure of an agricultural employer to provide oral notice and post warning signs for outdoor production	\$1,000	NM	
12.5(c)	Failure of an agricultural employer to properly post a warning sign	\$1,000	M	1
12.5(d)	Failure of an agricultural employer to provide an oral warning to workers	\$1,000	M	1
12.6(a)	Failure of an agricultural employer to display specific information about a pesticide	\$1,000	M	1
12.6(b)	Failure of an agricultural employer to display accessible and legible information about a pesticide application in the proper location	\$1,000	M	1
12.6(c)	Failure to post specific information about a pesticide application at the correct time or for the correct duration	\$1,000	M	1

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12.6(d)	Failure of an agricultural employer to display specific information about a pesticide	\$1,000	M	1
12.6(e)	Failure to retain pesticide application, safety, and hazard information for three years	\$1,000	M	1
12.6(f)	Failure to provide pesticide application, safety, and hazard information upon request to a worker or handler	\$1,000	NM	
12.6(g)	Failure to provide pesticide application, safety, and hazard information to medical personnel upon request	\$1,000	NM	
12.6(h)	Failure to provide pesticide application, safety, and hazard information to a designated representative upon written request	\$1,000	NM	
12.7(a)	Failure of an agricultural employer to provide to a handler employer	\$1,000	M	1

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	specific information about a treated area			
12.8(a)	Failure of the agricultural employer to ensure that each worker has been trained properly before entering a treated area	\$1,750	NM	
12.8(a)1	Failure of an agricultural employer to ensure that a worker has been given orientation training	\$1,000	M	1
12.8(c)	Failure to provide the oral or audiovisual information in a manner that a worker can understand in a location conducive to training	\$1,000	M	1
12.8(c)1	Failure of the person conducting the worker training to meet the required criteria	\$1,000	NM	
12.8(c)2	Failure to ensure that a worker whose name appears on a completed roster has been trained	\$1,000	NM	
12.8(c)3	Training materials do not convey	\$1,000	M	1

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	required information			
12.8(e)	Failure to provide educational pamphlets	\$1,000	M	30
12.8(j)	Failure to cease training during the time period for which trainer recognition has been revoked or suspended	Use Matrix	NM	
12.8(m)	Failure of a trainer to keep a training roster for each worker trained in New Jersey	\$1,000	M	30
12.8(n)	Failure to maintain a training roster for a minimum of three years	\$1,000	M	30
12.8(o)	Failure to provide a training roster immediately upon request by the Department	Use Matrix	NM	
12.8(p)	Failure to provide a copy of a roster to a worker upon request	\$1,000	NM	
12.8(q)	Failure to provide training data after receipt of survey	\$1,000	M	30
12.9(a)	Failure of an agricultural employer to display pesticide safety	\$1,000	NM	

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	information when required			
12.9(a)3	Failure to display emergency medical care information or inform workers within 24 hours of any changes in the information	\$1,000	M	1
12.9(b)	Failure to display the safety information in the proper location	\$1,000	M	
12.9(c)	Failure to inform workers of the location of the safety information or allow access to it	\$1,000	NM	1
12.9(d)	Failure to ensure that safety information remains legible	\$1,000	M	1
12.10(a)	Failure of an agricultural employer to provide a complete decontamination site or supplies	\$1,000	NM	
12.10(b)	Failure of the agricultural employer to provide a worker with at least one gallon of water of required quality for routine washing and emergency decontamination	\$1,000	NM	
12.10(b)1	Failure to equip a water tank with	\$1,000	NM	

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	properly functioning valves or other mechanisms that prevent movement of a pesticide into the tank, when necessary			
12.10(b)2	Failure of the agricultural employer to provide sufficient soap and single-use towels at each decontamination site	\$1,000	M	1
12.10(c)	Failure to place the decontamination supplies together and where they are reasonably accessible to workers	\$1,000	NM	
12.10(c)2	Placing the decontamination site in an area being treated with pesticides	\$1,000	NM	
12.10(c)3	Placing the decontamination site in an area that is under a restricted-entry interval, where the workers for whom the site is provided were not performing early-entry activities	\$1,000	NM	

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12.10(d)	Failure of the agricultural employer to provide early-entry workers soap, clean towels, and at least three gallons of water per worker so that the workers may wash thoroughly	\$1,000	NM	
12.11(a)1	Failure of an agricultural establishment to provide emergency medical transportation	Use Matrix	NM	
12.11(a)2	Failure of an agricultural establishment to provide information in a medical emergency	Use Matrix	NM	
12.13(a)	Allow pesticide to contact anyone other than an appropriately trained and equipped handler involved in the application	Use Matrix	NM	
12.13(b)	Failure of the handler employer to ensure that a handler is monitored visually or by voice communication at least every two hours when	\$1,000	M	1

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	required			
12.13(c)	Failure of the handler employer to ensure that a handler maintains continuous visual or voice contact with another handler when required, and that there is immediate access to and use of the necessary PPE	\$1,000	NM	
12.13(d)	Failure of a handler to suspend a pesticide application when necessary	\$1,000	NM	
12.14(a)	Failure of an agricultural employer to display specific information when required	\$1,000	M	1
12.14(b)	Failure to display specific information about pesticides for pesticide handlers in the correct location or in the correct manner	\$1,000	M	1
12.14(c)	When warning signs are posted for the treated area before an application, failure to post the	\$1,000	M	1

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	specific application information for that application at the same time or earlier			
12.14(c)1	Failure to post specific application information at the correct time or for the correct duration	\$1,000	M	1
12.14(d)	Failure to post the required information for a pesticide application for the benefit of handlers	\$1,000	M	1
12.14(e)	Failure to retain application and hazard information for three years	\$1,000	M	30
12.14(f)	Failure to provide application or hazard information to a worker or handler upon request	\$1,000	NM	
12.14(g)	Failure to provide application or hazard information to medical personnel	\$1,000	NM	
12.14(h)	Failure to provide application or hazard information to a designated representative	\$1,000	NM	

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12.15(a)	Failure of a handler employer, commercial pesticide applicator, and/or pesticide applicator business to notify the agricultural employer, owner, or lessee responsible for the field being treated of the required information before the application was made	\$1,000	NM	
12.15(b)	Failure of a handler employer, commercial pesticide applicator, and/or pesticide applicator business to update the agricultural employer with changes to application information	\$1,000	NM	
12.16(a)	Failure to train a handler	\$1,000	NM	
12.16(a)1	Handler task performed by a person less than 18 years of age	\$1,000	NM	
12.16(a)2	Failure to conduct orientation training for a handler	\$1,000	M	1
12.16(c)	Failure to present pesticide safety information, either orally or	\$1,000	M	1

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	audiovisually, in a manner that a handler can understand, in a location conducive to training and using EPA-approved materials			
12.16(c)1	Failure of a person conducting handler training to meet the required criteria	\$1,000	NM	
12.16(c)2	Failure to ensure that a handler who is listed on a roster as trained, was trained	\$1,000	NM	
12.16(c)3	Materials used to train handlers do not convey the required minimum information	\$1,000	M	1
12.16(f)	Failure to annually provide educational pamphlets as required	\$1,000	M	30
12.16(k)	Training a handler or worker during the time period for which trainer recognition has been suspended or revoked	Use Matrix	NM	
12.16(n)	Failure of a handler trainer and/or agricultural employer to keep a	\$1,000	M	30

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	training roster for each handler or worker trained			
12.16(o)	Failure to maintain all handler training rosters for a minimum of three years	\$1,000	M	30
12.16(p)	Failure to provide all handler training rosters immediately upon request by the Department	Use Matrix	NM	
12.16(q)	Failure of trainer or agricultural employer to send a copy of the roster of handlers trained to the Department within 30 days	\$1,000	M	30
12.17(a)	Failure of the handler employer to ensure that the handler either reads the product labeling or is informed of necessary labeling requirements	\$1,000	NM	
12.17(a)1	Failure of the handler employer to ensure that the handler has access to the product labeling information during handling activities	\$1,000	M	1

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12.17(a)2	Failure of the handler employer to ensure that the handler is aware of all entry restrictions	\$1,000	NM	
12.17(b)	Failure of a handler employer to ensure that a handler is aware of the required information concerning any pesticide treated areas	\$1,000	M	1
12.18(a)	Failure of the handler employer to ensure that a handler is instructed in the safe operation of equipment, including, when relevant, chemigation safety requirements and drift avoidance	\$1,000	M	1
12.18(b)	Failure of the handler employer to ensure that equipment is in good working order	\$1,000	M	1
12.18(c)	Failure of the handler employer to ensure that pesticide residues have been removed from equipment before allowing any person to	\$1,000	M	1

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	repair, clean, or adjust the equipment, or that a person not employed by the establishment is informed of appropriate safety precautions			
12.19(a)	Failure of a handler employer to display pesticide safety information for handlers who are not employed by a commercial handling establishment	\$1,000	M	1
12.19(a)1	Failure of a handler employer to display safety information that conveys, at a minimum, the required basic pesticide safety concepts	\$1,000	M	1
12.19(a)3	Failure of a handler employer to display emergency medical care information or update the information	\$1,000	M	1
12.19(a)4	Failure to display the Department contact information	\$1,000	M	30

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12.19(b)	Failure of a handler employer to display safety information at the proper locations where it can be readily seen and read by handlers	\$1,000	M	1
12.19(c)	Failure of a handler employer to inform handlers of the location of, or allow access to, the safety information	\$1,000	M	1
12.19(d)	The safety information was not legible during the time it was posted	\$1,000	M	1
12.20(a)	Failure of a handler to use the clothing and PPE specified on the labeling for the use of the product while performing pesticide handler tasks	\$1,000	NM	
12.20(c)	Failure of the handler employer to provide appropriate PPE to the handler when required	\$1,000	NM	
12.20(c)9	Failure to provide the appropriate respirator, fit test, training, or	\$1,000	NM	

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	medical evaluation			
12.20(c)9 iv	Failure to keep a record for respirator fit test, training, or medical evaluation, or the record is substantially deficient	\$1,000	NM	
12.20(c)9 iv	The record for respirator fit test, training, or medical evaluation is partially deficient	\$1,000	M	30
12.20(d)	Failure to follow conditions for exception to PPE requirements	\$1,000	M	1
12.20(e)	Failure of a handler employer to ensure that PPE is used correctly and maintained properly	\$1,000	M	1
12.20(f)	Failure of handler employer to ensure that all PPE is cleaned, maintained, stored, disposed, or used according to the manufacturer's instructions, pesticide labeling, or regulations	\$1,000	M	1
12.20(g)	Failure of a handler employer to take appropriate measures to	\$1,000	NM	

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	prevent heat-related illness			
12.21(a)	Failure of a handler employer to provide decontamination supplies	\$1,000	NM	
12.21(b)	Failure of a handler employer to provide at least three gallons of water for routine washing and for emergency decontamination	\$1,000	M	1
12.21(b)	Failure of the handler employer to ensure that water was of a quality and temperature that did not cause illness or injury when it contacted the skin or eyes, or if swallowed	\$1,000	NM	
12.21(b)1	Failure to use properly functioning valves or other mechanisms that prevent movement of pesticides into the water source, when necessary, causing significant risk of harm or injury or actual harm or injury	Use Matrix	NM	
12.21(b)1	Failure to have back-flow prevention, but no significant risk	Use Matrix	M	1

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	of harm or injury			
12.21(b)2 and 3	Failure of a handler employer to provide sufficient soap and single-use towels, and a change of clothing, at each decontamination site	\$1,000	M	1
12.21(c)	Failure of a handler employer to provide decontamination supplies together and/or provide them at the required location	\$1,000	M	1
12.21(d)	Failure of a handler employer to ensure that the appropriate amount and system for delivering rinse water is immediately available to each handler when required	\$1,000	M	1
12.21(e)	Failure of a handler employer to provide at least one pint of water in a portable container when required	\$1,000	M	1
12.21(f)	Failure of a handler employer to	\$1,000	M	1

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	provide, at the site where handlers remove PPE, soap, clean towels, and a sufficient amount of water			
12.22(a)1	Failure to provide emergency transportation to a handler who has been poisoned or injured by exposure to a pesticide	Use Matrix	NM	
12.22(a)2	Failure to provide the handler and medical personnel with required information in a medical emergency involving a pesticide	Use Matrix	NM	
13.1(b)	Failure to adopt and implement a school IPM Policy	NA	NM	
13.2(a)	Failure of a school to develop and implement an IPM Plan pursuant to its policy	NA	NM	
13.2(b)	Failure of a school to use IPM methods in its pest control program	NA	M	30
13.2(c)	Failure to provide information to students and parents or guardians	NA	M	30

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	on how they can contribute to the success of IPM			
13.2(d)	Failure of a school to report annually to the school's governing board on the effectiveness of the IPM Plan and recommend improvements as needed	NA	M	45
13.3(a)	Failure of a school to designate an IPM Coordinator	NA	NM	
13.3(a)1i through v	Failure of an IPM Coordinator to implement the IPM Plan, maintain the required information about the IPM Policy and Plan, act as a contact for inquiries, maintain material safety data sheets and labels, and to ensure that commercial pesticide applicators on school property are in compliance with applicable rules	NA	M	30
13.3(b)	Failure of an IPM Coordinator to obtain training sufficient to	NA	NM	

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	implement an IPM Policy and Plan			
13.3(c)	Failure of an IPM Coordinator to submit required information	NA	M	30
13.4(a)	Failure of a school to maintain pesticide application records or make them available upon request	NA	NM	
13.4(b)	Failure of a school to maintain pest surveillance data and other non-pesticide related records	NA	M	30
13.5(a)	Failure of a school to provide annual notification of the IPM policy	NA	M	30
13.5(b)	Failure of a school to provide the annual notice to new staff members or parents or guardians of new students	NA	M	30
13.6(b)	Failure of a school to provide notification 72 hours before the use of a pesticide other than a low-impact pesticide	NA	NM	
13.6(d)	Failure of a school to reissue	NA	NM	

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	required notification when a pesticide application has been rescheduled			
13.6(e)	Failure of a school to meet the requirements of posted notification signs	NA	NM	
13.6(f)	Failure of a school to include on the posted sign, three dates in chronological order on which the pesticide application may take place	NA	NM	
13.7(b)	Failure of a school to provide notice of an emergency application of pesticides	NA	NM	
13.7(c)	Failure of a school to post notification signs for an emergency application of pesticides	NA	NM	
13.7(e)	Failure of a school to modify its IPM Plan in response to an emergency application of pesticides	NA	M	30

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13.8(a)	Failure to comply with re-entry requirements for a pesticide application	NA	NM	
13.8(b)	Application of a pesticide other than a low-impact pesticide when students are present	NA	NM	
13.8(c)	Failure to comply with re-entry requirements for low-impact pesticides	NA	NM	

7:30-11.7 Civil administrative penalty amount: matrix

(a) The Department shall assess penalties under this section, and not under N.J.A.C. 7:30-11.6, when:

- 1. Because of the specific circumstances of the violation, the Department determines that the penalty amount under N.J.A.C. 7:30-11.6 would be too low to provide a sufficient deterrent effect as required by the Act;**
- 2. The table in N.J.A.C. 7:30-11.6 refers to the matrix in this section; or**
- 3. The violation is not listed under N.J.A.C. 7:30-11.6.**

(b) The Department shall assess a civil administrative penalty for violations described in this section on the basis of the seriousness of the violation and the conduct of the violator as set forth below, unless the violation is eligible for a minor designation and a grace period

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and be adjusted in accordance with the factors in (e) below:

		SERIOUSNESS OF VIOLATION		
		MAJOR	MODERATE	MINOR
CONDUCT	MAJOR	\$15,000 - \$25,000	\$5,000 - \$15,000	\$2,500 - \$7,500
	MODERATE	\$5,000 - \$15,000	\$2,500 - \$5,000	\$1,000 - \$2,500
	MINOR	\$2,500 - \$7,500	\$1,000 - \$2,500	\$0 - \$1,000, or as set forth in N.J.A.C. 7:30-11.6

(c) The “seriousness” of the violation shall be classified as major, moderate, or minor as follows:

1. “Major” seriousness shall include any violation that has caused, or has the potential to cause, substantial harm to human health, safety, or the environment, or seriously deviates from the applicable law. Serious deviations include, but are not limited to, those violations that are in complete contravention of the law, requirement, and/or severely impair or undermine the protection, operation, or intent of the law, requirement, or condition. Violations of “major” seriousness include, but are not limited to, direct application to, or pesticide drift onto persons or domestic animals, or damage to property; pesticide spills or runoff causing harm to fish or other aquatic life; and failure to ensure use of proper safety equipment resulting in pesticide exposure.

2. “Moderate” seriousness shall include any violation that has caused or has the potential to cause some degree of harm to human health, safety, the Act regulatory

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program, or the environment, or substantially deviates from the applicable law. Substantial deviation shall include, but not be limited to, violations that are in substantial contravention of the law and/or impair or undermine the protection, operation, or intent of the law. Violations of “moderate” seriousness also include, but are not limited to, pesticide drift onto non-target property; failure to notify the Department of a pesticide spill requiring Department notice; and failure to notify a person that requests pesticide application notice.

3. “Minor” seriousness shall include any violation not included in (c)1 or 2 above.

(d) The “conduct” of the violator shall be classified as major, moderate, or minor as

follows:

1. “Major” conduct shall include any intentional, deliberate, purposeful, knowing, or willful act or omission by the violator;

2. “Moderate” conduct shall include any unintentional, but foreseeable act or omission by the violator; and

3. “Minor” conduct shall include any other conduct not included in (d)1 or 2 above.

(e) The Department may adjust the amount determined pursuant to (b), (c), and (d) above to assess a civil administrative penalty in an amount no greater than the maximum amount nor less than the minimum amount in the range described in (b) above, on the basis of the following factors:

1. The compliance history of the violator;

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2. **The nature, timing, and effectiveness of any measures taken by the violator to mitigate the effects of the violation for which the penalty is being assessed;**
3. **The nature, timing, and effectiveness of any measures taken by the violator to prevent future similar violations;**
4. **Any unusual or extraordinary costs or impacts directly or indirectly imposed on the public or the environment as a result of the violation;**
5. **The deterrence value of a penalty within the prescribed range; and/or**
6. **Other circumstances specific to the violator or the violation.**

7:30-11.8 Economic benefit

The Department may add to a civil or civil administrative penalty assessed under this subchapter based on the amount of economic benefit that the violator has realized as the result of not complying, or by delaying compliance with the Act or this chapter.

7:30-11.9 Civil action

(a) Whenever, on the basis of available information, the Department finds a person in violation of the Act, or any rule promulgated, and any administrative order, permit, license, or other operating authority issued pursuant to the Act, the Department may institute a civil action in Superior Court for appropriate relief. Such relief may include, singly or in combination:

1. **A temporary or permanent injunction;**

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2. Assessment against the violator for the costs of any investigation, inspection, or monitoring survey that led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this section;

3. Assessment against the violator for any costs incurred by the State in removing, correcting, or terminating the adverse effects upon the environment resulting from any unauthorized regulated activity for which legal action under this section may have been brought;

4. Assessment against the violator for compensatory damages for any loss or destruction of wildlife, fish, or aquatic life, plants, and for any other actual damages caused by an unauthorized regulated activity. Assessments under this section shall be paid to the State Treasurer, except that compensatory damages shall be paid by specific order of the court to any persons who have been aggrieved by the unauthorized regulated activity; and/or

5. A requirement that the violator restore or rehabilitate the site of the violation to the maximum extent practicable and feasible, or in the event that restoration of the site of the violation is not practicable and feasible, provide for off-site restoration alternatives as approved by the Department.

7:30-11.10 Civil penalty

(a) Each person who does any of the following shall be subject, upon the order of a court, to a civil penalty not to exceed \$25,000 per day of the violation, not including any amount

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assessed for economic benefit as determined under N.J.A.C. 7:30-11.8:

- 1. Violates the Act or this chapter;**
- 2. Violates an administrative order or a court order issued pursuant to the Act or this chapter;**
- 3. Fails to pay in full a civil administrative penalty assessed under this chapter, or fails to make a payment pursuant to a penalty payment schedule entered with the Department; or**
- 4. Knowingly makes any false or misleading statement on any application, record, report, or other document required to be submitted to the Department.**

(b) A civil penalty imposed under this section may be collected, with costs, in a summary proceeding pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq. The Superior Court shall have jurisdiction to enforce the Penalty Enforcement Law in conjunction with the Act and this chapter.

(c) The amount of a civil penalty for a violation of this chapter shall be calculated in accordance with N.J.A.C. 7:30-11.7, Civil administrative penalty amount: matrix.

7:30-11.11 Criminal action

(a) The Department, upon petition to the Attorney General, may bring a criminal action in court for certain violations of the Act, or any rule promulgated, and any administrative order, permit, license, certification, or other operating authority issued pursuant to the Act.

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(b) A person who purposely, knowingly, or recklessly violates the Act, or including any rule promulgated, and any administrative order, permit, license, certification, or other operating authority issued pursuant to the Act, shall be guilty, upon conviction, of a crime of the third degree and shall be subject to a fine of no less than \$5,000, nor more than \$50,000 per day of violation.

(c) A person shall, upon conviction, be subject to a fine of no more than \$50,000 if the person purposely, knowingly, or recklessly:

1. Makes a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under the Act, or any rule promulgated, and any administrative order, permit, license, certification, or other operating authority issued pursuant to the Act; or

2. Falsifies, tampers with, or renders inaccurate, any record or monitoring device to be maintained under the Act, or any rule promulgated, and any administrative order, permit, license, certification, or other operating authority issued pursuant to the Act.

SUBCHAPTER 12. AGRICULTURAL WORKER PROTECTION

7:30-12.1 General duties, prohibited actions

(a) The agricultural employer or the handler employer, as appropriate, shall:

1.-2. (No change.)

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

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by this subchapter. Such information and directions shall specify which persons are responsible for actions required to comply with this subchapter; [and]

4. [Require] **Provide to each person, including any labor contractor, who supervises any worker or handler [to assure compliance by the worker or handler with the provisions of this subchapter and to assure] sufficient information and direction to ensure that the worker or handler can comply with the provisions of this subchapter and receives the protection required by this subchapter. The information shall include the tasks for which the supervisor is responsible for under this subchapter;**

5. **Require each person, including any labor contractor, who supervises any worker or handler to provide sufficient information and direction to each worker and handler to ensure that the worker or handler can comply with the provisions of this subchapter;**

6. **When the pesticide labeling provides directions for use or other requirements that are inconsistent with the Worker Protection Standard, 40 CFR Part 170, incorporated herein by reference, as supplemented or amended, or this subchapter, the use shall comply with the pesticide labeling, except as provided at N.J.A.C. 7:30-12.2(c), 12.4(b), (c), and (d), and 12.20(d); and**

7. **Ensure that any handler and any early entry worker is at least 18 years old.**

(b) A person is liable for violations of this subchapter if another person employed by or acting for that person violates any provision of this subchapter. The term “acting for” includes both employment and contractual relationships, including, but not limited to, a relationship with a labor contractor.

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[(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.]

(c) No agricultural employer, commercial pesticide handler employer, or other person involved in the use of a pesticide to which this subchapter applies, shall intimidate, threaten, coerce, or discriminate against any worker or handler for:

- 1. Complying with, or attempting to comply with, this subchapter;**
- 2. Providing, causing to be provided, or being about to provide information to the employer, the EPA, or any duly authorized representative of the Federal, state, or Tribal government regarding conduct that the worker or handler reasonably believes violates this subchapter;**
- 3. Making a complaint, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing concerning compliance with this subchapter; or**
- 4. Objecting to, or refusing to participate in, any activity, policy, practice, or assigned task that the worker or handler reasonably believed to be in violation of this subchapter.**

(d) If any requirement of the Worker Protection Standard, 40 CFR Part 170, is more stringent than the requirements of this subchapter, the more stringent requirement at 40 CFR Part 170 shall prevail.

7:30-12.2 Standard for workers

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(a) Except as provided by (b) and (c) below, this subchapter applies when any pesticide product **bearing a label requiring compliance with the Worker Protection Standard, 40 CFR Part 170**, is used on an agricultural establishment.

(b) This subchapter does not apply when any pesticide **bearing a label requiring compliance with the Worker Protection Standard, 40 CFR Part 170**, is applied to an agricultural establishment in the following circumstances:

1. [For] **As part of government-sponsored public pest control programs over which the owner, agricultural employer, and handler employer have no control, such as** mosquito abatement, Mediterranean fruit fly eradication, or similar community or area-wide public pest control programs [sponsored by government entities];

2.-3. (No change.)

4. On plants [that are] **other than agricultural plants, which may include plants in home fruit and vegetable gardens and home greenhouses, and permanent plantings for ornamental purposes, such as plants that are** in ornamental gardens, parks, and public or private lawns and grounds that are intended only for aesthetic purposes or climatic modification;

[5. Applied by injection directly into agricultural plants. Direct injection does not include “hack and squirt,” “frill and spray,” chemigation, soil incorporation or soil-injection;]

5. On pasture and rangeland where the forage will not be harvested for hay;

6. In a manner not directly related to the production of agricultural plants, or animals, including, but not limited to, structural pest control, control of vegetation along rights-of-

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7. For control of vertebrate pests, **unless the control is directly related to the production of an agricultural plant;**

8.-10. (No change.)

[(c) The workers listed in this subsection are exempt from the specified provisions of this subchapter.]

(c) The following exemptions to this subchapter apply:

1. [The owner of an] **On any agricultural establishment where a majority of the establishment is owned by one or more members of the same immediate family, the owner** is not required to provide to himself or herself or members of his **or her** immediate family who are performing tasks related to the production of agricultural plants [on their own agricultural establishment] the protections [of the following subchapter provisions] **identified in:**

- i. N.J.A.C. 7:30-[12.4(c)5 through 9]**12.4(a)5, 6, and 7;**
- 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)] **6, 7, and 8;**
- iii.-viii. (No change.)

2. The owner of an agricultural establishment shall provide **all of the applicable** protections [listed in (c)1 above] **required by this subchapter** to other workers and other persons who are not members of his or her immediate family.

3. Provided that the conditions of (c)3ii below are met, a person who is certified or

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licensed as a crop advisor by a program acknowledged as appropriate in writing by the Department, Pesticide Control Program, [US] EPA, or another [State] **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.]

i. A certified or licensed crop advisor may determine what personal protective equipment is appropriate for a person entering into a treated area during a restricted-entry interval and may substitute that personal protective equipment for the personal protective equipment that the pesticide labeling identifies as required.

ii. Conditions of **the** crop advisor exemption **in (c)3i above** are as follows:

(1)-(2) (No change.)

[(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

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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.]

iii. An employer of a crop advisor shall provide all protection that this subchapter requires to any crop advisor employee who is performing the duties of a crop advisor but is not a licensed or certified crop advisor.

7:30-12.3 [Restrictions] **Entry restrictions** associated with pesticide applications

(a) During the application of any pesticide [on a farm or in a forest] **for outdoor production**, the agricultural employer shall not allow or direct any person, other than an appropriately trained and equipped handler **involved in the application**, to enter or to remain in the treated area **or in an application exclusion zone that is within the boundaries of the establishment until the application is complete. The application exclusion zone is:**

1. The area that extends 100 feet horizontally from the application equipment in all directions during application, when the pesticide is applied by any of the following methods:

- i. Aerially;**
- ii. Air blast application;**
- iii. As a spray using a spray quality (droplet spectrum) of smaller than medium (volume median diameter of less than 294 microns); or**

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iv. As a fumigant, smoke, mist, or fog;

2. The area that extends 25 feet horizontally from the application equipment in all directions during application when the pesticide is applied by a method other than in (a)1 above and is sprayed from a height of greater than 12 inches from the planting medium using a spray quality (droplet spectrum) of medium or larger (volume median diameter of 294 microns or greater); and

3. There is no application exclusion zone when the pesticide is applied in a manner other than as described in (a)1 and 2 above.

[(b)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:

1. applied

i. Aerially, or

ii. In an upward direction, or

iii. Using a spray pressure greater than 150 psi, or

iv. As a fumigant, or

v. Smoke, or

vi. Mist, or

vii. Fog, or

B. Workers Prohibited in:

Treated area plus 100 feet in all directions on the nursery

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viii. Aerosol.

2. Applied downward using: Treated area plus 25 feet in all directions on the nursery

i. A height of greater than 12 inches from the planting medium, or

ii. A fine spray, or

iii. A spray pressure greater than 40 psi and less than 150 psi

iv. For which a respiratory protection device is required for application by the product labeling.

3. Applied otherwise. Treated area]

[(c)] **(b)** The following apply to pesticide application in [greenhouses] **an area of enclosed space production:**

1. When a pesticide application of the type described in column A of Table [2] **1** of this subsection takes place in [a greenhouse] **an area of enclosed space production**, the agricultural employer shall not allow or direct any person, other than an appropriately trained and equipped handler, to enter or remain in the area specified in column B of Table [2] **1** until the time specified in column C of Table [2] **1** has expired.

2. After the time specified in column C of Table [2] **1** under this subsection has expired, until the expiration of any restricted-entry interval, the agricultural employer shall not allow or direct any worker to enter or to remain in the treated area as specified in column D of Table [2] **1** under this subsection, except as provided for in section N.J.A.C. 7:30-12.2.

3. When column C of Table [2] **1** of this subsection specifies that ventilation criteria [must] **shall** be met, ventilation shall continue until the air concentration is measured to be equal to or less than the inhalation exposure level the **pesticide** labeling requires to be

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achieved. If no inhalation exposure level is listed on the **pesticide** labeling, ventilation shall

continue until after **one of the following conditions is met:**

i.-vi. (No change.)

4. The following Table [2] 1 applies to [(c)1] **(b)1**, 2, and 3 above.

TABLE [2] 1

[Greenhouse] Entry Restrictions **During Pesticide Application in an Area of Enclosed Space Production**

A. When a Pesticide is Applied:	B. Workers and Persons, Other than Appropriately Trained and Equipped Handlers, are Prohibited in:	C. Until:	D. After the Expiration of Time in Column C Until the Restricted-Entry Interval Expires, the Restricted-Entry Area Is:
1. As a fumigant	Entire [greenhouse] area of enclosed space production plus any adjacent structure or area	The ventilation criteria of [subsection (c)3] (b)3 above are met	No post-application entry restrictions after criteria in column C are met

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that cannot be sealed off

from the treatment area

2. As a:	Entire enclosed [area] space	The ventilation criteria of [subsection(c)3]	[Entire enclosed area is the treated] Treated area
		(b)3 above are met	

i. Smoke[, or];

ii. Mist[, or];

iii. Fog[,]; or

iv. [Aerosol] **As a spray**

quality (droplet

spectrum) of smaller

than medium (volume

median diameter of

less than 294 microns)

3. Not as in 1 or 2 above, and for which a respiratory protection	Entire enclosed [area] space	The ventilation criteria of [subsection (c)3]	Treated area
---	--	---	--------------

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device is required for

(b)3 above are met

application by the

[product] **pesticide**

labeling

4. Not **as** in 1, 2, or 3

Treated area plus 25 feet

Application is

Treated area

above and:

in all directions in the

complete

[enclosed] **treated** area,

but not outside the area

of enclosed space

production

i. From a height of

greater than 12 inches

from the planting

medium[,]; or

ii. As a [fine] spray[, or]

using a spray quality

(droplet spectrum) of

medium or larger

(volume median

diameter of 294

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microns or greater)

[iii. Using a spray

pressure greater than

40 psi]

5. (No change.)

7:30-12.4 Worker entry restrictions

(a) After the application of any pesticide on an agricultural establishment, the agricultural employer shall not allow or direct any worker to enter or remain in the treated area before the restricted-entry interval specified on the pesticide labeling has expired **and all treated area warning signs have been removed or covered**, except as provided in this section.

1. Entry restricted areas in [greenhouses] **enclosed space production** are specified in column D in Table [2] **1**, N.J.A.C. 7:30-12.3[(c)4]**(b)4**.

2. (No change.)

3. The agricultural employer shall [assure] **ensure** that any worker who enters a treated area under a restricted-entry interval as permitted in (c), (d), and (e) below **is provided with, and** uses the personal protective equipment (PPE) specified in the [product] **pesticide** labeling for early-entry workers **as intended according to the manufacturer's instructions**, and **that the worker** follows any other requirements on the pesticide labeling regarding early entry.

i. **The PPE shall conform to the standards in (c)4 below.**

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12.9, and the location of the decontamination supplies required by N.J.A.C. 7:30-

12.10.

6. Prior to early entry, the agricultural employer shall ensure that each worker either has read the applicable pesticide labeling or has been informed, in a manner that the worker can understand, of all labeling requirements and statements related to human hazards or precautions, first aid, and user safety.

7. The agricultural employer shall ensure that no worker is allowed or directed to wear PPE without first implementing measures sufficient to prevent heat-related illness, and that each worker is instructed in the prevention, recognition, and first aid treatment of heat-related illness.

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

1. The worker will have no contact with [any thing] **anything** that has been treated with the pesticide to which the restricted-entry interval applies, including, but not limited to, soil, water, air, or surfaces of plants[;and]. **This condition does not allow a worker to perform any activity that involves contact with treated surfaces even if the worker is wearing PPE.**

2. No such entry is allowed until any inhalation exposure level listed in the **pesticide** labeling has been reached or any ventilation criteria established by N.J.A.C. 7:30-[12.3(c)3]**12.3(b)3** or in the **pesticide** labeling have been met.

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(c) Exception for [short term] **short-term** activities. A worker may enter a treated area during a restricted-entry interval for short-term activities if the agricultural employer [assures] **ensures** that the following requirements are met:

1. - 2. (No change.)

3. No such entry is allowed for the first four hours following the end of the application, and no such entry is allowed thereafter until any inhalation exposure level listed in the **pesticide** labeling has been reached or any ventilation criteria established by N.J.A.C. 7:30- [12.3(c)]**12.3(b)3** or in the **pesticide** labeling have been met;

4. The [personal protective equipment (]PPE[)] specified on the [product] **pesticide** labeling for early entry is provided to the worker. Such PPE shall conform to the following standards:

i. (No change.)

ii. Long-sleeved shirts, short-sleeved shirts, long pants, short pants, shoes, **and** 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 **shall** be worn [during some activities] **if required by the pesticide labeling.**

iii.-v. (No change.)

vi. When “coveralls” are specified by the [product] **pesticide** labeling, they shall be a loose fitting, one or two piece garment[, such as a cotton or cotton and polyester coverall,] that cover[s], at a minimum, the entire body except head, hands, and feet.

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[The pesticide product labeling may specify that the coveralls be worn over a layer of clothing.] **A chemical-resistant suit may be substituted for coveralls and a chemical-resistant apron.** If a chemical-resistant suit is substituted for coveralls, [it need not be worn over a layer of clothing] **any labeling requirement for an additional layer of clothing beneath the coveralls is waived.**

vii. Gloves shall be of the type specified by the [product] **pesticide** labeling. Gloves [or glove linings] made of leather, cotton, or other [adsorbent] **absorbent** materials shall not be worn for early-entry activities, unless these materials are listed on the [product] **pesticide** labeling as acceptable for such use. If chemical-resistant gloves with sufficient durability and suppleness are not obtainable [for tasks with roses or other], **then during activities with** plants with sharp thorns, leather gloves may be worn **over chemical-resistant glove liners. However, once leather gloves are worn** for this use, thereafter they shall be worn only with chemical-resistant liners, and they shall not be worn for any other use.

(1) Separable glove liners may be worn beneath chemical-resistant gloves, unless the pesticide labeling specifically prohibits their use. Separable glove liners are defined as separate glove-like hand coverings, made of lightweight material, with or without fingers. Work gloves made from lightweight cotton or poly-type material are considered to be glove liners if worn beneath chemical-resistant gloves. Separable glove liners may not extend outside the chemical-resistant

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gloves under which they are worn. Chemical-resistant gloves with nonseparable absorbent lining materials are prohibited.

(2) If used, separable glove liners shall be discarded immediately after a total of no more than 10 hours of use or within 24 hours of when they are first put on, whichever comes first. The liners shall be replaced immediately if they come in direct contact with a pesticide. Used glove liners shall not be reused. Contaminated liners shall be disposed of in accordance with any Federal, State, or local laws, rules, and regulations.

viii. When “chemical-resistant footwear” is specified by the [product] **pesticide** labeling, it shall be one of the following types of footwear: chemical-resistant shoes, chemical-resistant boots, or chemical-resistant shoe coverings worn over shoes or boots. If chemical-resistant footwear with sufficient durability and a tread appropriate for wear in rough terrain is not obtainable [for workers], then leather boots may be worn in such terrain.

ix. When “protective eyewear” is specified by the [product] **pesticide** labeling, it shall be one of the following types of eyewear: goggles; face shield; safety glasses with front, brow, and temple protection; or a full face respirator.

x. When “chemical-resistant headgear” is specified by the [product] **pesticide** 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

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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;]

xi. When a “chemical-resistant apron” is specified by the pesticide labeling, it shall be a chemical resistant apron that covers the front of the body from mid-chest to the knees;

[6.] **5.** The agricultural employer shall [assure] **ensure** that:

i.-ii.(No change.)

iii. PPE that cannot **or will not** be cleaned properly is **made unusable as apparel or is made unavailable for further use by an employee or third party. The contaminated PPE shall be** disposed of in accordance with any applicable Federal, State, and local regulations[;]. **Coveralls or other absorbent materials that have been drenched or heavily contaminated with a pesticide that has the signal word “DANGER” or “WARNING” on the label shall not be reused and shall be disposed of as specified in this paragraph. The employer shall ensure that any person who handles contaminated PPE described in this paragraph wears the gloves specified on the pesticide labeling for mixing and loading the pesticide(s) comprising the contaminant(s) on the equipment. If two or more pesticides are included in the contaminants, the gloves worn shall meet the requirements for mixing and loading each of the pesticides;**

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iv. (No change.)

v. Before being stored, all [clean] **washed** PPE is dried thoroughly [or is put in a well-ventilated place to dry] **before being stored or reused**;

vi. PPE contaminated with pesticides is kept [separately] **separate from non-contaminated PPE, other clothing, or laundry**, and washed separately from any other clothing or laundry;

vii.-viii. (No change.)

ix. Each worker is instructed how to put on, use, and remove the PPE and is informed about the importance of washing thoroughly after removing PPE; **and**

[x. Each worker is instructed in the prevention, recognition, and first aid treatment of heat-related illness; and]

[xi.] **x.** (No change in text.)

[7.] **6.** 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[.];

Recodify existing 8.-9. as **7.-8.** (No change in text.)

(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] **ensures** that all of the following criteria are met:

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1. The Department, Pesticide Control Program, declares [the existence of circumstances that could cause] an agricultural emergency [on that agricultural establishment.] **that applies to the treated area or** [2. The] **the** agricultural employer determines the agricultural establishment is subject to [the] circumstances **that were previously** declared [under (d)1i above] **an agricultural emergency;** [and]

2. The agricultural employer determines that the agricultural establishment is subject to the circumstances that result in an agricultural emergency;

3. The requirements of (c)3 through [9]8 above are met[.];

4. If the labeling of any pesticide applied to the treated area requires workers to be notified of the location of treated areas by both posting and oral notification, then the agricultural employer shall ensure that no individual worker spends more than four hours out of any 24-hour period in treated areas where such a restricted-entry interval is in effect;

5. No such entry is allowed during the first four hours after the application ends; and

6. No such entry is allowed until any inhalation exposure level listed in the pesticide labeling has been reached or any ventilation criteria required pursuant to N.J.A.C. 7:30-12.3(b)3 or the pesticide labeling have been met.

[(e) 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

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Control Program, PO 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

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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 will 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

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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.

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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.

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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.]

(e) A worker may enter a treated area during a restricted-entry interval for limited contact or irrigation activities, if the agricultural employer ensures that all of the following requirements are met:

- 1. No hand labor activity is performed;**
- 2. No worker is allowed in the treated area for more than eight hours in a 24-hour period;**
- 3. No such entry is allowed during the first four hours after the application ends;**
- 4. No such entry is allowed until any inhalation exposure level listed in the pesticide labeling has been reached or any ventilation criteria required pursuant to N.J.A.C. 7:30-12.3(b)3 or the pesticide labeling have been met;**
- 5. The task is one that, if not performed before the restricted-entry interval expires, would cause substantial economic loss, and there are no alternative tasks that would prevent substantial loss;**
- 6. With the exception of irrigation tasks, the need for the task could not have been foreseen;**

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7. The worker has no contact with pesticide-treated surfaces, other than minimal contact with feet, lower legs, hands, and forearms; and

8. The labeling of the pesticide that was applied does not require that workers be notified of the location of treated areas by both posting and oral notification.

7:30-12.5 Notice of applications to workers

(a) The agricultural employer shall notify workers of any pesticide application in [the greenhouse] **an area of enclosed space production** in accordance with the following:

[1. All pesticide applications shall be posted in accordance with (c) below.]

1. When a pesticide with a restricted-entry interval on the pesticide labeling greater than four hours is applied, the agricultural employer shall post warning signs in accordance with (c) below.

2. When a pesticide with a restricted-entry interval on the pesticide labeling equal to or less than four hours is applied, the agricultural employer shall notify workers either by posting warning signs in accordance with (c) below or by providing workers with an oral warning in accordance with (d) below.

[2.] **3.** (No change in text.)

[3.] **4.** Notice need not be given to the worker if the agricultural employer can [assure] **ensure** that one of the following is met:

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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]

any area of the entire enclosed space; or

ii. The worker(s) [applied or supervised] **was involved in** the application of the pesticide(s) [for which the notice is intended] **as a handler** and is aware of all the information required [by] **pursuant to** (d)1 [through], **2, and 3** below.

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

1. When a pesticide with labeling that requires a restricted-entry interval greater than 48 hours is applied to an outdoor production area, the agricultural employer shall notify workers of the application by posting warning signs in accordance with (c) below.

2. When a pesticide with labeling that requires a restricted-entry interval equal to or less than 48 hours is applied to an outdoor production area, the agricultural employer shall notify workers of the application either by posting warning signs in accordance with (c) below or by providing workers with an oral warning in accordance with (d) below.

[1.] **3.** (No change in text.)

[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.]

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[3.] **4.** Notice need not be given to a worker if the agricultural employer can [assure]

ensure that one of the following is met:

i. From the start of the application **to an outdoor production area** until the end of the [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 **on the agricultural establishment**; or

ii. The worker [applied, or supervised] **was involved in** the application of[,] the pesticide [for which the notice is intended] **as a handler** and is aware of all information required by (d)1, **2, and 3** below.

(c) The agricultural employer shall post warning signs in accordance with the following criteria:

1. The warning signs shall match the following description:

i. The warning sign(s) shall have a **white** background [color that contrasts with red];

ii. (No change.)

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] **white**;

iv. The length of the hand shall be **at least** twice the height of the smallest letters. The length of the face shall be only slightly smaller than the hand; [and]

v. (No change.)

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vi. The agricultural employer may replace the Spanish language portion of the warning sign with equivalent terms in an alternative non-English language, if that alternative language is the language read by the largest group of workers at that agricultural establishment who do not read English. The alternative language sign shall be in the same format as the original sign and conform to all other requirements of this section.

2. The **standard** warning sign shall be at least 14 inches by 16 inches in size, and the letters shall be at least one inch in height unless a smaller sign and smaller letters are necessary because the treated area is too small to accommodate a sign of this size. If a smaller sign is used, it [must] **shall** meet the proportions and other requirements described in (c)1 above.

3. [On farms and in forests and nurseries,] **When posted in an outdoor production area**, the signs shall be visible from all **reasonably expected** points of worker entry to the treated area, including at least each access road, each border with any [labor camp adjacent to] **worker housing area within 100 feet of** the treated area, and each footpath and other walking route that enters the treated area. When there are no defined points of worker entry, signs shall be posted in the corners of the treated area or in any other location affording maximum visibility.

4. [In greenhouses,] **When standard signs are posted in an area of enclosed space production and the entire structure or space is subject to the restricted-entry interval specified on the pesticide labeling and the post-application entry restrictions specified in**

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N.J.A.C. 7:30-12.4, the signs shall be posted so they are visible from all [usual] **reasonably expected** points of worker entry to the [treated area, including] **structure or space**. **When the standard signs are posted in a treated area of an enclosed space production and the treated area comprises only a portion of the structure or space, the signs shall be posted so they are visible from all reasonably expected points of worker entry to the treated area, including each aisle or other walking route that enters the treated area, and each aisle or other walking route that enters the treated area. When there are no usual points of worker entry to the treated area, signs shall be posted in the corners of the treated area or in any other location affording maximum visibility.**

5. When smaller warning signs with “DANGER” and “PELIGRO” in letters at least 7/8 inch in height, remaining letters at least 1/2 inch in height, and a red circle at least three inches in diameter containing an upraised hand and a stern face, are posted, the signs shall be posted no farther than 50 feet apart around the perimeter of the treated area in addition to the locations specified in (c)3 and 4 above.

6. When smaller warning signs with “DANGER” and “PELIGRO” in letters at least 7/16 inch in height, remaining letters at least 1/4 inch in height, and a red circle at least one and a half inches in diameter containing an upraised hand and a stern face, are posted, the signs shall be posted no farther than 25 feet apart around the perimeter of the treated area in addition to the locations specified in (c)3 and 4 above.

[5.] **7. The signs shall:**

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- i. Be posted [no sooner] **prior to, but no earlier** than, 24 hours before the scheduled application of the pesticide;
- ii. (No change.)
- iii. Be removed **or covered** 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.], **whichever is later, except that signs may remain posted after the restricted entry-interval has expired, provided the following conditions are met:**

(1) The agricultural employer instructs any workers on the establishment that may come within 1/4 mile of the treated area not to enter that treated area while the signs are posted; and

(2) The agricultural employer ensures that workers do not enter the treated area while the signs remain posted, other than as permitted by N.J.A.C. 7:30-12.4.

Recodify existing 6.-7. as **8.-9.** (No change in text.)

(d) The agricultural employer shall provide oral warnings to workers in a manner that the worker can understand. If a worker will be on the premises during the application, the warning will be given before the application takes place. Otherwise, the warning shall be given at the beginning of the worker's first work period during which the application is taking place or the restricted-entry interval for the pesticide is in effect. The warning shall consist of:

1. The location and description of the treated area **subject to the entry restrictions during and after application;**

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2. The **dates and times** during which entry is restricted; and

3. Instructions not to enter the treated area **or an application exclusion zone during application, and that entry to the treated area is not allowed** until the restricted-entry interval has expired **and all treated area warning signs have been removed or covered, except for entry permitted under N.J.A.C. 7:30-12.4.**

7:30-12.6 Providing specific information about applications

(a) (No change.)

(b) The information shall be displayed in the location specified for the pesticide safety

[poster] **information** in N.J.A.C. 7:30-12.9[(d)](b) **and shall be accessible and legible.**

(c) (No change.)

(d) The information shall include:

1. The location and description of the treated area[;].

i. The crop[;] **or site treated.**

ii. (No change.)

2. The pesticide brand or trade name, EPA Registration Number, [and] active ingredient(s) of the pesticide, **and the pesticide safety data sheet;**

3. The time and date the pesticide [is to be applied] **application is starting and ending;**

4. (No change.)

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

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workers employed by the farm:

- i.-iii. (No change.)
 - iv. Application [Date; and] **date**;
 - v. Application start and finish time; and**
 - [v.] **vi.** (No change in text.)
6. (No change.)
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] **posted by** the Department [by mail] at [the following address:

Pesticide Control Program

Farm Worker Information

PO Box 411

Trenton, NJ 08625-0411] <http://www.nj.gov/dep/enforcement/pcp/pcp-wps.htm>. In lieu of the example format developed by the Department, a farm owner or lessee may use a different format if it conforms to the requirements of this subsection.

[(e)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

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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 and 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 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.]

(e) Whenever pesticide safety information and pesticide application and hazard information are required to be displayed in accordance with this section, the agricultural employer shall retain the pesticide application and hazard information required pursuant to (d) above on the agricultural establishment for three years after the date of expiration of the restricted-entry interval applicable to the pesticide application conducted.

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(f) If a person is, or was, employed as a worker or handler by an establishment during the period that particular pesticide application and hazard information was required to be displayed and retained for three years in accordance with this section, and the person requests a copy of such application and/or hazard information, or requests access to such application and/or hazard information after it is no longer required to be displayed, the agricultural employer shall provide the worker or handler with a copy of or access to all of the requested information within 15 days of the receipt of any such request. The worker or handler may make the request orally or in writing.

1. Whenever a record has been previously provided without cost to a worker or handler or their designated representative, the agricultural employer may charge reasonable, non-discriminatory administrative costs (that is, search and copying expenses, but not including overhead expenses) for a request by the worker or handler for additional copies of the record.

(g) Any treating medical personnel, or any person acting under the supervision of treating medical personnel, may request, orally or in writing, access to, or a copy of, any information required to be retained for three years by this section in order to inform diagnosis or treatment of a worker or handler who was employed on the establishment during the period that the information was required to be displayed. The agricultural employer shall promptly provide a copy of, or access to, all of the requested information applicable to the worker's or handler's time of employment on the establishment after receipt of the request.

(h) Any worker's or handler's designated representative may request access to, or a copy

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of, any information required to be retained for three years by this section on behalf of a worker or handler employed on the establishment during the period that the information was required to be displayed. The agricultural employer shall provide access to, or a copy of, the requested information applicable to the worker's or handler's time of employment on the establishment within 15 days after receiving any such request, provided the request meets the requirements of (i) below.

(i) A request by a designated representative for access to or a copy of any pesticide application and/or hazard information shall be in writing and contain all of the following:

- 1. The name of the worker or handler being represented;**
- 2. A description of the specific information being requested. The description should include the dates of employment of the worker or handler, the date or dates for which the records are requested, type of work conducted by the worker or handler (for example, planting, harvesting, applying pesticides, mixing, or loading pesticides) during the period for which the records are requested, and the specific application and/or hazard information requested;**
- 3. A written statement clearly designating the representative to request pesticide application and hazard information on the worker's or handler's behalf, bearing the worker's or handler's printed name and signature, the date of the designation, and the printed name and contact information for the designated representative;**
- 4. If the worker or handler requests that the pesticide application and/or the hazard information be sent, direction for where to send the information (for example, mailing**

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address or email address); and

5. A fee, if any, in accordance with (f)1 above.

7:30-12.8 Worker pesticide safety training

(a) [The] **Before any worker performs any task in a treated area on an agricultural establishment where within the last 30 days a pesticide has been used or a restricted-entry interval for such pesticide has been in effect, the** agricultural employer shall [assure] **ensure** 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] **within the previous 12 months.**

1. [The] **Before any worker performs any activity in a treated area on an agricultural establishment where within the previous 30 days a pesticide product has been used, or a restricted-entry interval for such pesticide has been in effect, the** agricultural employer [for each agricultural establishment] shall [also assure] **ensure** that each worker has received an 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] **to provide establishment-specific information.** The agricultural employer may delegate such orientation to the crew leader(s); however, the agricultural employer is responsible to [assure] **ensure** that the orientation is given.

2. Employee orientation training shall **be provided in a manner the worker can**

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understand and meet or exceed the following course content requirements:

- i.-ii. (No change.)
- iii. [Where] **The location of decontamination supplies and where** to obtain immediate decontamination;
- iv. A review of [bulletin board] **the location of pesticide application, safety, and hazard** information **required pursuant to N.J.A.C. 7:30-12.6 and 12.9;**
- v. The availability of pesticide [fact] **safety data** sheets (**SDS**);
- vi. Hand out the educational pamphlet required pursuant to [(i)] **(e)** 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.

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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)] **(b)** (No change in text.)

[(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

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3. Further training will be provided within five days.]

[(f)] **(c)** General pesticide safety information shall be presented to workers either orally from written materials or audiovisually **at a location that is reasonably free from distraction and conducive to training. All training materials shall be EPA-approved.** The information shall be presented in a manner that workers can understand, such as through a translator, using nontechnical terms. The presenter also shall respond to workers' questions.

1. The person who conducts the training shall meet at least one of the following criteria:

i. Be currently certified as an applicator of restricted use pesticides under 40 CFR Part 171; [or]

ii. Be currently recognized as a trainer of **certified applicators or** pesticide handlers by a [State] **state**, Federal, or Tribal agency having jurisdiction; or

iii. Have completed [a] **an EPA-approved pesticide safety** train-the-trainer program [approved by a State, Federal or Tribal agency having jurisdiction] **for trainers of workers.**

2. Any person who [issues an EPA-approved Worker Protection Standard worker verification card shall assure] **completes a roster required pursuant to (q) below indicating a worker has completed the required training shall ensure** that the worker [who receives the card] has been trained in accordance with [(f)3] **(c)3** below.

3. The training materials shall convey, at a minimum, the following information:

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- [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 eyeflushing 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:

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(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.

(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.]

i. The responsibility of an agricultural employer to provide the worker and handler with information and protections designed to reduce work-related pesticide exposure and illness, which includes:

(1) Ensuring that the worker and handler have been trained on pesticide safety;

(2) Providing pesticide safety and application and hazard information, decontamination supplies, and emergency medical assistance;

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(3) Notifying workers of restrictions during applications and on entering

pesticide treated areas; and

(4) Providing access to pesticide application and hazard information for the worker or handler through a request by a designated representative, designated by the worker or handler in writing;

ii. How to recognize and understand the posted warning signs used for notifying workers of restrictions on entering pesticide treated areas on the establishment;

iii. How to follow directions and/or signs about keeping out of pesticide treated areas subject to a restricted-entry interval and application exclusion zones;

iv. Where and in what forms pesticides may be encountered during work activities and potential sources of pesticide exposure on the agricultural establishment. This includes exposure to pesticide residues that may be on, or in, plants, soil, tractors, application and chemigation equipment, or used personal protective equipment, and that pesticides may drift through the air from nearby applications or be in irrigation water;

v. Potential hazards from toxicity and exposure that pesticides present to workers and their families, including acute and chronic effects, delayed effects, and sensitization;

vi. Routes through which pesticides can enter the body;

vii. Signs and symptoms of common types of pesticide poisoning;

viii. Emergency first aid for pesticide injuries or poisonings;

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- ix. Routine and emergency decontamination procedures, including emergency eye flushing techniques, and, if pesticides are spilled or sprayed on the body, to use decontamination supplies to wash immediately or rinse off in the nearest clean water, including springs, streams, lakes, or other sources if more readily available than decontamination supplies, and as soon as possible, wash or shower with soap and water, shampoo hair, and change into clean clothes;**
- x. How and when to obtain emergency medical care;**
- xi. The need, when working in a pesticide treated area, to wear work clothing that protects the body from pesticide residues and wash hands before eating, drinking, using chewing gum or tobacco, or using the toilet;**
- xii. The need to wash or shower with soap and water, shampoo hair, and change into clean clothes as soon as possible after working in pesticide treated areas;**
- xiii. Potential hazards from pesticide residues on clothing;**
- xiv. The need to wash work clothes before wearing them again and wash them separately from other clothes;**
- xv. Instruction not to take pesticides or pesticide containers used at work to the worker's home;**
- xvi. Notice that safety data sheets provide hazard, emergency medical treatment, and other information about the pesticides used on the establishment that the worker may come in contact with. The responsibility of agricultural employers to do all of the following:**

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(1) Display safety data sheets for all pesticides used on the establishment;

(2) Provide workers and handlers information about the location of the safety data sheets on the establishment; and

(3) Provide workers and handlers unimpeded access to safety data sheets during normal work hours;

xvii. Notice that the rule prohibits agricultural employers from allowing or directing any worker to mix, load, or apply pesticides or assist in the application of pesticides unless the worker has been trained as a handler;

xviii. The responsibility of the agricultural employer to provide specific information to workers before directing them to perform early-entry activities, and notice that workers must be 18 years old to perform early-entry activities;

xix. Potential hazards to children and pregnant women from pesticide exposure;

xx. Notice to keep children and nonworking family members away from pesticide treated areas;

xxi. The need to, after working in pesticide treated areas, remove work boots or shoes before entering a home, and remove work clothes and wash or shower before physical contact with children or family members;

xxii. How to report suspected pesticide use violations to the State or Tribal agency responsible for pesticide enforcement; and

xxiii. Notice that the rule prohibits agricultural employers from intimidating, threatening, coercing, or discriminating against any worker or handler for:

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(1) Complying with, or attempting to comply with, this subchapter;

(2) Providing, causing to be provided, or being about to provide information to the employer, the EPA, or any duly authorized representative of a Federal, state, or Tribal government regarding conduct that the worker or handler reasonably believes violates this subchapter;

(3) Making a complaint, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing concerning compliance with this subchapter.

[(h)] **(d)** (No change in text.)

[(i)] **(e)** Every agricultural employer shall provide the pamphlets prepared pursuant to [(h)] **(d)** above, to all workers. Such pamphlets shall be presented to workers at least once annually as part of the employee orientation training required [in] **pursuant to** (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.]

(f) No trainer shall conduct training of workers or handlers required by this subchapter without receiving recognition as a trainer by the Department.

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1. A person currently licensed in New Jersey as a pesticide applicator is exempt from the need to receive recognition as a trainer by the Department, unless training workers or handlers of an employer other than the trainer's employer.

[(k)] **(g)** 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)] **that the person meets at least one of the criteria at (c)1** above; and

2. (No change.)

[(l)] **(h)** (No change in text.)

[(m)] **(i)** Each of the following acts shall constitute a ground for which any of the disciplinary actions described in [(l)] **(h)** above may be taken:

1.-9. (No change.)

[(n)] **(j)** (No change in text.)

[(o)] **(k)** Where the Department acts pursuant to [(l)] **(h)** above, the Department shall afford a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., **and 52:14F-1 et seq.**, and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, to any person who is aggrieved by the order and who has applied to the Department for a hearing **in accordance with N.J.A.C. 7:30-11.4** within 15 days of issuance of the order.

[(p)] **(l)** (No change in text.)

[(q)] **(m)** [A] **The trainer and agricultural employer** shall keep a training roster for each

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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 **printed** name of the worker [or handler];
2. (No change.)
3. The name of the trainer **and the pesticide applicator license number or**

Department-issued trainer identification number for the trainer;

4. The [worker or handler's] **worker's** native language;
5. The [training card number] **email address of the trainer;**
6. The [worker or handler's] **worker's** birth date; [and]
7. The [place] **name of the agricultural employer and address** of agricultural employment [(if available).];

8. The signature of the worker trained; and

9. Information identifying which EPA-approved training materials were used.

[(r)] **(n)** All rosters required to be kept pursuant to [(q)] **(m)** above shall be kept for a minimum of [five] **three** years.

[(s)] **(o)** (No change in text.)

[(t)] A list of all workers trained shall be sent to the Department, Pesticide Control Program after each training session, within 30 days.]

(p) An agricultural employer who provides, directly or indirectly, training required under this section shall provide, to the worker upon request, a copy of the record of the training that contains the information required pursuant to (m) above.

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(q) The Department may require the periodic submission by an agricultural employer of

annual data on worker training, including, but not limited to:

- 1. The number of workers trained in a specified year;**
- 2. The native language spoken by the trained workers; and**
- 3. The name of the agricultural employer and address of agricultural employment of the trained workers.**

7:30-12.9 Posted pesticide safety information

(a) When workers are on an agricultural establishment and, within the last 30 days a pesticide covered by this subchapter has been applied on the establishment or a restricted-entry interval has been in effect, the agricultural employer shall display, in accordance with this section, pesticide safety information. [(b) A safety poster] **The safety information** shall [be displayed that conveys, at a minimum] **convey, in a manner the workers can understand, all of** the following [basic concepts] **points:**

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 **or in plants, [or] soil, [in] irrigation water, tractors and other equipment, or used personal protective equipment, or pesticides** drifting from nearby applications.
 - ii. (No change.)

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- 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.-v. (No change.)
- vi. [Wash] **If pesticides are spilled or sprayed on the body, use decontamination supplies to wash immediately, or rinse off** in the nearest clean water [if pesticides are spilled or sprayed on the body. As], **including springs, streams, lakes, or other sources if more readily available than decontamination supplies, and, as soon as possible, wash or shower with soap and water**, shampoo **hair**, and change into clean clothes.
- vii. Follow directions about keeping out of treated [or restricted] areas **and application exclusion zones.**
- viii. **Instructions to employees to seek medical attention as soon as possible if they believe they have been poisoned, injured, or made ill by pesticides.**
- ix. **The following contact information for New Jersey’s pesticide regulatory agency:**

New Jersey Department of Environmental Protection

Bureau of Pesticide Compliance and Enforcement

Mail Code 401-04A

401 East State Street

PO Box 420

Trenton, New Jersey 08625-0420

Telephone: (609) 984-6568

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Internet address: <http://www.nj.gov/dep/enforcement/pcp/pcp-wps.htm>

2. (No change.)

[(c)] **3.** The name, address, and telephone number of [the nearest emergency] **a nearby operating** medical care facility [shall be on the safety poster or displayed close to the safety poster.] **capable of providing emergency medical treatment. This information shall be clearly identified as emergency medical contact information on the display.**

[1.] i. The agricultural employer shall [inform workers promptly] **update the pesticide safety information display within 24 hours of notice** of any change to the information on emergency medical care facilities.

[(d)] **(b)** The **pesticide safety** 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.] **at each of the following sites on the agricultural establishment:**

1. [For forests, the information shall be displayed in a location in or near the forest in a place] **A location** 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].

2. Locations on the agricultural establishment where decontamination supplies shall be provided, but only when the decontamination supplies are located at permanent sites or being provided at locations and in quantities to meet the requirements for 11 or more workers.

[(e)] **(c)** Workers shall be informed of the location of the information and shall be allowed

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[(f)] **(d)** (No change in text.)

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 **who** contacts anything that has been treated with the pesticide, including, but not limited to, soil, water, [or surfaces of] **and** plants, the agricultural employer shall provide, in accordance with this section, a decontamination site for **routine** washing [off pesticide residues] **and emergency decontamination.**

1. If any pesticide with a restricted-entry interval greater than four hours was applied, the decontamination supplies shall be provided from the time workers first enter the treated area until at least 30 days after the restricted-entry interval expires.

2. If the only pesticides applied in the treated area are products with restricted-entry intervals of four hours or less, the decontamination supplies shall be provided from the time workers first enter the treated area until at least seven days after the restricted-entry interval expires.

3. If an agricultural employer directs a worker to perform activities in a treated area where a restricted-entry interval is in effect, the agricultural employer shall provide decontamination supplies in accordance with handler decontamination pursuant to N.J.A.C. 7:30-12.21.

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i. **The decontamination supplies for early-entry workers shall be outside any area being treated with pesticides or subject to a restricted-entry interval, unless the decontamination supplies would otherwise not be reasonably accessible to workers performing early-entry tasks.**

ii. **If the pesticide product labeling of the product applied requires protective eyewear, the agricultural employer shall provide at least one pint of water per worker in portable containers for eyeflushing that is immediately available to each worker who is performing early-entry activities.**

iii. **At the end of any early-entry activities the agricultural employer shall provide, at the site where the workers remove personal protective equipment, soap, single-use towels, and at least three gallons of water per worker so that the workers may wash thoroughly.**

(b) The agricultural employer shall provide workers with [enough] **at least one gallon of water per worker at the beginning of each worker's work period** for routine washing and emergency [eyeflushing] **decontamination**. At all times when water is available to workers, the employer shall [assure] **ensure** that it is of a quality and temperature that shall not cause illness or injury when it contacts the skin or eyes or if it is swallowed.

1. [When] **If a water [stored in a tank] source** is to be used for mixing pesticides, it shall not be used for decontamination [or eyeflushing], unless [the tank is] equipped with properly functioning valves or other mechanisms that prevent [movement of] **contamination of the water with pesticides, [into the tank] such as anti-backflow siphons,**

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one-way or check valves, or an air gap sufficient to prevent contamination.

2. The agricultural employer shall provide soap and single-use towels **for drying** at each decontamination site in quantities sufficient to meet workers' **reasonable** needs. **Neither hand sanitizing gels and liquids, nor wet towelettes meet the requirements for soap. Wet towelettes do not meet the requirement for single-use towels.**

[3. To provide for emergency eyeflushing, 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 flushwater 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] **supplies** shall be **located together and** 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 **or more than one-quarter mile from any non-treated area:**

i. (No change.)

[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.-3. (No change.)

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(d) At the end of any [exposure period for workers engaged in] early-entry activities permitted [by] **under** N.J.A.C. 7:30-12.4 and involving contact with anything that has been treated with a [the] 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] **single-use** towels, and [a sufficient amount] **at least three gallons** of water **per worker** so that the workers may wash thoroughly.

7:30-12.11 Emergency assistance **by agricultural establishments**

[(a) If there is reason to believe that a person who is or has been employed on an agricultural establishment to perform tasks related to the production of agricultural plans 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:]

(a) If there is reason to believe that a worker or handler has experienced a potential pesticide exposure during employment on the agricultural establishment or shows symptoms similar to those associated with acute exposure to pesticides during or within 72 hours after employment on the agricultural establishment, and needs emergency medical treatment, the agricultural employer shall do all of the following promptly after learning of the possible poisoning or injury:

1. Make available to that person [prompt] transportation from the agricultural establishment, including any [labor camp] **worker housing** on the agricultural

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establishment, to an [appropriate] **operating medical care facility capable of providing**

emergency medical treatment to a person exposed to pesticides.

2. [Provide] **Promptly provide all of the following information** to that person [or] **and** to treating medical personnel[, promptly upon request, any obtainable information on]:

i. [Product] **A copy of the applicable safety data sheet and the product** name, EPA Registration Number, and active ingredients of any **pesticide** product to which that person might have been exposed;

[ii. Antidote, first aid, and other medical information from the product labeling;]

[iii.] **ii.** (No change in text.)

[iv.] **iii.** The circumstances [of] **that could have resulted in** exposure of that person to the pesticide.

7:30-12.12 Standard for pesticide handlers

(a) Except as provided for by (b) and (c) below, this subchapter applies when any pesticide **product bearing a label requiring compliance with the Worker Protection Standard, 40 CFR Part 170**, is handled for use on an agricultural establishment.

(b) This subchapter does not apply when any pesticide **product bearing a label requiring compliance with the Worker Protection Standard, 40 CFR Part 170**, is handled for use on an agricultural establishment in the following circumstances:

1. [For] **As part of government-sponsored public pest control programs over which the owner, agricultural employer, and handler employer have no control, such as**

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mosquito abatement, Mediterranean fruit fly eradication, or similar community or area-wide public pest control programs [sponsored by governmental entities];

2. (No change.)

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]

pasture and rangeland where the forage will not be harvested for hay;

4. On plants [that are] **other than agricultural plants, which may include plants in home fruit and vegetable gardens and home greenhouses, and permanent plantings for ornamental purposes, such as plants that are** in ornamental gardens, parks, and public and private lawns and grounds that are intended only for aesthetic purposes or climatic modification;

5. (No change.)

6. For control of vertebrate pests **unless the control is directly related to the production of an agricultural plant;**

7.-9. (No change.)

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

1. [The] **On any agricultural establishment where a majority of the establishment is owned by one or more members of the same immediate family, the** owner of an agricultural establishment is not required to provide to himself or herself or members of his or her immediate family who are performing handling tasks on their own agricultural

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establishment the protections of:

i.-ii. (No change.)

iii. N.J.A.C. 7:30-[12.6 through 12.19]**12.16, 12.17, 12.18, and 12.19, except for 12.16(a)1;**

iv.-v. (No change.)

vi. N.J.A.C. 7:30-[12.22]**12.11.**

2. The owner of the agricultural establishment shall provide [any] **all of the applicable** protections [listed in (c)1 above] **required by this subchapter** to other handlers and other persons who are not members of his or her immediate family.

3. Provided that the conditions of (c)3ii below are met, a person who is certified or licensed as a crop advisor by a program acknowledged as appropriate by the Department, the EPA, or another [State] **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.]

i. Certified crop advisors may make their own determination as to appropriate PPE for entry into a treated area during a restricted-entry interval and may substitute their

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self-determined set of personal protective equipment for the labeling-required

personal protective equipment. However, the employer of a crop advisor shall

provide all required protections of this subchapter to any crop advisor employee who

is performing the duties of a crop advisor, but who is not a certified crop advisor.

ii. Conditions of crop advisor exemption are as follows:

(1)-(3) (No change.)

[(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] **ensure** that no pesticide is applied so as to contact, either directly or through drift, any worker or other person, other than an appropriately trained and equipped handler **involved in the application.**

(b) (No change.)

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(c) The handler employer shall [assure] **ensure**:

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,] **in an area of enclosed space production during a fumigant application** maintains continuous visual or voice contact with another handler **stationed immediately outside of the area of enclosed space production**; and

2. That the [other] handler **stationed outside the area of enclosed space production** has immediate access to **and uses** the PPE required by the fumigant labeling for [handlers] **applicators** in the event **that** entry [into the fumigated greenhouse] becomes necessary for rescue.

(d) A handler performing a pesticide application shall immediately suspend the application if any worker or other person, other than an appropriately trained and equipped handler involved in the application, is in the application exclusion zone set forth at N.J.A.C. 7:30-12.3(a) or the area specified in the Table at N.J.A.C. 7:30-12.3(b)4.

7:30-12.14 Providing specific information about applications

(a) (No change.)

(b) The information shall be displayed in the same location specified for the pesticide safety [poster] **information** in N.J.A.C. 7:30-[12.19(d)]**12.19(b)** and shall be accessible and legible, as specified in N.J.A.C. 7:30-[12.19(e)]**12.19(c)** and [(f)] **(d)**.

(c) (No change.)

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(d) The information posted shall include:

1. (No change.)

2. The pesticide brand or trade name, EPA Registration Number, [and] active ingredient(s) of the pesticide, **and the pesticide safety data sheet;**

3. The time and date the pesticide [is to be applied] **application is starting and ending;**

4. (No change.)

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.-iv. (No change.)

v. Application start and finish time; and

[v.] **vi.** (No change in text.)

6. (No change.)

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] **posted by** the Department [by mail] at the following **internet website** address:

[Pesticide Control Program

Farm Worker Information

PO Box 411

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Trenton, NJ 08625-0411] <http://www.nj.gov/dep/enforcement/pcp/pcp-wps.htm>. In

lieu of the example format developed by the Department, a farm owner or lessee may use a different format if it conforms to the requirements of this subsection.

[(e) 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 and 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

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the fact sheets and translations.]

(e) Whenever pesticide safety information and pesticide application and hazard information are required to be displayed in accordance with this section, the agricultural employer shall retain the pesticide application and hazard information required pursuant to (d) above on the agricultural establishment for three years after the date of expiration of the restricted-entry interval applicable to the pesticide application conducted.

(f) If a person is, or was, employed as a worker or handler by an establishment during the period that particular pesticide application and hazard information was required to be displayed and retained for three years in accordance with this section, and the person requests a copy of such application and/or hazard information, or requests access to such application and/or hazard information after it is no longer required to be displayed, the agricultural employer shall provide the worker or handler with a copy of, or access to, all of the requested information within 15 days of the receipt of any such request. The worker or handler may make the request orally or in writing.

(g) Any treating medical personnel, or any person acting under the supervision of treating medical personnel, may request, orally or in writing, access to, or a copy of, any information required to be retained for three years by this section in order to inform diagnosis or treatment of a worker or handler who was employed on the establishment during the period that the information was required to be displayed. The agricultural employer shall promptly provide a copy of, or access to, all of the requested information applicable to the worker's or handler's time of employment on the establishment after receipt of the request.

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(h) Any worker's or handler's designated representative may request access to, or a copy of, any information required to be retained for three years by this section on behalf of a worker or handler employed on the establishment during the period that the information was required to be displayed. The agricultural employer shall provide access to, or a copy of, the requested information applicable to the worker's or handler's time of employment on the establishment within 15 days after receiving any such request, provided the request meets the requirements specified in (i) below.

(i) A request by a designated representative for access to, or a copy of, any pesticide application and/or hazard information shall be in writing and shall contain all of the following:

- 1. The name of the worker or handler being represented;**
- 2. A description of the specific information being requested, including the dates of employment of the worker or handler, the date or dates for which the records are requested, type of work conducted by the worker or handler (for example, planting, harvesting, applying pesticides, mixing, or loading pesticides) during the period for which the records are requested, and the specific application and/or hazard information requested;**
- 3. A written statement clearly designating the representative to request pesticide application and hazard information on the worker's or handler's behalf, bearing the worker's or handler's printed name and signature, the date of the designation, and the printed name and contact information for the designated representative; and**

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4. If the worker or handler requests that the pesticide application and/or the hazard information be sent, directions for where to send the information (for example, mailing address or email address).

(j) Whenever a record has been previously provided without cost to a worker or handler or their designated representative, the agricultural employer may charge reasonable, non-discriminatory administrative costs (that is, search and copying expenses but not including overhead expenses) for a request by the designated representative for additional copies of the record.

7:30-12.15 Notice of applications to agricultural employers

(a) Before the application of any pesticide on or in an agricultural establishment, any handler employer, commercial pesticide applicator, and/or pesticide applicator business performing any application of a pesticide having a reentry time subject to the provisions of 40 CFR Part 156, shall notify the agricultural employer, owner, or lessee responsible for the field being treated of the following:

1. The specific location and description of the [treated] areas **to be treated**;
2. The **start and estimated end** time and date of application;
3. (No change.)
4. The **labeling-specified** restricted-entry interval;
5. Whether posting and oral notification, **or both**, are required; and
6. Any [other product-specific requirements] **restrictions or use directions** on the

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product labeling [concerning] **that shall be followed for** protection of workers, **handlers**, or other persons during or after application.

(b) If there are any changes to the information provided in (a)1, 4, 5, or 6 above, or if the start time for the application will be earlier than originally forecasted or scheduled, the commercial pesticide handler employer shall ensure that the agricultural employer is provided updated information prior to the application.

1. If there are any changes to any other information provided pursuant to (a) above, the commercial pesticide handler employer shall provide updated information to the agricultural employer within two hours after completing the application.

2. Changes to the estimated application end time of less than one hour need not be reported to the agricultural employer.

7:30-12.16 Pesticide safety training for handlers

(a) Before any handler performs any handling task, the handler employer shall [assure] **ensure** that the handler has been trained in accordance with this subsection [during the last five years, counting from the end of the month in which the training was completed] **within the last 12 months.**

1. No handler employer shall require any person under [16] 18 years of age to perform any handling task.

2. Before any handler performs any handler activity on an agricultural establishment where within the last 30 days a pesticide product has been used, or a restricted-entry

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interval for such pesticide has been in effect, the handler employer shall ensure that each handler has received, in a manner the handler can understand, an employee orientation covering all of the following establishment-specific information:

- i. The location of pesticide safety information required pursuant to N.J.A.C. 7:30-12.19;**
- ii. The location of pesticide application and hazard information required pursuant to N.J.A.C. 7:30-12.14; and**
- iii. The location of decontamination supplies required pursuant to N.J.A.C. 7:30-12.21.**

(b) (No change.)

(c) General pesticide safety information shall be presented to handlers either orally from written materials or audiovisually **at a location that is reasonably free from distraction and conducive to training. All training materials shall be EPA-approved.** The information shall be presented in a manner that the handlers can understand, such as through a translator. The presenter shall also respond to the handlers' questions.

1. The person who conducts the training shall meet at least one of the following criteria:

- i. (No change.)**
- ii. Be currently recognized as a trainer of certified pesticide applicators or pesticide handlers by a [State] state, Federal, or Tribal agency having jurisdiction; or**
- iii. Have completed [a] an EPA-approved pesticide safety Train-the-trainer program**

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[approved by a State, Federal or Tribal agency having jurisdiction] **for trainers of**

handlers.

2. Any person who [issues an EPA-approved Worker Protection Standard handler verification card shall assure that the handler who receives the card] **completes a roster required pursuant to (n) below indicating a handler has completed required training shall ensure the handler** has been trained in accordance with (c)3 below.

3. The training materials shall convey, at a minimum, the following information:

- i. 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

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eyeflushing 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.]

i. The responsibility of the agricultural employer to provide each worker and handler with information and protections designed to reduce work-related pesticide exposures and illnesses. This responsibility includes ensuring that the workers and

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handlers have been trained on pesticide safety; providing pesticide safety and application and hazard information, decontamination supplies, and emergency medical assistance; and notifying workers of restrictions during pesticide application and when entering pesticide treated areas. A worker or handler may designate, in writing, a representative to request access to pesticide application and hazard information.

ii. How to recognize and understand the meaning of the posted warning signs used for notifying workers of restrictions on entering pesticide treated areas on the establishment.

iii. How to follow directions and/or signs about keeping out of pesticide treated areas subject to a restricted-entry interval and application exclusion zones.

iv. Where, and in what forms, pesticides may be encountered during work activities and potential sources of pesticide exposure on the agricultural establishment. This includes exposure to pesticide residues that may be on or in plants, soil, tractors, application, and chemigation equipment, or used personal protective equipment, and the fact that pesticides may drift through the air from nearby applications or be in irrigation water.

v. Potential hazards from toxicity and exposure that pesticides present to workers and their families, including acute and chronic effects, delayed effects, and sensitization.

vi. Routes through which pesticides can enter the body.

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- vii. Signs and symptoms of common types of pesticide poisoning.**
- viii. Emergency first aid for pesticide injuries or poisonings.**
- ix. Routine and emergency decontamination procedures, including emergency eye flushing techniques, and if pesticides are spilled or sprayed on the body to use decontamination supplies to wash immediately or rinse off in the nearest clean water, including springs, streams, lakes, or other sources if more readily available than decontamination supplies, and as soon as possible, wash or shower with soap and water, shampoo hair, and change into clean clothes.**
- x. How and when to obtain emergency medical care.**
- xi. When a person is, or has been, working in pesticide treated areas, the need for that person to wear work clothing that protects the body from pesticide residues and to wash hands before eating, drinking, using chewing gum or tobacco, or using the toilet.**
- xii. The need to wash or shower with soap and water, shampoo hair, and change into clean clothes as soon as possible after working in pesticide treated areas.**
- xiii. Potential hazards from pesticide residues on clothing.**
- xiv. The need to wash work clothes before wearing them again and wash them separately from other clothes.**
- xv. The instruction not to take pesticides or pesticide containers used at work to your home.**
- xvi. Safety data sheets that provide hazard, emergency medical treatment, and**

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other information about the pesticides used on the establishment that the worker

may come in contact with. The responsibility of agricultural employers to do all of the

following:

(1) Display safety data sheets for all pesticides used on the establishment;

(2) Provide workers and handlers information about the location of the safety data sheets on the establishment; and

(3) Provide workers and handlers unimpeded access to safety data sheets during normal work hours.

xvii. The prohibition on an agricultural employer allowing or directing any worker to mix, load, or apply pesticides or assist in the application of pesticides, unless the worker has been trained as a handler.

xviii. The responsibility of agricultural employers to provide specific information to workers before directing them to perform early-entry activities. Workers shall be a minimum of 18 years old to perform early-entry activities.

xix. Potential hazards to children and pregnant women from pesticide exposure.

xx. The need to keep children and nonworking family members away from pesticide treated areas.

xxi. After a person has worked in pesticide treated areas, the need for that person to remove work boots or shoes before entering his or her home and to remove his or her work clothes and wash or shower before physical contact with children or family members.

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xxii. How to report suspected pesticide use violations to the State or Tribal agency responsible for pesticide enforcement.

xxiii. The prohibition of an agricultural employer intimidating, threatening, coercing, or discriminating against any worker or handler for:

(1) Complying with or attempting to comply with this subchapter;

(2) Providing, causing to be provided, or being about to provide information to the employer, the EPA, or any duly-authorized representative of a Federal, state, or Tribal government regarding conduct that the worker or handler reasonably believes violates this subchapter;

(3) Making a complaint, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing concerning compliance with this subchapter; or

(4) Objecting to, or refusing to participate in, any activity, policy, practice, or assigned task that the worker or handler reasonably believed to be in violation of this subchapter;

xxiv. Information on proper application and use of pesticides;

xxv. The requirement that a handler follow the portions of the labeling applicable to the safe use of the pesticide;

xxvi. The format and meaning of information contained on pesticide labels and in labeling applicable to the safe use of the pesticide;

xxvii. The need for and appropriate use and removal of all personal protective

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equipment;

xxviii. How to recognize, prevent, and provide first aid treatment for heat-related illness;

xxix. Safety requirements for handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup;

xxx. Environmental concerns, such as drift, runoff, and wildlife hazards;

xxxi. The requirement that a handler not apply pesticides in a manner that results in contact with workers or other persons;

xxxii. The responsibility of a handler employer to provide each handler with information and protections designed to reduce work-related pesticide exposures and illnesses. This includes providing, cleaning, maintaining, storing, and ensuring proper use of all required PPE; properly disposing of contaminated PPE that cannot or will not be cleaned; providing decontamination supplies; and providing specific information about pesticide use and labeling information;

xxxiii. The requirement that a handler suspend a pesticide application if a worker or other person is in the application exclusion zone;

xxxiv. The requirement that a handler be at least 18 years old;

xxxv. The responsibility of a handler employer to ensure that each handler has received respirator fit-testing, training, and medical evaluation if the pesticide labeling requires the handler to wear a respirator; and

xxxvi. The responsibility of an agricultural employer to post treated areas as

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required by this subchapter.

(d) Except as provided in (d)1 below, if the handler employer [assures] **ensures** that a handler possesses [an EPA-approved Worker Protection Standard handler verification card] **a copy of a roster indicating that the handler has been trained within the previous 12 months,** then the requirements of (a) above will have been met.

[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)-(f) (No change.)

[(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.]

(g) No trainer shall conduct training of workers or handlers required by this subchapter without receiving recognition as a trainer by the Department.

1. A person currently licensed in New Jersey as a pesticide applicator is exempt from the need to receive recognition as a trainer by the Department, unless training workers or

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handlers of an employer other than the trainer's employer.

(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)] **that the person meets at least one of the criteria in (c)1** above; and

2. (No change.)

(i) (No change.)

(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.-4. (No change.)

5. [Issuing] **Recording or submitting** false or fraudulent Worker Protection Standard handler training [certificates] **rosters**;

6.-9. (No change.)

(k)-(m) (No change.)

(n) [A] **The handler trainer and agricultural employer** shall keep a training roster for each handler [or worker] trained in New Jersey. Such roster shall contain the following information:

1. The full **printed name and signature** of the handler;

2. (No change.)

3. The name of the trainer **and the pesticide applicator license number or Department-issued trainer identification number for the trainer**;

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4. The [handler or worker's] **handler's** native language;

[5. The verification card number;]

[6.] **5.** The [handler or worker's] **handler's** birth date; [and]

[7.] **6.** The [place] **name of the agricultural employer and address** of agricultural employment [(if available).];

7. Information identifying which EPA-approved training materials were used; and

8. The email address of the trainer.

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

(p) (No change.)

(q) [A list] **The roster** of all handlers [or workers] trained shall be sent to the Department, Pesticide Control Program **by the trainer or agricultural employer** 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] **site-specific** information

(a) The handler employer shall [assure] **ensure** that before the handler performs any handling activity **involving a pesticide product**, the handler either has read the [product] **pesticide** labeling or has been informed in a manner the handler can understand of all labeling requirements **and use directions** related to safe use of the pesticide[, 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].

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1. The handler employer shall [assure] **ensure** that the handler has access to the [product] **applicable pesticide** labeling [information] **at all times** during handling activities.

2. **The handler employer shall ensure that the handler is aware of requirements for any entry restrictions, application exclusion zones, and restricted-entry intervals that may apply based on the handler's activity.**

(b) (No change.)

7:30-12.18 Safe operation of equipment

(a)-(b) (No change.)

(c) Before allowing any person to repair, clean, or adjust equipment used to mix, load, transfer, or apply pesticides, the handler employer shall [assure] **ensure** that pesticide residues have been removed from the equipment, unless the person doing the cleaning, repairing, or adjusting is a handler employed by the agricultural or commercial pesticide handling establishment. [If pesticide residue removal is not feasible, the handler employer shall assure that the person who repairs, cleans, or adjusts such equipment is informed:] **Before allowing any person not directly employed by the handler employer to clean, repair, or adjust equipment that has been used to mix, load, transfer, or apply pesticides, the handler employer shall provide all of the following information to such person:**

1. [That such] **That pesticide application** equipment [is] **may be** contaminated with pesticides;

2. [Of the] **The** potentially harmful effects of exposure to pesticides; [and]

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[3. Of the correct way to handle such equipment.]

3. Procedures for handling pesticide application equipment and for limiting exposure to pesticide residues; and

4. Personal hygiene practices and decontamination procedures for preventing pesticide exposure and removing pesticide residues.

7:30-12.19 Posted pesticide safety information

(a) When handlers, except those employed by a commercial handling establishment, are on an agricultural establishment and, within the last 30 days, a pesticide has been applied on the establishment or a restricted-entry interval has been in effect, the [handler] **agricultural** employer shall display, in accordance with [(b) through (f) below] **this section**, pesticide safety information. [(b) A safety poster] **The safety information** shall [be displayed that conveys, at a minimum,] **convey, in a manner the handler can understand, all of** the following [basic] pesticide safety concepts:

1. Help keep pesticides from entering your body. At a minimum, the following points shall be conveyed:

i. Avoid getting on your skin or into your body any pesticides that may be on, **or in**, plants [and], soil, [in] irrigation water, **tractors and other equipment, or used personal protective equipment, or pesticides** drifting from nearby applications.

ii. (No change.)

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iii. Wear work clothing (**long-sleeved shirts, long pants, shoes and socks, and a hat or scarf**) that protects the body from pesticide residues[, namely long-sleeved shirts, long pants, shoes and socks, and a hat or scarf].

iv.-v. (No change.)

vi. [Wash immediately in the nearest clean water if] **If** pesticides are spilled or sprayed on the body[. As], **use decontamination supplies to wash immediately, or rinse off in the nearest clean water, including a spring, stream, lake, or other sources of water if more readily available than decontamination supplies, and as soon as possible, wash or shower with soap and water, shampoo hair,** and change into clean clothes.

vii. Follow directions about keeping out of treated [or restricted] areas **and application exclusion zones.**

viii. **Seek medical attention as soon as possible if you believe that you have been poisoned, injured, or made ill by pesticides.**

2. (No change.)

[(c)] **3.** The name, address, and telephone number of [the nearest emergency] **a nearby operating** medical care facility [shall be on the safety poster or displayed close to the safety poster] **capable of providing emergency medical treatment. This information shall be clearly identified as emergency medical contact information on the display.**

[1.] i. The [handler] **agricultural** employer shall [inform the handlers promptly] **update the pesticide safety information display within 24 hours** of any change to the

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information on emergency medical care facilities.

4. The following contact information for New Jersey's pesticide regulatory agency:

New Jersey Department of Environmental Protection

Bureau of Pesticide Compliance and Enforcement

Mail Code 401-04A

401 East State Street

PO Box 420

Trenton, New Jersey 08625-0420

Telephone: (609) 984-6568

Internet address: <http://www.nj.gov/dep/enforcement/pcp/pcp-wps.htm>

[(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.]

(b) The pesticide safety information shall be displayed at each of the following sites on the agricultural establishment:

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

2. Each location on the agricultural establishment where decontamination supplies are provided, but only where the decontamination supplies are located at a permanent site or are provided at a location and in a quantity to meet the requirements of 11 or

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more workers.

Recodify existing (e)-(f) as **(c)-(d)** (No change in text.)

7:30-12.20 Handler personal protective equipment

(a)-(b) (No change.)

(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.- 8. (No change.)

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] **If a pesticide label requires that a specific respirator be worn, then that respirator shall be used. Further, the handler employer shall [assure that the respirator fits correctly] ensure that the requirements of (c)9i, ii, and iii below are met before the handler performs any handler activity where the pesticide label requires a respirator to be worn.**

i. **Handler employers shall provide handlers with fit testing using the respirator specified on the pesticide product labeling in a manner that conforms to the provisions of the Occupational Safety and Health Administration (OSHA) requirements for respiratory protection at 29 CFR 1910.134, incorporated herein by reference, as supplemented or amended.**

ii. **Handler employers shall provide handlers with training in the use of the**

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respirator specified on the pesticide product labeling in a manner that conforms to the provisions of OSHA respiratory protection at 29 CFR 1910.134(k)(1)(i) through (vi).

iii. Handler employers shall provide handlers with a medical evaluation by a physician or other licensed health care professional that conforms to the provisions of OSHA respiratory protection at 29 CFR 1910.134 to ensure the handler's physical ability to safely wear the respirator specified on the pesticide product labeling.

iv. The handler employer shall maintain for three years, on the establishment, records documenting the completion of the requirements of (c)9i, ii, and iii above.

10. (No change.)

(d) The following are exceptions to personal protective equipment specified on the pesticide [product] labeling:

1.-3. (No change.)

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,] **When pesticides are being mixed or loaded using a closed system that meets all of the requirements in (d)4iii below, and the handler employer demonstrates that the requirements of (d)4iv below have been met, the exceptions to labeling-specified PPE for the handling activity are permitted as provided in (d)4i and ii below.**

i. [Persons] **Handlers** using a closed system to mix or load pesticides with a signal word of DANGER or WARNING may substitute a long-sleeved shirt, long pants, shoes,

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socks, chemical-resistant apron, **protective eyewear**, and any protective gloves

specified on the labeling for handlers for the labeling-specified PPE.

ii. [Persons] **Handlers** 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] **protective eyewear, 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.]

iii. The exceptions in (d)4i and ii above apply only in the following situations:

(1) Where the closed system removes the pesticide from its original container and transfers the pesticide product through connecting hoses, pipes, and couplings that are sufficiently tight to prevent exposure of handlers to the pesticide product, except for the negligible escape associated with normal operation of the system.

(2) When intact, sealed, water soluble packaging is loaded into a mixing tank or system. If the integrity of a water-soluble packaging is compromised (for example, if the packaging is dissolved, broken, punctured, torn, or in any way allows its contents to escape), it is no longer a closed system and the labeling-specified PPE shall be worn.

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iv. The exceptions in (d)4i and ii above apply only where the handler employer has satisfied the requirements for handler employers in this subchapter and the following conditions:

- (1) The handler employer shall provide, for each closed system, written operating instructions that are clearly legible and include: operating procedures for use, including the safe removal of a probe; maintenance, cleaning, and repair; known restrictions or limitations relating to the system, such as incompatible pesticides, sizes (or types) of containers, or closures that cannot be handled by the system; any limits on the ability to measure a pesticide; and special procedures or limitations regarding partially-filled containers.**
 - (2) The written operating instructions for the closed system shall be available at the mixing or loading site and shall be made available to any handlers who use the system.**
 - (3) Any handler operating the closed system shall be trained in its use and operate the closed system in accordance with its written operating instructions.**
 - (4) The closed system shall be cleaned and maintained as specified in the written operating instructions and, as needed, to make sure the system functions properly.**
 - (5) All PPE specified in the pesticide product labeling is immediately available to the handler for use in an emergency.**
5. If handling tasks are performed from inside a **vehicle's enclosed** cab [that has a

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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] **and ii** below.

i. [Persons] **Handlers** occupying an enclosed cab may substitute a long-sleeved shirt, long pants, shoes, and socks for the labeling-specified PPE **for skin and eye protection**. If a respiratory device **other than that described in (d)5ii below** is specified on the product labeling for the handling activity, it shall be worn.

[ii. 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.]

ii. If the pesticide labeling requires applicators to wear a filtering face-piece respirator (NIOSH approval number prefix TC-84A) or dust/mist filtering respirator, then that respirator need not be worn inside the enclosed cab if the enclosed cab has a properly functioning air ventilation system that is used and maintained in accordance with the manufacturer's written operating instructions.

[iii. Persons occupying an enclosed cab that has a properly functioning ventilation system which is used and maintained in accordance with the manufacturer's written

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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.] iii. [Persons] **Handlers** occupying an enclosed cab shall have all [labeling-specified equipment] **PPE required by the pesticide labeling** immediately available and stored in a [chemical-resistant] **sealed** container[, such as a plastic bag] **to prevent contamination**. They shall wear such PPE if it is necessary to exit the cab [and contact pesticide-treated surfaces in the] **within a treated area during application or when a restricted-entry interval is in effect**. Once PPE is worn in the treated area, it shall be removed before reentering the cab **to prevent contamination of the cab**.

6. Chemical-resistant gloves shall be worn when entering or leaving an aircraft contaminated by pesticide residues. In the cockpit, the gloves shall be kept in an enclosed container to prevent contamination of the inside of the cockpit.

i. Persons occupying an open cockpit shall use the personal protective equipment specified in the product labeling for use during application, except that chemical-resistant footwear need not be worn. A helmet may be substituted for chemical-resistant headgear. A [visor] **helmet with a face shield lowered to cover the face** may be substituted for protective eyewear.

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ii. (No change.)

7. [Crop] **If the conditions in (d)7i, ii, and iii below are met, crop advisors and their employees** entering treated areas **to perform crop advising tasks** while a restricted-entry interval is in effect may [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:] **substitute either of the following sets of PPE for the PPE specified on the pesticide labeling for handler activities, the personal protective equipment specified on the pesticide label for early entry or coveralls, shoes plus socks, and chemical-resistant gloves made of any waterproof material, and eye protection if the pesticide labeling requires protective eyewear for handlers.**

i. [Application] **The application** has been completed for at least four hours; [and]

ii. [Any] **No such entry is allowed until any** inhalation exposure level **listed** in the **pesticide** labeling has been reached or any ventilation criteria [established] **required** by N.J.A.C. 7:30-12.4(c)3 or in the labeling have been met[.]; **and**

iii. **The crop advisor or crop advisor employee who enters a treated area during a restricted-entry interval performs only crop advising tasks while in the treated area.**

(e) (No change.)

(f) The handler employer shall [assure] **ensure** that all PPE is cleaned according to the manufacturer's instructions or pesticide [product] labeling instructions before each day of reuse. In the absence of any such instructions, it shall be washed thoroughly in detergent and hot water.

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1. If any PPE cannot, **or will not**, be cleaned properly, the handler employer shall **ensure that the contaminated PPE is made unusable as apparel or is made unavailable for further use by employees or third parties. The handler employer shall** dispose of the PPE in accordance with any applicable Federal, State, or local regulations. Coveralls or other absorbent materials that have been drenched or heavily contaminated with [an undiluted] a pesticide that has the signal word DANGER or WARNING on the label shall not be reused[.] **and shall be disposed of as specified in this paragraph. Handler employers shall ensure that any person who handles contaminated PPE described in this paragraph wears the gloves specified on the pesticide labeling for mixing and loading the product(s) comprising the contaminant(s) on the equipment. If two or more pesticides are included in the contaminants, the gloves worn shall meet the requirements for mixing and loading all of the pesticide products. Handler employers shall ensure that any person who handles contaminated PPE described in this paragraph wears the gloves specified on the pesticide product labeling for mixing and loading the product(s) comprising the contaminant(s) on the equipment. If two or more pesticides are included in the contaminants, the gloves worn shall meet the requirements for mixing and loading each of the pesticide products.**

2. The handler employer shall [assure] **ensure** that contaminated PPE is kept separately **from non-contaminated PPE, other clothing, or laundry**, and washed separately from any other clothing or laundry.

3. The handler employer shall [assure] **ensure** that all clean PPE shall be [either] dried thoroughly before being stored or [shall be put in a well ventilated place to dry] **reused**.

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4. (No change.)

5. The handler employer shall [assure] **ensure** that when dust/mist filtering respirators are used, the filters shall be replaced[.] **when one of the following conditions is met:**

i.-iii. (No change.)

iv. In the absence of any other instructions or indications of service life, at the end of [each day's work period] **eight hours of cumulative use.**

6. The handler employer shall [assure] **ensure** that when gas or vapor-removing respirators are used, the gas or vapor-removing canisters or cartridges shall be replaced **before further respirator use when one of the following conditions is met:**

i. (No change.)

ii. **When breathing resistance becomes excessive;**

[ii.] iii. [According] **When required according** to the manufacturer's recommendations or pesticide [product] labeling, whichever is more frequent; [or]

iv. **When the maximum use time is reached as determined by a change schedule conforming to the provisions of the Occupational Safety and Health Administration regulations at 29 CFR 1910.134(d)(3)(iii)(B)(2); or**

[iii.] v. In the absence of any other instructions or indications of service life, at the end of [each day's work period] **eight hours of cumulative use.**

7. The handler employer shall inform any person who cleans or launders [personal protective equipment (]PPE[]):

i. (No change.)

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- 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[.]; **and**
 - iv. **Of the proper decontamination procedures that should be followed after handling contaminated personal protective equipment.**
8. The handler employer shall [assure] **ensure** that handlers have a clean place(s) away from **pesticide** storage and pesticide use areas where they may:
- i. Store personal clothing not [in use] **worn during handling activities;**
 - ii.-iii. (No change.)
9. The handler employer shall not allow or direct any handler to wear home or take home **employer-provided** PPE contaminated with pesticides.
- (g) (No change.)

7:30-12.21 Handler decontamination

- (a) [During any handling activity, the] **The** handler employer shall provide [for handlers, in accordance with this section, a] decontamination [site for washing off pesticides and pesticide residues] **and eyeflushing supplies in accordance with this section for any handler that is performing any handler activity or removing personal protective equipment at the place for changing required pursuant to N.J.A.C. 7:30-12.20(f)8.**
- (b) The handler employer shall provide handlers with [enough water for routine washing, for emergency eyeflushing, and for washing the entire body in case of an emergency.] **at least**

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1. [When] **If a water [stored in a tank] source** is to be used for mixing pesticides, it shall not be used for decontamination or eyeflushing, unless [the tank is] equipped with properly functioning valves or other mechanisms that prevent [movement of] **contamination of the water with pesticides [into the tank], such as anti-backflow siphons, one-way or check valves, or an air gap sufficient to prevent contamination.**

2. The handler employer shall provide soap and single-use towels **for drying** at each decontamination site in quantities sufficient to meet handlers' needs. **Hand-sanitizing gels and liquids, or wet towelettes do not meet the requirements for soap. Wet towelettes do not meet the requirement for single use towels.**

3. (No change.)

(c) The decontamination [site] **supplies** shall be **located together and** reasonably accessible to **each handler during the handler activity** and not more than one-quarter mile from each handler during the handling activity; or at the site of a required toilet, whichever is closer.

1. [For mixing activities, the decontamination site] **Decontamination supplies** shall be **provided** at [the] **any** mixing site.

2. The decontamination [site] **supplies** for a pilot who is applying pesticides aerially

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3. When handling activities are performed more than one-quarter mile from the nearest place of vehicular access:

i. The soap, single-use towels, and water may be at the nearest place of vehicular access **outside the treated area**.

[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] **supplies** 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 areas where the handler is performing handling activities; ii.

The] **the** soap, single use towels, **water** and clean change of clothing are **protected from pesticide contamination** in enclosed containers[; and].

[iii. The water is running tap water or is enclosed in a container.]

[(d)To provide for emergency eyeflushing, the handler employer shall assure that at least one pint of water is immediately available to each handler who is performing tasks for which the pesticide labeling requires protective eyewear. The eyeflush 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.]

(d) Whenever a handler is mixing or loading a pesticide that has labeling requiring

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protective eyewear for handlers, or is mixing or loading any pesticide using a closed system

operating under pressure, the handler employer shall provide at each mixing/loading site immediately available to the handler, at least one system that is capable of delivering gently running water at a rate of least 0.4 gallons per minute for at least 15 minutes, or at least six gallons of water in containers suitable for providing a gentle eye-flush for about 15 minutes.

(e) Whenever a handler is applying a pesticide that has labeling requiring protective eyewear for handlers, the handler employer shall provide at least one pint of water per handler in portable containers that are immediately available to each handler.

[(e)] **(f)** (No change in text.)

7:30-12.22 Emergency assistance **by commercial pesticide handling establishments**

(a) If there is reason to believe that a [person who is or has been] **handler** employed by [an agricultural establishment or] **the** 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:] **has experienced a potential pesticide exposure during employment by the commercial pesticide handling establishment or shows symptoms similar to those associated with acute exposure to pesticides during or within 72 hours after employment by the commercial pesticide handling establishment, and needs emergency medical treatment, the commercial pesticide**

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handler employer shall do all of the following promptly after learning of the possible

poisoning or injury:

1. Make available to that person [prompt] transportation from the [place of employment or the handling site] **commercial pesticide handling establishment, or any agricultural establishment on which that handler may be working on behalf of the commercial pesticide handling establishment,** to an [appropriate emergency] **operating medical care facility capable of providing emergency medical treatment to a person exposed to pesticides;** and

2. Provide **all of the following information** to that person [or] **and** to treating medical personnel[, promptly upon request, any obtainable information on]:

i. [The] **A copy of the applicable safety data sheet and the** product name, EPA registration number, and active ingredients of any [product] **pesticide** to which that person may have been exposed;

[ii. The antidote, first aid, and other medical information from the product labeling;]

[iii.] **ii.** The circumstances of [handling] **application or use** of the pesticide; and

[iv.] **iii.** The circumstances [of] **that could have resulted in** exposure of that person to the pesticide.