

DISTRICT OF COLUMBIA MUNICIPAL REGULATIONS
TITLE 20 ENVIRONMENT
CHAPTERS 22-25

CHAPTER 22 CONTROL OF PESTICIDES

20-2200	REGISTRATION OF PESTICIDES
20-2201	APPLICATION FOR REGISTRATION
20-2202	DENIAL, SUSPENSION, AND REVOCATION OF REGISTRATION
20-2203	REGISTRATION OF PESTICIDE DEALERS
20-2204	REGISTRATION OF EMPLOYEES
20-2205	GOVERNMENT AGENCIES AND PUBLIC APPLICATORS
20-2206	RESTRICTED USE PESTICIDES
20-2207	UNLAWFUL ACTS
20-2208	MISBRANDED PESTICIDES AND DEVICES
20-2209	REDUCED RISK PESTICIDES AND METHODS OF PEST CONTROL
20-2210	GENERAL REQUIREMENTS FOR PESTICIDES
20-2211	STORAGE AND DISPOSAL OF PESTICIDES
20-2212	PROTECTION OF PESTICIDE HANDLERS AND APPLICATORS
20-2213	[RESERVED]
20-2214	POSTING
20-2215	PEST CONTROL BY FUMIGATION
20-2299	DEFINITIONS

CHAPTER 23 PESTICIDE APPLICATORS

20-2300	GENERAL PROVISIONS
20-2301	CATEGORIES OF PESTICIDE APPLICATORS
20-2302	COMMERCIAL APPLICATORS: ELIGIBILITY FOR CERTIFICATION
20-2303	COMMERCIAL APPLICATORS: DETERMINATION OF COMPETENCY
20-2304	COMMERCIAL APPLICATORS: STANDARDS FOR DETERMINATION OF COMPETENCY
20-2305	COMMERCIAL APPLICATORS: CERTIFICATION RENEWAL
20-2306	COMMERCIAL APPLICATORS: LICENSING
20-2307	PRIVATE APPLICATORS: CERTIFICATION AND LICENSING
20-2308	PRIVATE APPLICATORS: DETERMINATION OF COMPETENCY
20-2309	PRIVATE APPLICATORS: STANDARDS FOR DETERMINATION OF COMPETENCY
20-2310	RECIPROCITY OF CERTIFICATION
20-2311	SUPERVISION OF REGISTERED EMPLOYEES
20-2399	DEFINITIONS

CHAPTER 24 PESTICIDE OPERATORS

20-2400	GENERAL PROVISIONS
20-2401	APPLICATION FOR LICENSE
20-2402	PESTICIDE OPERATOR CERTIFICATE
20-2403	LIABILITY INSURANCE
20-2499	DEFINITIONS

CHAPTER 25 PESTICIDES: ADMINISTRATION AND ENFORCEMENT

20-2500	GENERAL ADMINISTRATIVE AUTHORITY
20-2501	ENFORCEMENT AND PENALTIES
20-2502	STOP ORDERS AND CONDEMNATION
20-2503	DENIAL, SUSPENSION, MODIFICATION, AND REVOCATION OF CERTIFICATION OR LICENSE
20-2504	[RESERVED]
20-2505	LICENSE FEES AND TERMS
20-2506	PRODUCT REGISTRATION FEES AND TERMS
20-2507	LICENSE RENEWAL
20-2508	RECORDS AND REPORTS
20-2509	RECORDS OF RESTRICTED USE PESTICIDES
20-2599	DEFINITIONS

Last updated on May 16, 2013.

The District of Columbia Municipal Regulations are available at <http://dcregs.dc.gov/>.

2200 REGISTRATION OF PESTICIDES

- 2200.1 Only those compounds that are registered with the Pesticide Registration Division of the U.S. Environmental Protection Agency (the "EPA") shall be manufactured, sold, shipped, used, or applied in the District, and they shall be used only in the manner or manners specified and approved by the EPA.
- 2200.2 The Mayor may, in his or her discretion, require that pesticides registered with the EPA which are distributed within the District shall be registered also with the Mayor.
- 2200.3 Except as provided in §2200.4, every pesticide product that is distributed in the District shall be registered with the Director of the Department of Environmental Services (the "Director").
- 2200.4 Registration shall not be required if a pesticide is shipped from one (1) plant or warehouse to another plant or warehouse operated by the same person and used solely at the plant or warehouse as a constituent part to make a pesticide which is registered under the provisions of the Act, or if the pesticide is distributed under the provisions of an experimental use permit issued by the EPA.
- 2200.5 No person shall use or reveal for his or her own advantage any information relative to the formula of pesticide products acquired by the authority of § 3 of the Act, except that, this provision shall not be deemed to prohibit the disclosure of information to the Director, to proper officials or employees of the District, to courts of competent jurisdiction in response to a subpoena, or to physicians or pharmacists or other qualified persons for use in the preparation of antidotes.
- 2200.6 If it appears to the Director that the composition of a pesticide warrants the proposed claims for it, and if the pesticide and its labeling and other material required to be submitted comply with the requirements of the Act, the Director shall register the pesticide.
- 2200.7 All pesticides registered in the District pursuant to the pesticide provisions of this title (Chapters 22 through 25) shall be distributed in the registrant's or the manufacturer's unbroken immediate container.
- 2200.8 A label bearing the information required by the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA") shall be affixed to the container of each registered pesticide, and to the outside container or wrapper, if any.
- 2200.9 No person shall detach, alter, deface, or destroy, wholly or in part, any label or labeling prescribed by FIFRA.

AUTHORITY: Unless otherwise noted, the authority for this chapter is § 412 of the District of Columbia Self-Government and Governmental Reorganization Act, as amended, 87 *Stat.* 790, Pub. L. No. 93-198, D.C. Code § 1-227(a); and the Commissioner's Order 71-255 effective July 27, 1971; as amended by Commissioner's Order 72-96 effective April 19, 1972; and by the Pesticide Operations Act of 1977, D.C. Law 2-70, 24 DCR 6867 (February 17, 1978); Mayor's Order 78-156 dated August 1, 1978.

SOURCE: Section 4(a) of the Pesticide Operations Act of 1977, D.C. Law 2-70, 24 DCR 6867, 6879 (February 17, 1978); as amended by Final Rulemaking published at 25 DCR 3044, (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978).

EDITOR'S NOTE: Chapter 10, Control of Pesticides was renumbered Chapter 22.

2201 APPLICATION FOR REGISTRATION

- 2201.1 The applicant for registration for a pesticide that is federally registered shall file a statement with the Department that includes the following information:
- (a) The name and address of the applicant and the name and address of the person whose name will appear on the label, if different from the applicant;
 - (b) The name of the pesticide;
 - (c) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including directions for use;
 - (d) The use classification as provided in the FIFRA, as amended; and
 - (e) Other necessary information required for completion of the application form for registration.
- 2201.2 If requested by the Director, a full description of every test conducted, and the results of the tests upon which any claim is based, shall be submitted.
- 2201.3 The Director, when he or she deems it is necessary in the administration of the pesticide provisions of this title, may require the submission of the complete formula for any pesticide, including the active and inert ingredients.
- 2201.4 The applicant desiring to register a pesticide shall pay an annual registration fee for each pesticide registered for the applicant.
- 2201.5 Any registration approved by the Director and in effect on December 31st, for which a renewal application has been made and the proper fee paid, shall continue in full force and effect until the Director notifies the applicant that the registration has been renewed or denied.
- 2201.6 In renewing a registration, a statement shall be required only with respect to information that is different from that furnished when the pesticide was registered or last reregistered.
- 2201.7 If the renewal of a pesticide registration is not filed prior to January 31st of any year, an additional fee of ten dollars (\$10) shall be assessed and added to the original fee, and shall be paid by the applicant before the registration renewal for that pesticide shall be issued.

SOURCE: As amended by Final Rulemaking published at 25 DCR 3044, (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978)

2202 DENIAL, SUSPENSION, AND REVOCATION OF REGISTRATION

- 2202.1 If it does not appear to the Director that a pesticide registered under the Director's authority warrants the proposed claims for it, or if the pesticide and its labeling and other material required to be submitted do not comply with the pesticide provisions of this title, the Director shall notify the applicant of the manner in which the pesticide, labeling, or other material required to be submitted fails to comply with the provisions of the Act so as to afford the applicant an opportunity to make the necessary corrections.
- 2202.2 If, upon receipt of the notice required by § 2202.1, the applicant does not make the required changes, the Director may refuse to register the pesticide.
- 2202.3 The Director may refuse, suspend, or cancel the registration of any pesticide if he or she determines the following conditions exist:
- (a) That the pesticide, its labeling, or other material required to be submitted do not comply with the pesticide provisions of this title; or
 - (b) That the refusal, suspension, or cancellation is necessary to prevent unreasonable adverse effects on the environment.
- 2202.4 When the Director determines that there is an imminent hazard, the Director may suspend, on his or her own motion, the registration of a pesticide registered under the Director's authority.
- 2202.5 In refusing an application for registration, or before suspending or canceling a registration, the Director shall notify the registrant in writing of the proposed action and the basis for the proposed action.
- 2202.6 The registrant shall have thirty (30) business days from the date of receipt of the notice of the proposed action to request a hearing before the Director to show cause why registration should not be refused, canceled, or suspended.

SOURCE: As amended by Final Rulemaking published at 25 DCR 3044, (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978).

2203 REGISTRATION OF PESTICIDE DEALERS

- 2203.1 No person shall act in the capacity of, or advertise as, or assume to act as a pesticide dealer at any time unless he or she is licensed by the Mayor in accordance with the provisions of this section.
- 2203.2 The Mayor shall provide for the licensing of pesticide dealers located within the District; Provided, that any manufacturer, registrant, or distributor whose products are distributed or who distributes products in the District, and who has no pesticide dealer outlet licensed within the District shall obtain a pesticide dealer's license from the Mayor for his or her principal out-of-state location or outlet.
- 2203.3 An application for a pesticide dealer's license shall be made in writing on a form prescribed by the Mayor.
- 2203.4 The Mayor shall establish fees in an amount sufficient to cover the cost of the licensing, and shall prescribe the time period for which each license issued under this chapter shall be valid.
- 2203.5 A pesticide dealer shall be responsible for the acts of each of the dealer's employees in the solicitation and sale of restricted use pesticides, and for all claims and recommendations for the use of restricted use pesticides.
- 2203.6 The provisions of this section shall not apply to a licensed pesticide operator who sells restricted use pesticides only as an integral part of his or her pesticide application service, or to any District or other governmental agency that provides pesticides only for its own programs.

SOURCE: Section 6 of the Pesticide Operations Act of 1977, D.C. Law 2-70, 24 DCR 6867, 6882 (February 19, 1978).

2204 REGISTRATION OF EMPLOYEES

- 2204.1 No person who is not licensed pursuant to this chapter, and who is not acting as a private applicator, shall administer any pesticide unless he or she is registered with the Mayor and is acting under supervision of a licensed applicator.
- 2204.2 Application for registration shall be made in writing on a form prescribed by the Mayor. The registration shall be valid for the time period prescribed by the Mayor.
- 2204.3 The Mayor shall provide for the issuance for appropriate credentials for all registrants.
- 2204.4 Each licensed pesticide operator shall register with the Director all employee(s) who work under the direct supervision of a licensed, certified applicator.
- 2204.5 Registration of each employee pursuant to § 2204.4 shall be made within thirty (30) days after the date of employment.
- 2204.6 The Director shall issue an identification card to each registrant.
- 2204.7 Each registrant shall carry his or her identification card during all working hours, and shall display it upon request.
- 2204.8 The licensed pesticide operator shall give the Director written notice of the termination of the employment of a registered employee within thirty (30) days of the termination, and the employee's identification card shall be returned to the Director at that time for cancellation.

SOURCE: Section 5 of the Pesticide Operations Act of 1977, D.C. Law 2-70, 24 DCR 6867, 6882 (February 19, 1978); as amended by Final Rulemaking published at 25 DCR 3044, (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978); and as amended by Final Rulemaking published at 30 DCR 2204, 2207 (May 13, 1983).

2205 GOVERNMENT AGENCIES AND PUBLIC APPLICATORS

- 2205.1 Except as otherwise provided, all District and other governmental agencies shall be subject to the pesticide provisions of this title, and to all rules and regulations promulgated pursuant to this title concerning the application of pesticides.
- 2205.2 Public applicators for District and other governmental agencies shall be subject to examination as provided in Chapter 23 of this subtitle and to the licensing provisions of § 2204 of this chapter.
- 2205.3 The Mayor shall issue a limited license to each qualified public applicator.
- 2205.4 No fee shall be charged for the issuance of a license to an employee of the District.
- 2205.5 A public applicator license shall be valid only when the licensee is engaged by District or other governmental agencies as an applicator to use or supervise the use of pesticides on lands owned or rented by the agencies, or is acting within the scope of his or her employment.
- 2205.6 A District and other governmental agency employing pesticide applicators shall not be subject to the financial responsibility requirements of § 2403 of Chapter 24 of this subtitle.

SOURCE: Section 9 of the Pesticide Operations Act of 1977, D.C. Law 2-70, 24 DCR 6667, 6886 (February 19, 1978).

2206 RESTRICTED USE PESTICIDES

- 2206.1 The official designation of restricted use pesticides as declared by the EPA under the provisions of § 3(d)(1)(c) of FIFRA shall be adopted by the District.
- 2206.2 For the protection, health, and welfare of the people in the District, and after a public hearing, the Director may add to the official designation of restricted use pesticides of the District pesticides that are not included in the federal regulations.

SOURCE: As amended by Final Rulemaking published at 25 DCR 3044 (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978).

2207 UNLAWFUL ACTS

- 2207.1 It shall be unlawful for any person to use a pesticide in a manner that is inconsistent with the labeling of the pesticide, or that is in violation of the restrictions imposed on the use of the pesticide by the EPA or the Mayor.
- 2207.2 No person shall make a pesticide recommendation that is inconsistent with the labeling of the pesticide, or that is in violation of the restrictions imposed on the use of the pesticide by the EPA or the Mayor.
- 2207.3 It shall be unlawful for any person to falsify, or refuse or neglect to maintain or make available records required to be kept under the pesticide provisions of this title.
- 2207.4 It shall be unlawful for any person to use fraud or misrepresentation in applying for certification or for a license.
- 2207.5 It shall be unlawful for any person to refuse or neglect to comply with any limitations or restrictions on his or her certification or license.
- 2207.6 It shall be unlawful for any person to make false or fraudulent claims through any media that misrepresent the effect of a pesticide or the method to be utilized in the application of a pesticide.
- 2207.7 No person shall apply any known ineffective or improper pesticide, or operate faulty or unsafe equipment.
- 2207.8 It shall be unlawful for any person to use or supervise the use of a pesticide in a faulty, careless, or negligent manner.
- 2207.9 It shall be unlawful for any person to make false or fraudulent records, invoices, or reports.
- 2207.10 It shall be unlawful for any person to aid, abet, or conspire with any other person to evade the pesticide provisions of this title.
- 2207.11 It shall be unlawful for any person to make fraudulent or misleading statements during or after an inspection of a pest infestation.
- 2207.12 No person shall impersonate any federal, state, or District inspector or official.
- 2207.13 It shall be unlawful for any person to distribute any pesticide that is adulterated.
- 2207.14 It shall be unlawful for any person to fail to register a pesticide in accordance with the pesticide provisions of this title.
- 2207.15 It shall be unlawful for any person to violate any other pesticide provision of this title.

SOURCE: Section 18 of the Pesticide Operations Act of 1977, D.C. Law 2-70, 24 DCR 6867, 6895 (February 19, 1978).

2208 MISBRANDED PESTICIDES AND DEVICES

- 2208.1 It shall be unlawful for any person to distribute any pesticide or device that is misbranded.
- 2208.2 A pesticide shall be "misbranded" if its labeling and packaging fails to comply with the provisions of this section.
- 2208.3 No labeling on any pesticide shall bear any statement, design, or graphic representation relative to the pesticide or to its ingredients that is false or misleading in any way.
- 2208.4 No pesticide shall be contained in a package or other container or wrapping that does not conform to the standards established by the Administrator pursuant to § 25(c)(3) of FIFRA.
- 2208.5 No pesticide shall be an imitation of, or offered for sale under the name of, another pesticide.
- 2208.6 The label of a pesticide shall bear the registration number assigned under § 7 of FIFRA to each establishment in which it is produced.
- 2208.7 Any word, statement, or other information required by or under authority of FIFRA to appear on the label or labeling shall be prominently placed on the label with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling), and stated in terms that will render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.
- 2208.8 The labeling accompanying a pesticide shall contain directions for use that are necessary for effecting the purpose for which the product is intended that, if complied with, together with any requirements imposed under § 3(d) of FIFRA, are adequate to protect health and the environment.
- 2208.9 The label shall bear an ingredient statement on that part of the immediate container (and on the outside container or wrapper of the retail package, if there is one, through which the ingredient statement on the immediate container cannot be clearly read) which is presented or displayed under customary conditions of purchase, except as provided in § 2208.10.
- 2208.10 The label need not bear an ingredient statement as required by § 2208.9 if the size or form of the immediate container, or the outside container or wrapper of the retail package, makes it impracticable to place the ingredient statement on the part that is presented or displayed under customary conditions of purchase. In this case, the ingredient statement shall appear prominently on another part of the immediate container, or on the outside container or wrapper, as permitted by the Administrator.
- 2208.11 Each label shall contain a statement of the use classification under which the pesticide is registered.
- 2208.12 Each label shall contain a warning or cautionary statement that may be necessary and, if complied with, together with any requirements imposed under § 3(d) of FIFRA, is adequate to protect health and the environment.
- 2208.13 Each pesticide shall have affixed to its container, and to the outside container or wrapper of its retail package, if there is one, through which the required information on the immediate container can be clearly read, a label bearing the following information:
- (a) The name and address of the producer, registrant, or person for whom the pesticide was produced;
 - (b) The name, brand, or trademark under which the pesticide is sold;

- (c) The net weight or measure of the content; Provided, that the Administrator may permit reasonable variations; and
- (d) When required by regulation of the Administrator to effectuate the purposes of FIFRA, the registration number assigned to the pesticide under FIFRA, and the use classification.

2208.14 No pesticide shall contain any substance or substances in quantities highly toxic to man, unless the label bears, in addition to any other matter required by FIFRA, the following information:

- (a) The skull and crossbones;
- (b) The word "poison" prominently displayed in red on a background of distinctly contrasting color; and
- (c) A statement of a practical treatment (first aid or otherwise) in case of poisoning by the pesticide.

SOURCE: Section 2(u) of the Pesticide Operations Act of 1977, D.C. Law 2-70, 24 DCR 6867, 6871 (February 19, 1978).

2209 REDUCED RISK PESTICIDES AND METHODS OF PEST CONTROL

2209.1 The following pesticides are identified by the Department of the Environment as reduced-risk:

- (a) Products classified by the United States Environmental Protection Agency ("U.S. EPA") as exempt from regulation under section 25(b) of the Federal Insecticide, Fungicide and Rodenticide Act, approved October 21, 1972 (86 Stat. 997; 7 U.S.C. § 136w(b)), when used according to District-approved label instructions, because the products meet all of the criteria set forth in 40 C.F.R. § 152.25, contain only the active ingredients listed in 40 C.F.R. § 152.25(f)(1) (2008, or as amended), and include only the inert ingredients described in 40 C.F.R. § 152.25(f)(2) and listed in the most current List 4A (4A Inerts List), which may be found at <http://www.epa.gov/opprd001/inerts/inerts-list4Acas.pdf>;
- (b) Biopesticide active ingredients in products registered by U.S. EPA, which ingredients are set forth at <http://www.epa.gov/opbpd/biopesticides/ingredients/index.htm>, including registered components of plant-incorporated protectants ("PIPs"), which components are set forth at <http://www.epa.gov/opbpd/biopesticides/pips/pip-list.htm>, when used according to U.S.EPA-approved label directions;
- (c) The following compounds, when used according to U.S. EPA label directions: boric acid, disodium octaborate tetrahydrate, silica gels, or diatomaceous earth; and
- (d) Non-volatile pesticides in tamper resistant containers.

2209.2 The following methods for applying pesticides, when the pesticides are used according to U.S. EPA-approved label directions, are identified by the Department of the Environment as reduced-risk:

- (a) Pesticides used for the purpose of rodent control that are placed directly into rodent burrows or placed in areas inaccessible to children or pets; and
- (b) Pesticides in the form of a non-liquid gel used for the purpose of insect control that are placed in areas inaccessible to children or pets.

SOURCE: As amended by Final Rulemaking published at 55 DCR 9839 (September 19, 2008).

2210 GENERAL REQUIREMENTS FOR PESTICIDES

- 2210.1 Registered pesticides shall be used in strict accordance with the manufacturer's labeling directions, and in compliance with District and federal laws and regulations.
- 2210.2 Pesticide equipment or application apparatus shall be in sound mechanical condition and capable of satisfactory operation.
- 2210.3 Pesticide containers shall not be used for any purposes other than containing the original labeled product.
- 2210.4 The water supply for any equipment being filled shall be protected from contamination by means of an effective anti-siphon device.
- 2210.5 Pesticide applications shall be made in a manner to prevent harmful effects to the environment.
- 2210.6 No pesticide application shall be made by air or ground equipment whenever the wind velocity will cause the pesticide to drift beyond the target area.
- 2210.7 Pesticides in leaking, broken, corroded, or otherwise damaged containers, or with damaged or obscure labels, shall not be displayed or offered for sale.
- 2210.8 The inspection of premises to determine the presence of termites or other wood destroying organisms for the purpose of issuing wood infestation certificates shall only be performed by pesticide operators licensed in the subcategory of "Wood Destroying Organisms," as described in § 2301.1(d)(2) of Chapter 23 of this subtitle.

SOURCE: As amended by Final Rulemaking published at 25 DCR 3044, (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978)

2211 STORAGE AND DISPOSAL OF PESTICIDES

- 2211.1 No person shall dispose, discard, or store any pesticide container, or rinsate, in a manner that may cause injury to humans, vegetation, crops, livestock, wildlife, pollinating insects, or to pollute any waterway supply or waterway.
- 2211.2 The Mayor shall publish regulations for the storage and disposal of pesticides and pesticide containers.
- 2211.3 No person shall handle, transport, store, display, or distribute any pesticide in a manner that endangers man and the environment, or that endangers food, feed, or any other products that may be transported, stored, displayed, or distributed with the products.
- 2211.4 Standards for the safe storage, handling, and disposal of containers or unused pesticides shall be published at a later date in conjunctions with the D.C. Hazardous Waste Management Act of 1977.
- 2211.5 In determining the standards required by § 2211.4, the Director shall take into consideration any regulation issued by the EPA.

SOURCE: Section 15 of the Pesticide Operations Act of 1977, D.C. Law 2-70, 24 DCR 6867, 6894 (February 19, 1978), as amended by Final Rulemaking published at 25 DCR 3044 (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978).

2212 PROTECTION OF PESTICIDE HANDLERS AND APPLICATORS

- 2212.1 It shall be the responsibility of each licensed certified applicator to acquaint those working under his or her direct supervision with the hazards involved in the use of pesticides as set forth by the Director or on the pesticide labeling, and to instruct the employees on the proper steps to avoid these hazards.
- 2212.2 It shall be the responsibility of each licensed certified applicator to provide the necessary safety equipment and protective clothing for the protection of all employees as set forth by the Director on the pesticide labeling or as is appropriate for the pesticide being used.
- 2212.3 It shall be the responsibility of the licensed certified applicator to inform those working under his or her direct supervision of any appropriate reentry requirements, and to provide the necessary protective clothing or apparatus if premature reentry is necessary.
- 2212.4 If the licensed certified applicator is not the owner or manager, the ultimate responsibility for providing safety equipment and protective clothing shall be the responsibility of the pesticide operator.

SOURCE: As amended by Final Rulemaking published at 25 DCR 3044 (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978).

2213 [RESERVED]

2214 POSTING

2214.1 Any person required to have a license under D.C. Official Code § 8-403 who is applying a pesticide to a lawn or to exterior landscape plants shall post, at the time of application, a sign that conforms to the requirements of this section. This section applies only to those persons required to be certified in pest control pursuant to 20 DCMR § 2301.1(a)(1) and (2).

2214.2 The sign required by § 2214.1 shall meet the following requirements:

- (a) Be no smaller than four (4) inches in height x five (5) inches in width;
- (b) Be constructed of a sturdy, weather resistant material;
- (c) Be rigid, as opposed to a flag;
- (d) Be on a flexible stake, preferably not wire;
- (e) Have yellow background with black, bold-faced lettering; and
- (f) Be posted so that the bottom of the sign shall be at least twelve (12) inches but not more than sixteen (16) inches above the surface of the soil.

2214.3 The information contained on the sign shall meet the following requirements:

- (a) Information contained on the front of the sign shall be the same words and symbols and in the sizes specified in Figure A shown at the end of this chapter; and
- (b) Information contained on the back of the sign shall be at least eighteen (18) point type (5/32 inch) in size and indicate the following:
 - i. Date applied;
 - ii. Name of applicator; and
 - iii. Telephone number of applicator.

2214.4 The person applying the pesticide shall place the sign at each primary access to the property treated, with the front of the sign facing the access. If only a spot pesticide application is made, or only a small area of a large area receives a pesticide application, the sign may be posted at the location where the pesticide application was made, with the front of the sign facing the probable path of access to the area.

2214.5 The sign shall remain in place for forty-eight (48) hours following the pesticide application, after which time the property owner is responsible for removal of the sign.

2214.6 Subject to the penalties provided in D.C. Official Code § 8-418, no person, acting alone or in concert with others, may remove, alter, or deface the sign within forty-eight (48) hours of its posting.

SOURCE: As amended by Final Rulemaking published at 55 DCR 9839 (September 19, 2008).

2215 PEST CONTROL BY FUMIGATION

- 2215.1 Notwithstanding any other provisions of Chapters 22 through 25 of this subtitle, each fumigation operation shall be performed or supervised only by a licensed applicator certified to perform fumigation.
- 2215.2 Each member of the fumigation crew shall be trained in those aspects of the fumigation process in which the member participates, have adequate knowledge of the fumigant, and be provided with all the safety equipment necessary for his or her protection.
- 2215.3 Before performing fumigation, the nearest fire station and the Director shall be notified.
- 2215.4 The notice to the nearest fire station required by § 2215.3 shall be in writing and shall include the following information:
- (a) The name and address of the pesticide operator;
 - (b) The name of the fumigant;
 - (c) The name of the licensed certified applicator and the applicator's day and night telephone numbers;
 - (d) The location and type of structure; and
 - (e) The date and approximate time of fumigation, and the estimated length of the fumigation period.
- 2215.5 The structure, vault, vehicle, commodity, or area (where applicable) to be treated shall be conspicuously posted with warning signs on all sides.
- 2215.6 Warning signs required by § 2215.5 shall carry the following information:
- (a) The skull and crossbones;
 - (b) The name of the fumigant;
 - (c) A warning statement that reads: "DANGER POISON KEEP OUT";
 - (d) The name of the company; and
 - (e) The name and telephone number of the licensed certified applicator in charge.
- 2215.7 A guard shall be on the site during the entire fumigation period.
- 2215.8 Guards shall be capable, awake, alert, and remain on duty at the site at all times to prevent unauthorized persons from gaining entrance into the structure.
- 2215.9 The licensed certified applicator shall be responsible for the following:
- (a) To see that all persons are out of the structure before fumigation;
 - (b) To ensure that the structure is secure; and
 - (c) To ensure that the structure is safe for reoccupancy.

2215.10 The introduction of the fumigant shall be performed only by an applicator licensed and certified in fumigation.

SOURCE: As amended by Final Rulemaking published at 25 DCR 3044 (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978).

2299 DEFINITIONS

2299.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

Accident - an unexpected, undesirable event, caused by the use or presence of a pesticide, that adversely affects man or the environment. (25 DCR 3044 incorporating 25 DCR 2118)

Active ingredient:

- (a) In the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient that will prevent, destroy, repel, or mitigate any pest;
- (b) In the case of a plant regulator, an ingredient that, through physiological action, will accelerate or retard the rate of growth or maturation, or otherwise alter the behavior of ornamental or crop plants or the product of the plants;
- (c) In the case of a defoliant, an ingredient that will cause the leaves or foliage to drop from a plant; and
- (d) In the case of a desiccant, an ingredient that will artificially accelerate the drying of plant tissue.

Administrator - the Administrator of the United States Environmental Protection Agency.

Adulteration - a pesticide having a strength or purity that falls below the professed standard or quality as expressed in its labeling under which it is sold; or the total or partial substitution of any substance for the pesticide; or the total or partial abstraction of any valuable constituent, of the pesticide.

Agricultural commodity - any plant or part of a plant, or an animal or animal product, produced by a person (including 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 animals. (25 DCR 3044 incorporating 25 DCR 2118)

Animal - all vertebrate and invertebrate species, including, but not limited to, man and other mammals, birds, fish, and shellfish.

Biopesticide - a chemical derived from plants, fungi, bacteria, or other non-man-made synthesis that is effective in controlling target pests or certain microorganisms including bacteria, fungi, viruses, and protozoa that are effective in controlling target pests. These agents usually do not have toxic effects on animals and people and do not leave toxic or persistent chemical residues in the environment.

Certification - the recognition by a certifying agency that a person is competent and is authorized to use or supervise the use of restricted use pesticides. (30 DCR 2204)

Certified applicator - any individual who is certified by the Mayor as being competent to use or supervise the use of any restricted use pesticide or class of restricted use pesticides covered by his or her certification.

Commercial applicator - an individual, whether or not he or she is a private applicator with respect to some uses, who uses or supervises the use of any pesticide that is classified for restricted use for any purpose or on any property other than as provided by the definition of "private applicator."

Competent - properly qualified to perform functions associated with pesticide application, the degree of capability required being directly related to the nature of the activity and the associated responsibility. (25 DCR 3044 incorporating 25 DCR 2118)

Defoliant - any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

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

Device - any instrument or contrivance (other than a firearm) that is intended for trapping, destroying, repelling, or mitigating any pest of any other form of plant or animal life (other than man and other than bacteria, virus, or other microorganism on or in living man or other living animals); but not including equipment used for the application of pesticides when sold separately from the pesticides.

Director - the Director of the Department of Environmental Services or the Director's designated agent.

Distribute - to offer for sale, hold for sale, sell, barter, or trade a commodity.

District - the District of Columbia.

Environment - includes water, air, land, and all plants and man and other animals living in or on the water, air, and land; and the interrelationships that exist among these things. (25 DCR 3044 incorporating 25 DCR 2118)

Equipment - any type of ground, water, or aerial equipment or contrivance using motorized, mechanical, or pressurized power, and used to apply any pesticide on land and anything that may be growing, habitating, or stored on or in the land. This term shall not include any pressurized hand-sized household apparatus used to apply a pesticide.

FIFRA - the Federal Insecticide, Fungicide, and Rodenticide Act (7 USC 135 *et seq.*), as amended.

Fumigation - the act of releasing or dispensing a toxic chemical agent in such a way that it reaches the organism wholly or primarily in the gaseous state. (25 DCR 3044 incorporating 25 DCR 2118)

Fungus - any non-chlorophyll-bearing thallophyte (any non-chlorophyll-bearing plant of a lower order than mosses and liverworts); for example: rust, smut, mildew, mold, yeast, and bacteria, except those on or in living man or other animals and those on or in processed food, beverages, or pharmaceuticals.

Hazard - a probability that a given pesticide will have an adverse effect on man or the environment in a given situation, the relative likelihood of danger or ill effect being dependent on a number of interrelated factors present at any given time. (25 DCR 3044 In carp orating 25 DCR 2118)

Inert ingredient - an ingredient that is not active. (25 DCR 3044 incorporating 25 DCR 2118)

Ingredient statement - a statement that contains:

- (a) The name and percentage of each active ingredient, and the total percentage of all inert ingredients in the pesticide; and

- (b) If the pesticide contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, calculated as elemental arsenic. (25 DCR 3044 incorporating 25 DCR 2118)

Insect - any of the numerous small invertebrate animals generally having a body more or less obviously segmented, for the most part belonging to the class insecta, comprising six (6) legged, usually winged forms (for example, beetles, bugs, bees, and flies). For purposes of Chapters 22 through 25 of this subtitle, the term "insect" also applies to allied classes of arthropods whose members are wingless and usually have more than six (6) legs (for example, spiders, mites, ticks, centipedes, and wood lice).

Label - the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its container or wrappers.

Labeling - all labels and all other written, printed, or graphic matter that does the following:

- (a) Accompanies the pesticide or device at any time; or
- (b) Accompanies or refers to the pesticide or device, except when accurate non-misleading references are made to current official publications of federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

Land - all land and water areas, including air space, and all plants, animals, structures, buildings, contrivances, and machinery appurtenant to or situated on the land and water areas, fixed or mobile, including any used for transportation.

Licensed certified applicator - an applicator who has completed the requirements for certification and holds a valid District license. (25 DCR 3044 incorporating 25 DCR 2118)

Mayor - the Mayor of the District of Columbia or the Mayor's designated agent.

Nematode - invertebrate animals of the phylum nemathelminthes 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. A nematode also may be called nemas or eelworms.

Ornamental - 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, and industrial and institutional buildings. (25 DCR 3044 incorporating 25 DCR 2118)

Person - any individual, partnership, association, corporation, company, joint stock association, or any organized group of people whether incorporated or not. This term includes any trustee, receiver, or assignee.

Pest - any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism (except viruses, bacteria, or other microorganism on or in living persons or other living animals) that commonly is considered to be detrimental to a person or mankind's interests, or which the Mayor may declare to be detrimental.

Pesticide - any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest; and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

Pesticide applicator - an individual who is a commercial applicator, private applicator, public applicator, or registered employee.

Pesticide dealer - any person who distributes to the ultimate user restricted use pesticides or any pesticide whose use or distribution are further restricted by the Mayor.

Pesticide operator - :

- (a) Any person who owns or manages a pesticide application business in which pesticides are applied upon the lands of another for hire or compensation; or
- (b) Except as otherwise provided under the definition of "private applicator," the owner or manager of any commercial firm, business, corporation, or private institution, who directly or through his or her employees uses restricted use pesticides on property owned, managed, or leased by the commercial firm, business, corporation, or private institution; or
- (c) Any District or other governmental agency whose officials or employees apply pesticides as part of their normal duties.

Place of business - a location that is staffed by at least one (1) person who independently, without supervision, applies pesticides or who supervises others in the use of pesticides. (25DCR 3044 incorporating 25 DCR 2118)

Plant incorporated protectant - pesticidal substances that are intended to be produced and used in a living plant or in the produce thereof, and the genetic material necessary for production of such a pesticidal substance. Plant incorporated protectant also includes any inert ingredient contained in the plant, or produce thereof.

Plant regulator - any substance or mixture of substances intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation of plants; or for otherwise altering the behavior of plants or the produce of the plants. This term shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments. Also, it shall not be required to include any of those nutrient mixtures or soil amendments as are commonly known as vitamin-hormone horticultural products, intended for improvement, maintenance, survival, health, and propagation of plants, and that are not for pest destruction, and that are nontoxic, nonpoisonous in the undiluted packaged concentration.

Private applicator - any individual who uses any restricted use pesticide for purposes of producing any agricultural commodity on property owned or rented by the individual 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.

Protective equipment - clothing or any other materials or devices that shield against unintended exposure to pesticides. (25 DCR 3044 incorporating 25 DCR 2118)

Public applicator - a commercial applicator who is an employee of the District or of a governmental agency who is authorized to use or supervise the use of pesticides.

Registered employee - an individual who is registered with the Mayor, pursuant to § 2204 of this Chapter, and who works under the direct supervision of a licensed commercial or public applicator.

Registrant - any person who registers any pesticide pursuant to the provisions of the Act. (25 DCR 3044 incorporating 25 DCR 2118)

Registration - includes reregistration. (25 DCR 3044 incorporating 25 DCR 2118)

Restricted use pesticides - any pesticides (or pesticide use) classified by the Administrator for restricted use; or any pesticide which, when used as directed or in accordance with commonly recognized practice, the Mayor determines, subsequent to a hearing, that additional restrictions for that use are necessary in order to prevent a hazard to the applicator or other persons, or to prevent unreasonable adverse effects upon the environment.

Space treatment - the dispersal of insecticides into the air by foggers, misters, aerosol devices, ultra low volume (ULV) equipment, or vapor dispensers for the control of flying insects and exposed crawling insects. (25 DCR 3044 incorporating 25 DCR 2118)

Under the direct supervision of - unless otherwise prescribed by its labeling or other restrictions imposed by the Mayor, a pesticide shall be considered to be applied under the direct supervision of a certified applicator if it is applied by a competent registered employee acting under the instruction and control of a certified applicator who is available if and when needed, even though the certified applicator may not be physically present at the time and place the pesticide is applied.

Weed - any plant that grows where it is not wanted.

SOURCE: Section 2 of the Pesticide Operations Act of 1977, D.C. Law 2-70, 25 DCR 6867, 6882 (February 19, 1978); as amended by Final Rulemaking published at 25 DCR 3044 (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978); Final Rulemaking published at 30 DCR 2204 (May 13, 1983); as amended by Final Rulemaking published at 55 DCR 9839 (September 19, 2008).

Figure A



SOURCE: As amended by Final Rulemaking published at 55 DCR 9839 (September 19, 2008).

2300 GENERAL PROVISIONS

- 2300.1 No person shall purchase, use, or supervise the use of any restricted use pesticide unless he or she is licensed by the Mayor in accordance with Chapters 22 through 25 of this subtitle, except as provided in § 2300.2.
- 2300.2 A registered employee may purchase and use restricted use pesticides under the direct supervision of a licensed commercial or public applicator.
- 2300.3 Application for a pesticide applicator's license shall be made in writing on a form prescribed by the Mayor.
- 2300.4 The Mayor shall establish fees in amounts sufficient to cover the cost of the licensing.
- 2300.5 A pesticide applicator license shall be valid for the period of time prescribed by the Mayor.
- 2300.6 The Mayor shall provide for the issuance of appropriate credentials for the applicator.
- 2300.7 No person shall be licensed to use any restricted use pesticide unless he or she has been certified by the Mayor in accordance with the provisions of Chapters 22 through 25 of this title.
- 2300.8 After a public hearing held in conformance with the provisions of the D.C. Administrative Procedure Act (D.C. Code § 1-1501 *et seq.*), the Mayor shall prescribe regulations for the certification of private and commercial applicators.
- 2300.9 The Mayor shall establish categories and, where applicable, may establish subcategories of commercial applicators based upon the following criteria:
- (a) The types of pesticides used;
 - (b) The purposes for which the pesticides are used;
 - (c) The types of equipment required in the application of the pesticides;
 - (d) The degree of knowledge or skill required in the application of the pesticides; and
 - (e) Other relevant factors.
- 2300.10 The Mayor shall require an applicant for commercial applicator certification to show, by written examination and, as applicable, by practical testing, that the applicant meets the following requirements:
- (a) The applicant shall be competent in the proper handling, use, and application of pesticides in the certification categories for which he or she has applied;
 - (b) The applicant shall know the dangers involved and precautions to be taken in connection with the use and application of the pesticides; and
 - (c) Any other requirements as the Mayor may prescribe.
- 2300.11 The Mayor shall develop procedures to ensure that all certified applicators continue to meet the requirements of changing technology, and to ensure a continuing level of competence and ability to use pesticides safely and properly.

- 2300.12 The Mayor shall establish a system for determining the competency of applicants for private applicator certification in the use and handling of pesticides.
- 2300.13 Application for certification shall be made in writing on a form prescribed by the Mayor.
- 2300.14 Applicator certification shall be valid for the period prescribed by the Mayor.
- 2300.15 The Mayor shall provide for the issuance of appropriate credentials specifying the categories in which the applicator has demonstrated competency.
- 2300.16 If the Mayor does not certify the applicator as provided in this chapter, the Mayor shall inform the applicant in writing of the reasons for the denial of the certification.
- 2300.17 The certification and licensing requirements of this chapter shall not apply to the following individuals:
- (a) A person conducting laboratory-type research involving restricted use pesticides;
 - (b) A doctor of medicine or a doctor of veterinary medicine applying pesticides as drugs during the course of normal practice;
 - (c) A registered employee while working under the direct supervision of a licensed certified applicator; or
 - (d) A person applying general use pesticides on his or her own premises, or an employee of that person who applies a general use pesticide on the person's premises.
- 2300.18 All licenses granted by this chapter shall be posted conspicuously on the premises of the licensee.
- 2300.19 All licenses granted by this chapter shall be accessible at all times for inspection by the Director, police, or other officials duly authorized to make inspections.

AUTHORITY: Unless otherwise noted, the authority for this chapter is § 412 of the District of Columbia Self-Government and Governmental Reorganization Act, as amended, 87 *Stat* 790, Pub. L. No. 93-198, D.C. Code § 1-227(a); and the Commissioner's Order 71-255 effective July 27, 1971; as amended by Commissioner's Order 72-96 effective April 19, 1972; and by the Pesticide Operations Act of 1977, D.C. Law 2-70, 24 DCR 6867 (February 17, 1978); Mayor's Order 78-156 dated August 1, 1978.

SOURCE: Section 4 of the Pesticide Operations Act of 1977, D.C. Law 2-70, 25 DCR 6867, 6879 (February 17, 1978); as amended by Final Rulemaking published at 25 DCR 3044 (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2238 (August 25, 1978).

EDITOR'S NOTE: Chapter 11, Pesticide Applicators was renumbered Chapter 23.

2301 CATEGORIES OF PESTICIDE APPLICATORS

2301.1 Individuals shall make application to the Director on the appropriate forms for certification in one (1) of the categories or subcategories of pest control outlined in this subsection (subject categories are numerically classified in accordance with 40 CFR § 171.3):

- (a) Ornamental and Turf Pest Control - this category includes commercial applicators using or supervising the use of pesticides to control pests in the maintenance and production of ornamental trees, shrubs, flowers, and turf. This category contains the following subcategories:
 - (1) Exterior Ornamental Plants;
 - (2) Lawns and Turf; and
 - (3) Interior Ornamental Plants.
- (b) Aquatic Pest Control - this category includes commercial applicators using or supervising the use of pesticides purposefully applied to standing or running water, excluding applicators engaged in public health-related activities included in § 2301.1(e);
- (c) Right of Way Pest Control - this category includes commercial applicators using or supervising the use of pesticides in the maintenance of public roads, electric powerlines, pipelines, railway right-of-way, or other similar areas;
- (d) Industrial, Institutional, Structural, and Health Related Pest Control - this category includes commercial applicators using or supervising the use of pesticides in, on, or around food handling establishments, human dwellings, industrial establishments (including warehouses and grain elevators), institutions such as schools and hospitals, and any other protection of stored, processed, or manufactured products. This category contains the following subcategories:
 - (1) General Pest Control - preventing, repelling, or controlling insects, fungi, or other pests within or adjacent to structures of any kind, or the adjacent grounds, or where people may assemble or congregate. This subcategory does not include work otherwise defined in §§ 2301.1(d)(2) through 2301.1(d)(6);
 - (2) Wood Destroying Organism - preventing, repelling, or controlling termites, powder post beetles, fungi, or wood destroying organisms in or on structures of any kind of pre-treating areas or the surrounding grounds where the structures are to be constructed;
 - (3) Bird Control - preventing, repelling, or controlling nuisance birds;
 - (4) Fumigation - the use of a fumigant within an enclosed space for the destruction of a pest, not including space treatment;
 - (5) Rodent Control - preventing, repelling, or controlling rodents; and
 - (6) Industrial Weed Control - preventing, repelling, or controlling weeds on industrial or commercial sites;

- (e) Public Health Pest Control - this category includes District and federal governmental employees using or supervising the use of pesticides in public health programs for the management and control of pests having medical and public health importance;
- (f) Regulatory Pest Control - this category includes District and federal governmental employees who use or supervise the use of pesticides in the control of regulated pests;
- (g) Demonstration and Research Pest - Control this category includes the following:
 - (1) Individuals who demonstrate to the public the proper use and techniques of application of restricted use pesticides, or who supervise the public demonstration. Included in this group is any person who is an extension specialist, or a commercial representative demonstrating restricted use pesticide products, and anyone demonstrating methods used in public programs; and
 - (2) Persons conducting field research with restricted use pesticides and, in doing so, use or supervise the use of restricted use pesticides. Included in this group is any District, federal, commercial, or other person conducting field research on or utilizing restricted use pesticides.
- (h) Miscellaneous Pest Control - this category includes commercial applicators using or supervising the use of a pesticide(s) for the management and control of pests which are not related to or described in paragraphs (a) through (g).

2301.2 The following categories of pest control certification are not available in the District of Columbia:

- (a) Agriculture Pest Control - including the following subcategories:
 - (1) Plant; and
 - (2) Animal;
- (b) Forest Pest Control; and
- (c) Seed Treatment.

SOURCE: As amended by Final Rulemaking published at 25 DCR 3044 (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978); as amended by Final Rulemaking published at 30 DCR 2204, 2205 (May 13, 1983).

2302 COMMERCIAL APPLICATORS: ELIGIBILITY FOR CERTIFICATION

2302.1 Each applicant for certification as a commercial applicator shall demonstrate to the Director that he or she has at least one (1) of the following:

- (a) One (1) year of experience acceptable to the Director as a full-time registered employee engaged in those categories in which the applicant seeks to be certified. Proof of this experience may include affidavits from former employers, certification or licensure from other states or the federal government, or other measures acceptable to the Director;
- (b) A degree or certification from an accredited college or university with specialized training acceptable to the Director in the categories in which the applicant seeks to be certified. One (1) year of this specialized training may be considered equivalent to one (1) year of practical experience; or
- (c) A combination of training and experience acceptable to the Director. This combination shall total one (1) year.

SOURCE: As amended by Final Rulemaking published at 25 DCR 3044 (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978).

2303 COMMERCIAL APPLICATORS: DETERMINATION OF COMPETENCY

- 2303.1 To be certified as competent in the use and handling of pesticides, an applicant shall meet the requirements of this section.
- 2303.2 Each applicant for certification shall pass a written examination (and, where appropriate, a performance test) administered by the Director in each category or subcategory for which the applicant seeks to be certified.
- 2303.3 The required examinations and testing shall be based upon the standards set forth in § 2303 and which are approved by the Director.
- 2303.4 The required examinations and testing shall include the general standards applicable to all categories and the additional standards specifically identified for each category or subcategory (if any) in which an applicator is to be certified.
- 2303.5 Each applicant shall give written notice to the Director at least two (2) weeks prior to the scheduled examination date and shall specify any category or subcategory in which the applicant seeks to demonstrate competence.
- 2303.6 Examinations shall be administered at least two (2) times a year at locations and times designated and announced by the Director.
- 2303.7 To become certified in any category or subcategory, an applicant shall be required to pass the following two (2) separate written examinations:
- (a) A general, core examination; and
 - (b) A category examination which shall be specific to the category(ies) or subcategory (ies) as described in § 2301 of this chapter.
- 2303.8 There shall be no charge for the initial examination.
- 2303.9 A ten dollar (\$ 10) fee shall be charged for each re-examination session.
- 2303.10 [Deleted]
- 2303.11 A passing score for any examination shall consist of a total correct score equal to or exceeding seventy percent (70%) of the total points on the examination as graded by the Director.
- 2303.12 Each person who takes an examination shall be notified of the results of the examination on a pass-fail basis.
- 2303.13 An applicant, who fails the general core or category examination may not reapply to take that examination until thirty (30) days after the date of the last failed examination.
- 2303 14 Each applicant who has successfully completed the requirements for certification shall be notified by the Director stating the category(ies) or subcategory (ies) in which competency has been demonstrated.
- 2303.15 The certification shall be valid only when accompanied by a current pesticide applicator's license.

- 2303.16 A certified applicator who elects to add one (1) or more categories or subcategories to an existing certification shall be required to take only the category examination for each new category or subcategory for which certification is desired.
- 2303.17 Any applicator who has any part of his or her certification suspended or revoked may be required to submit to re-examination in those categories or subcategories for which the applicator seeks to be recertified.

SOURCE: As amended by Final Rulemaking published at 25 DCR 3044 (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978); as amended by Final Rulemaking published at 30 DCR 2204, 2205 (May 13, 1983).

2304 COMMERCIAL APPLICATORS: STANDARDS FOR DETERMINATION OF COMPETENCY

- 2304.1 The standards prescribed in the section shall be used to determine the competency of each commercial applicator prior to his or her certification.
- 2304.2 The District standards for the certification of commercial applicators prescribed in this section are substantially identical to the standards set forth by EPA.
- 2304.3 All commercial applicators shall demonstrate practical knowledge of the principles and practices of pest control and safe use of pesticides.
- 2304.4 Testing shall be based on examples of problems and situations appropriate to the particular category or subcategory of the applicator's certification, as well as the following areas of competency:
- (a) Label and labeling comprehension, including the following factors:
 - (1) The general format and terminology of pesticide labels and labeling;
 - (2) The understanding of instructions, warnings, terms, symbols, and other information commonly appearing on pesticide labels;
 - (3) Classification of the product, general and restricted; and
 - (4) Necessity for use consistent with the label;
 - (b) Pests, including factors such as the following:
 - (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;
 - (c) Safety, including the following factors:
 - (1) Pesticide toxicity and hazard to man and common exposure routes;
 - (2) Common types 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;

- (d) Environment - including the potential environmental consequences of the use and misuse of pesticides as may be influenced by factors such as the following:
 - (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) Drainage patterns;
- (e) Pesticides, including factors such as the following:
 - (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 that influence effectiveness or that lead to problems such as a resistance to pesticides; and
 - (6) Dilution procedures;
- (f) Equipment, including the following factors:
 - (1) Types of equipment and advantages and limitations of each type; and
 - (2) Uses, maintenance, and calibration;
- (g) Application techniques, including the following factors:
 - (1) Methods of procedure 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 of discharge and placement of pesticides to proper use, unnecessary use, and misuse; and
 - (3) Prevention of drift and pesticide loss into the environment; and
- (h) Laws and regulations, including all applicable District and federal laws and regulations.

2304.5 Some of the factors referenced in this section are of particular importance because of the different types of activities carried out by applicators in each category. These factors shall be especially stressed and specifically reflected in state certification standards, as appropriate.

2304.6 Commercial applicators shall be particularly qualified with respect to the following practical knowledge standards:

- (a) Ornamental and Turf Pest Control - applicators shall demonstrate practical knowledge of pesticide problems associated with the production and maintenance of ornamental trees, plantings, shrubs, 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 shall be knowledgeable about the various application methods that will minimize or prevent hazards to humans, pets, and other domestic animals;
- (b) Aquatic Pest Control - applicators shall demonstrate practical knowledge of the secondary effects that can be caused by improper application rates, incorrect formulations, and faulty application of restricted use pesticides. used in this category. Applicators shall demonstrate practical knowledge of various water use situations and the potential of down-stream effects. Further, applicators shall 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;
- (c) Right-of-Way Pest Control - applicators shall demonstrate practical knowledge of a wide variety of environments, since rights-of-ways can traverse many different terrains, including waterways. These applicators shall demonstrate practical knowledge of problems of runoff, drift, and excessive foliage destruction, and ability to recognize target organisms. They also shall demonstrate practical knowledge of the nature of herbicides and the need for containment of these pesticides within the rights-of-way area, and the impact of their application activities in the adjacent areas and communities;
- (d) Industrial, Institutional, Structural, and Health Related Pest Control - applicators shall demonstrate a practical knowledge of a wide variety of pests, 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 shall demonstrate a practical knowledge of the specific factors that may lead to a hazardous condition, including continuous exposure in the various situations encountered in this category. Because health related pest control may involve outdoor applications, applicators shall also demonstrate practical knowledge of environmental conditions that are particularly related to this activity;
- (e) 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 is involved, and it is essential that these be known and recognized, and that appropriate life cycles and habitats be understood as a basis for a control strategy. These applicators shall have practical knowledge of a great variety of environments ranging from streams to those conditions found in buildings. They also should have practical knowledge of the importance and employment of such nonchemical control methods as sanitation, waste disposal, and drainage;
- (f) 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 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 their 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 judgments must be made in new situations;

- (g) Demonstration and Research Pest Control - persons demonstrating the safe and effective use of pesticides to other applicators and the public shall 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, applicators shall demonstrate an understanding of pesticide-organism interactions, and the importance of integrating pesticide use with other control methods. In general, it shall be expected that applicators doing demonstration pest control work possess a practical knowledge of all of the standards detailed in § 2305.4 of this section. In addition, applicators shall meet the specific standards required for the categories listed as §§ 2305.6(a), (b), (c), and (d) as may be applicable to their particular activity; and
- (h) Miscellaneous Pest Control - applicators shall demonstrate a practical knowledge of the type of pest(s) and pesticide(s) problems as it relates to a particular type of pest control activity. If appropriate, the applicator may be required to demonstrate a practical knowledge of a wide variety of pests, including their life cycles, types of formulations appropriate for their control, and methods of application, potential effects on the environment, and principles of limited area application. The Department shall specify a specific sub-category pertaining to the applicant's request for certification.

2304.7 Persons conducting field research or method improvement work with restricted use pesticides shall be expected to know the general standards detailed in § 2305.4. In addition, they shall be expected to know the specific standards required for the categories listed in §§ 2305.6(a), (b), (c), (d), (e), and (f), as may be applicable to their particular activity or, alternatively, to meet the more inclusive requirements listed under "Demonstration."

SOURCE: As amended by Final Rulemaking published at 25 DCR 3044 (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978); as amended by Final Rulemaking published at 30 DCR 2204, 2207 (May 13, 1983).

2305 COMMERCIAL APPLICATORS: CERTIFICATION RENEWAL

- 2305.1 A licensed certified applicator shall be required to renew his or her certificate every three (3) years.
- 2305.2 An applicant for the renewal of a certificate shall be required to present documentation indicating satisfactory completion of a minimum of one (1) refresher training course approved by the Director and pertinent to the applicator's competency within the previous three (3) years.
- 2305.3 The refresher courses may be approved in the form of educational courses, programs, seminars or workshops.
- 2305.4 One of the refresher courses shall have been completed within the last year of the three (3) year term, and shall be combined with a history of satisfactory performance.
- 2305.5 The refresher courses may be in the form of educational courses, programs, seminars, or workshops.
- 2305.6 If the Director determines after consultation with the EPA and other qualified professionals in the field of pest control that a significant change in technology has occurred and that additional training is vital for the protection of the environment, the applicator may be required to take an examination prior to the issuance of the renewed certificate.

SOURCE: As amended by Final Rulemaking published at 25 DCR 3044 (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978); as amended by Final Rulemaking published at 30 DCR 2204, 2205 (May 13, 1983).

2306 COMMERCIAL APPLICATORS: LICENSING

- 2306.1 Each applicant having fulfilled the requirements for certification shall be recommended for licensure and issued appropriate credentials authorizing the licensed certified applicator to purchase, use, or supervise the use of any restricted used pesticide.
- 2306.2 Each license shall contain the names of both the licensee and the employing pesticide operator and shall specify the category(ies) or subcategory(ies) of pest control activity in which the application has demonstrated and maintained competency.
- 2306.3 No licensed certified applicator shall be employed by more than one (1) pesticide operator unless the applicator has a separate license for each employer.
- 2306.4 A licensed certified applicator terminating employment within a licensing period shall submit his or her license and credentials to the employing pesticide operator.
- 2306.5 Within ten (10) working days after a licensed certified applicator submits his or her license and credentials to an employer, it shall be the responsibility of the pesticide operator to take the following actions:
- (a) Notify the Director of the termination of the licensed applicator's employment; and
 - (b) Return the license and credentials of the term employee to the Director for cancellation.
- 2306.6 A licensed certified applicator whose employment has been terminated within a licensing period may, after becoming employed by another pesticide operator and after new application and payment of the appropriate licensing fees, be issued a new license and appropriate credentials.
- 2306.7 Any applicant who has successfully completed the requirements for certification, but who does not complete the licensing requirement within one (1) year from that date, shall be required to again take and pass an examination in the appropriate category(ies) or subcategory(ies) in which the applicant seeks to be certified and licensed.
- 2306.8 Any licensed certified applicator who has not renewed his or her license for three (3) or more consecutive years shall be considered as a new applicant.
- 2306.9 Any individual who has had his or her license suspended or revoked may be required to submit to re-examination in the category or categories for which the applicator seeks to be relicensed.

SOURCE: As amended by Final Rulemaking published at 25 DCR 3044 (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978); as amended by Final Rulemaking published at 30 DCR 2204, 2206 (May 13, 1983).

2307 PRIVATE APPLICATORS: CERTIFICATION AND LICENSING

- 2307.1 Each applicant shall advise the Director, in writing, of the nature for which private applicator certification is requested.
- 2307.2 An applicant's written notification shall include the following information:
- (a) The name of the restricted pesticide;
 - (b) The intended use of the pesticide; and
 - (c) The address of the site where the pesticide will be applied.
- 2307.3 If the application is approved by the Director, the applicant may then apply for certification.
- 2307.4 Licensed certified applicators shall be required to renew their certification every three (3) years by presenting documentation indicating satisfactory completion of a minimum of one (1) refresher training course which meets the requirements of § 2310 of this chapter, combined with a history of satisfactory performance.
- 2307.5 Training courses required by § 2307.4 may be in the form of educational courses, programs, seminars, or workshops.
- 2307.6 Each applicant having fulfilled the requirement for certification shall be recommended for licensure and issued appropriate credentials as being authorized to purchase and use those restricted use pesticides for which competency has been demonstrated.

SOURCE: As amended by Final Rulemaking published at 25 DCR 3044 (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978); as amended by Final Rulemaking published at 30 DCR 2204, 2206 (May 13, 1983).

2308 PRIVATE APPLICATORS: DETERMINATION OF COMPETENCY

- 2308.1 Each applicant shall demonstrate proof of practical and scientific knowledge of pest control by doing the following:
- (a) Passing an examination that meets the requirements as outlined in § 2308 of this chapter; and
 - (b) Performing a labeling exercise pertinent to the restricted product or products for which certification is requested.
- 2308.2 A passing score for any examination shall consist of a total correct score equal to or exceeding seventy percent (70%) of the total points on the examination as graded by the Director.
- 2308.3 Each applicant who takes an examination shall be notified of the results of the examination on a pass-fail basis.
- 2308.4 Each applicant who successfully completes the requirements for certification shall be notified by the Director which states the product or products for which competency has been demonstrated.
- 2308.5 Certification of private applicators shall be directly related and limited to one (1) or more uses of a single product or related products having the same active ingredient formulation and uses.
- 2308.6 Each applicator shall be authorized to use only the pesticide or pesticides for which competency has been demonstrated.
- 2308.7 The certification may be amended after it is issued by re-examination as provided for in § 2310 of this chapter, as the need for additional products is requested.
- 2308.8 Any applicator who has any part of his or her certification suspended or revoked may be required to submit to re-examination.

SOURCE: As amended by Final Rulemaking published at 25 DCR 3044 (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978); as amended by Final Rulemaking published at 30 DCR 2204, 2206 (May 13, 1983).

2309 PRIVATE APPLICATORS: STANDARDS FOR DETERMINATION OF COMPETENCY

- 2309.1 Competency in the use and handling of pesticides by a private applicator shall be determined by procedures set forth in this section.
- 2309.2 As a minimum requirement for certification, a private applicator shall show that he or she possesses a practical knowledge of the following:
- (a) The pest problems and pest control practices associated with the agricultural operations, proper storage, use, handling, and disposal of the pesticides and containers with which the applicator will be involved; and
 - (b) The legal responsibilities related to the applicator's job.
- 2309.3 An applicator's practical knowledge as described by the EPA at 40 CFR § 171.5 includes the ability to do the following:
- (a) Recognize common pests to be controlled and the damage caused by these pests;
 - (b) Read and understand the label and labeling information, including the common name of pesticides the applicator applies, the pest or pests to be controlled, the timing and methods of applications, the safest precautions, the pre-harvest or reentry restrictions, 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 an application in order to avoid contamination; and
 - (e) Recognize poisoning symptoms and know procedures to follow in case of a pesticide accident.
- 2309.4 The competence of each private applicator shall be verified by the Director through the administration of a private applicator certification system which ensures that the private applicator is competent, based upon the standards set forth in this section, to use the restricted use pesticides under limitations of applicable District and federal laws and regulations.
- 2309.5 The certification system required by § 2309.4 shall employ a written demonstration of competence or any other equivalent system as may be adopted by the Director subject to the approval of the EPA.

SOURCE: As amended by Final Rulemaking published at 25 DCR 3044 (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978).

2310 RECIPROcity OF CERTIFICATION

- 2310.1 The Mayor may waive all or part of any applicator certification examination required by Chapters 22 through 25 of this subtitle.
- 2310.2 The Mayor may issue a license to a nonresident of the District of Columbia who is certified by a state under a certification plan that has been approved by the Administrator and that is substantially in accordance with the provisions of Chapters 22 through 25 of this subtitle; Provided, that the state has a reciprocity provision granting similar accommodation to applicators certified by the District.
- 2310.3 Certifications issued pursuant to this section may be suspended or revoked in the same manner and on the same grounds as other certifications issued pursuant to the provisions of Chapters 22 through 25 of this subtitle, or upon suspension or revocation of the applicator's certification by the state issuing the applicator's original certification.
- 2310.4 The Director may waive all or part of any applicator certification examination when a commercial applicator is certified under the state plan of another state granting similar accommodations to applicators licensed and certified by the District of Columbia.
- 2310.5 An applicant for a waiver of all or part of any certification shall furnish to the Director a copy of the applicant's credentials at the time of application; Provided, that all other requirements of the Act or the regulations adopted pursuant to the Act are complied with by the applicant.

SOURCE: Section 16 of the Pesticide Operations Act of 1977, D.C. Law 2-70, 25 DCR 6667, 6895 (February 17, 1978); as amended by Final Rulemaking published at 25 DCR 3044 (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978).

2311 SUPERVISION OF REGISTERED EMPLOYEES

- 2311.1 Pesticides may be applied by a registered employee; Provided, that the employee applies the pesticides under the direct supervision of a licensed certified applicator whose certification permits the application.
- 2311.2 A registered employee shall meet the following requirements:
- (a) Be able to read and comprehend written instructions, including the text of pesticide labeling;
 - (b) Be capable of properly handling and applying a given pesticide, to the satisfaction of the employee's certified supervisor; and
 - (c) Be expected to carry out assignments and instructions in a highly responsible manner.
- 2311.3 Direct supervision shall include, but is not necessarily limited to, the requirements set forth in §§ 2311.4 through 2311.6.
- 2311.4 If the registered employee has had no prior experience with either the pesticide or the application methodology in the use of the pesticide, direct supervision shall include the continuous physical presence of the supervising licensed applicator.
- 2311.5 If the label of the pesticide being applied so stipulates, direct supervision shall be provided by the physical presence of a licensed certified applicator.
- 2311.6 In the absence of the supervising licensed certified applicator, direct supervision may be provided by clearly legible or otherwise verifiable instructions or directions at a work site (any location at which pesticides are handled, mixed, stored, disposed, applied, or used) that specify the following information:
- (a) How to handle and apply the pesticide;
 - (b) The precautions to be taken to prevent injury to the applicator, other persons, and the environment; and
 - (c) How to contact the supervising licensed certified applicator under whose supervision the registered employee is working. The employee shall have direct voice contact with the supervising certified applicator if and when needed.
- 2311.7 The pesticide label shall be a part of the instructions required by § 2311.6, and may suffice in those matters that it covers.
- 2311.8 Ultimate responsibility for the application of pesticides by registered employees shall remain with the supervising licensed certified applicator.
- 2311.9 It shall be the responsibility of the supervising licensed certified applicator to keep the registered employee fully aware of all directions for use, and of cautions necessary for the safe use and application of any pesticide the employee may be directed to use.
- 2311.10 Certified applicators whose activities indicate a supervisory role shall demonstrate a practical knowledge of federal and District supervisory requirements, including labeling, regarding the application of restricted use pesticides by noncertified applicators.

2311.11 The availability of the certified applicator shall be directly related to the hazard of the situation, and as provided in §§ 2311.12 and 2311.13.

2311.12 In many situations where the certified applicator is not required to be physically present, "direct supervision" shall include verifiable instruction to the competent person, as follows:

(a) Detailed guidance for applying the pesticide properly; and

(b) Provisions for contacting the certified applicator in the event the applicator is needed.

2311.13 In other situations, and as required by the label, the actual physical presence of a certified applicator may be required when application is made by a noncertified applicator.

SOURCE: Final Rulemaking published at 25 DCR 3044 (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978).

2399 DEFINITIONS

2399.1 The meanings ascribed to the definitions appearing in § 2299 of Chapter 22 of this title shall apply to the terms in this chapter.

2400 GENERAL PROVISIONS

- 2400.1 No person shall act in the capacity of a pesticide operator, or advertise as or assume to act as a pesticide operator, at any time unless the person is licensed by the Mayor in accordance with the provisions of Chapters 22 through 25 of this subtitle.
- 2400.2 No licensed pesticide applicator who owns or manages a pesticide application business in which pesticides are applied upon the lands of another for hire or compensation shall permit the use of any pesticide by any person who is not a licensed commercial or public applicator who is certified in each category in which the business will engage, or who is a registered employee of the pesticide operator acting under the direct supervision of the licensed applicator.
- 2400.3 No licensed pesticide operator who owns or manages any commercial firm, business, corporation, or private institution, who directly or through employees uses restricted use pesticides on property owned, managed, or leased by the commercial firm, business, corporation, or private institution, shall permit the use of any restricted use pesticides by any person who is not a licensed commercial or public applicator who is certified in each category in which the business will engage, or who is a registered employee of the pesticide operator acting under the direct supervision of the licensed applicator.
- 2400.4 Each place of business providing services involving the use of pesticides or devices or performing other pest control activities in the District for the control, eradication, mitigation, or prevention of pests either entirely or as part of the business, shall be licensed in accordance with the provisions of the Act.
- 2400.5 The license issued to a pesticide operator is not transferable, and shall remain with the business to which it is issued.
- 2400.6 Upon termination of any business, the licensee shall be required to submit his or her license within ten (10) working days to the Director for cancellation.
- 2400.7 The certification and licensing requirements shall not apply to the following individuals:
- (a) A person conducting laboratory-type research involving restricted use pesticides;
 - (b) A doctor of medicine or a doctor of veterinary medicine applying pesticides as drugs during the course of normal practice;
 - (c) A registered employee while working under the direct supervision of a licensed certified applicator; or
 - (d) A person applying general use pesticides on his or her own premises, or an employee of that person who applies a general use pesticide on the person's premises.
- 2400.8 All licenses granted by this chapter shall be conspicuously posted on the premises of the licensee.
- 2400.9 All licenses granted by this chapter shall be accessible at all times for inspection by the Director, police, or other officials duly authorized to make an inspection.

AUTHORITY: Unless otherwise noted, the authority for this chapter is § 412 of the District of Columbia Self-Government and Governmental Reorganization Act, as amended, 87 *Stat.* 790, Pub. L. No. 93-198, D.C. Code § 1-227(a); and the Commissioner's Order 71-255 effective July 27, 1971; as amended by Commissioner's Order 72-96 effective April 19, 1972; and by the Pesticide Operations Act of 1977, D.C. Law 2-70, 24 DCR 6867 (February 17, 1978); Mayor's Order 78-156 dated August 1, 1978.

SOURCE: Section 7 of the Pesticide Operations Act of 1977, D.C. Law 2-70, 25 DCR 6867, 6883 (February 17, 1978); as amended by Final Rulemaking published at 25 DCR 3044 (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978); and as amended by Final Rulemaking published at 30 DCR 2204, 2207 (May 13, 1983).

EDITOR'S NOTE: Chapter 12, Pesticide Operators was renumbered Chapter 24.

2401 APPLICATION FOR LICENSE

2401.1 Application for a pesticide operator license shall be made in writing on a form prescribed by the Mayor.

2401.2 Each application shall contain the following information:

- (a) Data about the applicant's proposed operations;
- (b) The license classification or classifications applied for;
- (c) The full name of the person applying for the license;
- (d) The full name of each member of the firm or partnership, or the names of the principal officers of the association, corporation, or group, if the applicant is a person other than an individual;
- (e) The business address of the applicant;
- (f) A certificate of liability insurance as required by § 2403 of this chapter;
- (g) Designation of those individuals who are certified and licensed in each category in which the business will engage; and
- (h) Any other information as the Mayor may prescribe.

SOURCE: Section 7 of the Pesticide Operations Act of 1977, D.C. Law 2-70, 25 DCR 6867, 6883 (February 17, 1978).

2402 PESTICIDE OPERATOR CERTIFICATE

- 2402.1 Each Pesticide Operator License shall specify the category(ies) or subcategory(ies) of pest control activity in which the business may lawfully engage.
- 2402.2 The Pesticide Operator Certificate shall be conspicuously posted on the premises of the licensee and shall be accessible during normal business hours for inspection.
- 2402.3 A licensee who elects to add or delete one (1) or more categories or subcategories from the existing license shall notify the Director in writing of the proposed changes to the modification of the current license.
- 2402.4 The licensee shall immediately notify the Director when supervision by a licensed certified applicator is not available.
- 2402.5 The license shall not be affected for ten (10) days after notification, during which time the licensee shall designate another licensed certified applicator.
- 2402.6 The Director may extend the grace period up to thirty (30) days where deemed a necessity.
- 2402.7 During the grace period, restricted use pesticides may not be used without a licensed certified applicator available to supervise the application.

SOURCE: As amended by Final Rulemaking published at 25 DCR 3044 (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978); as amended by Final Rulemaking published at 30 DCR 2204, 2207 (May 13, 1983).

2403 LIABILITY INSURANCE

- 2403.1 The Mayor shall not issue a pesticide operator's license until the applicant has furnished evidence of financial responsibility in the form of liability insurance for the protection of persons who may suffer damages as a result of the operations of the applicant.
- 2403.2 The amount of minimum financial responsibility shall be established by the Mayor and shall be maintained at not less than that sum as long as the pesticide operator engages in business in those categories for which his or her license is issued.
- 2403.3 The insurer of a pesticide operator shall notify the Mayor in writing at least ten (10) days prior to the effective date of cancellation, if a licensee's policy is to be canceled. It shall be the licensee's responsibility to inform his insurer of this requirement.
- 2403.4 Nothing in this section shall be construed to relieve any person from liability for any damages to the person or lands of another caused by the use of pesticides even though the use conforms to regulations prescribed by the Mayor.
- 2403.5 A pesticide operator's license shall not be issued until the applicant has filed with the Director of Consumer and Regulatory Affairs evidence of financial security in the form of liability insurance from an insurer authorized to do business in the District of Columbia.
- 2403.6 The liability insurance shall be kept in full force and effect as long as the licensee is engaged in those categories for which the license is issued.
- 2403.7 The requirements for minimum financial responsibility for bodily injury and property damage shall consist of liability insurance with limits not less than the following:
- (a) For bodily injury \$100,000 each person, \$300,000 each occurrence; and
 - (b) For property damage \$15,000 each occurrence, \$30,000 annual aggregate provision.

SOURCE: Section 8 of the Pesticide Operations Act of 1977, D.C. Law 2-70, 25 DCR 6867, 6885, and 6886 (February 17, 1978), as amended by Final Rulemaking published at 25 DCR 3044 (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978).

2499 DEFINITIONS

2499.1 The meanings ascribed to the definitions appearing in § 2299 of Chapter 22 of this subtitle shall apply to the terms in this chapter.

2500 GENERAL ADMINISTRATIVE AUTHORITY

- 2500.1 The Mayor shall administer and enforce the provisions of D.C. Law 2-70 (the "Act"), and is authorized to promulgate, rescind, and amend regulations to carry out the provisions of the Act.
- 2500.2 The Mayor shall not promulgate, rescind, and amend regulations to carry out the provisions of the Act without first holding a public hearing following due notice in conformance with the provisions of the D.C. Administrative Procedure Act (D.C. Code §1-1501 *et. seq.* (1981)).
- 2500.3 The Mayor is authorized, after a public hearing following due notice, to declare any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism (except viruses, bacteria, or other microorganism on or in living man or other living animals) which is injurious to the environment or the health of man or other animals to be a pest.
- 2500.4 Taking into account the economic, social, and environmental costs and benefits of the use of any pesticide, the Mayor is authorized to do the following:
- (a) Prescribe pesticides and equipment to be used;
 - (b) Restrict or prohibit the use of pesticides and equipment to the extent necessary to protect the public health and safety; and
 - (c) Take any other action as the Mayor may deem necessary to prevent any unreasonable risk to man or the environment.
- 2500.5 To comply with § 4 of the FIFRA, the Mayor is authorized to make any reports to the U.S. Environmental Protection Agency (the "EPA") in the form and containing the information as the Administrator may from time to time require.
- 2500.6 The Mayor may cooperate, receive grants-in-aid, and enter into agreements with any agency of the federal government or the District, or with any agency of a state, to obtain assistance in the implementation of the Act, or in the enforcement of the FIFRA.
- 2500.7 If an emergency condition so dictates, the Director may petition the Administrator of the EPA for an exemption from any provisions of the FIFRA.

AUTHORITY: Unless otherwise noted, the authority for this chapter is § 412 of the District of Columbia Self-Government and Governmental Reorganization Act, as amended, 87 *Stat.* 790, Pub. L. No. 93-198, D.C. Code § 1-227(a); and the Commissioner's Order 71-255 effective July 27, 1971; as amended by Commissioner's Order 72-96 effective April 19, 1972; and by the Pesticide Operations Act of 1977, D.C. Law 2-70, 24 DCR 6867 (February 17, 1978); Mayor's Order 78-156 dated August 1, 1978.

SOURCE: Sections 12 and 17 of the Pesticide Operations Act of 1977, D.C. Law 2-70, 25 DCR 6867, 6889, 6893 and 6895 (February 17, 1978); as amended by As amended by Final Rulemaking published at 25 DCR 3044 (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978).

EDITOR'S NOTE: Chapter 13, Pesticides: Administration and Enforcement was renumbered Chapter 25.

2501 ENFORCEMENT AND PENALTIES

- 2501.1 Nothing in the Act shall be construed as requiring the District to prosecute or institute other proceedings for minor violations of the Act whenever the Mayor believes that the public interest will be best served by a suitable notice in writing to the alleged violator.
- 2501.2 The Mayor may bring an action to enjoin the violation or threatened violation of any provision of the Act or any regulation made pursuant to the Act.
- 2501.3 For the purposes of carrying out the provisions of the Act, the Mayor may enter upon any public or private land in a reasonable and lawful manner during normal business hours for purposes of sampling, inspection, and observation.
- 2501.4 If denied access to any land, the Mayor may apply to a court of competent jurisdiction for a search warrant.
- 2501.5 The Mayor, or any person, may bring an action in the Superior Court of the District of Columbia to enjoin the violation or threatened violation of any provision of the Act or of any rules or regulations promulgated pursuant to the Act.
- 2501.6 Any person violating any provision of the Act or of any rule or regulation promulgated pursuant to the Act shall, upon conviction, be fined not more than three hundred dollars (\$300) or be imprisoned for not more than ninety (90) days, or both.

SOURCE: Sections 12, 13, and 19 of the Pesticide Operations Act of 1977, D.C. Law 2-70, 25 DCR 6867, 6893, 6894, 6897 (February 17, 1978).

2502 STOP ORDERS AND CONDEMNATION

- 2502.1 When the Mayor has reasonable cause to believe a pesticide or device is being distributed, stored, transported, offered for sale, or used in violation of any of the provisions of the Act, or any of the regulations prescribed under the authority of the Act, the Mayor may issue a written "stop sale, use, or removal" order to the owner or custodian of the pesticide or device.
- 2502.2 After receipt of the Mayor's "stop sale, use, or removal" order, no person shall sell, use, or remove the pesticide or device described in the order, except in accordance with the provisions of the order.
- 2502.3 Any pesticide or device that is being transported, or having been transported is sold or offered for sale in the District, or is imported from a foreign country, in violation of any of the provisions of the Act, may be proceeded against in any court of competent jurisdiction by a process in rem for condemnation as provided in §§2502.3 through 2502.5.
- 2502.4 A pesticide device may be proceeded against as provided in § 2502.3 if it is misbranded.
- 2502.5 A pesticide may be proceeded against as provided in § 2502.3 under the following circumstances:
- (a) If it is adulterated or misbranded;
 - (b) If it is not registered pursuant to the provisions of the Act;
 - (c) If its labeling fails to bear the information required by FIFRA;
 - (d) If it is not colored or discolored, and the coloring or discoloring is required under the FIFRA; or
 - (e) If any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration.
- 2502.6 A pesticide or device may be proceeded against as provided in § 2502.3 even when used in accordance with the requirements imposed under the Act and as directed by the labeling, if the pesticide or device causes unreasonable adverse effects on the environment.
- 2502.7 In the case of a plant regulator, defoliant, or desiccant that is used in accordance with the label claim and recommendations, physical or physiological effects on plants or parts of the plants shall not be deemed to be injury when the effects are the purpose for which the plant regulator, defoliant, or desiccant was applied.
- 2502.8 If the pesticide or device is condemned, it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct; and the proceeds, if sold, less the court costs, shall be paid into the District Treasury and credited to the general fund.
- 2502.9 A pesticide or device shall not be sold contrary to the provisions of the Act, the FIFRA, or the laws of the jurisdiction in which it is sold.
- 2502.10 Upon payment of the costs of the condemnation proceedings and the execution and delivery of a good and sufficient bond conditioned upon assurances that the pesticide shall not be sold or otherwise disposed of contrary to the provisions of the Act, the FIFRA, or the laws of any jurisdiction in which it is sold, the court may direct the pesticide or device to be delivered to the owner of the pesticide.

2502.11 The proceedings of condemnation cases shall conform, as nearly as possible, to the proceedings used for the condemnation of insanitary buildings under an act to create a board for the condemnation of insanitary buildings in the District, and for other purposes, approved May 1, 1906 (34 *Stat.* 157; D.C. Code §5-618 (1981)).

2502.12 When a decree of condemnation is entered against the pesticide or device, court costs and fees, storage, and other proper expenses shall be awarded against the person, if any, intervening as claimant of the pesticide or device.

SOURCE: Sections 12(d)-(g) of the Pesticide Operations Act of 1977, D.C. Law 2-70, 25 DCR 6867, 6890 (February 17, 1978).

2503 DENIAL, SUSPENSION, MODIFICATION, AND REVOCATION OF CERTIFICATION OR LICENSE

- 2503.1 In denying a license or certificate, or before revoking, modifying, or suspending a license or certificate, the Mayor shall notify the applicant, licensee, or certificate holder in writing of the proposed action and the basis for the proposed action.
- 2503.2 The grounds upon which the Mayor may deny, revoke, modify, or suspend a license or certificate include a violation of any of the unlawful acts specified in § 2207 of Chapter 22 of this subtitle, or the violation of any of the rules and regulations promulgated pursuant to those chapters.
- 2503.3 The applicant, licensee, or certificate holder shall have seven (7) business days from the date of receipt of the notice of proposed action to request a hearing before the Mayor to show cause why the license or certificate should not be denied, revoked, modified, or suspended.
- 2503.4 The Mayor may deny the issuance of a license, or revoke, modify, or suspend a license or certificate issued under the Act if the applicant, licensee, or certificate holder has been convicted under FIFRA, or is subject to a final order imposing a civil penalty under FIFRA.
- 2503.5 The Mayor may issue a warning notice to an applicant, licensee, or certificate holder for a violation or threatened violation of any of the unlawful acts specified in §2207 of Chapter 22 of this subtitle.
- 2503.6 The Mayor may suspend a license or certificate to protect the public health, safety, or welfare. The suspension shall be effective immediately and pending further investigation.
- 2503.7 The Mayor shall not reissue a license to anyone whose license has been revoked until after at least one hundred eighty (180) days following the revocation.
- 2503.8 Any person aggrieved by any action of the Mayor may obtain a review of the action by appealing to the Board of Appeals and Review.
- 2503.9 The decision of the Board of Appeals and Review on an appeal shall be the final administrative remedy.
- 2503.10 Any person adversely affected by a decision of the Board may seek judicial review of the decision in the D.C. Court of Appeals, pursuant to the D.C. Administrative Procedure Act (D.C. Code § 1-1501 *et seq.* (1981)).

SOURCE: Section 11 of the Pesticide Operations Act of 1977, D.C. Law 2-70, 25 DCR 6867, 6888 (February 17, 1978).

2504 [RESERVED]

2505 LICENSE FEES AND TERMS

2505.1 Pesticide licenses shall be issued for a period of one (1) year beginning on April 1st and expiring on March 31st.

2505.2 The following fee schedule shall apply to the following licenses:

(a) Pesticide Operator License:

(1) Type 1: \$100

(2) Type 2: \$100

(3) Type 3: No Charge

(b) Pesticide Applicator:

(1) Commercial: \$50

(2) Public: No Charge

(c) Pesticide Dealer: \$25

SOURCE: As amended by Final Rulemaking published at 25 DCR 3044 (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978).

2506 PRODUCT REGISTRATION FEES AND TERMS

- 2506.1 The registration for each pesticide product shall be for a period of one (1) year beginning on January 1st and expiring on December 31st.
- 2506.2 The registration fee for each pesticide product shall be fifty dollars (\$ 50), beginning January 1, 2002, seventy-five dollars (\$ 75), beginning January 1, 2003, and one hundred dollars (\$ 100), beginning January 1, 2004.
- 2506.3 The license for a private applicator shall be issued for a period of three (3) years beginning on April 1st and expiring on March 31st.
- 2506.4 The license fee for a private applicator shall be thirty dollars (\$30).

SOURCE: As amended by Final Rulemaking published at 25 DCR 3044 (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978); and as amended by Final Rulemaking published at 48 DCR 8744 (September 21, 2001).

2507 LICENSE RENEWAL

- 2507.1 Applications for renewal of a license shall be mailed not less than thirty (30) days before the expiration of the current license period.
- 2507.2 Failure to receive an application billing to renew a license shall not relieve the licensee of his or her responsibility to renew any license.
- 2507.3 A person who fails to file a renewal application on or before the first day of any licensure period shall be subject to a ten dollar (\$10) late fee per application.

SOURCE: As amended by Final Rulemaking published at 25 DCR 3044 (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978); as amended by Final Rulemaking published at 30 DCR 2204. 2207 (May 13, 1983).

2508 RECORDS AND REPORTS

- 2508.1 The following general information shall be recorded where applicable:
- (a) Name or identification of applicator;
 - (b) Name of supervising licensed certified applicator;
 - (c) Address of treated property;
 - (d) Date of application, including the month, day, and year;
 - (e) Time of application;
 - (f) Type of plant, animal, or structure treated and target pest;
 - (g) Acreage, or number of plants or animals, or a description of or square or cubic footage of the structure treated;
 - (h) Wind direction, estimated velocity, and weather conditions;
 - (i) Pesticide applied (the name brand) and the type of formulation;
 - (j) Dilution rate of the product as applied (the percent of active ingredient);
 - (k) The amount of diluted material applied; and
 - (l) The type of equipment used.
- 2508.2 Commercial applicators and pesticide operators shall maintain records containing the information the Mayor may promulgate by regulation.
- 2508.3 Pesticide dealers shall maintain records containing the information required by rules promulgated by the Mayor to adequately identify purchases of restricted use pesticides and other materials purchased.
- 2508.4 The Mayor may, pursuant to regulations the Mayor promulgates, require private applicators to maintain records or to file reports or other documents.
- 2508.5 Each person shall, upon written request, furnish the Mayor with copies of any requested records or any other information the Mayor requests.
- 2508.6 The records required to be maintained by §§ 2508.2 through 2508.5 shall be subject to inspection by the Mayor at any time during business hours.
- 2508.7 The applicator or operator who prepares the required records shall transfer to the Mayor as required by appropriate regulations all the records that are prepared during the period that is determined by the regulations.
- 2508.8 The Mayor shall preserve the required records for not less than ten (10) years.
- 2508.9 If an applicator or operator who prepares records go out of business, all the records in his or her possession shall be transferred immediately to the Mayor.

- 2508.10 The Mayor may require the reporting of significant pesticide accidents or incidents to a designated District agency.
- 2508.11 Records of each application of both general and restricted pesticides by all licensed certified commercial applicators and pesticide operators, and records of application of restricted use pesticides by licensed certified private applicators shall be maintained and held for a period of three (3) years.
- 2508.12 A duplicate of the records specified in § 2508.11 shall be transferred to the Director upon request.
- 2508.13 The records specified in § 2508.11 shall be filed systematically and maintained separately or distinguishable from the customary sales invoices provided to customers.

SOURCE: Sections 10 and 14 of the Pesticide Operations Act of 1977, D.C. Law 2-70, 25 DCR 6867, 6867 and 6894 (February 17, 1978), as amended by Final Rulemaking published at 25 DCR 3044 (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978).

2509 RECORDS OF RESTRICTED USE PESTICIDES

- 2509.1 Dealers of restricted use pesticides shall keep and maintain for a period of three (3) years records on each transaction involving restricted use pesticides.
- 2509.2 A duplicate copy of the records required by § 2509.1 shall be transferred to the Director upon request.
- 2509.3 Records of restricted use pesticides shall include the following information:
- (a) Name and address of purchaser or receiver, including name and customer number of the licensed certified applicator;
 - (b) Pesticide product sold (the brand name), the EPA registration number, and the type of formulation;
 - (c) Quantity; and
 - (d) The date of sale.
- 2509.4 A dealer may not sell or transfer any restricted use pesticide to any person other than a licensed certified applicator or to his or her authorized representative, who shall present the applicator's proof of certification and license.

SOURCE: As amended by Final Rulemaking published at 25 DCR 3044 (October 6, 1978), incorporating Proposed Rulemaking published at 25 DCR 2118 (August 25, 1978).

2599 DEFINITIONS

2599.1 The meanings ascribed to the definitions appearing in § 2299 of Chapter 22 of this title shall apply to the terms in this chapter.