

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DIVISION OF AGRICULTURE
PESTICIDES SECTION

RULES AND REGULATIONS RELATING TO PESTICIDES



October 19, 2006

AUTHORITY: These rules and regulations are adopted pursuant to Chapters 42-35 and 23-25 of the Rhode Island General Laws, 1956, as amended. These rules and regulations were originally promulgated in 1979 and amended March 10, 1987.

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RULES AND REGULATIONS RELATING TO PESTICIDES

RULE 1. PURPOSE

The purpose of these rules and regulations is to ensure the enforcement and administration of the Rhode Island Pesticide Control Act and its amendments, the protection of public health and to avoid degradation of the environment of the State. The regulations as herein set forth include, but are not limited to, providing for the collection, examination, and reporting of samples of pesticides or devices; the safe use, handling, transportation, storage, display, distribution, and disposal of pesticides and their containers; provide for labeling requirements of all pesticides; prescribe methods to be used in the application of pesticides; and establish standards of minimum competence levels for applicators of pesticides.

RULE 2. AUTHORITY

- A.) These rules and regulations are promulgated pursuant to the requirements and provisions of Chapter 42-17.1, “Department of Environmental Management”, Chapter 42-17.6, “Administrative Penalties for Environmental Violations”, and Chapter 23-25-1, “Pesticide Control Act of 1976”, in accordance with the provisions of Chapter 42-35, “Administrative Procedures Act”, of the Rhode Island General Laws of 1956, as amended.
- B.) Pursuant to the above cited provisions of the Rhode Island General Laws of 1956, as amended, the Department of Environmental Management’s Division of Agriculture & Resource Marketing its Chief and designated agents shall be responsible for carrying out the provisions of these rules and regulations.

RULE 3. APPLICABILITY

The terms and provisions of these Rules and Regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals, and policies.

RULE 4. DEFINITIONS

For the purpose of these regulations, the following terms shall have the following meanings:

- (A) **Director** - means the Director of the Department of Environmental Management as defined in Chapter 23-25-4 entitled Pesticide Control Act of 1976 of the State of Rhode Island General Laws of 1956, as amended.

- (B) **CFR** - means Code of Federal Regulations published in the Federal Register by the executive department and agencies of the Federal Government of the United States of America.
- (C) **Community Water Supply** - means any public water supply, which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round individuals.
- (D) **Conspicuous Points of Access** - the usual and customary entrance(s) where people are likely to enter a treated area and observe posted signs pursuant to Rule 24.
- (E) **Department** – means the Rhode Island Department of Environmental Management.
- (F) **School Emergency** – an urgent need to mitigate or eliminate a pest that threatens the health or safety of a student or staff member at a school.
- (G) **Immediate Farm Family Member** – includes only the spouse, children, stepchildren, foster children, parents, stepparents, foster parents, brothers and sisters.
- (H) **Original Container** – means the package the pesticide or device was placed in by the manufacturer for distribution, sale, consumption, use or storage. The term does not include any shipping or bulk container used for transporting or delivering the pesticide unless it is the only such package.
- (I) **Public Health** – means the optimal well being of the general public both individually and collectively as communities of the human race.
- (J) **Public Water Supply** – means a system for the provision of the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves at least twenty-five (25) individuals daily at least sixty (60) days of the year.
- (K) **RIPCA** – means Chapter 23-25 of the General Laws entitled the Rhode Island Pest Control Act of 1976.
- (L) **School** – The term means a public or private elementary or secondary school having kindergarten or any of grades one (1) through twelve (12). The term school includes any school building and any area outside of a school (including a lawn, playfield, sports field) that is used, managed or owned by the school or school district for school related activities.
- (M) **Service Container** – means any container, other than the original container of a registered pesticide provided by the registrant, or pesticide application equipment,

which contains the original material that is utilized to hold, store, or transport a pesticide concentrate or a pesticide use-dilution preparation.

- (N) **Use of a pesticide** – Any act of handling or release of a pesticide or the exposure of public health or the environment to a pesticide, but excluding normal handling associated with pesticide distribution, through acts including but not limited to:
- a. Application of a pesticide including mixing or loading of equipment and any required supervisory action in or near the area of application.
 - b. Storage actions for pesticides and pesticide containers.
 - c. Disposal actions for pesticides and pesticide containers.
 - d. Recommendation of a pesticide application; and/or
 - e. Other activities as defined by the **Federal Worker Protection Standard 40 CFR Part 156.**

RULE 5. “RESTRICTED USE” AND “STATE LIMITED USE” PESTICIDES

- (A.) “Restricted Use” Pesticides – Any pesticide which is classified as “restricted use” by the administrator of EPA under 7 USC 136a Sec. 3(d)(1), or as a “state-limited use” pesticide under the Rhode Island Pesticide Control Act Chapter 23-25-9. A listing of such “restricted use” pesticides shall be maintained with the Division of Agriculture.
- (B.) “State Limited Use” Pesticides – In accordance with Chapter 23-25-9 of the Rhode Island Pest Control Act, the pesticides contained herein are classified as “state limited use”. As such, the following restrictions and/or conditions of use shall apply:
- (1) Effective January 31, 1987, all uses, distribution and sale of pesticide products containing Chlordane have been canceled and banned:
 - (a) Products containing Chlordane shall not be distributed or used in the State of Rhode Island
 - (b) Products containing Chlordane shall not be distributed or offered for sale by any person, dealer, store, or company in the State of Rhode Island.
 - (2) The registration of products containing Alar (daminozide) shall be subject to the requirements “state limited use” effective May 15, 1986.

(3) Effective September 1, 2006, the following pesticides shall be classified as “state limited use” pesticides in the State of Rhode Island due to their potential as ground water contaminants:

- (a) Acetochlor {2-chloro-N-ethoxymethyl-6'-ethylacet-o-toluidide, 2-chloro-N-(ethoxymethyl)-N-(2-ethyl-6-methylphenyl) acetamide, or related compounds.}
- (b) Alachlor {2-Chloro-2,6'-diethyl-N-(methoxymethyl)-acetanilide or related compounds}
- (c) Cyanazine {2-[[4-chloro-6-(ethylamino)1,3,5-triazin-2-yl]amino]-2-methylpropionitrile or related compounds}
- (d) Metolachlor {2-chloro-N-(2-ethyl-6-methylphenyl)-N-(2-methoxy-1-methylethyl) acetamide or related compounds}
- (e) Simazine {2-Chloro-4,6-bis(ethylamino)-s-triazine or related compounds}
- (f) Dacthal DCPA (dimethyl tetrachloroterephthalate)

(4) All applicators must report annually applications of pesticides containing wholly or in part any of the chemicals listed in Section B(3) above. At a minimum the following information must be reported:

- (a) The brand name or trade name of the pesticide;
- (b) The EPA registration number of the pesticide;
- (c) The total amount of pesticide applied;
- (d) The purpose for which the pesticide was applied; including the target pest(s) and the exact location where the pesticide was applied on the property.
- (e) The name and address of the place of application;
- (f) The specific field or land area of the application, if different from item (e) above;
- (g) If applied to a food crop, the crop to which the application was made; and

(h) And the month, day, and year of the application.

- (5) Pesticides listed in Section B(3) above must be applied in accordance with its EPA approved label and the Pesticide State Management Plan, if the Department has developed such a plan. A copy of such plans shall be available for review upon request at the Department's Bureau of Natural Resource, Agriculture and Resource Marketing. If a plan is not required, then the pesticide must be applied in accordance with its approved EPA label.

RULE 6. RECORD KEEPING REQUIREMENTS

- (A) Dealer Records – Any person issued a dealer's license is required to keep, for at least two full years, true and accurate records containing the following information:
- (1) The delivery, distribution, movement, storage, or holding of any "restricted use" or "state limited use" pesticide, including the quantity;
 - (2) The date of shipment, sale and receipt;
 - (3) The EPA registration number;
 - (4) The name of consignor and name and certification number of the consignee.
- (B) Commercial Applicators – Every commercial applicator is required to keep, for a minimum of two years from the date of application, true and accurate records containing the following information on his his or her application of G general use, "restricted use", and "state-limited use" pesticides:
- (1) The brand names or trade names of the pesticides;
 - (2) The formulation used and the quantity of that formulation used at each site or property, as well as the total amount of the dilution spray applied of each pesticide product, when listed on the pesticide label.
 - (3) The EPA registration number for each pesticide product;
 - (4) The purposes for which the pesticides were applied; the target pest(s) and the exact locations where the pesticide(s) were applied on the property. For spot treatments, list site (e.g. lawn) and "spot treatment."
 - (5) The month, day, and year of the application;

- (6) The consignees name and address;
- (7) Upon completion of the application, the applicator shall leave a detailed invoice at the property treated containing the following information:
 - (a) The product name and EPA Registration Number of the pesticide(s) and the amount applied;
 - (b) The name of the persons certified or licensed by the Department as well as person(s) applying the pesticide under the direct supervision of a certified or licensed commercial applicator who participated in the planning and execution of the application;
 - (c) The applicators certification and/or license number;
 - (d) Any post-application, safety, environment or health instructions specified on the label for the end use product. This information may also be provided to the customer prior to the application; and
 - (e) In the case of pesticide applications made to rights-of-way owned by a Public Agency and/or Utility Companies, this notification shall be made by the applicator(s) to the Utility Company or Public Agency. When requested by adjacent or abutting property owners whose lands abuts the right-of-ways, it will be the responsibility of the Public Agency or Utility Company to provide the information stated in Section 8 (a) through (d) of Rule 6.
- (8) Termiticide application records shall also include:
 - (a) A diagram of the structure depicting the lower level treated and exterior treatments;
 - (b) The location of the active termite infestation(s) or evidence of an untreated termite infestation, except when applying as a pre-treatment application; and
 - (c) Location of known wells, drainage systems, and any water bodies such as streams and ponds located within 100 feet from the treated structure.
- (C) Private Applicators – Certified private applicators are required to keep, for a period of at least two full calendar years, true and accurate records containing the following information on their yearly use of each “restricted use” and “state limited use” pesticide:

- (1) The brand name or trade name of the pesticide;
- (2) The EPA registration number of the pesticide;
- (3) The amount of pesticide applied;
- (4) The purpose or target pest(s) for which the pesticide was applied;
- (5) If the application is made to a crop, a commodity, stored product or site:
 - (a) name and address of the farm;
 - (b) the specific field or land area of the application;
 - (c) the size of the area treated.
- (6) The month, day, and year of the application;
- (7) Name of the applicator applying or supervising the application and certification number;
- (8) Application records of restricted use pesticides to a total area of less than one-tenth (1/10) of an acre (spot treatments) must include:
 - (a) the brand name or registered name of the pesticide;
 - (b) the EPA Registration Number;
 - (c) the total amount applied;
 - (d) the field location, which must also be designated as a “spot treatment.”
 - (e) the site, crop or commodity;
 - (f) the month, day and year of the application

Greenhouse and Nursery Applications are excluded from the spot treatment provisions, if treating less than 1/10 acre.

- (9) Applications of restricted use pesticides must be recorded no later than 14 days following pesticide applications and must be maintained for 2 years following the application.

- (D) Records Availability – Records required by paragraphs A-C shall be made promptly available to the Director, or his designee, upon a reasonable demand.

RULE 7. CATEGORIES FOR COMMERCIAL APPLICATORS

- (A) Every commercial applicator who uses or supervises the use of a “restricted use” or “state limited use” pesticide in any of the following categories and sub-categories must be certified pursuant to Rule 9 of these Regulations for that category and sub-category. The categories and sub-categories for commercial applicators are:

Category 1. Agricultural Pest Control

- a. Plant – This category includes commercial applicators using or supervising the use of “restricted use” or “state limited use” pesticides in the production of agricultural crops, such as feed grains, forage, vegetables, fruits & nuts, as well as on grasslands and non-crop agricultural lands.
- b. Animal – This category includes applicators using or supervising the use of “restricted use” or “state limited use” pesticides on animals, such as beef cattle, dairy cattle, swine, sheep, horses, goats, poultry, and livestock, and to places on or in which animals are confined. Veterinarians and physicians who only apply pesticides as drugs or medication during the course of their normal practice need not become certified (or licensed). This exclusion is not applicable to physicians and veterinarians who apply pesticides for hire, who publicly hold themselves out as pesticide applicators, or who engage in large-scale use of pesticides in this category.

Category 2. Forest Pest Control This category includes commercial applicators using or supervising the use of “restricted use” or “state limited use” pesticides in forests, forest nurseries, and forest seed producing areas.

Category 3. Ornamental and Turf Pest Control This category includes applicators using or supervising the use of “restricted use” or “state limited use” pesticides as stated in the sub-categories below:

- a. Shade Tree (Arborist) – Applicators using or supervising the use of pesticides in the maintenance and production of ornamental trees.
- b. Custom Grounds – Applicators using or supervising the use of pesticides in the maintenance and production of ornamental shrubs, flowers and turf.

- c. Interior scape - Applicators using or supervising the use of pesticides in the maintenance and production of plants inside buildings.

Category 4. Seed Treatment This includes commercial applicators using or supervising the use of “restricted use” or “state limited use” pesticides on seeds.

Category 5. Aquatic Pest Control This category includes applicators using or supervising the use of “restricted use” or “state limited use” pesticides as stated in the sub-categories below:

- a. Aquatic Weed Control. This category includes commercial applicators using or supervising the use of “restricted use” or “state limited use” pesticides purposefully applied to standing or running water such as lakes, ponds, reservoirs, rivers and streams for the purpose of controlling aquatic weed and insect pests. Applicators engaged in public health related activities included in Category 8 are excluded.
- b. Anti-Fouling Paints. This category includes applicators and/or employees of commercial boatyard facilities engaged in the construction, storage, maintenance, repair or refurbishing of vessels who are applying anti-fouling paints.
- c. Sewer Root Control. Applicators using or supervising the use of pesticides in the maintenance of sewer line and wastewater plant systems.

Category 6. Right-of-Way Pest Control. This category includes commercial applicators using or supervising the use of “restricted use” or “state limited use” pesticides in the maintenance of public roads, electric power lines, pipelines, railway rights-of-way of other similar areas.

Category 7. Industrial, Structural and Health Related Pest Control. This category includes applicators using or supervising the use of “restricted use” or “state limited use” pesticides as stated in the sub-categories below:

- a. General Pest – Applicators who use or supervise the use of pesticides for the control of general household pests such as fleas, cockroaches, bedbugs, ants, ticks, chiggers, mites, rats, mice, yellow jackets, hornets.

- b. Termite and Structural Pest – Applicators who use or supervise the use of pesticides for control of termites, carpenter ants, powder post beetles, dry rot and other wood destroying organisms.
- c. Fumigation – Applicators who use or supervise the use of pesticides that vaporize, or are in a gaseous phase, and kill by action of a toxic gas in houses, warehouses, box cars, etc.
- d. Vertebrate – Applicators who use or supervise the use of pesticides for the control of bats, birds, etc.
- e. Mosquitoes and Biting Flies – Applicators who use or supervise the use of pesticides for the control of such biting or stinging arthropods such as mosquitoes, and black flies, horseflies.
- f. Food Processing Pest Control – Applicators who use or supervise the use of pesticides to control pests in, on or around food processing plants which may include, but not be limited to bakeries, dairy product processing plants, canning and frozen food packing, confection manufacturing and meat product processing plants.

Category 8. Public Health Pest Control – This category includes State, Federal or other government employees using or supervising the of “restricted use” or “state limited use” pesticides in public health programs for the management and control of pests having medical and public health importance.

Category 9. Regulatory Pest Control – This category includes State, Federal or other government employees who use or supervise the use of “restricted use” or “state limited use” pesticides in the control of regulated pests.

Category 10. Demonstration and Research Pest Control – This category includes: (i) individuals who demonstrate the proper use and techniques of application of “restricted use” or “state limited use” pesticides or supervise such demonstrations, including extension specialists and county agents, sales representatives demonstrating pesticide products, and those individuals demonstrating methods used in public programs and (ii) persons conducting field research with “restricted use” or “state limited use” pesticides, and, in doing so, use or supervise the use of “restricted use” or “state limited use” pesticides including extension specialists and county agents, State or Federal, commercial and other persons conducting field research on or utilizing pesticides.

Category 11. Wood Preservation – This category includes applicators using or supervising the use of “restricted use” or “state limited use” pesticides as stated in the subcategories below:

- a. Pole Treatment – Applicators who use or supervise the use of pesticides for the control of fungi, and insects to utility poles and posts.
 - b. Pressure Treatment – Applicators who use or supervise the use of pesticides to preserve wood either by utilizing pressure and non-pressure processes to control fungi and insects.
- (B) The Director may, after a public hearing, add additional categories or sub-categories as needed for the certification of commercial applicators.

RULE 8. COMMERCIAL APPLICATOR CERTIFICATION PROCEDURE

- (A) Each person engaged in the application of any “restricted use” or “state limited use” pesticide” as a commercial applicator shall possess a valid commercial applicator certificate issued by the Director, except that a person who is applying a “restricted use” or “state limited use” pesticide under the direct supervision of an appropriately certified commercial applicator shall not be required to possess such a certificate.
- (B). Application for certification shall be filed with the Department on forms supplied by the Department, and shall contain such information, as the Director shall require.
- (C) A fee of \$45.00 shall be charged prior to the issuance of the initial certification document and at the time of each annual renewal or re-certification thereafter.
- (D) A certification document shall be valid for a period beginning with the actual date of issuance and ending on January 31st, unless it has been revoked or suspended prior thereto by the Director for cause;
- (D) Competence in the use and handling of pesticides by commercial applicators, who wish to become certified shall be determined on the basis of written examinations, and, as appropriate, performance testing, based upon standards set forth in Rules 10 and 11. Such examination and testing shall include the general standards applicable to all categories and the additional standards specifically identified for each category or sub-category in which an applicator is to be classified under RULE 8.
- (F) A person shall not be determined certifiable in any category or sub-category until such person passes the required examinations as provided by paragraph (E) of this rule.

- (G) Any person who has failed to renew their commercial certification within a year of their certification expiration date shall regain their certification solely by re-examination. Such re-examination shall include the required core exam plus any categories for which certification was previously held. Persons who have failed to renew their commercial certification beyond one year of their certification expiration date shall regain their certification by attending the training course and by taking the exam for the commercial core and for any categories for which certification was previously held.
- (H) Commercial Applicators shall cooperate with the Department requests to observe spraying operations, to inspect equipment, to inspect pesticide related records, to inspect business premises and to conduct pesticide related sampling.
- (I) The Director may deny certification or may suspend, revoke, or otherwise modify a certificate once issued for reasons including any of the following:
 - (1) That the applicant made a false or misleading statement in the application for certification;
 - (2) that the applicant or certificate holder has violated any provision of the Rhode Island Pest Control Act or regulations promulgated thereunder;
 - (3) that the applicant or certificate holder does not have in effect or fails to maintain in effect financial responsibility in the amounts specified in RULE 22.
 - (4). that the applicant or certificate holder uses or applies a pesticide, excluding pesticides for which an EPA experimental use permit has been issued, which has not been duly registered under the provisions of §23-25-6.
- (J) No person under eighteen (18) years of age shall be eligible for certification as a commercial applicator or be eligible to apply pesticides under the direct supervision of a certified applicator.

RULE 9. GENERAL STANDARDS FOR ALL CATEGORIES AND SUB-CATEGORIES OF COMMERCIAL APPLICATORS

All commercial applicators must demonstrate practical knowledge of the principles and practices of pest control and safe use of pesticides. Testing shall be based on examples of problems and situations appropriate to the particular category or sub-category, if any, in which the applicant wishes to be certified in the following areas:

- (A). Label and Labeling Comprehension
 - (1) General format and terminology;

- (2) Understanding of instruction, warnings, terms, symbols, and other information commonly appearing on pesticide labels;
- (3) Classification of the products, general or restricted; and
- (4) Necessity for use consistent with the label, or as otherwise allowed by interpretation or regulations.

(B) Safety

- (1) Pesticide toxicity and hazard to human health and common exposure routes;
- (2) Common types and causes of pesticide accidents;
- (3) Precautions necessary to guard against injury to applicators and other individuals in or near treated areas;
- (4) Need for and use of protective clothing and equipment;
- (5) Symptoms of Pesticide poisoning;
- (6) First aid and other procedures to be followed in case of a pesticide accident; and
- (7) Proper identification, storage, transport, handling, mixing procedures and disposal methods for pesticides and used pesticide containers, including precautions to be taken to prevent children from having access to pesticides and pesticide containers.

(C) Environment The potential environmental consequences of the use and misuse of pesticides as may be influenced by such factors as:

- (1) Weather and other climatic conditions;
- (2) Types of terrain, soil or other substrate;
- (3) Presence of fish, wildlife and other non-target organisms; and
- (4) Groundwater and surface water drainage patterns.

(D) Pests

- (1) Common features of pest organisms and characteristics of damage needed for pest recognition;

- (2). Recognition of relevant pests; and
- (3). Pest development and biology as it may be relevant to problem identification and control.
- (4). Knowledge of Integrated Pest Management (IPM) practices and procedures.
- (5). Non-chemical procedures or sets of procedures where available that could substitute for a pesticide or decrease the amount required.

(E) Pesticides

- (1) Types of pesticides;
- (2) Types of formulations;
- (3) Compatibility, synergism, persistence and animal and plant toxicity of the formulations;
- (4) Hazards and residues associated with use;
- (5) Factors which influence effectiveness or lead to such problems as resistance to pesticides; and
- (6) Dilution procedures.
- (7) Residues associated with use.

(F) Equipment

- (1) Types of equipment and advantages and limitations of each type; and
- (2) Uses, maintenance and calibration.

(G) Application Techniques

- (1) Methods of procedures used to apply various formulations of pesticides, solutions, and gases, together with a knowledge of which technique of application to use in a given situation;
- (2) Relationship to discharge and placement of pesticides to proper use, unnecessary use, and misuse; and
- (3) Prevention of drift and pesticide loss into the environment.

(H). Laws and Regulations

Applicable State and Federal Laws and Regulations.

**RULE 10. SPECIFIC STANDARDS OF COMPETENCY FOR EACH
CATEGORY AND SUB-CATEGORY OF COMMERCIAL
APPLICATORS**

Commercial applicators in each category shall be particularly qualified with the respect to the specific standards elaborated.

1. Agricultural Pest Control

a. Plant – Applicators must demonstrate practical knowledge of crops grown and the specific pests of those crops on which they may be using “restricted use” or “state limited use” pesticides. The impact of such competency is amplified by the extensive ~~are~~ areas involved, the quantities of pesticides needed, and the ultimate use of many commodities as food and feed. Practical knowledge is required concerning soil and water problems, pre-harvest intervals, re-entry intervals, phytotoxicity, and potential for environmental contamination, non-target injury and community problems resulting from the use of “restricted use” or “state limited use” pesticides in agricultural areas.

b. Animal – Applicators applying pesticides directly to animals must demonstrate practical knowledge of such animals and their associated pests. A practical knowledge is also required concerning specific pesticide toxicity residue potential, since host animals will frequently be used for food. Further, the applicator must know the relative hazards associated with such factors as formulation, application techniques, age of animals, stress and extent of treatment.

2. Forest Pest Control – Applicators shall demonstrate practical knowledge of types of forests, forest nurseries, and seed production in their state and the pests involved. They should possess practical knowledge of the cyclic occurrence of certain pests and specific population dynamics as a basis for programming pesticide applications. A practical knowledge is required of the relative biotic agents and their vulnerability to the pesticides to be applied. Because forest stands may be large and frequently include natural aquatic habitats and harbor wildlife, the consequences of pesticide use may be difficult to access. The applicator must therefore demonstrate practical knowledge of control methods, which will minimize the possibility of secondary problems such as unintended effects on beneficial insects, fish, birds and wildlife. Proper use of specialized equipment must be demonstrated, especially as it may relate to meteorological factors and adjacent land use.

3. Ornamental and Turf Pest Control

- a. Shade Tree – Applicators shall demonstrate practical knowledge of pesticide problems associated with the production and maintenance of ornamental and shade trees, including cognizance of potential phytotoxicity due to a wide variety of plant material, drift, and persistence beyond the intended period of pest control. Because of the frequent proximity of human habitations to application activities, applicators in this sub-category must demonstrate practical knowledge of application methods, which minimize or prevent hazards to humans, pets, and other domestic animals, wells and water bodies.
- b. Custom Grounds – Applicators shall demonstrate practical knowledge of pesticide problems associated with the production and maintenance of shrubs, plantings, and turf, including cognizance of potential phytotoxicity due to a wide variety of plant material, drift, and persistence beyond the intended period of pest control. Because of the frequent proximity of human habitations to application activities, applicators in this sub-category must demonstrate practical knowledge of application methods, which will minimize or prevent hazards to humans, pets, and other domestic animals, wells and water bodies.
- (c) Interior Scape – Applicators shall demonstrate a practical knowledge of pesticide problems associated with the production and maintenance of indoor plantings maintained for aesthetic purposes, including cognizance of potential phytotoxicity due to a wide variety of plant material, drift, & persistence beyond the intended period of pest control.

Since human exposure including babies, children, pregnant women and elderly people is frequently a potential problem, applicators must demonstrate practical knowledge of the specific factors which may lead to a hazardous condition, including continuous exposure in the various situations encountered in this subcategory.

- 4. Seed-Treatment – Applicators shall demonstrate practical knowledge of types of seeds that require chemical protection against pests and factors such as seed coloration, carriers, and surface active agents, which influence pesticide binding and may affect germination. They must demonstrate practical knowledge of hazards associated with handling, sorting and mixing, and misuse of treated seed such as introduction of treated seed into food and feed channels, as well as proper disposal of unused treated seeds.

5. Aquatic Pest Control
 - a. Aquatic Weed Control – Applicators shall demonstrate practical knowledge of the secondary effects which can be caused by improper application rates, incorrect formulations, and faulty application of “restricted use” or “state limited use” pesticides used in this category. They shall demonstrate practical knowledge of various water use situations and the potential of downstream effects. Further, they must have practical knowledge concerning potential pesticide effects on plants, fish, birds, beneficial insects and other organisms which may be present in aquatic environments. These applicators shall demonstrate practical knowledge of the principles of limited area application.
 - b. Anti-Fouling Paints – Applicators shall demonstrate practical knowledge of the fouling control mechanism of anti-fouling paints and the various factors that can affect anti-fouling performance. In addition, applicators must be familiar with and understand the effect of anti-fouling paints on non-target organisms and the concept of spill management. Knowledge of special application practices and understanding of the effects of improper or unnecessary use of anti-fouling paints are required for the applicator and are essential for the applicator and the environment.
 - c. Sewer Root Control – Applicators shall demonstrate practical knowledge of pesticides used for the maintenance of sewer lines and wastewater plant systems.
6. Right-of-Way Pest Control – Applicators shall demonstrate practical knowledge of wide variety of environments, since rights-of-way can transverse many different terrains, including waterways. They shall demonstrate practical knowledge of problems on runoff, drift, and excessive foliage destruction and ability to recognize target organisms. They shall also demonstrate practical knowledge of the nature of herbicides and the need for containment of these pesticides within the right-of-way area, and the impact of their application activities in the adjacent areas and communities.
7. Industrial, Institutional, Structural and Health Related Pest Control
 - a. General Pest – Applicators must demonstrate a practical knowledge of a wide variety of pests, rats and mice, including their life cycles, types of formulations appropriate for their control, and methods of application that avoid contamination of habitat, and exposure of people and pets. Since human exposure, including babies, children, pregnant women, and elderly people, is frequently a potential problem, applicators must demonstrate practical knowledge of the specific factors which may lead to a hazardous condition, including continuous exposure in the various situations encountered in this sub-category. Because health related pest control may

involve outdoor applications, applicators must also demonstrate practical knowledge of environmental conditions, particularly related to this activity.

- b. Termite and Structural Pest – Applicators must demonstrate a practical knowledge of a wide variety of wood destroying organisms, including their life cycles, types of formulations appropriate for their control, and methods of application that avoid contamination of food, wells, damage and contamination of habitat, and exposure of people and pets. Since human exposure, including babies, children, pregnant women, and elderly people, is frequently a potential problem, applicators must demonstrate practical knowledge of the specific factors which may lead to a hazardous condition, including continuous exposure in the various situations encountered in this sub-category.
- c. Fumigation – Applicators must demonstrate a practical knowledge of a wide variety of pests, including their life cycles, types of fumigation materials appropriate for their control, and methods of application that avoid contamination of habitat, and exposure of people and pets. Since human exposure is frequently a potential problem, applicators must demonstrate practical knowledge of the specific factors which may lead to a hazardous condition, including continuous exposure in the various situations encountered in this sub-category.
- d. Vertebrate – Applicators must demonstrate a practical knowledge of rodents and birds including their life cycles, types of formulations appropriate for their control, and methods of application that avoid contamination of food, damage and contamination of habitat, and exposure of people and pets. Since human exposure, including babies, children, pregnant women, and elderly people is frequently a potential problem, applicators must demonstrate practical knowledge of the specific factors which may lead to a hazardous condition, including continuous exposure in the various situations encountered in this sub-category. Because vertebrate pest control may involve outdoor applications, applicators must also demonstrate practical knowledge of environmental conditions, particularly related to this activity.
- e. Mosquitoes and Biting Flies – Applicators must demonstrate a practical knowledge of a variety of pests, including their life cycles, types of formulations appropriate for their control, and methods of application that avoid contamination of habitat, and exposure of people and pets. Since human exposure is frequently a potential problem, applicators must demonstrate practical knowledge of the specific factors which may lead to a hazardous condition, including continuous exposure in the various situations encountered in this sub-category. Because a health related pest control may involve outdoor applications, applicators must also

demonstrate practical knowledge of environmental conditions, particularly related to this activity.

- f. Food Processing Pest Control – Applicators shall demonstrate practical knowledge of a wide variety of pests, including their life cycles, types of formulations appropriate for their control and method of application that avoids contamination of food, food processing equipment and packaging materials, damage and contamination of the processing area and exposure to people. Since human exposure, including pregnant women and elderly people may be a potential problem, applicators must demonstrate practical knowledge of the specific factors which may lead to a hazardous condition including any continuous exposure in the various situations encountered in this subcategory.
8. Public Health Pest Control – Applicators shall demonstrate practical knowledge of vector-disease transmission as it relates to and influences application programs. A wide variety of pests are involved and it is essential that they be known and recognized, and appropriate life cycles and habitats be understood as a basis for control strategy. These applicators shall have practical knowledge of a great variety of environments ranging from streams to those conditions found in buildings. They should also have practical knowledge of the importance and employment of such non-chemical control methods as sanitation, waste disposal and drainage.
9. Regulatory Pest Control – Applicators shall demonstrate practical knowledge of regulated pests, applicable laws relating to quarantine and other regulation of pests, and the potential impact on the environment of “restricted use” or “state limited use” pesticides used in suppression and eradication programs. They shall demonstrate knowledge of factors influencing introduction, spread, and population dynamics of relevant pests. Their knowledge shall extend beyond that required by immediate duties, since their services are frequently required in other areas of the country where emergency measures are invoked to control regulated pests and where individual judgements must be made in new situations.
10. Demonstration and Research Pest Control – Persons demonstrating the safe and effective use of pesticides to other applicators and the public will be expected to meet comprehensive standards reflecting a broad spectrum of pesticide uses. Many different pest problem situations will be encountered in the course of activities associated with demonstration, and practical knowledge of problems, pests, and population levels occurring in each demonstration situation is required. Further, they should demonstrate an understanding of pesticide-organism interactions and the importance of integrating pesticide use with other control methods. In general, it would be expected that applicators doing demonstration pest control work possess a practical knowledge of all the standards detailed in the General Standards. In addition, they shall meet the specific standards required for categories (a) through (g) of this section as may be applicable to their

particular activity. Persons conducting field research or method improvement work with “restricted use” or “state limited use” pesticides should be expected to know the General Standards. In addition, they shall be expected to know the specific standards required for categories (a) through (i) of this section, applicable to their particular activity, or alternatively, to meet the more inclusive requirements listed under “Demonstration”.

11. Wood Preservation – Applicators must demonstrate a practical knowledge of a wide variety of wood destroying organisms such as fungi and insects, including but not limited to their life cycles, types of formulations appropriate for their control, and methods of application that avoid contamination of wells or water bodies, damage and contamination of habitat, and exposure of people and pets. Because human exposure can be a potential problem, applicators must demonstrate practical knowledge of the specific factors which may lead to a hazardous condition, including continuous exposure in the various situations encountered in this sub-category:
 - a. Pole Treatment – Applicators who use or supervise the use of pesticides must demonstrate a practical knowledge of the control of fungi, and insects to utility poles and posts.
 - b. Pressure Treatment – Applicators who use or supervise the use of pesticides in this sub-category must demonstrate a practical knowledge of wood preservation by either utilizing pressure and non-pressure processes to control fungi and insects.

RULE 11. PRIVATE APPLICATOR CERTIFICATION PROCEDURE

- (A) Each person engaged in the application of any “restricted use” or “state limited use” pesticide as a private applicator shall possess a valid private applicator certificate issued by the Director, except that a person who is applying a restricted-use or limited use pesticide under the direct supervision of an appropriately certified applicator shall not be required to possess such a certificate.
- (B) Application for certification shall be filed with the Department on forms supplied by the Department, and shall contain such information as the Director shall require.
- (C) A fee of \$20.00 shall be charged prior to the issuance of the initial certification document and at the time of each annual renewal or re-certification thereafter.
- (D) A certification document shall be valid for a period beginning with the actual date of issuance and ending on December 31st, unless it has been revoked or suspended prior thereto by the Director for cause.

- (E) Competence in the use and handling of pesticides by private applicators who wish to become certified shall be determined primarily on the basis of written examinations. Oral examinations and performance testing may be utilized in conjunction with, and not in lieu of, written examinations. Such examinations and testing shall be based upon standards set forth in RULE 13
- (F) A person shall not be determined certifiable as a private applicator until such person passes the required examinations as provided by paragraph (5) of this rule.
- (G.) Any person who has failed to renew their private certification within a year of their certification expiration date shall regain their certification solely by re-examination. Such re-examination shall include the required core exam and commodity exams for which certification was previously held. Persons who have failed to renew their private certification beyond one year of their certification expiration date shall regain their certification by both attending the private core training course and taking the exam for the private core and commodity exams for which certification was previously held.
- (H) No person under eighteen (18) years of age shall be eligible for certification as a private applicator.
- (I) Private applicators shall cooperate with the Department requests to observe spraying operations, to inspect equipment, to inspect pesticide related records, to inspect pesticide storage area and to conduct pesticide related sampling.
- (J) The Director may deny certification or may suspend, revoke, or otherwise modify a certification once issued for reasons including the following:
 - (1) that the applicant made a false or misleading statement in the application for certification;
 - (2) that the applicant or certificate holder has violated any provisions of the Rhode Island Pest Control Act or regulations promulgated thereunder;
 - (3) that the applicant or certificate holder uses or applies a pesticide, excluding pesticides for which an EPA experimental use permit had been issued, which as not been duly registered under the provisions of §23-25-6.

RULE 12. STANDARDS OF COMPETENCY FOR PRIVATE APPLICATORS

Private applicators must show that he or she possesses a practical knowledge of the pest problems and pest control practices associated with his or her agricultural operations; proper storage, use, handling and disposal of the pesticides and containers; and his or her related legal responsibility appropriate to 40 CFR 171.5(a). This practical knowledge includes the ability to:

- (A) Recognize common pests to be controlled and damage caused by them.
- (B) Read and understand the label and labeling information including the common name of pesticides they applied; pest(s) to be controlled, timing and methods of application; safety precautions; and pre-harvest or re-entry restriction; and any specific disposal procedures.
- (C) Apply pesticides in accordance with label instructions and warnings, including the ability to prepare the proper concentration of pesticide to be used under particular circumstances taking into account such factors as area to be covered, speed at which application equipment will be driven, and the quantity dispersed in a given period of operation.
- (D) Recognize local environmental situations that must be considered during application to avoid contamination.
- (E) Recognize poisoning symptoms and procedures to follow in case of a pesticide accident.

RULE 13. PESTICIDE REGISTRATION

- (A) No out-of-state manufacturer, producer, or distributor shall offer a pesticide for (Retail) sale in Rhode Island through mail order catalogues, direct mail, electronic or other media or advertising without first registering that pesticide according to the provisions of Rhode Island General Laws §23-25-6.
- (B) Pesticide products which have the same formula, the same EPA registration number, are manufactured and distributed by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same pesticide product may be registered as a single pesticide product; and additional names and labels shall be added by supplement statements during the current period of registration.
- (C) If during the current registration period, the manufacturer or producer changes or alters any part of the active ingredient statement of a pesticide product registered with the Director, they must register the pesticide product as a new product whether or not it receives a new EPA registration number.

RULE 14 EXPERIMENTAL USE PERMITS

- (A) Any person who intends to use a pesticide, for which an experimental use permit had been issued by EPA pursuant to Section 5(a) or FIFRA, in Rhode Island, shall, prior to its shipment to and/or use in Rhode Island notify the Director of their intent and shall apply for permission to do so. The applicant shall supply the Director with the following information:
- (1) Type of product
 - (2) Name of product
 - (3) Name and address of permittee
 - (4) Active ingredient name and percentage
 - (5) Inert ingredient percentage
 - (6) Experimental permit no.
 - (7) Complete label and labeling
 - (8) Amount to be used
 - (9) Names and addresses of applicators involved
 - (10) Application sites or locations
 - (11) Efficacy, and/or toxicological studies or data
 - (12) Such other information as the Director deems necessary to protect public and the environment
- (B) Any person who (after having received permission from the Director to do so) uses and/or applies a pesticide, for which EPA has issued an experimental use permit, shall submit to the Director within six months a report on the results of such use and/or application.

RULE 15. CERTIFICATION DOCUMENTS

- (A) Certified Commercial Applicators

- (1) Commercial applicators may be issued certification documents only after they have paid the required fee and successfully complied with the procedure set forth in RULE 9.
- (2) The Director shall issue a wallet size certification document with the following information:
 - (a) applicator's name,
 - (b) address,
 - (c) certification number,
 - (d) expiration date,
 - (e) categories of certification,
 - (f) place for applicator's signature.
- (3) The wallet size document shall be on the applicator's person at all times when applying a general use, "restricted use" or "state limited use" pesticide. This document will also be utilized by the applicator as a means of identification for his purchase of "restricted use" or "state limited use" pesticides.

(B) Certified Private Applicators

- (1) Private applicators may be issued certification documents only after they have paid the required fee and have successfully completed the procedure set forth in RULE 12
- (2) The Director shall issue a wallet size certification document with the following information:
 - (a) applicator's name,
 - (b) address,
 - (c) certification number,
 - (g) expiration date,
 - (h) categories or certification,
 - (i) limitations,

- (j) place for applicator's signature.
- (3) The wallet size document shall be on the applicator's person at all times they are using a general use, "restricted use" or "state limited use" pesticide. This document will also be utilized by the applicator as a means of identification for his purchase of "restricted use" or "state limited use" pesticides.
- (C) All sales of "restricted use" or "state limited use" pesticides are limited to those who are certified or those who have been authorized by a certified applicator to purchase the same.

Authorization to purchase "restricted use pesticides" where purchase authority has been delegated by a certified applicator shall be in such form and contain such information as may be prescribed by the Director.

RULE 16. MAINTENANCE OF PESTICIDE CERTIFICATION AND LICENSING

- (A) All licensed and certified pesticide applicators are required to maintain competency in the use and application of pesticides. Every five years from the date of their license or certification, licensed and certified applicators must demonstrate competency by either re-examination, or by accruing the required number of credit hours through continuing education as specified for each license and certification in Section B of this Rule in order to:
 - (1) ensure that they continue to meet the requirements of changing technology, covering uses for which they are certified or licensed;
 - (2) assure that they maintain a continuing level of competence and ability to use pesticides safely and properly covering uses for which they are certified or licensed; and
 - (3) acquaint them with changes in Federal and State regulations.
- (B) Credit Hours – A standard number of credit hours will be required within every five years beginning from the date the applicators receive their initial license or certification in order for an applicator to maintain their license or certification as an applicator of pesticides. Recertification credits must be obtained by attendance at a Department approved training program. The total number of recertification credits required for each license or certification category are as follows:
 - (1) Private Certification – Six (6) Credit Hours every five years.

- (2) Commercial License – Eight (8) Credit Hours every five years.
- (3) Commercial Certification – Eight (8) Credit Hours Per Category every five years.

One credit hour equals fifty (50) consecutive minutes of continuing education training.

(C) Standard for Continuing Education – The following standards will assist the licensed or certified pesticide applicator in selecting an appropriate program and the provider of education in planning and implementing continuing education programs. The over-riding consideration in determining whether a specific program qualifies as acceptable continuing education is that it be a planned program of learning which contributes directly to the professional competence of a licensed pesticide applicator.

(1) Amount

- (a) Fifty (50) consecutive clock minutes is equivalent to one credit hour.
- (b) One continuing education credit unit (CEU) equals ten credit hours.
- (c) One semester hour equals fifteen (15) credit hours.

(2) Continuing Education Provider Standards

- (a) Course Objectives: Objectives shall be written and be the basis for determining content, learning experience, teaching methodologies, and evaluation.
- (b) Subject Matter: Appropriate subject matter for continuing education purposes shall include, but not be limited to, one or more of the following:
 - (i) Applicable State and Federal Laws and Regulations;
 - (ii) Integrated Pest Management;
 - (iii) Non-chemical Alternatives;
 - (iv) Ground Water or Surface Water Protection;
 - (v) Endangered Species;

- (vi) Pesticide Impact on Human Health;
 - (vii) Pesticide Impact on beneficial insects, fish, birds and wildlife
 - (viii) Label and Labeling Comprehension;
 - (ix) Acute and Chronic Toxicity;
 - (x) Biological Control;
 - (xi) Subject matter which improves competency and is not specified on the foregoing list.
- (c) Employees orientation or in-service presentations concerning standard operating procedures specific to the employing agency shall not be accepted for continuing education purposes.
 - (d) Subject matter shall be described in outline form and shall include course objectives, content, time allotment, faculty and evaluation format.
 - (e) Continuing Education providers must notify the Department a minimum of fourteen (14) days in advance of offering credit hours, location(s) and contact persons.
- (3) Method of Obtaining Credit Hours: workshops, lectures and seminars provided by trade associates, companies, and educational institutes are acceptable for obtaining continuing education credit hours. Continuing education credit hours may also be obtained from an academic institution, a self-study or correspondence course, and for teaching and/or publishing activities provided the following standards are adhered to:
- (a) Academic Course: The course must be within the framework of a curriculum that leads to an academic degree in entomology, botany, plant pathology, agriculture, pest control, toxicology, public health or is relevant to pesticide use, or any course within that curriculum that is necessary to an individual's professional growth and development.
 - (b) Self-Study or Correspondence Course: The course must:
 - (i) be developed by a professional group which is a pesticide related educational corporation or professional association;

- (ii) follow a logical sequence;
 - (iii) involve the student by requiring active response to module materials and providing feedback;
 - (iv) contain a test to indicate progress and verify completion of module; and
 - (v) supply a bibliography for continued study.
- (c) Teaching or Publication: Continuing education hours may be earned by teaching a particular course, seminar series, or workshop for the first time, delivering a paper or lecture, or publishing an article or book in pesticide use. As provided above, a course, seminar, or book may be considered for up to nine (9) continuing education hours; a published article may be considered the equivalent of up to five (5) credit hours; and a lecture or paper may be considered the equivalent of up to three (3) credit hours.

(4) Education Methods

- (a) Learning experiences and teaching methods should be appropriate to achieve the objectives of the program.
- (b) Principles of adult education should be considered in the design of the program.
- (c) Time allotted for each activity should be sufficient for the student to meet the objectives of the program.

(5) Faculty Qualifications – Faculty should be familiar with the principles of adult education and should provide documentation to the provider/student illustrating competency in the content of the planned learning experience.

(6) Evaluation

- (a) Provision may be made for evaluating the participant's attainment of the stated student objectives/outcomes.
- (b) Participants may be given the opportunity to evaluate faculty, learning experiences, instructional methods, facilities and educational resources used for the offerings/programs.

(7) Specific Conditions Regarding Continuing Education Requirements

Certified or Licensed applicators taking courses for the purposes of obtaining a baccalaureate or higher degree in the biological sciences may meet the continuing education requirements specified in this section provided such courses equal at least the required number of hours and content of course(s) be related to pesticide or pest management topics. Other academic degree programs may qualify at the discretion of the Department. Individuals must submit copies of course transcripts to the Department to verify proof of attendance before continuing education credit is granted.

- (D) Licensed and certified applicators who successfully complete such a training program, as outlined in paragraph (A), shall be issued a certificate of attendance, a copy of which will be filed with the applicators records.
- (E) Licensed and certified applicators who fail to satisfy the continuing education requirements as required in paragraph (A), shall be required to attend the appropriate core and/or category training sessions, and re-take another examination before their certification or license may be renewed.

RULE 17. COMMERCIAL APPLICATOR LICENSES

- (A) 1. Each person engaged in the application of any pesticide, other than a “restricted use” or “state limited use” pesticide, as a commercial applicator shall possess a valid commercial applicator license, issued by the Director, except that a person who is applying such a pesticide on land owned or rented by the applicator or his employer shall not be required to possess such a license.
- 2. Each person who is the employee of a licensed or certified commercial applicator and who as a condition of employment applies pesticides, not in the physical presence of a licensed or certified applicator, shall possess a valid commercial applicator’s license or certification, except that person shall not be required to provide separate financial responsibility as specified in RULE 22.
- (B). Application for licensing shall be filed with the Department on forms supplied by the Department, and shall contain such information as the Director shall require, including but not limited to storage and disposal procedures for pesticides and pesticide containers.
- (C) A fee of \$30.00 shall be charged prior to the issuance of the initial license document and at the time of each annual renewal or reissuance thereafter.

- (D) A license document shall be valid for a period beginning with the actual date of issuance and ending on February 28th, unless it has been revoked or suspended prior thereto by the Director for cause;
- (E) Competence in the use and handling of pesticides by commercial applicators, who wish to become licensed shall be determined on the basis of written examinations, and, as appropriate, performance testing, based upon the standards set forth in RULE 10.
- (F). A person shall not be determined qualified for licensing until such person passes the required examinations as provided by paragraph (E) of this Rule.
- (G) No person under eighteen (18) years of age shall be eligible for licensing or eligible to apply pesticides under the direct supervision of a licensed or certified applicator.
- (H) Licensed Commercial applicators shall cooperate with the Department requests to observe spraying operations, to inspect equipment, to inspect pesticide related records, to inspect business premises and to conduct pesticide related sampling.
- (I). The Director may deny licensing or may suspend, revoke, or otherwise modify a license once issued for reasons including the following:
 - (1). That the applicant made a false or misleading statement in the application for licensing;
 - (2) That the applicant or license holder has violated any provisions of the Rhode Island Pest Control Act or regulations promulgated thereunder;
 - (3) That the applicant or license holder does not have in effect or fails to maintain in effect financial responsibility in the amounts specified in RULE 22.
 - (4). That the applicant or license holder uses or applies a pesticide, excluding pesticides for which an EPA experimental use permit has been issued, which has not been duly registered under the provisions of §23-25-6.
- (J) Commercial applicators who, in any year, fail to file a renewal application, even though they did not receive a mailed renewal application, prior to their license expiration date, shall lose their commercial license as of sixty (60) days after the date of expiration, and prior to the sixty (60) day date shall be notified in writing of impending license loss. Applicators losing their licenses due to failure to renew shall regain licensing under these regulations by:

- (1.) Re-examination within a year of their license expiration date. Such re-examination shall include the required core exam and if deemed necessary the practical exam for which their license was previously held, or
- (2.) Attending the training course(s) and taking the exam for the commercial core and any practical exams for which their license was previously held, if they have failed to renew their license beyond one year of their license expiration date.

RULE 18. DEALER LICENSES

- (A) Any person engaged in the distribution of any “restricted use” or “state limited use” pesticide as a pesticide dealer shall possess a valid pesticide dealer’s license issued by the Director. A licensee shall be required for each location or outlet, within the State, from which such pesticides are distributed, sold, held for sale, or offered for sale.
- (B) Application for licensing shall be filed with the Department, and shall contain such information as the Director may require.
- (C) A fee of \$30.00 shall be charged to the issuance of the initial license and at the time of each annual renewal.
- (D) A license shall be valid for a period beginning with the actual date of issuance and ending on February 28th, unless it has been revoked or suspended prior thereto by the Director for cause.
- (E) The Director shall require a person, who has a fixed distribution center within the State and who wishes to become licensed, to pass a written examination. Such examination will be designed to enable the person to demonstrate his knowledge of the types of information to be found on a pesticide label and that he is familiar with the State and Federal laws governing his sale, storage and distribution of “state limited use” and “restricted use” pesticides.
- (F) The Director shall require out-of-state dealer representatives who physically operate and distribute within the State to pass the required examination as provided by paragraph (E) of this rule.
- (G) A manufacturer, registrant, or distributor of “state limited use” or “restricted use” pesticides who has no fixed distribution center within the State but who wishes to distribute such pesticides directly to certified applicators within the State may obtain a dealer’s license by paying the required fee and signing a form attesting to his knowledge of state and Federal laws governing such distribution.

- (H) No person under eighteen (18) years of age shall be eligible for licensing as a dealer, nor shall they be engaged in the sale and distribution of “restricted use” or “state limited use” pesticides.
- (I) Licensed Dealers shall cooperate with the Department requests to inspect pesticide related records, to inspect business premises and to conduct pesticide related sampling.
- (J) The Director may deny licensing or may suspend, revoke or otherwise modify a license once issued for reasons including the following:
 - (1) That the applicant made a false or misleading statement in the application for licensing.
 - (2) That the applicant or license holder has violated any provision of the Rhode Island Pest Control Act, any applicable Federal Statutes, or regulations promulgated thereunder.

RULE 19. GENERAL RULES

- (A) Pesticide Anti-Siphon. All pest control equipment using pesticides and drawing water from the surface waters of the State or from potable water supplies shall have an effective anti-siphon device approved by the Director to prevent back flow.
- (B) No pesticide shall be applied to public water supplies or their tributaries except by legally established water supply entities or their agents as authorized by the Director. Pesticide applications to lands near or adjacent to public water supplies shall be made in such a manner that no pesticides drift or flow into such water supplies.
- (C) No pesticide application may be made within 400 feet of gravel packed wells used for public water supply or within 250 feet of other wells so used, unless materials and methods to be employed have been approved by the Director.
- (D) No restricted use or “state limited use” pesticide shall be applied to woodland areas exceeding 25 acres without the prior approval of the Director.
- (E) Pesticide applications to areas adjacent to crops or pasturage shall be such that contamination of crops or pasturage does not occur.
- (F) Pesticide application for agricultural purposes shall be such that contamination to adjacent lands does not occur.

- (G) Pesticide applications to any surface waters of the State for the control of aquatic nuisances or for any other reason shall not be made unless such applications have been approved by the Director.
- (H) No application of pesticides by means of aircraft shall be made within the State without prior approval of the Director or his designated representative.
- (I) No application of pesticides shall be made by mechanically powered equipment at such times as the wind velocity will cause a hazardous chemical to drift beyond the target area.
- (J) Pesticide containers shall not be used for any purpose, other than the storage of pesticides, unless such purpose has been approved by the Director and the containers have been properly cleaned.
- (K) Pesticide dealers displaying “restricted use” or “state limited use” pesticides, shall display such pesticides in an area separate from general use pesticides.
- (L) Pesticide dealers displaying “restricted use” or “state limited use” pesticides, shall post a sign bearing the statement “for sale to certified applicators only”, at the display in a prominent position. The statement shall be imprinted letters at least one inch high.
- (M) No pesticide may be distributed if part or all of the label is missing, unreadable, or otherwise damaged beyond recognition.
- (N) No pesticide may be distributed in containers which are unsafe due to corrosion, leakage, spillage, or other damage.
- (O) No person(s) under the age of eighteen (18) years of age shall apply “restricted use” or “state limited use” pesticides as a private or commercial applicator. Except that; farms that can demonstrate and provide written documentation of a hardship situation acceptable to the Department will allow an immediate family member between the ages of sixteen (16) and eighteen (18) years to obtain a private certification as long as the member has attended the required pesticide applicator training; passes the required examinations and satisfies the private certification licensing requirements.
- (P) No person under the age of eighteen (18) shall apply general use pesticides as a commercial or private applicator except:
 - 1. Farm employees sixteen (16) years of age or older may apply general use pesticides only under the direct supervision of a private applicator.

2. Immediate farm family members sixteen (16) years or older may apply general use pesticides only on their parents farm without the supervision of a private applicator.
- (Q) No person other than a licensed or certified commercial applicator shall apply pesticide within any building or on the grounds of any school, and no pesticide shall be applied in any building or on the grounds of any school during regular school hours or during planned activities at any school. This subsection shall not apply to the use of germicides, disinfectants, sanitizers, deodorizers, antimicrobial agents, insecticidal gels, non-volatile insect or rodent bait in a tamper resistant container, insect repellants, the application of a pesticide classified by the United States Environmental Protection Agency as an exempt material under 40 CFR part 152.25, a pesticide application by public health officials during a state public health emergency or the emergency application of a pesticide to eliminate an immediate threat to human health, where it is impractical to obtain the services of a licensed or certified applicator; provided the application does not involve a restricted use or state limited use pesticide.
- (R) No person shall apply “restricted use” pesticides or “state limited use” pesticides in or around school property of grades preschool through twelve (12) at any time (without prior written approval from the school administration and Department of Environmental Management.)

This subsection is not applicable to pesticide applications by public health officials during a state public health emergency. In addition this subsection shall not apply to emergency situations where children’s health and well being are at risk, such as stinging insects, poisonous plants or other known life or health threatening pests.

- (S) No person shall make an application of Tributyltin antifouling paint unless applied:
- (1) by a commercial applicator certified in category 5B.
 - (2) within a commercial boatyard; and
 - (3) to vessels which exceed twenty-five meters (82.02 feet) in length or which have aluminum hulls.
- (T) No person shall use or otherwise possess any pesticide in any rodent control bait box unless:
- (1) The bait box is secured against tampering when placed in areas accessible to pets or persons under eighteen (18) years of age; and
 - (2) The bait box has attached to it or contained therein a readable label with the following information about the pesticide contained therein:

- (i) Brand or trade name;
 - (ii) EPA registration number;
 - (iii) Name and percentage of active ingredients in the bait box; and
 - (iv) Appropriate signal word; that is, “Danger-Poison”, “Warning”, or “Caution”, as stated on the pesticide label.
 - (v) Name, address, and phone number of the pest control company placing the bait box.
- (3) For the purposes of interpretation of (1) above, a bait box shall be considered secured against tampering when:
- (i) It has met the standards for tamper proof/tamper resistant bait boxes as outlined by EPA; or
 - (ii) The bait box containing the pesticide is in a secure storage area; or
 - (iii) The bait box is at the actual physical location and under the direct observation of a pesticide applicator.

RULE 20. RECIPROCITY

- (A) Applicants for reciprocal certification must have successfully completed all necessary certification requirements in their resident state and must submit proof of such to the Director.
- (B) Applicants for reciprocal certification must complete all requirements of the Director relative to certification with the exception of taking the written examination.
- (C) All grantees of reciprocal certification shall be responsible for and bound by the provisions of the Rhode Island Pest Control Act, the rules and regulations adopted thereunder, and of any lawful order of the Director.
- (D) Whenever a person’s certification is denied, suspended, revoked or modified by his resident state, the reciprocal certification, granted by the Director, shall be at least similarly denied, suspended, revoked or modified.
- (E) Reciprocal certification shall only remain in effect as long as certification is maintained in the resident state.

- (F) Reciprocal certification documents shall bear a notation distinguishing them from other certification documents.

RULE 21. FINANCIAL RESPONSIBILITY

- (A) Each applicant for commercial applicator licensing shall show proof of financial responsibility to consist of either:

- (1) A performance bond drawn payable to the State of Rhode Island in the amount of \$20,000 per job, or

- (2) The following minimum insurance coverage:

Comprehensive General Liability (ground application):

Bodily Injury Liability - \$20,000 each occurrence

- \$40,000 Aggregate

Property Damage Liability (Including completed operations and chemical or pollution liability) - \$25,000

- (B) Each applicant for commercial applicator certification shall show proof of financial responsibility to consist of either:

- (1) A performance bond drawn payable to the State of Rhode Island in the amount of \$50,000 per job, or

- (2) The following minimum insurance coverage:

Comprehensive General Liability (ground application):

Bodily Injury Liability - \$50,000 each occurrence

- \$100,000 Aggregate

Property Damage Liability (Including completed operations and chemical or pollution liability) - \$50,000

- (C) Each applicant for commercial applicator certification in Category 7(c) Fumigation shall show proof of financial responsibility to consist of either:

- (1) A performance bond drawn payable to the State of Rhode Island in the amount of \$100,000 or

- (2) The following minimum insurance coverage:

Comprehensive General Liability:

Bodily Injury Liability - \$100,000 each occurrence

- \$300,000 Aggregate

Property Damage Liability (Including completed operations and chemical or pollution liability) - \$100,000

- (D) Each applicant for commercial applicator licensing or certification, who applies pesticides aerially, shall show proof of financial responsibility to consist of either:
- (1) A performance bond drawn payable to the State of Rhode Island in the amount of \$100,000, or
 - (2) The following minimum insurance coverage:

General Liability:

Bodily Injury Liability - \$100,000 each occurrence

- \$200,000 Aggregate

Property Damage Liability (Including completed operations and chemical or pollution liability) - \$100,000

- (E) Financial responsibility required by paragraphs (A) – (D), where appropriate, shall not be required of persons whose pesticide application activities are part of their duties as governmental employees.

RULE 22. STANDARDS FOR SUPERVISION OF NON-CERTIFIED APPLICATORS BY CERTIFIED PRIVATE AND COMMERCIAL APPLICATORS

- (A) Certified applicators whose activities indicate a supervisory role must demonstrate a practical knowledge of Federal and State supervisory requirements, including labeling, regarding the application of “restricted use” pesticides by non-certified applicators.
- (B) The availability of certified applicators must be directly related to the hazard of the situation.

- (1) No general-use pesticide shall be applied by non-certified or un-licensed applicators for hire without the direct supervision of a certified or licensed commercial applicator. No restricted use pesticide shall be applied by an un-licensed or non-certified applicator without the direct supervision of a certified private or commercial applicator. Direct supervision means the on-site supervision of any pesticide application by an appropriately certified or licensed applicator who is responsible for such application and is capable of dealing with emergency situations which might occur, pursuant to the provisions of these regulations.
- (2) In situations where labeling requires, the actual physical presence of a certified applicator shall be required when application is made by a non-certified applicator.
- (3) In situations in which sub-surface application of the following classes of termiticides are made, the actual physical presence of an applicator certified in Category 7(b) is required when application or any part thereof is made by any applicator not certified in Category 7(b):

Cyclodienes...including but not limited to chlordane, aldrin, dieldrin, and heptachlor.

Organo-Phosphates...including but not limited to chlorpyrifos.

Synthetic Pyrethroids

RULE 23. TURF MANAGEMENT AND LAWN CARE

- (A) Definitions – Unless defined in Rule 4 or the context clearly indicates otherwise, the following terms shall have the following meanings as they are applied to turf management and lawn care:
 - (1) Homeowner shall mean the owner or occupant of a private single family residence or the manager of a multi-unit dwelling.
 - (2) Applicator shall mean the individual or company providing lawn care services.
 - (3) Immediate Service Call shall include: 1) customer complaints, 2) lawn threatening pests – but shall not include regularly scheduled treatments.
 - (4) End Use Product shall mean the pesticide(s) as applied and shall not mean the concentrate.

- (5) Public Recreation Facilities shall include golf courses, playgrounds, athletic facilities, school grounds, and parks.
- (B) After entering into or renewing an agreement to apply pesticides to control lawn or turf pests and prior to the initial application of such pesticides, the applicator shall provide the homeowner with a written list of those pesticides which may be used. Such list shall include common and most likely trade name of each pesticide and any post-application safety, environment or health instructions specified on the label for the end use product. In addition to said list the applicator must inform the homeowner, in writing, that they may request a copy of the label, and/or the material safety data sheet, and/or the EPA Fact Sheet, if available, on any pesticide which may be used. The Director may require the inclusion of any additional health, safety or environmental instructions generated by the EPA, Department of Environmental Management or Department of Health.
- (C) Any contiguous neighbor to a property under an agreement in (B) above may request the applicator to provide notice 48 hours in advance of each application. If notice by telephone, or mail or in person, cannot be given 48 hours before the application of pesticides the applicator shall leave written notice at that house following the application. Such advance notice shall not be required for immediate service calls. In those cases, written notification following the application shall be left at the requesting neighbor's house.
- (D) Upon completion of each application, the applicator shall leave written notice at the property treated containing the following information:
- (1) the product name of the pesticide(s) that were applied to the property and EPA registration Number.
 - (2) a telephone number of the applicator or applicators company.
 - (3) the telephone number of the Department of Environmental Management.
 - (4) the name of the person(s) certified or licensed by the Department as well as person(s) applying the pesticide if under the direct supervision of a certified or licensed commercial applicator who participated in the planning and execution of the application.
 - (5) the applicators certification and/or license number.
- (E) At the time of each application, the applicator shall post signs, as prescribed in (F) below, in conspicuous points of access to the property and shall instruct the customer as to their appropriate removal. Conspicuous points of access shall include but not be limited to, unobstructed abutting yard, walkways, paths, etc.

- (F) Prior to commencing each application of a pesticide, the manager of a public recreation facility shall post a notice in the place most likely to inform those who make use of the facility. Such notice shall remain in place for 48 hours after completion of the application. The notice shall list “that pesticides were applied,” the date of chemical application, contact person and phone number and the areas treated.
- (G) Signs posted by Commercial Companies shall be no less than 20 square inches (4” X 5”) and shall be printed with the following information on waterproof stock in dark letters on a white field:
- Lawn Chemicals Applied (in letters at least ½” high)
 - Applicator or Company Name
 - Phone Number of Applicator or Company
 - Date of Chemical Application
 - Keep Posted for 48 Hours, or as specified by the label, if more than 48 hours
 - (no smaller than ¼” letters)
- (H) Each applicator shall make any written material required in this rule readily available to the Department upon request.

RULE 24. PESTICIDE AND PESTICIDE RESIDUE STORAGE AND DISPLAY REQUIREMENTS

The following rules apply to the storage and the display for retail sale and use by private and commercial applicators of “general use” and “restricted use” pesticides.

- (A) Storage
- (1) When not on display for sale, or in use, all pesticides must be securely stored with access limited to authorized personnel/individuals only.
 - (2) Pesticide storage areas must be identified with appropriate pesticide storage warning signs.
 - (3) Pesticides shall be stored in cool, dry, well ventilated and well-lit rooms or building insulated to prevent freezing or overheating as well as protection from direct rainfall and flooding. The area shall be locked to prevent entry by children or unauthorized persons. The storage area shall have lighting so that labels can be easily read and any leaks quickly detected.
 - (4) Pesticide storage areas shall be constructed of rigid materials, shall have no bottom drains or openings, be impervious to seepage through or leakage to the surrounding environment so as to prevent contamination to groundwater or

surface water or to the surrounding environment and capable of containing a pesticide spill 100% of the largest liquid pesticide container volume.

- (5) Pesticides for sale or distribution, or for use by private or commercial applicators, as defined in these rules and regulations, in their respective operations shall not be stored in buildings wholly or partially occupied as private residences, unless that actual storage area, such as a garage, is structurally separate from that portion of the building in use as a living area or the location of the storage area does not present a potential risk of harm, injury, or damage to occupants or the residence(s) in the building; and the ventilation in the storage area is sufficient to keep fumes and/or any potential fumes from intruding into the living areas.

In the case of multi-family residences, the location of the storage area must not present a potential risk of harm, injury, or damage to occupants or the residence(s) in the building; and the ventilation in the storage area must be sufficient to keep fumes and/or any potential fumes from intruding into living areas.

- (6) Pesticides may not be stored in buildings used for commercial or industrial businesses, unless:
- (a) the building meets the requirements for storage of pesticides by the Director; and
 - (b) the storage area is a structurally separate room from those occupied as routine office work areas, and the ventilation in the storage area is sufficient to keep fumes and/or any potential fumes from intruding into occupied areas of the building; or
 - (c) in multi-unit commercial establishment or institutions, the location of the storage area must be structurally separate from other business and must not present a significant risk of harm, injury, or damage to occupants, employees, or facilities in the building. The ventilation in the storage area must also be sufficient to keep fumes and/or any potential fumes from intruding into occupied areas.
- (7) Pesticides shall not be stored and/or displayed over or adjacent to meat or vegetable case, other human foods, animal feed or drugs, or in any manner that may result in contamination of food, feed or clothing. Pesticides intended for sale or distribution shall only be stored and displayed within a building or fence and shall not be displayed on sidewalks.
- (8) Pesticides when stored must be separated by type insecticide, herbicide, fungicide, etc., and in such a manner, which prevents cross contamination. It is prohibited to offer for sale or distribution pesticide packages and containers that are torn, punctured, rusted or leaking.

- (9) “Restricted Use” pesticides must be stored separately from other general use pesticides or fertilizers to prevent distribution to a non-certified applicator.
- (10) Pesticides must be clearly labeled at all times during storage.
- (11) Pesticides may not be stored with other combustible materials such as gasoline, kerosene, petroleum products, solvents, or other fuels.
- (12) Pesticides must be stored away from sources of ignition or fire hazard such as heating equipment, burning, welding, etc.
- (13) Containers of pesticide which have been opened must be properly sealed when stored.
- (14) Storage of discontinued, banned, or unregistered pesticides:
 - (a) Unregistered or banned pesticides, unless subject to federal recall notice issued by the United States Environmental Protection Agency, must be returned to the manufacturer, if said manufacturer will accept them, or disposed of in accordance with the Department’s Rules and Regulations for Hazardous Waste Management upon cancellation of the state and/or federal registration or imposition of the ban.
 - (b) However, in the event that a manufacturer fails to annually re-register or voluntarily discontinues the manufacture, distribution and sale of a pesticide for any reason other than paragraph (14)(a); and the Director has determined that the pesticide poses no threat to public health or the environment if used according to label instructions, then said pesticide may be stored, distributed, or used up within two years from the date of expiration of its state registration. After two years, any remaining stocks and residues of said pesticide must be disposed of in accordance with paragraph (14)(a).
 - (c) Receipt and storage of unregistered or banned pesticides is prohibited.
- (15) Pesticides may not be stored outdoors except if they are:
 - (a) Covered by a roof or tarpaulin, which will keep precipitation off the pesticides, and placed on pallets or a raised concrete platform above an impervious surface (e.g. concrete) so as to prevent direct contact with the soil and stormwater runoff.
 - (b) Stored in a manner to prevent freezing and overheating.
 - (c) Stored in well-lit areas to provide for easy reading of labels and detection of leaks or other accidental releases.

- (d) Secured against entry by an unauthorized person, livestock or wildlife.
- (e) Stored in a manner that prevents damage to packaging or containment structures from vehicles, and in a manner that prevents access by unauthorized vehicles.

Pesticides shall be moved indoors in the event of conditions that may result in freezing, overheating, or incidental exposure to precipitation.

(16) Spill Response

- (a) Spill containment and clean-up materials shall be furnished at all pesticide storage areas.
- (b) Spills shall be cleaned upon discovery.
- (c) Spilled materials and migrating materials shall be immediately and properly contained and disposed of in accordance with pesticide label and federal and State hazardous waste disposal regulations.

(B) Display for Sale

Pesticides held for retail sale shall comply with Section (A) and the following requirements:

- (1) Pesticides shall not be displayed or stored with, or in such a manner which could result, in the event of a spill or leak, in the contamination of food, beverages, medical supplies or containers, other pesticides, tobacco and its products, fertilizers, or eating utensils.
- (2) Pesticides must be clearly labeled at all times during display. Unlabeled pesticides, pesticides without the original label, or pesticides whose labels are illegible or whose contents have been damaged may not be displayed or offered for sale.
- (3) General use pesticides on display for retail sale to the general public are exempt from Section (A)(1) of this rule entitled "Storage" when on retail sales display shelves or held for sale in a storage area.

RULE 25 TRANSPORTATION OF PESTICIDES

- (A) General Requirements: Accidental spills of pesticides may occur during their transportation because damage to containers most often occurs during times of loading

and transport. In order to reduce the risk of such incidents, the following minimum safety precautions must be used at all times:

- (1) Vehicles transporting pesticides shall comply with United States Department of Transportation (DOT) regulations for the transportation of hazardous materials and hazardous wastes, 49 CFR Part 171, at all times.
- (2) Transport from storage and/or mixing areas only the quantity and amounts of pesticides or tank mixes which may be commonly used during the day's operations. Left over or unused pesticides shall be kept secured and locked at all times or returned to storage facilities at the end of each day.
- (3) Pesticides shall be transported in truck beds, trailers, or vehicle compartments, which are isolated from drivers and passengers.
- (4) Pesticides shall be transported in their original containers, with the EPA registered label intact, except that service containers or application equipment are exempt from this provision. Service containers must be transported as outlined in Section 7 of this rule.
- (5) During transportation, pesticides and their mixes, shall be stored in tightly closed containers, secured to prevent tipping over or shifting. Pesticides shall not be transported in open containers.
- (6) Pesticides must not be transported in the same cargo area as food, animal feeds and food, clothing, or potable water.
- (7) No person shall transport or otherwise possess any pesticide in any service container, except when in application equipment, unless the service container has attached to it a readable label with the following information:
 - (a) Brand or Trade Name;
 - (b) EPA Registration Number;
 - (c) Name and Percentage of Active Ingredient(s) in the service container; if a concentrate, or if the service container contains a dilution, a statement identifying it as a diluted pesticide and the percentage of the Active Ingredient.
 - (d) Appropriate signal word as stated on the EPA registered label; that is, Danger-Poison, Warning, or Caution; and
 - (e) Name, address, and phone number of the pest control company and/or its owner.

- (8) No person shall place or keep any pesticide in any container commonly used for food, drink, or household products.

(B) Spill Containment During Transportation:

- (1) Pesticide Applicators shall secure pesticides during transportation to prevent spillage.
- (2) Each vehicle used to transport pesticides and tank mixes shall have spill containment materials such as absorptive clay, sand, sawdust or other similar materials and tools to absorb, remove and clean up spills and leaks. If not required or stated on the label, any person cleaning up spills shall wear appropriate personal protective clothing to prevent direct exposure.
- (3) Spilled materials and/or contamination mitigation materials must be properly contained and secured during transport and must be disposed of in accordance with the pesticide label and/or Federal and State hazardous wastes disposal regulations.

RULE 26. SEVERABILITY

If any provision of these Rules and Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

RULE 27. SUPERSEDED RULES AND REGULATIONS

On the effective date of these Rules and Regulations, all previous Rules and Regulations, and any policies regarding the administration and enforcement of Chapter 23-25, known as the "Pesticide Control Act of 1976" shall be superseded. However, any enforcement action taken by, or application submitted to, the Department prior to the effective date of these Rules and Regulations shall be governed by the Rules and Regulations in effect at the time the enforcement action was taken, or application filed.

RULE 28. EFFECTIVE DATE

The foregoing “Rules and Regulations Relating to Pesticides”, after due notice, are hereby adopted and filed with the Secretary of State this _____ day of _____, 2006 to become effective twenty (20) days thereafter, in accordance with the provisions of Chapters 23-25, 42-35, 42-17.1, 42-17.6 of the General Laws of Rhode Island of 1956, as amended.

W. Michael Sullivan, Ph.D, Director
Department of Environmental Management

Date

NOTICE OF PUBLIC HEARING _____

PUBLIC HEARING HELD _____

FILING DATE _____

EFFECTIVE DATE _____