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VERMONT REGULATIONS FOR CONTROL OF PESTICIDES
IN ACCORDANCE WITH 6 V.S.A. CHAPTER 87

EFFECTIVE: ~~August 2, 1991~~

STATE OF VERMONT
DEPARTMENT OF AGRICULTURE, FOOD AND MARKETS
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PREAMBLE

The goal of these pesticide regulations is to encourage the use of the most environmentally responsible approach to effective pest management. The Department of Agriculture, Food and Markets believes that with the knowledge and use of integrated pest management (IPM) skills and soil/water conservation techniques currently available this goal will be achieved.

Vermont Regulations for Control of Pesticides

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**STATE OF VERMONT
VERMONT REGULATIONS FOR CONTROL OF PESTICIDES
IN ACCORDANCE WITH 6 V.S.A. CHAPTER 87**

Effective Date:

SECTION I - DEFINITION

1. Accident: any release of a pesticide or pesticide mix from its container or application equipment which is contrary to label instructions for use of that pesticide, or which violates these regulations.
2. Agricultural commodity: any plant, or part thereof, including but not limited to sod and ornamental tree production, or animal or animal product produced by persons (including farmers, ranchers, vineyardists, nurserymen, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by man or animals.
3. Agricultural Pesticide: any pesticide used in the production of agricultural plants that are to be harvested, such as, but not limited to, fruits and vegetables, Christmas trees, sod, field and forage crops, and trees in managed forests.
34. Aircraft: a motorized device used for flight.
45. Anti-siphon device: any equipment designed and constructed to prevent the accidental backflow or siphoning of pesticide into any water supply or to prevent contamination by a pesticide of other materials being injected at the same time such as fertilizers or other pesticides.
56. Application sites or treatments for rights-of-way means:
 - a. Foliar: The placing of a pesticide upon the leaves of growing plants.
 - b. Basal: The placing of a pesticide upon the stem at the base of a growing tree or shrub.
 - c. Stump: The placing of a pesticide upon the cut surface of a stump.
 - d. Soil: The placing of a pesticide upon the ground for uptake by plants in the immediate vicinity.
67. Application of a pesticide: the placement for effect of any pesticide at or on the site where pest control or other response is desired.
78. Applicators regulated in Vermont are defined as follows:
 - a. Certified commercial applicator: any person certified under the categories and standards of Section VIII, Vermont Regulations for Control of Pesticides.
 - b. Commercial applicator: a person who ~~applies~~ uses pesticides to the lands or homes of another whether for remuneration or gratis, on the lands or to homes of others, either unsupervised or under the direct supervision of a certified commercial applicator.
 - c. Private Applicator: any person who uses or supervises the use of any pesticide other than those classified restricted use on property owned or rented by the applicator that is residential in nature or on property owned or rented by the applicator or the applicator's employer for the production of an agricultural commodity. Private applicators may apply pesticides to the property of neighboring producers of agricultural commodities without a commercial applicator's certificate, providing that the applicator receives no compensation other than the trading of personal services between the applicator and his neighbor.
 - d. Certified private applicator: a private applicator who has been certified under the requirements of Section IX, Vermont Regulations for Control of Pesticides. Certified private applicators may purchase, use or supervise the use of restricted use pesticides.

- e. Noncommercial Applicator: a person who uses or applies pesticides in the course of employment. It is anticipated by these regulations that in most instances the use of pesticides will comprise only a portion of the applicator's duties and that other employment responsibilities will be unrelated to pesticide application. Noncommercial applicators are exempt from the company licensing requirements. Noncommercial applicators without certification may apply only Class "C" pesticides in the course of their employment. Persons without certification who are hired as independent contractors for the exclusive purpose of applying Class "C" pesticides shall have the burden of proof in any departmental hearing to rebut the presumption that they are commercial applicators.
 - f. Certified Noncommercial Applicator: a noncommercial applicator who has been certified under the standards and categories of Section VIII, Vermont Regulations for Control of Pesticides. A certified noncommercial applicator may purchase, use or supervise the application and use of restricted and Class "B" pesticides in the course of their employment. Certified noncommercial applicators are exempt from the company licensing requirements. Certified noncommercial applicators shall comply with all other requirements of these regulations.
89. Appurtenance: all valves, pumps, fittings, pipes, hoses, metering devices, mixing containers, and dispensing devices which are connected to a storage container, or which are used to transfer liquid pesticide or pesticide rinsate into or out of a storage container.
910. Brownout: foliar discoloration resulting from the application of pesticides or other vegetation control methods.
- †011. Bulk pesticide: liquid pesticide in a container larger than 210 gallons (795 liters) or dry pesticide in undivided quantities greater than 100 pounds (45 kilograms). It includes mini-bulk pesticide containers, except as otherwise specified.
- †12. Chemigation: any process whereby a pesticide(s) is (are) mixed with water and applied through irrigation systems to land and/or crops including, but not limited to, agricultural, nursery, turf, golf course, ornamental or greenhouse sites through an irrigation system.
- †13. Commissioner: the Commissioner of Agriculture, Food and Markets of the State of Vermont or a duly authorized agent.
- †14. Company license: a license issued by the Department of Agriculture to business entities which apply any pesticides to the lands or homes of another person for remuneration. No person or business entity may contract to use any pesticide on the lands of another without first obtaining a company license. A company license does not exempt a commercial applicator from applicable certification requirements. The regulations pertaining to the company license became effective January 1, 1981, and can be found in Section VI of these regulations.
- †15. Conspicuous point of access: the usual and customary entrance(s) where people are likely to enter a treated area and observe warning signs pursuant to Section IV 8.
- †16. Demonstration: to conduct or supervise field research or exhibitions with old, new or experimental use pesticides or pesticide application methods or equipment or to exhibit, sell or recommend pesticides to the general public, pesticide applicators or pesticide dealers.
- †17. Department: the Vermont Department of Agriculture, Food and Markets.
- †18. Direct supervision: on-site supervision of pesticide application by a certified applicator who is capable of calibration of equipment, prescribing pesticides, calculating volumes of pesticides to be applied, and dealing with emergency situations which might occur.
- †19. Discharge: a spill, leak, accidental or intentional release, or other emission of pesticide from a storage container, container or appurtenance, and includes a discharge into secondary containment. It does not include a fully contained transfer of bulk pesticide which is made pursuant to sale, storage or distribution or releases that are in accordance with label directions.
- †20. Distribute: to import, consign, sell, offer for sale, solicit orders for sale, or otherwise supply pesticide for sale or use in this State.

- ~~20~~21. Drift: the airborne movement of a pesticide during or immediately after its use or application to a site unintended for its use or application.
- ~~21~~22. Dry pesticide: pesticide which is in solid form prior to any application or mixing for application and includes, but is not limited to, formulations such as dusts, wettable powders, dry flowable powders and granules.
- ~~22~~23. Economic poison: any substance produced, distributed or used for preventing, destroying, or repelling any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses on or in living humans or other animals, which the Commissioner shall declare to be a pest or any substance produced, distributed or used as a plant regulator, defoliant or desiccant.
- ~~23~~24. Enterprise: any form of doing business, including, but not limited to, sole proprietorships, partnerships, joint ventures and corporations.
- ~~24~~25. EPA: the United States Environmental Protection Agency.
- ~~25~~26. Equipment: any mechanical device used to apply pesticides.
- ~~26~~27. Environmentally Sensitive Areas: include those areas which are significant wetlands as defined by the Vermont Wetlands Act, necessary wildlife habitat (10 V.S.A. Section 6001(12) and which contain endangered or threatened species (10 V.S.A. Section 5401(6) and (7).
- ~~27~~28. FIFRA: the Federal Insecticide, Fungicide, and Rodenticide Act, 7 USC 136 et seq.
- ~~28~~29. Forest trees: plants which are primarily used for wood, watershed protection, land stabilization purposes, or wildlife habitat.
- ~~29~~30. Fruit and crop plants: plants which are primarily used to produce food, forage, or seed.
- ~~30~~31. Full-time employee: an employee who works 35 hours minimum per week. A full-time employee does not include seasonal personnel.
- ~~31~~32. Golf Course: any contiguous area upon which the game of golf is played including such supporting operations as practice greens, tees and driving areas, whether existing or proposed.
- ~~32~~33. Golf Course - existing: a golf course, after construction, when it has been opened for play.
- ~~33~~34. Golf Course - proposed: a golf course, including expansions of existing courses, which is in the design, permit or construction stage and has not been open for play.
- ~~34~~35. Ground water: water below the land surface which occurs in a saturated zone of the soil.
- ~~35~~36. Half-Life: the time required for disappearance of one-half of the pesticide residue present.
- ~~36~~37. KOC: a measure of the tendency of a pesticide to be strongly attached, by chemical or physical bonds, to soil particle surfaces. The higher KOC values have a stronger attachment to soil and a lesser tendency for the pesticide to move off-site except with sediment movement.
- ~~37~~38. Landscape Plant: any plant which is a part of a managed landscape which includes, but is not limited to, ornamental and flowering shrubs, plants and shade trees.
39. Loading: any act of transferring pesticide to or from any storage container or to any mobile application equipment.
- ~~38~~40. Liquid pesticide: pesticide in liquid form and includes, but is not limited to, solutions, emulsions, suspensions, and slurries.

3941. MSDS: Material Safety Data Sheet is a document required for each hazardous chemical including pesticides by the Occupational Health and Safety Act. It contains health and safety data as well as physical properties pertinent to the chemical which will aid in an emergency situation. MSDS can be obtained through the distributor or the manufacturer of the pesticide.
4042. Manufacture: to process, manufacture, formulate, prepare, compound, package, repackage or label any pesticide.
4143. Mixing: the act of combining pesticides and/or solvents or diluents for the purpose of application.
4244. Ornamental and flowering shrubs and plants: plants used for ornamental purposes not otherwise classified as shade trees.
4345. Person: any individual, partnership, association, corporation, or organization of persons whether incorporated or not, including any municipality, state, or federal agency or subdivision of any state.
4446. Pesticide: economic poison as defined in 6 V.S.A. Section 911 and Section I 21. of the Regulations For Control of Pesticides.
4547. Pesticide applicator: any person who uses any pesticide.
4648. Pesticide dealer: any person who distributes, takes orders for sale, offers for sale or sells pesticides.
4749. Prescreened Pesticide List: a list of pesticides which ~~are~~ based upon their human and ecological toxicity and relative immobility and limited persistence in the environment (as measured by parameters such as, but not restricted to solubility, KOC and half-life) are deemed unlikely, under normal conditions and ~~acceptable~~ use patterns, to leave established turf grass and enter surface and/or ground water in amounts that may result in undue risk to human health and or the environment.
4850. Private Non-Residential Property: property open to the public and which is not a residence, such as an athletic field.
4951. Public Non-Residential Property: property open to the public and which is not a residence, such as a commercial business.
50. Public Water System: any system or combination of systems owned or controlled by a person which ~~provides piped drinking~~ provide public water to the public for human consumption, which has: a) has at least ~~ten~~ fifteen (15) service connections, or b) serves at least an average of at least twenty-five individuals for at least 60 days a year. Public water system shall also mean any part of a piped system which does not provide drinking water, if such use of such a part could affect the quality or quantity of the drinking water supplied by the system.
5153. Public (or private) Water Source Protection Area: a surface or subsurface area from or through which contaminants are reasonably likely to reach a public (or private) water source.
5254. Public (or private) Water Source: any surface or ground water supply used as a source of drinking water for a public (or private) water system.
5355. Restricted use pesticides: those pesticides classified under Section 3(d) of FIFRA as amended, U.S. Environmental Protection Agency or those pesticides classified by the Commissioner as Class "A".
5456. Right-of-way: an interest in real property, above, on or below the ground, which entitles the holder of the interest to pass over the land for the purpose of carrying, transmitting or transporting liquids, gases, electricity, communications, vehicles or people. For the purpose of these regulations, it is immaterial whether the right-of-way is owned, leased, or an easement. The term "right-of-way" includes properties owned or leased by utilities where that property is used as a right-of-way.
5557. Shade trees: plants which are primarily used for shade, aesthetic value, ornamentation or windbreak.

5658. Simple Dilution Analysis: an analysis involving the dilution of a chemical with an expected volume of precipitation available for infiltration within a watershed or hydrologic unit. Simple Dilution Analysis is used to assess the potential for a contaminant to be transported to groundwater through the process of infiltration.
5759. Storage: storage of pesticide by a person who uses, manufactures or distributes pesticide.
5860. Storage container: a container used for the fixed storage of bulk pesticide; a rail car, nurse tank, a portable container of mini-bulk pesticide or other mobile container which is used for the fixed storage of bulk pesticide for more than 15 consecutive days. It does not include a container which is used solely for emergency storage of leaking pesticide containers which are 55 gallons or smaller.
5961. Storage facility: a location at which bulk pesticide is held in storage.
6062. Surface Water: any river, stream, creek, brook, reservoir, pond, lake, spring and any other body of surface water, whether natural or artificial.
6163. Turf: a covering of mowed vegetation growing together with an upper soil stratum of intermingled roots and stems.
6264. Turf-grass: a species or cultivar of the plant family Graminae usually of spreading or upright habit, which is maintained as a mowed turf.
6365. Use of a pesticide: any handling, release or exposure of a pesticide to a human or the environment including, but not limited to:
- a. application of a pesticide, which includes mixing or loading of equipment and any required supervisory action in or near the areas of application;
 - b. storage of pesticides and pesticide containers;
 - c. disposal of pesticides and pesticide containers; and
 - d. recommendation of pesticide applications.
- 64 e. other activities as defined by the Federal Worker Protection Standard 40 CFR Part 156.
66. Utility: railroad companies, pipelines operators, communication companies and electric companies whether public or privately owned.
6567. Vegetation means:
- a. herbaceous plants: species that do not develop woody stems;
 - b. brush: woody species of shrubs, trees, vines, and brambles generally not exceeding ten feet in height; and
 - c. trees: woody species generally reaching a height of ten feet at maturity.
6668. Vermont Act 31: the State law enacted by the General Assembly of Vermont on May 3, 1985, relating to Community and Worker Right-to-Know; Sec. 1. 18 V.S.A. Chapter 36.
6769. Water Supplies: any developed source of water whether public or privately owned, that is intended for human consumption.
70. Worker Protection Standard Certified Trainer: any certified commercial or non-commercial applicator that has passed the WPS category exam (Category 12) in anticipation of training agricultural workers and pesticide handlers (as defined by 40 CFR part 170) and distributing EPA-approved WPS training verification cards to those employees.

71. Worker Protection Standard Qualified Trainer: a certified applicator that has had specific training in the WPS through the certification or re-certification process or other specific WPS training. Qualified trainers are eligible to train agricultural employees working only on their agricultural establishment. Qualified trainers are not eligible to distribute WPS training verification cards.

SECTION II - LICENSES, CERTIFICATES, AND PERMITS ISSUED BY THE DEPARTMENT OF AGRICULTURE, FOOD AND MARKETS

1. Licenses - The following licenses are issued by the Department:

- a. Company license: shall be obtained by business entities which apply pesticides to the lands and homes of others for remuneration. See Section VI.
- b. Dealer licenses are issued in the following categories:
 - (1) Class "A": shall be obtained by persons who sell restricted use pesticides. Also entitles licensee to sell Class "B" and Class "C" pesticides. See Section X.
 - (2) Class "B": shall be obtained by persons who sell Class "B" pesticides. Also entitles licensee to sell Class "C" pesticides. See Section X.
 - (3) Class "C": shall be obtained by stores or other sales outlets which sell Class "C" pesticides. See Section X.

2. Certificates - The following certificates are issued by the Department:

- a. ~~Commercial and noncommercial applicator certificates~~ certificate: shall be obtained by persons who ~~apply~~ use or supervise the application use of pesticides on the lands and/or to the homes of others whether for remuneration or gratis. Applicators who ~~apply~~ use pesticides under the direct supervision of a certified commercial applicator are exempt from the certification requirement. See Section VII and VIII for certification requirements.
- b. ~~Noncommercial applicators (as defined in Section I. 8.)~~ applicator certificate: shall be certified if ~~they~~ obtained by persons who use or supervise the use of Class "B" or restricted use pesticides in the course of their employment, except when they work under the direct supervision of a certified applicator. See Section VII and VIII for certification requirements.

- ~~b.~~ c. Private applicator certificate: shall be obtained by ~~private applicators (as defined in Section I.)~~ persons using restricted use pesticides. See Section IX: on lands owned, leased or rented by the applicator or the applicators employer for the production of an agricultural commodity (Private Applicator as defined in Section I). See Section IX for certification requirements.

3. Permits - The following permits are issued by the Department:

- a. Aerial application permits: shall be obtained before applying pesticides from an aircraft. ~~Two types of aerial permits are issued: an aerial agricultural permit which is good for an entire season and special aerial permits for specific jobs.~~ See Section IV.
- b. Right-of-way permits: shall be obtained before applying pesticides to rights-of-way, as defined in Section I. See Section IV. Municipalities may use herbicides for the control of poison ivy within the right-of way without obtaining a permit, provided that the provisions of Section IV 4. b, d, e and f have been met.
- c. Experimental use permits: shall be obtained to use an unregistered pesticide or to use a registered pesticide for an unregistered use. See Section IV.

- d. Bird or animal permits: shall be obtained to control bird or animal pests that may be lethally controlled by use of a pesticide under statute or declared a pest by the Commissioner. See Section IV.
 - e. Special permits for the sale or use of specially restricted pesticides: shall be obtained before using specially restricted compounds as established by statute or these regulations. See Section IV.
 - f. Golf course permit: shall be obtained in accordance with the provisions herein before applying pesticides to a golf course. See Section IV.
4. Procedures for obtaining licenses, certificates, or permits.
- a. Businesses or persons who wish to obtain a license, certificate or permit shall:
 - (1) Request the appropriate application form from the Plant Industry Division of the Department of Agriculture, Food and Markets;
 - (2) Complete the appropriate form and return it to the Plant Industry Division;
 - (3) Remit any fees required by law or these regulations when the completed form is submitted;
 - (4) Satisfy all prerequisites established by these regulations to demonstrate competence or financial responsibility for the particular license, certificate, or permit requested:
 - (a) Examinations required as part of the prerequisite for a license or certificate will be maintained for a period of one year unless an active file is established; and
 - (b) Inactive files will be destroyed one calendar year after a holder of a license or certificate fails to renew that certificate or license.
 - (5) Businesses and persons proposing to store, use or distribute pesticides are advised that the statutes and regulations administered by the Vermont Occupational Safety and Health Program may be applicable to them. For further information, write or call the Vermont Department of Labor and Industry, ~~7 Court Street~~ National Life Building, Drawer 20, Montpelier, Vermont 05620-3401; telephone number: ~~802/828-2765~~ 802/828-2288.

SECTION III - POWERS OF THE COMMISSIONER

1. Suspension or revocation of licenses, certificates, or permits.
 - a. The Commissioner may amend, suspend or revoke any license, certificate or permit for failure to comply with 6 V.S.A. Chapter 87 or any rule or regulations adopted under its authority or for being subject to a final order imposing a civil penalty under 7 USC Section 136(j) or for being convicted under 7 USC Section 136(j) on due notice to the licensee or holder of the certificate or permit, with an opportunity for hearing if a written request is filed with the Commissioner within five (5) days of receipt of a notice of violation.
 - b. If the Commissioner finds that public health, safety or welfare imperatively requires emergency action and the Commissioner incorporates a finding to that effect in his order, summary suspension of a license, permit or certificate may be ordered, pending proceedings for revocation or other action.
2. The Commissioner may restrict or regulate any pesticide product or device which is deemed to be ineffective or which constitutes an undue hazard to the public or the environment. Any person aggrieved by a decision of the Commissioner under this section may request a hearing within fifteen (15) days of the receipt of notice of the decision. The hearing shall be for the purpose of reviewing evidence pertaining to the ineffectiveness of the product or the hazard presented to the public from use of this product.
3. Pesticide cease and desist order.
 - a. The Commissioner may issue a cease and desist order for failure to comply with 6 V.S.A. Chapter 87 or any rule or regulation adopted under its authority with an opportunity for hearing if a written request is filed with the Commissioner within five (5) days of receipt of the cease and desist order.
 - b. It shall be unlawful to violate a cease and desist order.
4. The Commissioner may, in furtherance of the purpose of 6 V.S.A. Chapter 87 and the regulations adopted pursuant to this chapter, enter the business premises of any licensed company, certified applicator, or persons using pesticides to inspect records, equipment or obtain pesticide samples.

The Commissioner may enter any job site at which a certified applicator is employed or where pesticides are used to request information regarding pesticide use at that site, to test equipment or to obtain samples of pesticides or other samples including, but not limited to: soil, water, air, food, plant material and animal tissue, from both treated and untreated areas.
5. The Commissioner may enter into reciprocal agreement with officials of other states and federal agencies and grant certificates on a reciprocal basis provided that:
 - a. Certification requirements are substantially the same as those required by Vermont;
 - b. The certified applicator knows and abides by Vermont's pesticide control law and regulations;
 - c. The certified applicator pays all appropriate fees;
 - d. The certified applicator is a resident of and has a valid pesticide applicator license or certificate issued by a state which has established a reciprocal agreement with Vermont; and
 - e. The certified applicator's reciprocal certificate is valid for the entire calendar year. Applicators with certificates which expire on dates other than December 31 of each year shall provide confirmation that their certificate has been renewed by their state of residence within forty-five (45) days from the date of expiration. Failure to provide confirmation will result in the revocation of reciprocal certificates.

6. In addition to authority conferred by these regulations, the powers of the Commissioner include all statutory authority vested in the Commissioner, now or in the future, to enforce state pesticide laws and regulations. The Commissioner shall develop and implement policies and strategies for the management of pesticide use and the protection of ground and surface water resources.

SECTION IV - RESTRICTIONS ON THE USE AND APPLICATION OF PESTICIDES

1. Registered and recommended uses of pesticides.
 - a. All pesticide uses or recommendations for use shall comply with that pesticide's label, which shall be registered with the U.S. Environmental Protection Agency and the Department (except as provided under authority for pesticide use in Section 18, 25(b) and 24(c) of FIFRA as amended).
 - ~~b. Pesticide Drift - Pesticide applicators shall use pesticides and conduct operations under conditions known to minimize contamination of non-target land and water areas.~~
2. Standards of operations - All pesticide applicators and licensed companies:
 - a. Shall use only methods and equipment which insure safe and efficient application of materials.
 - b. Shall use equipment with an effective anti-siphoning device to prevent backflow when drawing or pumping water to fill pesticide application devices.
 - c. Shall use equipment with an effective anti-siphoning device to prevent backflow when drawing or pumping water to be used in chemigation operations.
 - ~~d~~ d. Shall use pesticides and conduct operations under conditions known to minimize contamination of non-target land and water areas. Whenever the Department, as a result of an investigation, determines that non-target land and/or water have been contaminated with pesticides as a result of pesticide use, the applicator shall have the burden to rebut the presumption that pesticide use occurred under conditions known to not minimize contamination of non-target lands or waters.
 - e. Shall operate in a careful manner and exercise all reasonable and prudent actions to avoid non-target pesticide exposure. Reasonable and prudent actions shall include, but is not limited to, consideration of the pesticide formulation, toxicity and labeling; characteristics and condition of the application equipment; environmental conditions; location and characteristics of the application site including the nature, use, and activities on surrounding non-target lands.
 - f. Shall use pesticides only when climatic, pest or other conditions are proper for controlling pests in the locality.
 - eg. Shall make no false or fraudulent claims. The term "fraud" includes, but is not limited to, intentional misrepresentation through verbal or written statements, the media, falsified records, invoices or reports or false statement on applications for licenses or certificates.
 - ~~f~~ h. Shall fill out ~~weekly~~ and submit spray reports accurately as required by permit.
 - gi. Shall conform to the ~~application~~ use restrictions established in 6 V.S.A. Chapter 87, the Regulations for Control of Pesticides and permits issued thereunder.
 - ~~h~~ j. Shall cooperate with Department requests to observe spraying operations, to inspect equipment, to inspect pesticide related records, to inspect business premises and to conduct pesticide-related sampling.

- ik. Shall ~~apply~~ use all pesticides consistent with their labeling. Use of a pesticide in the following manner shall be considered ~~application~~ use consistent with the labeling:
- (1) applying a pesticide at any dosage, concentration or frequency less than specified on the labeling;
 - (2) applying a pesticide against any target pest not specified on the labeling if the application is to the crop, animal or site specified on the labeling except when the labeling specifically states that the pesticide may be used only on pests specified on the labeling;
 - (3) employing any method of application not prohibited by labeling;
 - (4) mixing a pesticide with fertilizer when such mixture is not prohibited by labeling or state regulations;
 - (5) using a pesticide for agricultural or silvicultural purposes at a dilution factor less than label dosages as authorized by the EPA in regulations or in advisory opinions.
- jl. Shall provide the following information (on a bill, invoice or other written documentation) to all customers or persons for which pesticide applications are exchanged for remuneration, at the time of application except for applications under Section IV 8:
- (1) the common or trade name for each pesticide used;
 - (2) the EPA registration number for each pesticide used;
 - (3) the amount of each pesticide used;
 - (4) the pest(s) treated for; and
 - (5) the printed name and signature of the applicator.
- ~~k.~~ (6) the certified applicator certificate number.
- (7) all information as required by the Worker Protection Standard when using agricultural pesticides.
 - (8) post-application label safety precautions, if applicable.
- m. Shall carry the label(s) for any and all pesticide concentrations or dilutions being transported over public highways.
- n. Are advised that Vermont Occupational Safety and Health Program requirements may be applicable to their activities.
- to. Shall use pesticides so as not to exceed the ~~primary groundwater quality enforcement standards~~ Primary Groundwater Quality Enforcement Standards identified in Chapter 12.702, Appendix One, Table 1 of the "Ground Water Protection Rule and Strategy" in accordance with 10 V.S.A. Chapter 48.
- ~~m.~~ Shall manage the use of pesticides to reduce the concentrations of pesticides
- (1) When monitoring indicates the presence of a pesticide in groundwater to the preventive action limits established by Chapter 12.702 of the "Ground Water Protection Rule and Strategy" when monitoring indicates the presence of pesticide concentrations in groundwater that exceed the preventive Strategy" for responses to detections when a preventative action limit or enforcement standard is reached or exceeded.
- ~~n~~ q. Shall obtain a Water Quality Permit (from the Vermont Department of Environmental Conservation, Water Quality Division), prior to using pesticides in waters of the State.
- or. Shall maintain a fifty (50) foot buffer when applying pesticides which provide control within the soil profile around any existing private well unless written permission allowing a lesser distance has been granted by the well owner.

- s. Shall comply with all provisions of the Worker Protection Standard when agricultural pesticides are used.
3. Protection of Bees - To prevent destruction of pollinating insects and contamination of honey crop, all persons are prohibited from spraying pesticides to flowering crops, including but not limited to alfalfa, apples, blueberries, clover, pumpkins, raspberries, squash or trefoil without prior notification of apiculturists who have established apiaries on the premises. Any individual hiring commercial applicators shall be responsible for notification of the apiculturist prior to the application. Apiculturists who are notified of spraying operations shall remove their bees from the area or cover the hives to prevent exposure.

The following pesticides are exempt from the requirement of Section IV, subsection 3:

- a. Blossom thinning sprays consisting of sodium salt or 4,6-Dinitro-o-cresol (DNC) or Dinitro orthocylcohexylphenol.
- b. Fungicides.
4. Rights-of-way clearing and maintenance
- a. No person, including utilities as defined in Section I., shall use herbicides for the purpose of clearing or maintaining a right-of-way without first obtaining a permit from the Commissioner for each application as provided in this section.
- (1) A request for permission to use a herbicide on a right-of-way shall be made before April 1 of the year of the proposed spray application.
 - (2) Application shall be made on a form provided by the Commissioner. In the case of utilities, as defined in Section I., the application shall be signed by an officer of the utility and who shall agree to conditions to be set forth by the Commissioner in the permit. Final action by the Commissioner will be taken only after the submitted application form has been forwarded to the Vermont Pesticide Advisory Council (VPAC) members for review and recommendation in accordance with 6 V.S.A. Section 1102(d)(1).
 - (3) The application form shall be accompanied by two sets of geodetic maps marked with the right-of-way. ~~With the assistance of the Department of Health, the Department of Agriculture, Food and Markets, The applicant shall mark the public water supplies along the right-of-way and return one set of maps to the permit applicant. The other~~One set shall be retained by the Department on permanent file. ~~Subsequent requests for permits to treat the same right-of-way shall require re-submission of the permit applicant's set of maps for update.~~file. The other set shall be retained and used by the applicant to protect water supplies. Maps may be submitted on computer disk in a Geographic Information System (GIS) format approved by the Commissioner.
- b. After applying for a permit to use herbicides on a right-of-way, the permit applicant shall publish a notice of the intent to use herbicides which satisfies the following criteria. A copy of the notice shall be supplied to the Department prior to publication. The notice shall:
- (1) be published not less than 25 days nor more than 60 days before the commencement of spraying;
 - (2) be published for one (1) day a week for two (2) consecutive weeks in each of two (2) newspapers prescribed in Appendix B, for every county to be affected by the right-of-way spraying. If the notices are printed in a daily newspaper, the notice shall be published on Thursdays. If notices are printed in a weekly newspaper, the notices shall be published on whatever day the paper is published;
 - (3) be at least two (2) columns wide by three (3) inches high;

- (4) set forth the name and address of the permit applicant; a reasonable identification of the affected right-of-way; the names of the towns where the spraying is to be done; the approximate date of the herbicide application; that a permit has been requested from the Commissioner; the method by which the herbicide is to be applied; the chemicals to be used; the name, position, address and telephone number of a person from the permit applicant to contact for further information; the address and phone number of the Department of Agriculture, Food and Markets, identifying it as the appropriate place to contact with comments and/or complaints; a warning to residents along the right-of-way that water supplies and other environmentally sensitive areas near the right-of-way should be protected from spray and that it is the resident's responsibility to notify the contact person of the existence of a private water supply near the right-of-way.
- c. Applicants conducting vegetative management along rights-of-way shall submit a long-term vegetative management plan which should include:
- (1) A general statement of policy and goals;
 - (2) Identification of a biologically sound schedule to achieve long-term objectives including a specified time interval between original control and subsequent scheduled control;
 - (3) Description and identification of the species to be eliminated or controlled versus the species to be left in various types of vegetative settings;
 - (4) List and description of techniques and conditions under which given mechanical, chemical and other methods would normally be considered appropriate;
 - (5) Procedure for identifying, evaluating, reporting and responding to right-of-way maintenance problems;
 - (6) Establishment of clearance standards sought, based on kilowatt of transmission line and the part of the right-of-way to be controlled; i.e., central strip, side strip, high visibility, other;
 - (7) Establishment of standards and practices for:
 - (a) Wetlands;
 - (b) Wildlife;
 - (c) Erosion control;
 - (d) Aesthetic considerations.
 - (8) Establishment of right-of-way inspection and monitoring standards including frequency of inspection, manner of inspections and what is to be taken note of; suggested list -- heights of road crossing screens or ideal clearance level, danger trees, evidence of tree-conductor contact, species identification, conditions of sensitive areas, notation of condition of specially or experimentally treated areas;
 - (9) Retention of records to coincide with maintenance cycle of company including right-of-way inspection dates, maintenance schedules, maintenance activities;
 - (10) Provisions for periodically reviewing, evaluating and revising long-range plans and the time interval for such revisions;
 - (11) A plan to assure contractor accountability in implementing the plan such as drawing-up a comprehensive contract for contractors or developing a contractor training program, to familiarize and provide detailed instructions to field personnel in the concepts of the vegetative management plan so that field personnel can demonstrate an understanding of the practices and standards contained in the document. This may include: identification of plant species and their role in the overall management scheme, what is expected practice in sensitive areas, correct techniques to use in a given situation, knowledge of standards sought in a given situation.

- d. In addition to newspaper advertisements, further notification by one of the following methods containing the information set forth in 4.b.(4) shall be provided by:
- (1) three (3) spot messages per day on each of two (2) radio stations in the area of spraying on two (2) consecutive days during the two-week period prior to the commencement of spraying.
 - (2) U.S. mail to residents adjacent to the right-of-way during the calendar year of spray application, at least two weeks prior to such application.
 - (3) a personally delivered printed statement to residents of property adjacent to the right-of-way during the calendar year of spray application, at least ten (10) days prior to such application.
- e. The permit applicant shall notify the Department of the option used and the dates implemented. The text of this notice shall be supplied to the Department prior to implementation.
- f. The Department requires that known water supplies along the right-of way be avoided.
- (1) Upon notification by the landowner or water supply user, the permit applicant shall mark private water supplies on their maps.
 - (2) Prior to spraying, the permit applicant shall flag all public and private water supplies marked on their maps as well as other sensitive areas as designated by the Commissioner in the permit.
 - (3) The permit applicant shall furnish the certified applicator with a copy of the right-of-way maps showing flagged areas and a copy of the approved permit.
- ~~g.~~ ~~(4)g.~~ The applicator shall not spray near apply herbicides within buffers established in the ~~flagged areas~~ permit.
- fh. All right-of-way clearing or maintenance by the use of herbicides shall be conducted by certified applicators or persons working under the direct supervision of certified applicators.
- ~~g~~ i. All uses of herbicides on rights-of-way shall be conducted by the certified applicator in a manner that minimizes the extent and duration of foliar brownout.
- hj. Right-of-way spraying operations shall be conducted in a manner and under weather conditions which prevent deposits of pesticides to areas outside the rights-of-way.
- ik. The clearing of brush, trees and other vegetation from rights-of-way shall be conducted in accordance with other applicable provisions of state and federal laws and regulations.
- jl. All operations conducted prior, during or subsequent to the aerial application of pesticides to rights-of-way, including, but not limited to, gaining access, landing of aircraft, refilling operations and the like, shall not be conducted on private lands near the right-of-way without the owner's prior written permission. Written permission shall be maintained by the permit applicant for one (1) year following completion of the operations and shall be available to the Commissioner upon request.
- km. All permits issued by the Commissioner shall establish buffer strip distances to protect the waters of the state. Buffer strip distances shall be determined according to the type of spray operation, properties of chemicals to be used and the characteristics of the areas to be treated.

5. Aerial applications of pesticides

- ~~a.~~ An applicant applying for a company license or certificate to engage in a. All aerial application applications of pesticides shall meet all the be conducted by a certified commercial applicator who shall comply with a requirements of the Federal Aviation Administration and the Vermont Agency of Transportation, Aeronautics Section, to operate the aircraft and equipment described in the application.
- ~~b.~~ Aerial

b. All aerial applications shall be conducted by certified applicators only.

~~c. All aerial pesticide applications of pesticides require an approved permit from the Department prior to application.~~

~~(1) Aerial applicators shall obtain a permit for each contract to apply pesticides for purposes other than the application of a pesticide.~~

(1) the request for an aerial permit shall be made annually on a form provided by the commissioner and shall be in two (2) parts:

a) Part I - Aerial Applicator Information shall be completed and signed by the aerial applicator.

b) Part II - Pest or Crop Manager's Application shall be completed and signed by the Pest or Crop Manager and shall include:

1) For aerial permit applications for nuisance pests and vector control:

a) A valid Vector Control Permit issued by the Commissioner

b) Control Details information sheet

(2) For aerial permit applications for tree fruit orchards:

a) Control Details sheet

b) For each site of application a geodetic or ortho photo map shall be submitted initially and when changes in boundaries or treatment areas occur showing areas to be treated. With the assistance of the Department of Agriculture and the Department of Environmental Conservation shall identify the location of public water supplies abutting or in the treatment area and any environmentally sensitive areas abutting the treatment area.

c) Aerial Permit application shall be submitted annually.

~~(3) For all other agricultural commodities: Permits may not be issued for more than one spray season.~~

~~(2) Aerial applicators shall obtain a permit annually for the treatment of agricultural commodities.~~

~~d. Materials listed on Attachment A, subsection 2, "Control Details for Permit Application", as recommended by the Vermont Extension Service or other state agencies will be used for permit review:~~

a) Control Details sheet

b) For each site of application a geodetic or ortho photo map shall be submitted initially and when changes in treatment boundaries or treatment areas occur showing the areas to be treated, abutting private water supplies and surface waters. With the assistance of the Department of Agriculture and the Department of Environmental Conservation shall identify abutting public water supplies and environmentally sensitive areas.

c) Shall provide a plan for notification of abutting landowners and traffic control on public right of ways abutting or within the treatment site.

d) Shall apply for an Aerial Permit for each proposed application. In the case of more than one application to a treatment site per year part (b) may be waived for applications subsequent to the first one.

(4) For all other proposed aerial applications:

a) Control Details sheet

b) For each site of application and each proposed application a geodetic or ortho photo map shall be submitted showing areas to be treated, Public water supplies in or abutting the treatment site, private water supplies in or abutting the treatment site and environmentally sensitive areas in or abutting the site.

c) Shall provide a plan for notification of abutting landowners and traffic control on public right of ways abutting or within the treatment site.

2) The Aerial Permit shall be issued to both the aerial applicator and the pest or crop manager. Both the aerial applicator and the pest or crop manager shall be responsible for ensuring the their permit conditions are complied with.

3) The Commissioner reserves the right to approve aerial applications of pesticides during major disease, insect or weed outbreaks or when climatic conditions are such that ground application of pesticides is not possible.

6. Experimental use permit

a. Any person who desires to use an unregistered pesticide or who desires to use a registered pesticide for an unregistered use shall first obtain an experimental use permit from the Commissioner. Permits may be issued for three (3) kinds of experimental uses:

(1) A state-issued permit as authorized under Section 5(f) of the FIFRA (as amended) to accumulate information or data necessary to register a pesticide use for special local needs.

(2) A state-issued permit to conduct laboratory or greenhouse tests or limited replicated field trials to confirm such tests or other tests in which the purpose is to determine the value of the substance for pesticide purposes or to determine its toxicity or other properties to the extent permitted under EPA regulations.

(3) A state-issued authorization to conduct an experimental use in Vermont for all or some of the uses provided in the label under the experimental use permit issued by EPA pursuant to Section 5(a-e) of FIFRA as amended.

b. A state experimental use permit may, subject to the terms and conditions of the state's certification from the Administrator of EPA, be issued when the Commissioner determines that the conditions under which the use of the experimental pesticide will be conducted are satisfactory. The permit shall be for a specified period commensurate with the experimental program submitted, but in any case not to exceed one year. Permits may be renewed or extended upon request if circumstances warrant. The permittee shall supervise the test program and evaluate the results of testing at each site of application. The permittee shall report immediately to the Commissioner any adverse effects from the use of or exposure to the pesticide.

c. A report shall be submitted to the Commissioner at the conclusion of the experimental pesticide treatment or at the expiration date of the experimental use permit. The report shall include the data gathered during the testing program, the dates of application, any adverse effects to the environment and recommended directions for use which might be submitted for future registration.

d. The application of a pesticide under a state experimental use permit shall be under the supervision of a certified applicator as required by labeling and any additional restrictions imposed by the Commissioner in the permit.

e. When a pesticide is applied to a food or feed crop under an experimental use permit where a tolerance has not been established for that particular crop and use pattern, then:

(1) the crop must be destroyed after harvest; or

- (2) the crop may be used for further testing, provided that the crop may not be consumed by humans. If the crop is consumed by test animals, the animals or animal products may not be used for human or animal consumption.

7. Bird and other animal control ~~exclusive of the phylum chordata (families Cricetidae and Muridae):~~

~~Cricetidae: (moles and voles)~~

~~Muridae: (rats and mice)(other than moles, voles, rats, mice, woodchucks and gophers)~~

- a. Bird and animal pests are those that may be declared a pest by the Commissioner. The Commissioner may declare a bird or animal to be a pest in a specific situation where there is a likelihood of damage to health, the economy or where harm to other wildlife may occur or in the event of injury or severe annoyance.
- (1) Types of use that may be authorized by permit:
- (a) Area-wide application of pesticides on agricultural commodities, wildlife and for human protection.
- (b) Limited-area applications of pesticides where the use of those pesticides could have a detrimental effect on non-target animal life adjacent to the structure, lot or yard which is specifically treated or may affect food or food products.
- b. Any licensed company or certified applicator applying pesticides for the lethal control of pest birds or other pest animals shall apply to the Commissioner, on an approved form, for a permit to perform such control operation.
- (1) The application for a permit shall state the problem and the pest to be controlled, the pesticide to be used, rate to be applied, the area to be treated, disposal of the controlled pest and unused pesticide and the treatment time period.
- (2) For municipal or community-wide operations, a written request or statement granting permission for such operation signed by an official of the municipality shall be submitted with the request.
- c. All requests for application of pesticides for bird or animal control on open land shall be reviewed by the Vermont Fish and Wildlife Department and Vermont Department of Health and notification of all limited-area requests for application of pesticides shall be submitted to the aforesaid departments if approved by the Commissioner.
- d. Control operations may also be subject to guidelines or directives which are established by the Vermont Commissioner of the Fish and Wildlife Department, Vermont Commissioner of Health, the U.S. Fish and Wildlife Service and the Vermont Commissioner of Labor and Industry.
- e. Permits are not required for the use of animal or bird repellents.
8. Notification and Posting of turf-grass and landscape pesticide application:
- a. No outdoor application by certified commercial or non-commercial applicators of pesticides to turf-grass or landscape plants shall be made on residential, single or multi-family or public non-residential properties, such as athletic fields without the following provisions having been met.
- (1) At the time the service is being requested, the customer shall be provided with written information regarding the identification of the pesticides (common or trade name, EPA Registration number) and the rates being proposed for use. In addition, the customer shall be informed, in writing, of the availability of labels and Material Safety Data Sheets for these pesticides and any existing EPA Fact Sheets for the active ingredients contained within.

- (2) At the beginning of each application, the applicator shall post a sign(s) prescribed below, at conspicuous points of access to the treated area(s). The applicator shall leave such sign(s) posted with instructions to not remove the posted sign(s) for 24 hours after application. This shall mean that if a property has more than one entrance or point of access then the corresponding number of signs shall be posted. The specifications of the sign shall be as follows:
- (a) Shall be at least 4 x 5 inches, of sturdy, weather resistant material
 - (b) Shall be with contrasting colors using the indicated letter size as indicated below. The words "CAUTION", in 72 point type size font, plus "PESTICIDE APPLICATION", in 30 point font, shall be at the top of the sign and the words "CUSTOMER: DO NOT REMOVE FOR 24 HOURS", in 11 point font, shall be at the bottom of the sign. In addition, the words "KEEP OFF UNTIL DRY", in 30 point font, shall be located on the right side of the sign next to the symbol of a family on grass within a circle. The circle shall have a slash through it to signify no entry. An example is given in (e) of this section.
 - (c) Shall contain no additional words or symbols on the front panel; however, the back panel may include any additional information such as emergency number or company name.
 - (d) Shall be posted at least 12" above the ground
 - (e) Shall contain the date and, time of application, company name and company contact number on the back of the sign

C A U T I O N
Pesticide Application



KEEP OFF UNTIL DRY

CUSTOMER: ~~Please remove after~~ DO NOT REMOVE FOR 24 Hours-HOURS

- (3) Immediately upon completion of each application, the applicator or their employer shall leave at the residence or with the property manager a written statement containing the following information:
- (a) Name, address and telephone number of the company or non-commercial facility providing service
 - (b) Pesticide applicator's name and certification number
 - (c) Common or trade name, EPA Reg. #, amount used and pest(s) treated for each pesticide applied
 - (d) Post-application label safety precautions, if applicable

- (e) Application date, time and location
 - (f) Instructions that signs should remain posted for at least 24 hours
- (4) Upon request, by either customer or adjoining landowner, a copy of the pesticide label, Material Safety Data Sheet or available EPA Fact Sheet shall be provided by the applicator or their employer.
 - (5) Upon request, the applicator or their employer shall provide the customer with prior notification of the timing of each pesticide application.

NOTE: Golf courses shall be regulated by Section IV 8b. of this regulation. Outdoor commercial or noncommercial pesticide application to turf-grass or landscape plants made on private non-residential properties shall comply with either Section IV 8a. or Section IV 8c. of the regulations.

- b. Pesticide applications made by certified commercial or noncommercial applicators on golf course turf-grass or landscape plants shall require the posting of a written notice on the clubhouse bulletin board or the first tee by the course superintendent or their designee.
 - (1) The written notice shall contain information as specified under Section IV 8a.(3)(a-f) and include the specific location and number of each fairway, green, tee and driving area, etc., where pesticide is applied. The Commissioner reserves the right to approve the use of alternate wording to fulfill the written notice requirement on a case by case basis. Alternate wording must be submitted to the Commissioner, in writing and approved prior to its use.
 - (2) The notice shall be posted prior to application and remain on the bulletin board or the first tee for at least 24 hours after application.
 - (3) Upon request, a label, Material Safety Data Sheet or EPA Pesticide Fact Sheet for the specific pesticide(s) used shall be made available to any golfer using the facility or course employee for their review.
 - c. Outdoor commercial or noncommercial pesticide application to turf-grass or landscape plants made on fenced, private non-residential properties shall require the posting of a written notice(s) in visitor reception area(s) and main employee entrance(s) by the grounds superintendent or their equivalent. All other private non-residential properties without fencing shall comply with Section IV 8.a.
 - (1) The written notice shall contain information as specified under Section IV 8a.(3)(a-f) and the specific location where each pesticide is applied.
 - (2) The notice shall be posted prior to application and remain in place for at least 24 hours after application.
 - (3) Upon request, a label, Material Safety Data Sheet or EPA Pesticide Fact Sheet for the specific pesticide(s) used shall be made available to any visitor or facility employee for review.
 - (d) This regulation does not cover the injection of pesticides directly into plant material and does not apply to rights-of-way or utility applications.
 - (e) This regulation does not apply to private pesticide applicators or certified private pesticide applicators.
9. Golf Course Permits:
- a. No person shall use a pesticide(s) on a golf course without first obtaining a permit from the Commissioner as provided in Section IV 9. except as described in Section IV 9.b. The permit process shall begin as follows:
 - (1) Existing golf courses shall submit to the Commissioner their name, address, location and information identifying surface water, private water sources of abutting landowners, public water sources, private or public source protection areas and environmentally sensitive areas present on the golf course. The amount and type of pesticide used on the golf course over the last three (3) years is also required. A form will be provided by the Commissioner for the submission of this information.

- 2) The Commissioner shall determine a schedule staggered over the next five (5) years when each golf course existing on the effective date hereof shall file an application for a permit and shall notify each course in writing, certified mail, return receipt requested. The scheduling of golf courses will be prioritized on the basis of risk and will require those golf courses with the highest risk potential to submit first.
- b. An existing golf course may continue to use pesticides until either it fails to file an application for a permit on the date scheduled by the Commissioner or a permit is denied.
 - c. An application for a permit shall be on a form provided by the Commissioner and conform to the provisions of Section IV 9 h. and be signed by an officer of the golf course and the golf course superintendent completing the form, who shall agree to the conditions to be set forth by the Commissioner in the permit. Applications for a renewal permit shall be filed with the Commissioner three (3) months prior to the expiration of the existing permit. An application for renewal shall detail any proposed changes to the existing pesticide management plan of the golf course.
 - d. The Commissioner will forward the application to the Vermont Pesticide Advisory Council (VPAC) for review and recommendation under 6 V.S.A. Section 1102(d)(1). VPAC's review shall be based on the established requirements of statutes, regulations and guidelines.
 - e. The Commissioner shall issue or deny the permit after consideration of VPAC's recommendation, risk to human health and the environment, the pesticide management plan as it relates to the use of pesticides and the past history of the golf course. The Commissioner may restrict or deny the use of a pesticide in accordance with 6 V.S.A. Section 1104(3) and other applicable provisions of the law. All parties aggrieved by a decision of the Commissioner under this section may request a hearing within fifteen (15) days of the receipt of notice of the decision.
 - f. Permits issued by the Commissioner:
 - (1) Shall be conditioned on the operation of the golf course according to an approved pesticide management plan.
 - (2) Shall, when necessary and appropriate, establish additional buffer strips to protect surface waters and environmentally sensitive areas. The need for buffer strips shall be determined according to the type of application, properties of chemicals to be used and characteristics of the areas to be treated.
 - (3) May require sampling and analysis of ground and surface water as a condition to the use of a pesticide. Those pesticides on the Prescreened Pesticide List would not require sampling or analysis unless the Commissioner determines that this type of information is critical to the evaluation of the risk to human health or the environment. Due to its cost, sampling and analysis will be required only when the Commissioner determines it is reasonably necessary to assess compliance with statutory or regulatory standards for protection of the environment or human health and will limit the variables. All parties aggrieved by a decision of the Commissioner under this section may request a hearing within fifteen (15) days of the receipt of notice of the decision.
 - (4) To a proposed golf course shall be conditioned on the course being built as is represented in the application and requires the applicant to submit proof within sixty (60) days after completion.
 - (5) Shall be issued for a period of five (5) years and therefore expire at the end of the five (5) year period. The permit shall identify the pesticides permitted either by specific reference to each pesticide or reference to the Prescreened Pesticide List. The use of other pesticides may be added by modification of the five (5) year permit. Modifications shall be requested on forms provided by the Commissioner and shall be processed, issued or denied in the same manner as provided for permits, except that the term shall coincide with the term of the permit being modified.
 - g. The Commissioner shall approve and maintain the Prescreened Pesticide List along with specifications for its use on golf courses upon review and recommendation from VPAC. Pesticide(s) may be added or deleted at any time. Any person may submit to the Commissioner a request to add or delete a pesticide under this section. The request shall include a current EPA Pesticide Fact Sheet or equivalent and any other data desired to be considered. The Commissioner shall either approve or deny the request and notify the applicant in a timely manner.

- h. Applications for a permit to use pesticides on a golf course shall contain the following information:
- (1) General Information
 - (a) Name of the golf course
 - (b) Location
 - (c) Mailing address
 - (d) Golf Course Superintendent who is responsible for completing the application
 - (e) Name and position of an officer of the golf course
 - (f) Date of application
 - (2) Permit Status
 - (a) Initial, renewal or modification
 - (b) Course classification; existing, existing with proposed expansion or proposed
 - (3) Pesticide Information. Identification of the pesticide(s) to be used as follows:
 - (a) Pesticides found on current Prescreened Pesticide List. Indicate specific pesticides by common and trade name and EPA Registration Number.
 - (b) Pesticide(s) other than those found on the Prescreened Pesticide List shall be identified by both common and trade name, EPA Registration Number and by attaching a current EPA Pesticide Fact Sheet or equivalent. The KOC, solubility, half-life (soil) and any additional information as specified in Section IV 9h.(6) shall be provided for each pesticide.
 - (4) Golf Course Description. A description of the golf course as it exists or is designed as follows:
 - (a) A site plan (which may be an orthophoto map, scale 1:5000'), marked with the following:
 - i. tees, greens and fairways, by hole number and supporting operations;
 - ii. areas irrigated and source of water for irrigation;
 - iii. all surface waters identified by name, if known;
 - iv. all known ground waters;
 - v. private water sources of abutting properties;
 - vi. public water sources and source protection areas;
 - vii. identification and location of any environmentally sensitive areas;
 - viii. property boundaries;
 - ix. each building and its use; and
 - x. legend, scale, north designation;
 - (b) A topographical map, which may be a U.S.G.S. topographical map with the boundaries of the golf course identified thereon and a general written topographical description including minimum and maximum slopes and any distinct topographical features.
 - (c) The square feet of each green and tee, and identification of any green or tee which is within 100 feet of any surface waters.
 - (d) Approximate acreage of each fairway specifying closely mowed areas and rough areas individually.
 - (e) The square miles of the drainage area for flowing waters at up to the point of exit from the golf course property.

- (f) The surface acreage and average depth of any ponded surface waters and the location of its primary source of supply.
 - (g) A soils map and key as mapped by the United States Soil Conservation Service or other reliable source, including identification of soils of high erodibility.
- (5) Pesticide Management Plan. A detailed account of how pests such as insects, weeds, diseases and rodents are managed on the golf course as follows:
- (a) A general statement of the policy and listing of the goals of the pesticide management plan, including the golf course's strategy for minimizing pesticide use;
 - (b) A description of pest problems associated with turfgrass and ornamentals during the past five (5) years, including locations and the extent of infestation. For proposed golf courses a description of anticipated pest problems and the rationale for each;
 - (c) A description and rationale of the pest management strategies that are or will be employed, including biological, chemical and cultural controls;
 - (d) A description of pest monitoring practices that are or will be utilized;
 - (e) A description and location of pesticide storage, handling and mixing areas; a Spill Response Plan and proposed measures to prevent accidental releases;
 - (f) A description of irrigation practices, including the type of system used, rates and intervals of irrigation;
 - (g) For proposed golf courses, a description of any unique feature of its design which will minimize pest problems;
 - (h) A description of any buffer zone established or to be established to protect surface waters, private and public water supplies, and environmentally sensitive areas.
- (6) Other Pesticides, Additional Information. When the use of a pesticide(s) is (are) requested which is (are) not found on the current Prescreened Pesticide List or when otherwise required by the Commissioner to evaluate risk, the applicant will provide additional information which will justify the use of the pesticide within an acceptable level of risk. The following information or any other pertinent information may be submitted in support of this justification:
- (a) Expected pesticide concentrations:
 - i. nearest private and all public water sources of concern using a Simple Dilution Analysis, calculated using a proportion of either well yield and/or precipitation and irrigation;
 - ii. in flowing surface water at the point of exit from the golf course boundary.
 - iii. in standing surface water only when deemed necessary after consultation with the Department of Environmental Conservation, Water Quality Division.
 - (b) In graphic or matrix form, a comparison between the expected pesticide concentrations and Appendix One, Table 1 Primary Groundwater Standards; Enforcement Standards and the Vermont Water Quality Guidelines, ~~Chapter 12 Groundwater Protection Rule Standards and Department of Health Drinking Water Standards.~~
 - (c) The hydrogeologic setting, including hydrogeologic flow patterns, receiving waters, recharge and discharge areas, range of depth to groundwater, aquifer type, if present and hydraulic conductivity.
 - (d) Identification of any environmentally sensitive areas and a general discussion of whether the use of pesticides will destroy or significantly imperil the same.
- i. Golf courses shall keep and maintain operating records and report pesticides on forms provided by the Commissioner for that purpose as follows:

- (1) Operational records of turf pest ~~problems encountered~~ observed, control methods employed and their ~~effectiveness~~ level of control achieved, the type and amount of pesticide(s) used, its purpose, date and area of the golf course where applied; a record of rainfall; and a summary of irrigation utilization. For pesticides applied records shall include trade name of pesticide used, active ingredient, target pest, site of application, size of area treated, amount applied, date of application and EPA registration number. These records must be maintained for a period of five (5) years and shall be made available to the Commissioner upon request.
 - (2) A pesticide use record for each calendar year shall be submitted to the Commissioner prior to January 1 of the following year. A form will be provided by the Commissioner for this purpose.
 - (3) Maintenance of the records and report of pesticide use as provided above shall exempt the golf course or certified applicators employed by it from the record and reporting requirements of Section V. 2, 4 and 6.
10. Restrictions on the Use and Application of Pesticides; Posting of indoor use of total release aerosols and space sprays .
- a. “For all certified commercial and non-commercial applicators; when pesticides are applied indoors to areas accessible to the public which have label requirements for closure, evacuation and/or ventilation the applicator shall post a sign(s) prescribed below, at all conspicuous points of entry to the treated area prior to the application. This shall mean that if a property has more than one entrance or point of access then the corresponding number of signs shall be posted. The applicator shall leave such sign(s) posted until all label re-entry requirements have been complied with.

The specifications of the sign shall be as follows:

- (1) shall be of contrasting colors and at least 8 ½ X 11 inches in size
- (2) shall contain the following warning, centered on the page in 48 point size lettering: “DO NOT ENTER, Pesticide Application Area”
- (3) shall contain the following phrase, under the warning in at least 18 point lettering: “DO NOT Re-enter Until “ (date and time of allowed re-entry)

The applicator shall enter the date and time in a legible manner. The time of re-entry to be entered on the sign shall be the time when all label requirements for closure and ventilation have been met.

The applicator may leave written, post application label safety instructions with the owner, manager or their designee at the site of application provided a written agreement exists whereby the owner, manager or their designee agrees to carry out post application label safety instructions such as, but not limited to ventilation of treated areas prior to re-entry, cleaning and protection of food preparation areas and closure of treated areas for prescribed time periods and removal of signs.

Areas treated with fumigants shall be posted according to their label requirements. These regulations do not supersede label requirements for posting, placarding, closure, evacuation or personal protective equipment when using these products.

SECTION V - MAINTENANCE OF RECORDS BY CERTIFIED APPLICATORS, LICENSED COMPANIES, LICENSED PESTICIDE DEALERS AND PESTICIDE PRODUCING ESTABLISHMENTS

1. Certified private applicators shall record on the day of application, for all restricted use pesticides, the pesticide product name, Environmental Protection Agency (EPA) Registration Number, amount used, size of area treated, date of application, location of application (farm name and town) and the pest(s) treated for during each year. This information is to be held for a period of two years and shall be furnished to the Commissioner upon request.
2. Certified commercial and certified noncommercial applicators shall keep and maintain pesticide operational records in a manner prescribed by the Commissioner on forms provided for that purpose.
 - a. Routine operational records shall be kept at the time of application which state the pesticide product name, EPA Registration Number, amount used, size of area treated, date of application, location of application (farm name and town) and the pest(s) treated for during each year. These records must be maintained for a period of two years and shall be made available to the Commissioner upon request.
 - b. A pesticide use report shall be submitted to the Commissioner annually. The report shall state the EPA Registration Number, the product name, the manufacturer, the amount used, the general purpose for which it was used and the county in which it was used.
 - c. Annual pesticide use reports shall be submitted together with an application for the renewal of certification to the Commissioner prior to January 1 of each year. Commercial and noncommercial pesticide applicator certificates shall not be renewed without the submission of an annual use report. Annual use reports shall be submitted regardless of whether pesticides were applied during a given year or not.
3. Persons applying pesticides under the authority of a permit issued by the Department shall comply with all record keeping and reporting requirements imposed by the Commissioner as conditions of the permit.
4. Licensed companies shall be responsible for maintaining routine operational records and submitting the annual pesticide report. Certified noncommercial applicators, who do not work for licensed companies, will continue to be responsible for the maintenance and submission of these records.
 - a. The licensed company shall collect operational records required by this section from its certified applicators and hold them for a period of two years. These records shall be made available to the Commissioner upon request.
 - b. The annual pesticide use report shall be submitted together with the company license renewal application to the Commissioner prior to January 1 of each year.
5. Licensed Class A dealers shall keep and maintain records of the sales of Class "A" pesticides and shall make them available for inspection to the Commissioner. Records shall be maintained on forms provided by the Commissioner.
 - a. A report of special permit and restricted use pesticides sold on a calendar year basis shall be submitted together with the application for license renewal to the Commissioner by all Class "A" pesticide dealers prior to January 31 of the following year. Reports may be required by the Commissioner at any other time, provided the request is made in writing.
 - b. Pesticide dealer reports shall include the product name, the EPA registration number, the size and number of containers and the county of intended use. For the purpose of reporting the county of intended use, pesticide dealers may use the applicator's county of residence.
 - c. Annual sales reports must be submitted regardless of whether or not restricted use pesticides were sold.
6. Annual records may be required for treatments of pests as deemed necessary by the Commissioner.
7. In the event that a certified applicator, licensed company or licensed pesticide dealer should choose not to renew a certificate or license, the annual use and/or sales reports are still required for the last year in which a valid certificate and/or license was held.

8. Refer to Section XII, Community Right-to-Know, for a complete description of additional requirements that may be applicable to pesticide companies, applicators, dealers and producers.
9. Worker Protection Standard (WPS) Certified and Qualified Trainers shall maintain records of all training on forms provided by the Commissioner for that purpose. This information must include:
 - a. Trainee's name; date of birth and signature as well as the printed name; the trainee's address, if available; the trainer's name and affiliation; and the date and location of the training.
10. Certified Trainers shall maintain records that will be reported to the Department within 15 days of each training program. Training verification cards will be sent to each trainee. The Certified Trainer will issue training verification cards only, approved by the Vermont Department of Agriculture and the EPA.
10. Agricultural Employers subject to the Worker Protection Standard shall maintain records required by the Worker Protection Standard for a period of not less than one year.

SECTION VI - COMPANY LICENSE

1. Any enterprise applying pesticides to the land or home of another for remuneration must be licensed by the Department. Exceptions to the company license requirement shall be:
 - a. Doctors of Medicine and Doctors of Veterinary Medicine applying pesticides as drugs or medication during the course of practice.
 - b. Applicators certified under Category 10, making recommendations and applying pesticides in demonstration or research programs.
 - c. Private applicators who apply pesticides to a neighbor's property in exchange for services.
 - d. Certified and noncertified noncommercial applicators.
2. The company license shall be renewed yearly. The license shall extend from January 1 through December 31.
3. A fee of ~~forty dollars (\$40.00)~~ shall be charged for a company license.
4. The Commissioner may deny an application for a company license when the applying company is owned, controlled, or operated by persons or their employees who have been determined to have violated Vermont's pesticide laws, or any rule or regulation adopted under its authority, or any order of the Commissioner under 6 V.S.A. Chapter 87 within two years preceding the date of application.
5. Applicants who are denied a company license may request a hearing to review the decision within fifteen days of receipt of the denial.
6. Licensed companies and those requiring licensing shall be responsible for ensuring they only employ pesticide applicators that are properly certified under these regulations, prescribed by the Commissioner in Section VIII and that applicators employed by them remain certified for the duration of their employment with the company, except that those employees working under the direct supervision of a certified applicator need not be certified.

Licensed companies shall supply the Department with a list of all certified commercial applicators they employ. They shall send written notice to the Department within thirty (30) days whenever a certified commercial applicator is hired or leaves their employment.

SECTION VII - REQUIREMENTS FOR CERTIFIED COMMERCIAL AND CERTIFIED NONCOMMERCIAL APPLICATORS.

1. All noncommercial applicators who use other than Class "C" pesticides and all commercial applicators who use pesticides shall be certified in accordance with the applicator standards established in these regulations, or work under the direct supervision of a certified commercial or certified noncommercial applicator. (See definition of "direct supervision", Section I.)

Exceptions: Persons conducting research in laboratories, or Doctors of Medicine or Doctors of Veterinary Medicine applying pesticides as drugs or medication during the course of their normal practice are exempt from the certification requirement.
2. The candidate for certification shall satisfactorily meet standards prescribed by the Commissioner in Section VIII.
3. Candidates for certification shall take a written examination covering general standards and specific standards required for each category an individual expects to operate under. A candidate must be certified in each specific category that he or she intends to work in.
 - a. A candidate shall have a maximum of three opportunities to achieve a passing score on the certification examination during a twelve (12) month period. This twelve (12) month period shall begin on the date the candidate takes the first examination. After an initial failing score a candidate must wait at least seven (7) days to retake the examination. If a candidate fails twice, there shall be at least a twenty-eight (28) day waiting period before retaking the exam for the third time.
4. Certificates issued in any category may be further restricted by the Commissioner as a condition of issuance, when the Commissioner determines that the restrictions are necessary to protect human life or the environment. For example, a certain category certificate may be restricted to allow only the use of specific pesticides in that type of work.
5. Fees: A fee of ~~twenty dollars (\$20.00)~~ shall be assessed for each category or sub-category certification issued. ~~The maximum total fee charged for categories per candidate shall be seventy-five dollars (\$75.00).~~ Payment of fees for persons who are employees of federal, state or municipal government and who apply pesticides as part of that employment shall be waived.
6. The certification year will extend from January 1 through December 31.
 - a. Certification of noncommercial and commercial applicators may be renewed annually for up to five years after which recertification shall be required. The Commissioner may furthermore require recertification whenever necessary and determine the procedure to be utilized involving either additional training or reexamination.
 - b. Certified noncommercial or commercial applicators shall send written notice to the Department within thirty (30) days of changing employers. The name of the new employer shall be supplied in the notice.
 - c. Except for category 10, certified commercial applicators must be employed by a licensed company.
7. Denial of certificate: The Commissioner may deny issuance of a certificate to any person failing to adequately demonstrate competency on any examination or who otherwise fails to participate in training required in lieu of written examination or who is currently under a suspension or revocation of certificate by the Commissioner.

SECTION VIII - CERTIFICATION STANDARDS FOR COMMERCIAL APPLICATORS AND
NONCOMMERCIAL APPLICATORS USING OTHER THAN CLASS "C" PESTICIDES

1. Noncommercial applicators who use pesticides other than Class "C" and all commercial applicators, except those who work under the direct supervision of a certified applicator, shall be certified according to categories which reflect the types of pesticide use for which they have been examined and found competent. NOTE: those non-certified pesticide handler employees that work under the direct supervision of a certified applicator must be trained according to the requirements of the WPS when using any agricultural pesticide.

Applicants for certification in the categories and sub-categories described in this section shall demonstrate their competence to meet standards described under general standards, category specific standards and standards for supervision of noncertified applicators in this section the use of pesticides. Applicants shall take a written examination covering general standards and specific standards required for each category an individual expects to operate under.

2. Description of categories and sub-categories.
 - a. Category 1: Agricultural Pest Control.
 - (A) Plant - For use in production of food, forage and fiber agricultural crops.
 - (B) Animal - For use on animals and to places on or in which animals are confined. Doctors of Veterinary Medicine engaged in the business of applying pesticides for hire, publicly holding themselves out as pesticide applicators are included in this category. Doctors of Veterinary Medicine who apply use pesticides as drugs or medications during the course of their normal practice are exempt from certification requirement. See Section VII.
 - b. Category 2: Forest Pest Control - For use in forests, forest nurseries and forest seed producing areas.
 - c. Category 3: Ornamental and Turf Pest Control.
 - (A) Ornamentals and Shade Trees - For use to control pests in the maintenance and production of Christmas trees, ornamental trees, shade trees, shrubs and flowers.
 - (B) Turf - For use to control pests in the maintenance and production of turf.
 - d. Category 4: Seed Treatment - For use on seeds.
 - e. Category 5: Aquatic Pest Control - For use as applied to, or adjacent to, standing or running waters and includes but is not limited to, waters of the state, drinking water reservoirs, industrial lagoons and sewage or wastewater treatment plant lagoons.
 - f. Category 6: Rights-of-way Pest Control - For use in the maintenance of public roads, electric power lines, pipelines, railway rights-of-way or similar areas.
 - g. Category 7: Industrial, Institutional, Structural, and Health Related Pest Control
 - (A) Industrial, Institutional and Structural Pest Control - General - For pesticide use in, on or around food handling establishments, human dwellings, institutions, such as schools or hospitals, industrial establishments, including warehouses and grain elevators and any other structure and adjacent area, public or private, for the protection of stored, processed or manufactured products.
 - (B) Health Related Pest Control - For out-of-door pesticide use in control of mosquitoes and other biting arthropods.
 - (C) Food Processing Pest Control - For use of the pesticides to control pests in, on or around food processing plants which may include, but are not limited to, bakeries, dairy product processing, canning and frozen food packing, confection manufacturing and meat product processing plants.

- (D) ~~Wood and Fiber Product~~ Preservation Pest Control - For control of pests which degrade or prematurely destroy the service, life and usefulness of wood and fiber products.
 - (E) Antimicrobial Pest Control - For the use of pesticides to control pests in non-potable cooling waters and in water or slurries used in industrial processing, in, on or around human dwellings, commercial establishments, institutions, including but not limited to, schools and hospitals, industrial establishments and any other structures and adjacent areas whether public or private.
- h. Category 8: Public Health Pest Control - For use by governmental employees in public health programs for the management and control of pests for medical and public health importance.
 - i. Category 9: Regulatory Pest Control - For use by state, federal, and other governmental subdivisions for control of regulated pests.
 - j. Category 10: Demonstration and Research Pest Control - For individuals who demonstrate pest control to the public, supervise demonstrations or conduct field research with old, new or experimental use pesticides. Included in this category are those individuals who demonstrate, sell or recommend pesticides to applicators, dealers or the public.
 - k. Category 11: Aircraft Pest Control - For the application of pesticides from any aircraft for the control of pests in any of the preceding categories.
 - l. Category 12: Worker Protection Standard Certified Trainer - For individuals that will perform WPS training and distribute EPA WPS Training Verification Cards.
3. General standards for all categories and sub-categories of commercial applicators.
- a. All commercial applicators shall demonstrate practical knowledge of the principles and practices of pest control and safe use of pesticides. Testing shall be based on examples of problems and situations appropriate to the particular category or sub-category of the applicator's certification and the following areas of competence:
 - (1) Label and labeling comprehension.
 - (a) The general format and terminology of pesticide labels and labeling;
 - (b) The understanding of instructions, warnings, terms, symbols and other information commonly appearing on pesticide labels;
 - (c) Classification of the product, general or restricted; and
 - (d) Necessity for use consistent with the label.
 - (2) Safety. Factors including:
 - (a) Pesticide toxicity and hazard to man and common exposure routes;
 - (b) Common types and causes of pesticide accidents;
 - (c) Precautions necessary to guard against injury to applicators and other individuals in or near treated areas;
 - (d) Need for and use of protective clothing and equipment;
 - (e) Symptoms of pesticide poisoning;
 - (f) First aid and other procedures to be followed in case of a pesticide accident; and
 - (g) 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.

- (3) Environment. The potential environmental consequences of the use and misuse of pesticides as may be influenced by such factors as:
 - (a) Weather and other climatic conditions;
 - (b) Types of terrain, soil or other substrate;
 - (c) Presence of fish, wildlife and other non-target organisms; and
 - (d) Ground and surface water drainage patterns.
 - (4) Pests. Factors such as:
 - (a) Common features of pest organisms and characteristics of damage needed for pest recognition;
 - (b) Recognition of relevant pests; and
 - (c) Pest development and biology as it may be relevant to problem identification and control.
 - (5) Pesticides. Factors such as:
 - (a) Types of pesticides;
 - (b) Types of formulations;
 - (c) Compatibility, synergism, persistence and animal and plant toxicity of the formulations;
 - (d) Hazards associated with use;
 - (e) Factors which influence effectiveness or lead to such problems as resistance to pesticides;
 - (f) Dilution procedures; and
 - (g) Residues associated with use.
 - (6) Equipment. Factors including:
 - (a) Types of equipment and advantages and limitations of each type; and
 - (b) Uses, maintenance and calibration.
 - (7) Application techniques. Factors including:
 - (a) 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;
 - (b) Relationship of discharge and placement of pesticides to proper use, unnecessary use and misuse;
 - (c) Prevention of drift and pesticide loss into the environment; and
 - (d) Principles of chemigation including appropriate equipment.
 - (8) Laws and regulations. Applicable state and federal laws and regulations.
4. Specific standards of competency for each category and sub-category of commercial applicators.

Because of the frequent proximity of human habitations to application activities, applicators in all categories must demonstrate practical knowledge of application methods which will minimize or prevent hazards to humans, pets and other domestic animals.

Certified applicators in each category will be particularly qualified with respect to the practical knowledge standards elaborated below:

- a. Category 1: Agricultural Pest Control.
 - (A) Plant. Applicators must demonstrate practical knowledge of crops grown and the specific pests of those crops on which they may be using pesticides. The importance of such competency is amplified by the extensive areas involved, the quantities of pesticides needed and the ultimate use of many commodities as food and feed. Practical knowledge is required concerning soil and water problems; preharvest intervals, reentry intervals, phytotoxicity and potential for environmental contamination, nontarget injury and community problems resulting from the use of restricted use pesticides in agricultural areas.
 - (B) Animal. Applicators applying pesticides directly to animals must demonstrate practical knowledge of such animals and their associated pests. A practical knowledge is also required concerning specific pesticide toxicity and residue potential, since host animals will frequently be used for food. Further, the applicators must know the relative hazards associated with such factors as formulation, application techniques, age of animals, stress and extent of treatment.
- b. Category 2: Forest Pest Control. Applicators shall demonstrate practical knowledge of types of forests, forest nurseries and seed production and the pests involved. They should possess practical knowledge of the cyclic occurrence of certain pests and specific population dynamics as a basis for programming pesticide applications. A practical knowledge is required of the relative biotic agents and their vulnerability to the pesticides to be applied. Because forest stands may be large and frequently include natural aquatic habitats and harbor wildlife, the consequences of pesticide use may be difficult to assess. The applicator must therefore demonstrate practical knowledge of control methods which will minimize the possibility of secondary problems such as unintended effects on wildlife. Proper use of specialized equipment must be demonstrated, especially as it may relate to meteorological factors and adjacent land use.
- c. Category 3: Ornamental and Turf Pest Control.
 - (A) Ornamental and Shade Tree. Applicators shall demonstrate practical knowledge of pesticide problems associated with the production and maintenance of ornamental trees, shrubs and plantings including cognizance of potential phytotoxicity due to a wide variety of plant material, drift and persistence beyond the intended period of pest control.
 - (B) Turf. Applicators shall demonstrate practical knowledge of pesticide problems associated with the production, establishment and maintenance of turf including cognizance of potential phytotoxicity due to a wide variety of turf grasses and other plant types found in and around turf plantings, drift and persistence beyond the intended period of pest control.
- d. Category 4: Seed Treatment. Applicators shall demonstrate a practical knowledge of types of seeds that require chemical protection against pests and factors such as seed coloration, carriers and surface active agents which influence pesticide binding and may affect germination. They must demonstrate practical knowledge of hazards associated with handling, sorting and mixing and misuse of treated seed such as introduction of treated seed into food and feed channels, as well as proper disposal of unused treated seed.
- e. Category 5: Aquatic Pest Control. Applicators shall demonstrate a practical knowledge of the secondary effects which can be caused by improper application rates, incorrect formulations and faulty application of pesticides used in this category. They shall demonstrate practical knowledge of various water use situations and the potential of downstream effects. Further, they must have practical knowledge concerning potential pesticide effects on plants, fish, birds, beneficial insects and other organisms which may be present in aquatic environments. These applicators shall demonstrate practical knowledge of the principles of limited-area application.
- f. Category 6: Right-of-way Pest Control. Applicators shall demonstrate practical knowledge of a wide variety of environments, since rights-of-way exist over many different terrains, including waterways. They shall demonstrate practical knowledge of problems on runoff, drift, excessive foliage destruction and ability to recognize target organisms. They shall also demonstrate practical knowledge of the nature of herbicides and the need for containment of these pesticides within the right-of-way area and the impact of

their application activities in the adjacent areas and communities.

g. Category 7: Industrial, Institutional, Structural and Health Related Pest Control

(A) General 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 habitat and exposure of people and pets. Since human exposure, including that of babies, children, pregnant women and elderly people is frequently a potential problem, applicators must demonstrate practical knowledge of the specific factors which may lead to a hazardous condition, including continuous exposure in the various situations encountered in this sub-category. Because general pest control may involve outdoor applications, applicators must also demonstrate practical knowledge of environmental conditions, particularly related to this activity.

(B) Health Related Pest Control. Applicators shall demonstrate practical knowledge of vector-disease transmission and nuisance pests as these relate to and influence application programs. A wide variety of pests from the phylum arthropoda are involved and it is essential that they be known and recognized and appropriate life cycles and habitats be understood as a basis for control strategy. The applicators shall have a practical knowledge of the importance of such nonchemical control methods as sanitation, waste disposal and drainage. Because health related pest control may involve outdoor applications, applicators must also demonstrate practical knowledge of environmental conditions, particularly related to this activity.

(C) Food Processing Pest Control. Applicators shall demonstrate practical knowledge of a wide variety of pests, including their life cycles, types of formulations appropriate for their control and method of application that avoids contamination of food, food processing equipment and packaging materials, damage and contamination of the processing area and exposure of people. Since human exposure, including pregnant women and elderly people, may be a potential problem, applicators must demonstrate practical knowledge of the specific factors which may lead to a hazardous condition, including any continuous exposure in the various situations encountered in this sub-category.

Because food processing related pest control may involve outdoor and indoor applications, applicators must also demonstrate a practical knowledge of environmental conditions, particularly related to this activity. They shall demonstrate a practical knowledge of fumigation techniques and need for containment and post treatment ventilation.

(D) Wood and Fiber Product Pest Control. Applicators shall demonstrate a practical knowledge of a wide variety of pests, including their life cycle, types of formulations for control and method of application that avoids contamination of food or feed, damage and contamination of habitat and exposure to people, pets and domestic animals. Since exposure to humans, including children, may be a potential problem, applicators must demonstrate practical knowledge of the specific factors which may lead to a hazardous condition including any continuous exposure conditions included in this sub-category.

(E) Antimicrobial Pest Control. Applicators shall demonstrate a practical knowledge of the wide array of pests (algae, bacteria, fungi and shellfish) that infest a cooling water system or water used in industrial processing and the methods and reasons for their control. Applicators must also have a practical knowledge of the pesticide formulations and hazards associated with the use of pesticides in non-potable cooling waters or water used in industrial processing, in, on or around human dwellings, commercial establishments, institutions, industrial establishments, pulp mills and any other structures and adjacent areas, public or private. Applicators shall demonstrate a practical knowledge of the different types of cooling water systems or water used in industrial processing and the various methods of testing for and identifying pest infestations.

h. Category 8: Public Health Pest Control. Applicators shall demonstrate practical knowledge of vector-disease transmission as it relates to and influences application programs. A wide variety of pests is involved, and it is essential that they be known and recognized and appropriate life cycles and habitats be understood as a basis for control strategy. These applicators shall have practical knowledge of the importance and employment of such nonchemical control methods as sanitation, waste disposal and drainage.

- i. Category 9: Regulatory Pest Control. Applicators shall demonstrate practical knowledge of regulated pests, applicable laws relating to quarantine and other regulation of pests and the potential impact on the environment of restricted use pesticides used in suppression and eradication programs. They shall demonstrate knowledge factors influencing introduction, spread and population dynamics or relevant pests. Their knowledge shall extend beyond that 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.
- j. Category 10: Demonstration and Research Pest Control. Persons demonstrating and recommending the safe and effective use of pesticides to other applicators and the public will be expected to meet comprehensive standards reflecting a broad spectrum of pesticide uses. Many different pest problem situations will be encountered in the course of activities associated with demonstration, and practical knowledge of problems, pests and population levels occurring in each demonstration situation is required. Further, they should demonstrate an understanding of pesticide-organism interactions and the importance of integrating pesticide use with other control methods. In general, it would be expected that applicators doing demonstration pest control work possess a practical knowledge of all the general standards requirements. In addition, they shall meet the specific standards required for categories 1 through 9 as may be applicable to their particular activity. Persons conducting field research or method improvement work with pesticides should be expected to know the general standards. In addition, they shall be expected to know the specific standards required for categories 1 through 9 applicable to their activity, or alternatively, to meet the more inclusive requirements listed under "Demonstration".
- k. Category 11: Aircraft Pest Control. Applicators shall demonstrate a practical knowledge of problems which are of special significance in aerial application of pesticides. Among the subjects involved will be weather and drift, chemical dispersal equipment, tank, pump and plumbing arrangements, nozzle selection and location and ultra-low volume systems. In addition, aerial applicators will need a practical knowledge of aircraft calibration, field flight patterns, droplet size considerations, flagging methods and loading procedures. Applicators will also be required to demonstrate comprehension of labeling information for each category or sub-category of intended operation from appropriately selected labels provided. The Commissioner will rely upon the Federal Aviation Administration and the Vermont Agency of Transportation, Aeronautics Section, to determine the aeronautical competence of spray pilots and the airworthiness of their aircraft.

Applicators will be required to demonstrate recognition of target area characteristics as well as characteristics of nontarget areas to avoid accidental damage or contamination.

- l. Category 12: Worker Protection Standard (WPS) Certified Trainer. Certified WPS trainers shall demonstrate a working knowledge of the WPS (40 CFR parts 156 and 170) and understand basic training techniques. The Certified Trainer shall use core training materials that have been approved or developed by the U.S. Environmental Protection Agency (EPA) or by the Department of Agriculture.

SECTION IX - CERTIFICATION OF PRIVATE APPLICATORS

- 1. Persons applying restricted use pesticides on property owned by them or on land rented by them for the production of agricultural commodities shall be certified or work under the direct supervision of a certified applicator. Certification shall be limited to allow the use of only those pesticides for which competency is determined.
- 2. Before receiving a certificate, the private applicator shall meet requirements set forth by the Commissioner as standards for private applicator certification. Competency shall be established either by passing a written examination or by active participation in a training program approved by the Commissioner. Persons unable to read will be examined individually by an oral examination procedure covering standards for private applicators and knowledge of labeling and use patterns for each pesticide the applicator intends to use.

3. Standards of competency for private applicators.

As a minimum requirement for certification, a private applicator must show that he possesses practical knowledge of the pest problems and pest control practices associated with his agricultural operations; proper storage, use, handling and disposal of the pesticides and containers and his related legal responsibility. This practical knowledge includes ability to:

- a. Recognize common pests to be controlled and damage caused by them.
- b. Understand the label and labeling information -- including the common name of pesticides he applies, pest(s) to be controlled, timing and methods of application, safety precautions, any preharvest or reentry restrictions and any specific disposal procedures.
- c. ~~Apply~~ Use 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, the quantity dispersed in a given period of operation and the principles of chemigation including appropriate equipment.
- d. Recognize local environmental conditions that must be considered during application to avoid contamination.
- e. Recognize poisoning symptoms and procedures to follow in case of a pesticide accident.

4. Certification and renewal.

- a. Private applicators will be certified according to the pesticide needs associated with the agricultural commodities they produce.
- b. Any person who is qualified and has adequately met standards for determination of competency shall be certified.
- c. Private applicator certificates shall be issued for a five-year period after which recertification will be required. Recertification requirements may be met by participation in additional training approved by the Commissioner or by reexamination.

SECTION X - CLASSIFICATION OF PESTICIDES AND LIMITATIONS ON SALE

1. General: The U.S. Environmental Protection Agency classifies all registered pesticides available to consumers as either general use or restricted use for the purposes of federal regulation. Vermont recognizes federal, state and by permit only restricted use pesticides as Class "A". Vermont classifies all registered pesticides used, sold, distributed or manufactured within the state into three categories known as:

Class "A" -	Restricted Use - federal, state and by permit only
Class "B" -	Controlled Sale
Class "C" -	Homeowner/Specialty

All pesticides ~~sold in Vermont must be registered with the State under~~ which are distributed, sold or offered for sale within the state or delivered for transportation or transported in intrastate commerce or between points within the state through any points outside this state shall be registered according to 6 V.S.A. Chapter 81, the Pesticide Registration Act.

2. Identification of Class "A" - Restricted Use, Class "B" - Controlled Sale and Class "C" - Homeowner/Specialty pesticides.
- a. Class "A" - Restricted Use - federal: shall be those federally restricted use pesticides identified by the EPA designation "Restricted Use Pesticide" on the product label.

- b. Class "A" - Restricted Use - state: shall be those pesticides classified general use by EPA and re-classified as restricted use by the Vermont Department of Agriculture, Food and Markets after consideration of the following:

- (1) Toxicological profile, including acute, subchronic and chronic effects
- (2) Environmental profile, including aquatic and wildlife effects
- (3) Physical hazard profile, including the potential for fire, explosion and reactivity
- (4) Potential for ground and surface water contamination
- (5) Potential for misuse
- (6) Container construction and size
- (7) Those requiring training due to special concerns
- (8) Method of application

Class "A" pesticides shall be listed in "Appendix A(2)", available from the Department's Plant Industry Section.

- c. Class "A" - Restricted Use - by permit only: shall be those pesticides which may be purchased and used only after securing a special permit from the Commissioner. Pesticides are classified Class "A" - Restricted Use - by permit only by the Commissioner with the advice of the Vermont Pesticide Advisory Council after a determination that routine use of the chemical could result in harm to human health or the environment. Any sale or use whether or not currently registered under the FIFRA as amended for the following products is forbidden unless a permit is obtained from the Commissioner:

Aldrin
 Daminozide (Alar - food uses)
 Endrin
 Mercury
 Sodium Arsenite
 Sodium Fluoroacetate (Compound 1080)
 Dieldrin
 Heptachlor
 Dibromo-chloro-propane (DBCP)
 Chlordane

- d. Class "B" - Controlled sale: shall be those pesticides determined to be less hazardous than Class "A" under the criteria expressed in subsection 2.b but require some control over where products are sold. Class "B" pesticides are generally for use outside of the home and contain more than 3% total active ingredient, however, the Commissioner reserves the right to classify additional pesticides as Class "B".

The Commissioner has classified the following additional pesticides as Class "B":

- (1) All turfcare, excluding aerosols or products containing either Bacillus thuringiensis or potassium fatty acids regardless of percent of total active ingredient and does not meet Class "A" definition.
- (2) Pet collar greater than 25% active ingredient.

- e. Class "C" - Homeowner/Specialty - shall be those pesticides which are generally used in and around the home and which contain not more than 3% total active ingredient; however, the Commissioner reserves the right to classify additional pesticides including non-homeowner specialty products as Class "C".

The Commissioner has classified the following additional pesticides as Class "C":

- (1) Limited percentages of active ingredients:
 - (a) Anti-fouling paint containing mercury - of not more than 0.5% total active ingredient and which conform to the U.S. Department of Agriculture or Environmental Protection Agency, Pesticides Regulation Division, Interpretation No. 3 under FIFRA as amended.
 - (b) Pet supplies - shampoos, dips, tick and flea collars and dusts ~~except~~ shall not exceed 15% total active ingredient with the exception of lindane products which shall not exceed 7% total active ingredient.
 - (c) DDVP impregnated strips (Vapona strips) - concentrations not over 20% in resin strips and pet collars.
 - (d) Pet collars containing not more than 25% active ingredient.
 - (2) Unlimited percentage of active ingredients (excluding ingredients listed in appendix A, Restricted Use List):
 - (a) Wood preservatives and sapstain control agents other than creosote, inorganic arsenicals and pentachlorophenol
 - (b) Antimicrobial agents such as disinfectants, bacteriostats, bactericides, mildewcides, mildewstats, viricides, sanitizers, slimicides, sterilants and industrial preservatives
 - (c) Animal repellents, indoors and outdoors
 - (d) Insect repellents for human use
 - (e) Diatomaceous earth
 - (ef) Moth flakes, crystals, cakes and nuggets
 - (fg) Indoor aquarium supplies
 - (gh) Swimming pool supplies
 - (hi) Pediculocides and mange cure on humans
 - (ij) Pheromone baits and floral lures
 - (jk) Premixed paints containing preservatives and which make pesticidal claims
 - (kl) Aerosols, ~~excluding Class A; including fumigator~~ ready to use foggers and insect bombs
 - (lm) Insecticides containing bacillus thuringiensis, bacillus popilliae, bacillus lentimorbus or potassium fatty acid
 - (mm) Colorants used to control algae growth by providing shade
 - (no) Animal ear tags
 - (3) The petroleum solvent fraction of the product's formula shall not be considered an active ingredient for the purpose of Class "C" classification procedures.
3. The following pesticides are prohibited from use in Vermont:
- a. All uses of pesticides cancelled or suspended under FIFRA amended at the time these regulations are adopted are hereby prohibited in Vermont. All uses of pesticides prohibited in the future by the U.S. Environmental Protection Agency will be prohibited in Vermont by adoption of regulations pursuant to 3 V.S.A. Chapter 25.

- b. All DDT - Dichloro-diphenyl-trichloroethane use is prohibited by 6 V.S.A. Section 1105, as of December 31, 1971.
 - c. All pesticide products formulated from technical grade 2,4,5-Trichlorophenoxyacetic acid (2,4,5-T) which contain more than 0.10 ppm 2,3,7,8-tetra chlorodibenzo-para-dioxin (TCDD) shall not be sold or used in the State of Vermont.
4. Limitations on sales of pesticides.
- a. Limitations on sales of Class "A" - Restricted Use - federal, state or by permit only:
 - (1) Dealers shall obtain a Class "A" dealer's license before they may sell Class "A" - Restricted Use pesticides.
 - (2) Class "A" pesticides shall be sold only to certified applicators and persons who produce written authorization from a certified applicator to purchase specific restricted use pesticides. Written authorization shall include the certificate number of the certified applicator authorizing the purchase, as well as the name and quantity of the pesticide desired.
 - (3) Class "A" pesticides shall not be displayed for self-service or stored in food areas.
 - (4) Class "A" - Restricted Use - by special permit only pesticides shall be sold only to certified applicators who produce a special permit issued by the Commissioner authorizing the purchase.
 - b. Limitations on sales of Class "B" pesticides.
 - (1) Dealers shall obtain a Class "A" or Class "B" dealer's license before they may sell Class "B" pesticides to the general public.
 - (2) Class "B" pesticides may not be stored or displayed in food areas.
 - c. Limitations on sale of Class "C" pesticides:
 - (1) Dealer's shall obtain either a Class "A", Class "B" or Class "C" dealer's license before they may sell Class "C" pesticides to the general public.
 - (2) Class "C" pesticides may not be stored or displayed in food areas.

SECTION XI - PESTICIDE DEALER LICENSES.

- 1. Class "A" and Class "B" licenses.
 - a. No store or other retail sales outlet shall sell restricted use or Class "B" pesticides unless a licensed dealer is a full time employee of the store or retail sales outlet. Persons who pass the tests required for Class "A" or Class "B" dealer licenses shall be entitled to sell the following classes of products:
 - (1) Class "A" license: Licensees may sell any pesticide registered in the State of Vermont, subject to the limitations imposed by these regulations. Generally, Class "A" licensees may sell restricted use, Class "B" and Class "C" pesticides.
 - (2) Class "B" license: Licensees may sell any Class "B" or Class "C" pesticides registered in the State of Vermont.
 - b. Prior to the issuance of a license, a pesticide dealer must apply for a license to the Commissioner and then pass a written ~~and/or oral~~ examination conducted by the Commissioner to show that the applicant possesses adequate knowledge of: regulations, classification of pesticides, safe handling, hazards and disposal of pesticides which will be sold or recommended for use.

- c. Holders of Class "A" and Class "B" dealer licenses are required to notify, in writing, the Department within thirty (30) days of a change of employment, including a change from one branch store location to another.
- 2. Class "C" licenses are issued to retail outlets, entitling the licensee to sell Class "C" pesticides from that location. No examination is required. Class "C" licenses are issued upon payment of the required fee.
- 3. All sales and technical field representatives of commercial companies recommending or demonstrating pesticides to "agricultural type" company stores and individuals shall be certified under Section VIII, Demonstration and Research Pest Control, and shall make annual reports of sales of pesticides classified for restricted use plus materials used for demonstrations.
- 4. ~~Salesmen~~Persons for wholesale companies operating in Vermont and selling to institutions, governmental subdivisions and retail sales outlets other than "agricultural type" company stores shall be licensed according to the classification of the pesticide sold. Salesmen selling only Class "C" pesticides are exempted from this provision.
- 5. License classification, renewals and fees
 - a. A pesticide dealer's license shall state the classification of pesticides the dealer is qualified to sell and will be considered as one category for fee assessment purposes.
 - (1) Pesticide dealers shall be classed as follows:
 - (a) Class "A" dealer refers to a dealer licensed to sell restricted use pesticides, Class "B" pesticides, special permit pesticides and Class "C" pesticides. Class "A" dealers shall not sell restricted use pesticides or special permit pesticides to Class "B" or Class "C" dealers.
 - (b) Class "B" dealer refers to a dealer licensed to sell Class "B" and Class "C" pesticides. Class "B" dealers shall not sell Class "B" pesticides to Class "C" dealers.
 - (c) Class "C" dealer refers to a dealer licensed to sell Class "C" pesticides only.
 - (2) A license fee of ~~twenty dollars (\$20.00)~~ will be assessed for the issuance of a Class "A" or Class "B" license; a fee of ~~ten dollars (\$10.00)~~ will also be assessed for the issuance of a Class "C" license as provided under Section 1109 by 6 V.S.A. as amended in 1989.
 - b. The license year will extend from January 1 through December 31 and the license must be renewed annually by January 1 of each year.

Licenses may be renewed without examination provided the conditions under which the original license was issued have not changed. However, the Commissioner may determine that additional instruction or examination is necessary to meet new criteria relative to any pesticide use, handling or disposal.

SECTION XII - COMMUNITY RIGHT-TO-KNOW REQUIREMENTS, EMERGENCY ACTIONS AND ACCIDENT REPORTING

This Section incorporates Vermont Act 31, An Act Relating to Community and Worker Right-to-Know of 1985, and accident reporting requirements as they affect the production, use or storage of pesticides. These requirements affect certified commercial and noncommercial applicators, certified private applicators, licensed applicator companies, Class A Dealers, those persons working under a certified applicator and pesticide producing establishments. These requirements are also applicable to those individuals that are required to be licensed or certified under Section II.

1. Emergency Actions

A person responsible for the application, storage or handling of a pesticide upon knowledge of an accident involving such pesticide shall immediately take actions intended to protect human health and the environment, including but not limited to emergency containment measures and notification as described within this section.

2. Emergency Notification

- a. All Class A, B and C Dealers, certified commercial and noncommercial applicators, certified private applicators, licensed pesticide applicator companies, pesticide producing establishments and persons working for licensed applicator companies under the supervision of a certified applicator, shall report pesticide accidents immediately by telephone to either the:

Vermont Department of Agriculture, Food and Markets
 Plant Industry Section
 116 State Street
 Drawer 20
 Montpelier, VT 05620-2901
 (802) 828-2431/828-2500

OR

Vermont Department of Public Safety
 Waterbury State Complex
 103 South Main Street
 Waterbury, VT 05676
 1-800-641-5005 - operating 24 hours; 7 days/week

3. Material Safety Data Sheets (MSDS)

- a. All Class A Dealers, certified commercial and noncommercial applicators, licensed pesticide applicator companies, pesticide producing establishments shall submit a MSDS, to the local fire department for each Class A Restricted Use Pesticide that is produced, stored or used at their facility. All certified private applicators with greater than ten (10) full-time employees shall also submit MSDS as appropriate.

4. Tier Two Pesticide Inventory Report

- a. All Class A Dealers, ~~certified non commercial and noncommercial applicators~~ facilities applying pesticides, licensed pesticide applicator companies and pesticide producing establishments shall submit a Tier Two pesticide Inventory Form, to the Department, for each Class A Restricted Use Pesticide that is produced; ~~stored or used at their facility. All certified private applicators with greater than ten (10) full-time employees shall also submit a Tier Two Pesticide Inventory Form as appropriate. and stored.~~

SECTION XIII - TRANSPORTATION, STORAGE AND DISPOSAL OF PESTICIDES.

1. Transportation.

- (a) Pesticide applicators shall secure pesticides during transportation to prevent spillage.
- (b) Pesticide applicators and dealers shall ensure that vehicles owned, leased, rented or borrowed by them for the purpose of transporting pesticides are placarded in accordance with state and federal transportation regulations.

2. Storage: Standards Applicable To Pesticide Storage, Mixing and Loading Facilities.

- (1) During the use or storage of pesticides, commercial and private applicators shall not leave pesticides or pesticide containers in any area which is readily accessible to unauthorized persons, livestock or wildlife.

- (2) Labeling of storage containers.
 - (a) In addition to federal regulatory requirements concerning the labeling of pesticide storage containers, legible labels shall be maintained on all bulk storage containers at all times.
- (3) Storage of dry pesticide in bulk quantity.
 - (a) Except during loading and unloading, stored dry bulk pesticide shall be covered by a roof or tarpaulin which will keep precipitation off the pesticides. Dry bulk pesticide stored outdoors shall be kept in storage containers. Storage containers shall be placed on pallets or on a raised concrete platform. Storage facilities shall be secured against entry by unauthorized persons, livestock or wildlife.
- (4) Storage containers and appurtenances.
 - (a) General requirements. Storage containers and appurtenances shall be constructed, installed and maintained so as to prevent the discharge of liquid bulk pesticide. Storage containers and appurtenances shall be constructed of materials which are resistant to corrosion, puncture or cracking. Materials used in the construction or repair of storage containers and appurtenances shall meet or exceed the manufacturer's recommendations and may not be of a type which react chemically or electrolytically with stored bulk pesticide in a way which may weaken the storage container or appurtenance, create a risk of discharge or adulterate the pesticide. Materials used for valves, fittings and repairs on metal containers shall be compatible with the metals used in the construction of the storage container, so that the combination of metals does not cause or increase corrosion which may weaken the storage container or its appurtenances, or create a risk of discharge. Storage containers and appurtenances shall be designed and constructed to handle all operating stresses, taking into account static head, pressure buildup from pumps and compressors and any other mechanical stresses to which the storage containers and appurtenances may be subject in the foreseeable course of operation.
 - (b) Appurtenances. Every storage container connection, except a safety relief connection, shall be equipped with a shut-off valve located on the storage container or at a distance from the storage container dictated by standard engineering practices. Valves shall be secured to protect against vandalism or accidental valve openings which may result in a discharge. Pipes and fittings shall be adequately supported to prevent sagging and possible breakage due to gravity and other forces which may be encountered in the ordinary course of operations.
 - (c) Vents. Any air tight storage container used for liquid bulk pesticide shall be equipped with a pressure relief vent which opens and closes within the designed pressure limits of the container, so as to relieve excess pressure, prevent evaporative losses and prevent the entry of precipitation into the container. All other storage containers used for liquid bulk pesticide shall be equipped with a cover or closure which will relieve excess pressure, prevent evaporative losses and prevent the entry of precipitation.
 - (d) Liquid level gauging devices. Every storage container shall be equipped with a liquid level gauging device by which the level of liquid in the storage container can be readily and safely determined. A liquid level gauging device is not required if the level of liquid in a storage container can be readily and reliably measured by other means. EXTERNAL SIGHT GLASS GAUGES ARE PROHIBITED.
 - (e) Security. Outdoor storage containers and containment facilities shall be located within a permanent fenced area or equivalent security system approved by the Commissioner that is designed reasonably to prevent access by unauthorized persons and to provide reasonable protection against access by livestock or wildlife. Appurtenances shall be fenced or otherwise secured to provide reasonable protection against vandalism or unauthorized access which may result in a discharge. Valves on storage containers shall be locked or otherwise secured except when persons responsible for facility security are present at the facility. Valves on rail cars, nurse tanks and other mobile pesticide containers parked overnight at a storage facility shall be locked or secured except when persons responsible for facility security are present at the facility.

- (f) Filling. Storage containers may not be filled to more than 95 percent of rated capacity unless the storage container construction or location provides for constant temperature control.
- (5) Mixing, loading and rinsate collection areas.
- (a) Paved surfaces and catch basins. Any mixing, loading and unloading, including mini-bulk filling, of pesticide or washing or rinsing of pesticide application equipment that takes place at commercial pesticide application and storage facilities must take place on a pad which is paved with asphalt or concrete. The paved surface shall be curbed or constructed with sufficient slope to drain into a liquid-tight catch basin. The curbed surface and catch basin shall be of adequate size and design to contain 125 percent of the capacity of the largest mobile container used.
 - (b) Protection against damage by moving vehicles. Storage containers and appurtenances, including pipes and transfer hoses, shall be protected against reasonably foreseeable risks of damage by trucks and other moving vehicles engaged in the loading or unloading of pesticide.
 - (c) Recovery of discharges. Discharges incident to loading or unloading of pesticide shall be promptly recovered from the paved surface and catch basin. If recovery of any of the spill for use as originally intended is not feasible, then procedures shall be employed to dispose of the discharged pesticide and any resulting clean up material as a hazardous waste in accordance with the statutes and regulations of Vermont's Hazardous Waste Management Law, 10 V.S.A. Chapter 159.
- (6) Secondary containment for liquid bulk pesticides.
- (a) General requirements. Storage containers shall be enclosed in a secondary containment facility which is adequate, in the event of a discharge, to prevent the movement of liquid pesticide to waters of the state including groundwater. A secondary containment facility shall consist of a wall and liner as provided under paragraphs (d) and (e) or a prefabricated facility as provided under paragraph (f) of this subsection. Precipitation shall not be permitted to accumulate within a secondary containment facility. Empty pesticide containers shall not be stored or accumulated within secondary containment facilities.
 - (b) Capacity. The capacity of a secondary containment facility shall be at least equal to the sum of the following: (1) 110 percent of the greatest volume of liquid which could be discharged from the largest storage container within the secondary containment facility; and (2) the total volume of discharged liquid which would be displaced by the submerged portions of all other storage containers, fixtures and materials located within the secondary containment facility.
 - (c) Storage with other commodities. No other commodity, except liquid pesticide, pesticide rinsate or recovered pesticide discharges may be stored within a liquid pesticide secondary containment facility.
 - (d) Walls. The walls of a secondary containment facility shall be constructed of earth, steel, concrete or solid masonry and be designed to withstand a full hydrostatic head of any discharged liquid. Cracks and seams shall be sealed to prevent leakage. Walls constructed of earth or other permeable materials shall be lined as provided under paragraph (e) of this subsection. Earthen walls shall have a horizontal-to-vertical slope of at least three to one, unless a steeper slope is consistent with good engineering practice and shall be protected from erosion. Walls may not exceed 6 feet (1.8 meters) in height above interior grade.
 - (e) Linings. The base of a secondary containment facility, and any earthen walls of the containment facility, shall be lined with asphalt, concrete, an approved synthetic liner. Liners shall meet the following requirements:
 - (1) Asphalt or Concrete Liners. Asphalt or concrete liners shall be designed according to good engineering practices to withstand any foreseeable loading conditions, including a full hydrostatic head of discharged liquid. Cracks and seams shall be sealed to prevent leakage.

- (2) Synthetic Liners. Synthetic liners shall have a minimum thickness of 30 mils (0.8 millimeters), and be chemically compatible with the materials being stored within the facility. The synthetic liner shall be protected by a 6 inch (15 centimeter) soil layer below the liner, and a 12 inch (30 centimeter) soil layer above the liner. Both soil layers shall be free of large rocks, angular stones, sticks or other materials which may puncture the liner. The use of synthetic liners for the construction of secondary containment facilities shall be approved by the Commissioner provided the manufacturer of the liner provides the Department with a written confirmation of chemical compatibility and a written estimate of the life of the liner. Synthetic liners shall be installed under the supervision of a qualified representative of the manufacturer, and all field constructed seams shall be tested, and repaired if necessary, in accordance with the manufacturer's recommendations.
- (f) Prefabricated facilities. A prefabricated facility shall be composed of a rigid prefabricated basin having both a base and walls constructed of steel or synthetic materials which are resistant to corrosion, puncture or cracking. Materials used in the facility shall be chemically compatible with the products being stored within the secondary containment facility. The prefabricated facility shall be designed and installed to withstand all foreseeable loading conditions, including the tank load and a full hydrostatic head of any discharged liquid.
- (g) Recovery of discharges. Discharges incident to the storage, loading or unloading of pesticide shall be promptly recovered from within the secondary containment facility. If recovery of any of the spill for use as originally intended is not feasible, then procedures shall be employed to dispose of the discharged pesticide and any resulting clean up material as a hazardous waste in accordance with the statutes and regulations of Vermont's Hazardous Waste Management Law, 10 V.S.A. Chapter 159.
- (7) Inspection and maintenance
- The operator of a storage facility shall routinely inspect and maintain storage facilities, storage containers, and appurtenances in accordance with the following schedule in order to minimize the risk of a discharge.
- (a) Valves and other appurtenances shall be inspected for leakage and proper operation at least weekly.
- (b) The contents of each bulk storage container shall be measured and recorded at least weekly to facilitate the monthly inventory reconciliation as required by paragraph 8(d).
- (c) Secondary containment facilities shall be inspected annually to assure compliance with subsection (6).
- (d) All equipment and supplies mandated by the Discharge and Response Plan shall be maintained in sound working order.
- (e) A written record of all inspections and maintenance shall be made on the day of the inspection or maintenance, and kept at the storage facility, or at the nearest local office from which the storage facility is administered.
- (8) Recordkeeping
- (a) The following records shall be prepared and maintained on file at every storage facility, or at the nearest local office from which the storage facility is administered. Furthermore, records shall be maintained for at least five years, and shall be made available for inspection and copying by the Commissioner upon request.
- (b) A record of all discharges at the storage facility, including the date and time of discharge, the type of liquid bulk pesticide discharged, the volume of the discharge, the cause of the discharge, any action taken to control or recover the discharge, and the method of use or disposal of any recovered discharge. The discharge record shall be completed on the day the discharge is discovered, and shall be promptly updated to show measures taken to control, recover, use or dispose of the discharge.
- (c) A regular record of the liquid pesticide levels in each storage container. The level in each storage container shall be measured and recorded at least weekly, as provided in paragraph 7(b).

- (d) A monthly inventory reconciliation, showing the amount of liquid bulk pesticide from each storage container which is lost or unaccounted for at the end of each monthly period.
 - (e) Inspection and maintenance records pertaining to storage containers, appurtenances, and secondary containment facilities, as provided under paragraphs 7(a) and 7(c).
 - (f) A record of manufacturers' compatibility statements as provided under paragraphs 6(e)(2) and 6(f).
- (9) Preparations for control and recovery of pesticide discharges
- (a) Discharge response plan. The operator of a storage facility shall prepare a written discharge response plan for the storage facility. The operator shall keep the plan current at all times. A copy of the plan shall be kept readily available at the storage facility or at the nearest local office from which the storage facility is administered, and shall be available for inspection and copying by the Department. The operator of the storage facility shall inform the local fire and police departments of the existence of the plan, and shall provide a current copy of the plan to the local fire department.

The plan shall include:

1. The identity and telephone number of the persons or agencies who are to be contacted in the event of a discharge, including persons responsible for the stored pesticide.
 2. For each bulk pesticide stored at the facility, a copy of the label affixed to the storage container, the Material Safety Data Sheet (MSDS) and a complete copy of the labeling that would ordinarily accompany sale of the pesticide.
 3. A map identifying the location of bulk pesticide storage containers located at the storage facility.
 4. For each type of bulk pesticide stored at the facility, the procedures to be used in controlling and recovering, or otherwise responding to a discharge.
 5. Procedures to be followed in using or disposing of a recovered discharge.
 6. Storage facilities shall also comply with applicable requirements of Section XII - Community Right-to-Know and Accident Reporting.
- (b) Equipment and supplies. Applicators, manufacturers and distributors who store bulk pesticides shall have access to pumps and recovery containers which can be used to control and recover discharges, and to personal protective equipment and clothing for use by persons involved in discharge control and recovery. Pumps, recovery containers, personal protective equipment and clothing and persons capable of deploying and operating them, shall be readily available in an emergency. Pumps, recovery containers, personal protective equipment and clothing required under this subsection may include those provided by a local fire department or other persons, if the use and availability of such equipment is arranged in advance as part of a discharge response plan. Pumps, recovery containers, personal protective equipment, and other materials used in control and recovery of discharges shall be decontaminated promptly after the discharge has been recovered, and may not be used for other purposes until they have been decontaminated. Absorbent materials suitable for the control and cleanup of small liquid discharges shall be kept readily available at every storage facility.
 - (c) Training. Persons employed at the storage facility shall be made aware of and trained in discharge response procedures, pursuant to the discharge response plan.
- (10) Underground liquid storage prohibited
- (a) No liquid bulk pesticide or pesticide rinsate shall be stored underground. This prohibition does not apply to a watertight catch basin used for temporary collection of discharges or runoff.

(11) Alternative technology

- (a) The Commissioner may exempt any person or company from a requirement under this regulation if compliance is not technically feasible, but only if the Commissioner finds that alternative measures provide substantially similar protection for the waters of the state. A person desiring to implement technology inconsistent with the provisions of this regulation shall make such a request in writing and shall provide the Commissioner with adequate information to show that the alternative measures requested provide substantially similar protection for the waters of the state.

3. Disposal of pesticides and pesticide containers.

a. Pesticide containers.

- (1) Disposal of pesticide containers shall comply with instructions on the labeling and with other state and federal regulations.
- (2) If practical, pesticide drums shall be shipped to recycling centers capable of handling pesticide containers.
- (3) Empty pesticide containers shall not be stored or accumulated within a secondary containment facility.

b. Obsolete, excess, and mixtures of pesticides shall be disposed of according to the statutes and regulations established by Vermont's Hazardous Waste Management Law, 10 V.S.A. Chapter 159.

c. All containers made of materials other than paper shall be triple rinsed prior to disposal.

APPENDIX B**GRAND ISLE**

- The Islander
- Burlington Free Press
- The Times Argus

FRANKLIN

- The Messenger
- Burlington Free Press
- The Times Argus

ORLEANS

- Newport Daily Express
- Burlington Free Press
- The Times Argus

ESSEX

- Caledonian Record
- Burlington Free Press
- The Times Argus

LAMOILLE

- Burlington Free Press
- The Times Argus

CHITTENDEN

- Burlington Free Press
- The Times Argus

CALEDONIA

- Caledonian Record
- Hardwick Gazette
- Burlington Free Press
- The Times Argus

WASHINGTON

- The Times Argus
- Burlington Free Press

ADDISON

- Addison County Independent
- Rutland Herald
- Burlington Free Press
- The Times Argus

ORANGE

- The Times Argus
- The Valley News (West Lebanon)
- Burlington Free Press

RUTLAND

- Rutland Herald
- Burlington Free Press
- The Times Argus

WINDSOR

- The Valley News (West Lebanon)
- Claremont Eagle
- Burlington Free Press
- The Times Argus

WINDHAM

- Brattleboro Reformer
- The Town Crier (Bellows Falls)
- Burlington Free Press
- The Times Argus

BENNINGTON

- Bennington Banner
- Rutland Herald
- Burlington Free Press
- The Times Argus