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SUBCHAPTER 1. SCOPE AND DEFINITIONS

7:30-1.1 Scope

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

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

7:30-1.2 Definitions

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

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

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

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

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

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

“Adulterated” means any pesticide:

1. Whose strength or purity is not equal to the professed standard or quality as expressed on its labeling or under which it is sold; or
2. In which any substance has been substituted wholly or in part for the pesticide; or
3. In which any valuable constituent of the pesticide has been wholly or in part extracted.

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

“Aerial application” means a pesticide application made by aircraft.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Antimicrobial agents” means:

1. Disinfectants intended to destroy or irreversibly inactivate infectious or other undesirable bacteria, pathogenic fungi, or viruses on surfaces or inanimate objects;
2. Sanitizers intended to reduce the number of living bacteria or viable virus particles on inanimate surfaces, in water, or in air;
3. Bacteriostats intended to inhibit the growth of bacteria in the presence of moisture;
4. Sterilizers intended to destroy viruses and all living bacteria, fungi, and their spores, on inanimate surfaces; or
5. Fungicides and fungistats intended to inhibit the growth of, or destroy fungi (including yeasts) pathogenic to man or other animals on inanimate surfaces;
6. Commodity preservatives and protectants intended to inhibit the growth of, or destroy bacteria in or on raw materials (such as adhesives or plastics) used in manufacturing, or manufactured products (such as fuel, textiles, lubricants, and paints); or
7. General use algicides labeled for use in:
 - i. Swimming pools, hot tubs, whirlpools, spas, ornamental ponds, fountains, fish tanks, and waterbeds;
 - ii. Water, wastewater and sewerage treatment plants, but only where there is a controlled inlet and outlet; and
 - iii. Industrial, commercial, and manufacturing processes.

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

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

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

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

1. Pesticides labeled only for flushing down toilets or to be directly applied to water or sewer pipes, for use in controlling tree roots inside those pipes;
2. Pesticides labeled only for use in cooling towers;
3. Pesticides labeled only as algicides for use in swimming pools, hot tubs, ornamental ponds, fountains, fish tanks, or water beds. These sites are an artificial, self-contained water with no inlet from or outlet to “natural” water and with label statements prohibiting such discharge; or
4. Algicides labeled only for use in water treatment plants, waste water treatment plants or sewerage treatment plants.
5. Pesticides labeled as mosquito larvicides whose only active ingredients are biological controls (such as bacillus thuringiensis) and are formulated to slowly release the active ingredient over an extended period of time; or
6. Pesticides labeled as mosquito larvicides whose only active ingredients are monomolecular surface films.

“Aquatic site” means those areas meeting the definition of “waters of the state” or “wetland.”

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

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

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

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

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

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

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

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

“CAS number” means the Chemical Abstract Service Registry number.

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

“Certified and licensed responsible pesticide applicator” means any responsible pesticide applicator who is certified and licensed pursuant to the provisions of either N.J.A.C. 7:30-6, (Commercial pesticide applicators) or N.J.A.C. 7:30-8, (Private pesticide applicators).

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

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

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

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

“Commercial pesticide applicator” means any person (whether or not he or she is a private pesticide applicator with respect to some uses) who uses or supervises the use of any pesticide for any purpose or on any property other than as provided by the definition of “private pesticide

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applicator.” Any employee of a government agency who engages in the use and application of pesticides as is necessary within the scope of his or her employment is considered a commercial applicator.

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

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

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

“Commissioner” means the Commissioner of Environmental Protection in the State Department of Environmental Protection.

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

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

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

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

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

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

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

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“Department” means the State Department of Environmental Protection.

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

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

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

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

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

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

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

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

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

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

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

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commercial pesticide handler employer or a commercial pesticide handling establishment.

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

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

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

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

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

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

“EPA” means the United States Environmental Protection Agency.

“EUP” means experimental use permit.

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

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

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

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

“FIFRA” means the Federal Insecticide, Fungicide, and Rodenticide Act as Amended (7 U.S.C. 136 et seq.).

“Flowering stage” means when plants bear any portion of a blossom as part of the

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blooming process associated with pollen and nectar production.

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

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

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

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

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

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

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

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

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

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

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

1. Who is employed by an agricultural **employer** or commercial pesticide **handler**

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- employer** and who is:
- i. Mixing, loading, or applying pesticides;
 - ii. Disposing of pesticides;
 - iii. Handling opened containers of pesticides, emptying, triple-rinsing, or cleaning pesticide containers according to the instructions on the pesticide labeling, or disposing of pesticide containers that have not been cleaned. The term does not include any person who is handling only unopened pesticide containers or pesticide containers that have been emptied or cleaned according to the instructions on the pesticide labeling;
 - iv. Acting as flagger;
 - v. Cleaning, adjusting, handling, or repairing the parts of mixing, loading, or application equipment that may contain pesticide residues;
 - vi. Assisting with the application of pesticides;
 - vii. Entering an enclosed space after the application of a pesticide and before the inhalation exposure level listed on the pesticide labeling has been reached or one of the ventilation criteria established by 7:30-12.3(c)3 or the pesticide labeling has been met:
 - (1) To operate ventilation equipment;
 - (2) To adjust or remove coverings used in fumigation; or
 - (3) To monitor air levels;
 - viii. Entering a treated area outdoors after application of any soil fumigant during the period of restricted entry specified on the pesticide labeling to adjust or remove coverings used in fumigation; or
 - ix. Performing tasks as a crop advisor:
 - (1) During any pesticide application;
 - (2) Before the inhalation exposure level listed in the pesticide labeling has been reached or one of the ventilation criteria established by N.J.A.C. 7:30-12.3(c)3 or in the pesticide labeling has been met; or
 - (3) During any restricted-entry interval.

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

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

“Heating unit” means a furnace and any associated duct work.

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

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

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

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

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

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

“Inert ingredient” means an ingredient which is not an active ingredient.

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

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

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

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

“Intended date” means the applicator’s best estimate of when the actual pesticide application will take place.

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

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

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1. Accompanying the pesticide at any time; or
2. To which reference is made on the label or in literature accompanying the pesticide except to current official publications of the EPA, the United State Departments of Agriculture and Interior, the Department of Health and Human Services, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

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

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

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

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

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

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

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

“Misbranded” means a condition as to a pesticide wherein:

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1. Its labeling bears any statement, design or graphic representation relative thereto or to its ingredients which is false or misleading in any particular; or
2. It is an imitation of or is distributed under the name of another pesticide; or
3. Any word, statement, or other information required to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or graphic matter in the labeling), and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; or
4. The labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and, if complied with, together with any requirements imposed by FIFRA, are adequate to prevent injury to plants and animals including man, and protect against any significant risk of injury or damage; or
5. The labeling bears any reference to registration under the provisions of the Act; or
6. The label does not bear the information designated in N.J.A.C. 7:30-2.7(a)2; or
7. The pesticide container does not bear a label or if the label does not contain all the information required by the Act and the rules and regulations adopted pursuant to the Act, or both; or
8. The pesticide has been determined to contain any substance or substances in quantities highly toxic to man and the label does not bear in addition to any other matter required by the Act or rules and regulations promulgated thereunder:
 - i. The skull and crossbones; and
 - ii. The word "POISON" prominently printed in red on a background of distinctly contrasting color; and
 - iii. A statement of an antidote or a practical treatment in case of poisoning by the pesticide.

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

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

1. Correctional facilities;
2. Common areas of structures with multiple residential units; these are considered commercial buildings which require structural notification pursuant to N.J.A.C. 7:30-9.12(d); and
3. Residential units in which no one resides.

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

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

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

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

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

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

1. Letterheads;
2. Advertisements;
3. Bills;
4. Service vehicle signs; or
5. Store, office, or building signs.

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

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

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

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

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

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

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

“Pest” means any insect, rodent, nematode, fungus, weed, or (b) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organisms (except viruses, bacteria or other micro-organisms on or in living man or other animals) which is injurious to health or the environment.

“Pesticide” means and includes any substance or mixture of substances labeled, designed or intended for use in preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances labeled, designed, or intended for use as a defoliant, desiccant, or plant regulator; provided, that the term “pesticide” shall not include any substance or mixture of substances which the US EPA does not consider to be a pesticide. For the purposes of N.J.A.C. 7:30-13 only, “pesticide” also means and includes any substance or mixture of substances labeled, designed, intended for or capable of use in preventing, destroying, repelling, sterilizing or mitigating any insects, rodents, nematodes, predatory animals, fungi, weeds and other forms of plant or animal life or viruses, except viruses on or in living man or other animals.

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

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

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

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

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

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

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

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

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

“Plant regulator” means any substance or mixture of substances, intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of ornamental or crop plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

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

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

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

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

“Psi” means pounds per square inch.

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

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

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

“Reportable pesticide spill” means:

1. Any spill of an organochlorine termiticide inside a structure, during treatment, in a quantity of more than 50 square inches of contaminated surface area at any one injection point, or more than one square yard aggregate contaminated surface area on or at the base of any interior wall, through seepage or other cause;
2. Any spill inside a structure of any pesticide of more than one gallon liquid of any combination of pesticide and/or diluent, or dry pesticide formulations containing one pound or more of active ingredient;
3. Any spill outside a structure of any pesticide containing one pound or more of active ingredient; or
4. Any spill which contaminates a heating duct or heating system.

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

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

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

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

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

“Right of way” means the surface of a paved or unpaved road and its adjacent shoulders,

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whether paved or unpaved, the surface of industrial driveways, pipelines, and railroads; and the surface above buried cables and below elevated electric power and telephone lines.

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

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

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

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

1. Preschool;
2. Day care centers;
3. Elementary school;
4. Junior high;
5. High school;
6. Vocational/technical;
7. College; and
8. University.

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

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

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

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

“Scope of employment” means acts carried out which are so closely connected with what

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an employee is employed to do and so fairly and reasonably incidental to it that they may be regarded as methods, even though improper, of carrying out the objectives of the employment and at least in part furthering the interests of the employer.

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

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

1. Vehicles used to hold and/or transport pesticides by private pesticide applicators; providing, the vehicles are operated solely within the boundaries of property owned or controlled by the private applicator;
2. Vehicles used to hold and/or transport a pesticide to an application location which is owned or controlled by a private pesticide applicator performing or supervising the pesticide application; providing, the pesticide being held and/or transported is wholly contained within the final holding tank from which the application is made;
3. Vehicles not normally and customarily used in business operations to hold and/or transport pesticides to an application location, providing:
 - i. The pesticide is transferred at the application location to a vehicle subject to the service vehicle requirements;
 - ii. The person operating such vehicle making the delivery and transfer does not apply the pesticide; and
 - iii. The maximum quantity of pesticide being transported is five gallons liquid or 50 pounds dry formulation; or
4. Vehicles not normally and customarily used in business operations to hold and/or transport pesticides to an application location, providing the vehicle is bringing pesticides purchased from a pesticide outlet back to the business location.

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

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

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

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

“Subterranean application” means the placement of any pesticide:

1. Under or adjacent to structures by trenching; or
2. Under slabs or under or within six inches of foundation walls by rodding; or
3. Within the interior voids of foundation walls.

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

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

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

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

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

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

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

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

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

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

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

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

1. Pre-application activities, including, but not limited to:
 - i. Arranging for the application of the pesticide;
 - ii. Mixing and loading the pesticide; and/or
 - iii. Making necessary preparations for the application of the pesticide, including responsibilities related to worker notification, training of workers or handlers, providing decontamination supplies, providing pesticide safety information and pesticide application and hazard information, use and care of personal protective equipment, providing emergency assistance, and heat stress management;
2. Application of the pesticide;
3. Post-application activities intended to reduce the risks of illness and injury resulting from handlers' and workers' occupational exposures to pesticide residues during and after the restricted-entry interval, including:
 - i. Worker notification;
 - ii. Training of workers or early-entry workers;
 - iii. Providing decontamination supplies;
 - iv. Providing pesticide safety information and pesticide application and hazard information;
 - v. Use and care of personal protective equipment; and
 - vi. Providing emergency assistance and heat stress management; and
4. Other pesticide-related activities, including, but not limited to, transporting or storing a pesticide that has been opened, cleaning equipment, and disposing of excess pesticides, spray mix, equipment wash water, pesticide containers, and other pesticide-containing material.

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

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

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2. Handling, transporting, or storing a pesticide or pesticide container;
3. Disposal actions for a pesticide and/or containers or equipment associated with the pesticide.

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

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

“Weed” means any plant which grows where not wanted.

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

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

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

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

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

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

7:30-1.3 (Reserved)

7:30-1.4 (Reserved)

7:30-1.5 (Reserved)

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7:30-1.6 (Reserved)

7:30-1.7 (Reserved)

7:30-1.8 (Reserved)

7:30-1.9 (Reserved)

7:30-1.10 (Reserved)