

ADOPTED REGULATIONS

TITLE 63
PUBLIC HEALTH, SAFETY AND WELFARE

CHAPTER 13
AIR, LAND AND WATER POLLUTION

SUBCHAPTER IV
TRUST TERRITORY PESTICIDES REGULATIONS

PART 1 GENERAL PROVISIONS

1.1 Authority. These regulations are promulgated and issued by the Trust Territory Environmental Protection Board pursuant to the authority granted it by Public Law 4C-78 (63 TTC 505 et seq.).

1.2 Purpose. The purpose of these regulations is to establish a system of control over the importation, distribution, sale, and use of pesticides by persons within the Trust Territory of the Pacific Islands.

1.3 Definitions. As used herein, unless the context otherwise requires, the term:

(a) "Active Ingredient" means:

(1) in the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient which will prevent, destroy, repel, or mitigate any pest.

(2) in the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the product thereof.

(3) in the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant.

(4) in the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

(b) "Administrator" means the Chairman of the Trust Territory Environmental Protection Board or his representative.

(c) "Adulterated" means any pesticide if its strength or purity falls below the professed standard of quality as expressed on the labeling under which it is sold, or if any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent of the pesticide has been wholly or in part abstracted.

(d) "Agricultural Commodity" means any plant, or part thereof, or animal product, produced by a person (including farmers, ranchers, plant propagators, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by man or animals.

- (e) "Approved State Plan" means a program for the certification of pesticide applicators which has been approved by the EPA as meeting the requirements set forth in 40 CFR Part 171.
- (f) "Banned Pesticide" means any pesticide, the use of which for any purpose is prohibited by the EPB.
- (g) "Banned Use" means any use which is prohibited by the EPB, or any use which is suspended or cancelled by EPA.
- (h) "Certified Pesticide Applicator" means any individual who is certified by the Administrator to use or supervise the use of any pesticide classified as restricted use pesticide.
- (i) "Commercial Applicator" means a certified applicator (whether or not he is a private applicator with respect to some uses) who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on any property other than as provided by paragraph (ff).
- (j) "Competent" means properly qualified to perform functions associated with pesticide application, the degree of capability required being directly related to the nature of the activity and the associated responsibility.
- (k) "Defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.
- (l) "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.
- (m) "Environment" includes water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among them.
- (n) "EPA" means the United States Environmental Protection Agency.
- (o) "EPB" means the Trust Territory Environmental Protection Board.
- (p) "Fungus" means all non-chlorophyll-bearing thallophytes including rusts, smuts, mildews, bacteria, molds and yeasts, except those on or living in man or other animals and those on or in processed foods, beverages, or pharmaceuticals.
- (q) "General Use Pesticide" means a pesticide other than one designated as a restricted use pesticide.
- (r) "Hazard" means a situation where there exists a probability that a given pesticide will cause injury or have an adverse effect on the environment.
- (s) "Importation" means causing to be brought into the Trust Territory.
- (t) "Inert Ingredient" means an ingredient which is not an active ingredient.
- (u) "Ingredient Statement" means the name and percentage of each active ingredient, and the total percentage of all inert ingredients in the pesticide.

(v) "Insect" means invertebrate animals belonging to the class Insecta or other allied classes of arthropods, such as Arachnida and Chilopoda.

(w) "Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.

(x) "Labeling" means all labels and all other written, printed, or graphic matter accompanying the pesticide, or to which reference is made on the label or in literature accompanying the pesticide, except to current official publications of the Environmental Protection Agency, the United States Departments of Agriculture and Interior, the Department of Health, Education, and Welfare, state experiment stations, state agricultural colleges, and other similar Federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

(y) "Licensed Dealer" means any person who is licensed by the Administrator to sell or distribute restricted use pesticides.

(z) "Misbranded" means any pesticide if:

(1) its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular.

(2) its labeling bears instructions for a banned use.

(3) it is contained in a package or other container or wrapping which does not conform to standards established by the EPA.

(4) it is an imitation of, or is offered for sale under the name of, another pesticide.

(5) its label does not bear the EPA registration number.

(6) the labeling accompanying it does not contain, in English, instructions for use which are necessary, proper, and adequate for the protection of the public.

(7) the label does not contain warning or caution statements in English, which if complied with are adequate to protect health and the environment.

(8) the label does not bear an ingredient statement on the immediate container, or on the outside container or wrapper if such outside container or wrapper does not allow the ingredient statement on the immediate container to be clearly read.

(9) any additional label which may be required by the Administrator is not conspicuously displayed on each container.

(aa) "Nematode" means unsegmented roundworms of the class Nematoda which inhabit soil, water, plants, or plant parts.

(bb) "Person" means an individual, corporation, partnership, association, the Trust Territory or political subdivision thereof, Trust Territory Agency, Municipality, Commission, Foundation, or other institution or entity, whether public or private.

(cc) "Pest" means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life, or virus, bacteria, or other microorganism which the Administrator declares to be a pest.

(dd) "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or dessicant.

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

(ff) "Private applicator" means a certified applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person.

(gg) "Restricted Use Pesticide" means a pesticide, one or more uses of which have been restricted by regulation under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, or by the EPB under these regulations, and which bears on its label the phrase 'restricted use pesticide'.

(hh) "Rodent" means mammals of the order Rodentia, such as rats and mice.

(ii) "Sell or Distribute" means to distribute, sell, solicit, offer for sale, hold for sale, ship, or deliver for shipment in intradistrict commerce or between districts within the Trust Territory.

(jj) "Trust Territory" means the Trust Territory of the Pacific Islands.

(kk) "Virus" means any of a group of microscopic infective agents which cause diseases in plants and animals.

(ll) "Weed" means any plant growing where it is not wanted.

PART 2 ADMINISTRATION OF THE TRUST TERRITORY PESTICIDES REGULATIONS

The Administrator is authorized to take such action as may be necessary in the administration and enforcement of these regulations.

PART 3 UNLAWFUL ACTS

3.1 General

(a) Except as otherwise exempted in Part 3.2, it shall be unlawful for any person within the Trust Territory to import, sell or distribute, or receive and (having so received) deliver or offer to deliver, to any person:

(1) any pesticide which is adulterated or misbranded.

(2) any banned pesticide.

(b) It shall be unlawful for any person:

(1) to detach, alter, deface, or destroy, in whole or in part, any labeling, unless such action is taken with the approval of the Administrator to correct an improper label or labeling.

(2) to refuse to keep any records required pursuant to part 6, or to refuse to allow the inspection of any records or establishment pursuant to Part 6 or 10, or to refuse to allow the Administrator or his representative to observe pesticide use, investigate pesticide misuse, or take a sample of any pesticide pursuant to Part 10.

(3) to use any pesticide in a manner inconsistent with its labeling, unless using the pesticide under the provisions of an experimental use permit.

(4) to use any pesticide under an experimental use permit in a manner contrary to the provisions of such permit.

(5) to violate any order issued under Part 10.3.

(6) to violate any ban or prohibition issued under Part 8.2.

(7) to violate any revocation of registration of a pesticide to meet a special local need under Part 9.

(8) to knowingly falsify all or part of any application for certification, license, or experimental use permit, or any records required to be maintained pursuant to Part 6.

(9) to sell or distribute restricted use pesticides unless licensed under Part 5.

(10) to sell or distribute any restricted use pesticide to any person other than a licensed dealer or a certified applicator.

(11) to use, store, transport, mix, or discard any pesticide or the containers of such pesticide in such a way as to pose a hazard to human health or the environment.

(12) to use or apply restricted use pesticides unless certified under Part 4 or unless acting under the supervision of a certified applicator.

(13) to use for his or her own advantage or to reveal any information relative to formulas of products acquired in the administration of these regulations to persons other than proper officers or employees of the Trust Territory or U.S. Governments, or to courts in response to subpoena, or to physicians, or, in emergencies, to pharmacists or other qualified persons for use in the preparation of antidotes.

3.2 Exemptions. The penalties provided for a violation of Part 3.1(a) shall not apply to:

(a) any carrier while lawfully shipping, transporting, or delivering for shipment any pesticide, if such carrier upon request of any person duly designated by the Administrator shall permit such person to copy all of its records concerning such pesticide .

(b) any public official while engaged in the performance of his official duties.

(c) any person importing a pesticide for use under an experimental use permit, provided that the requirements of Part 11.5 and any additional requirements specified in the experimental use permit are met prior to any use of such pesticide.

(d) any person possessing, receiving, shipping or delivering to another person any pesticide while acting under the written instructions of or with the express written approval of the Administrator.

PART 4 CERTIFICATION OF APPLICATORS

4.1 Classes of Applicators. A certified applicator shall be classified as either a commercial applicator or a private applicator.

(a) Commercial Applicator. Any person who uses or supervises the use of restricted use pesticides for the production of agricultural commodities unless such use is in accordance with that specified in paragraph 4.1(b) shall be classified as a commercial applicator in the following category:

(1) Agricultural Pest Control.

i. Plant. This category includes commercial applicators using or supervising the use of restricted use pesticides in the production of agricultural crops, including vegetables, small fruits, tree fruits and nuts, as well as on grass lands and non-crop agricultural lands.

(b) Private Applicator. Any person who uses or supervises the use of restricted use pesticides for the purpose of producing any agricultural commodity on property owned or rented by him or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person shall be classified as a private applicator.

4.2 Standards for Certification of Commercial Applicators. Competence in the use and handling of pesticides shall be determined by written examination and, as appropriate, by demonstration, based upon standards which meet or exceed

those set forth below.

(a) General Standards for All Certified Commercial Applicators

(1) Label and Labeling Comprehension.

- i. The general format and terminology of pesticide labels and labeling.
- ii. The understanding of instructions, warnings, terms, symbols, and other information commonly appearing on pesticide labels.
- iii. Classification of the product, general or restricted.
- iv. Necessity for use consistent with the label.

(2) Safety. Factors including:

- i. Pesticide toxicity and hazard to man and common exposure routes.
- ii. Common types and causes of pesticide accidents.
- iii. Precautions necessary to guard against injury to applicators and other individuals in or near treated areas.
- iv. Need for and use of protective clothing and equipment.
- v. Symptoms of pesticide poisoning.
- vi. First aid and other procedures to be followed in case of a pesticide accident.
- vii. 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:

- i. Weather and other climatic conditions.
- ii. Types of terrain, soil, or other substrate.
- iii. Presence of fish, wildlife, and other non-target organisms.
- iv. Drainage patterns.

(4) Pests. Factors such as:

- i. Common features of pest organisms and characteristics of damage needed for pest recognition.
- ii. Recognition of relevant pests.

iii. Pest development and biology as it may be relevant to problem identification and control.

(5) Pesticides. Factors such as:

i. Types of pesticides.

ii. Types of formulations.

iii. Compatibility, synergism, persistence, and animal and plant toxicity of the formulations.

iv. Hazards and residues associated with use.

v. Factors which influence effectiveness or lead to such problems as resistance to pesticides.

vi. Dilution procedures.

(6) Equipment. Factors including:

i. Types of equipment and advantages and limitations of each type.

ii. Uses, maintenance and calibration.

(7) Application Techniques. Factors including:

i. Methods used to apply various formulations of pesticides, together with a knowledge of which technique of application to use in a given situation.

ii. Relationship of discharge and placement of pesticides to proper use, unnecessary use, and misuse.

iii. Prevention of drift and pesticide loss into the environment.

(8) Laws and Regulations. Applicable Trust Territory and Federal laws and regulations.

(b) Specific Standards of Competency for Commercial Applicators. Commercial applicators shall be particularly qualified with respect to the practical knowledge standards elaborated below:

(1) Agricultural Pest Control.

i. Plant. Applicators must demonstrate practical knowledge of crops grown and the specific pests of those crops on which they may be using restricted use pesticides. Practical knowledge is required concerning soil and water problems, pre-harvest intervals, re-entry intervals, phytotoxicity, and potential for environmental contamination, non-target injury, and community problems resulting from the use of restricted use pesticides in agricultural areas.

(c) Exclusion. The above standards do not apply to persons conducting laboratory research involving restricted use pesticides.

4.3 Standards for Certification of Private Applicators. As a minimum requirement for certification, a private applicator must show that he possesses a 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) Read and understand the label and labeling information, including the common name of pesticides he applied, pest(s) to be controlled, timing and methods of application, safety precautions, any pre-harvest or re-entry restrictions, and any specific disposal procedures.
- (c) Apply pesticides in accordance with label instructions and warnings, including the ability to prepare the proper concentration of pesticide to be used under particular circumstances taking into account such factors as area to be covered and the quantity dispersed in a given period of operation.
- (d) Recognize local environmental situations that must be considered during application to avoid contamination.
- (e) Recognize poisoning symptoms and procedures to follow in case of a pesticide accident.

4.4 Determination of Competency

(a) Commercial Applicators. Application for certification as a commercial applicator shall be made to the Administrator on a form provided for that purpose. As a minimum qualification for certification, the applicant must pass a written examination at a time and place designated by the Administrator. The examination will be based on standards contained in Part 4.2.

(b) Private Applicators. Application for certification as a private applicator shall be made to the Administrator on a form provided for that purpose. The applicant may qualify for certification by passing a written examination or by satisfactorily demonstrating the ability to use pesticides and application equipment correctly and by passing an oral examination. Such examinations and demonstration requirements shall be based on standards contained in Part 4.3.

4.5 Duration of Certification and Renewals. All certificates shall be valid for a period of three (3) years from the date of issuance unless earlier suspended or revoked by the Administrator. Application for renewal shall be made to the Administrator on a form provided for that purpose. The applicant shall be required to pass another examination and/or give a demonstration of proficiency in order to ensure that certified applicators continue to meet the requirements of changing technology and to assure a continuing level of competency and ability to use pesticides safely and properly.

4.6 Standards for Supervision of Non-Certified Applicators by Certified Private and Commercial Applicators. Restricted use pesticides may be applied by a non-certified but competent person acting under the direct supervision of a certified applicator. The availability of the certified applicator must be directly related to the hazard of the situation. In situations where the

certified applicator is not required to be physically present, 'direct supervision' shall include verifiable instruction to the competent person including, but not limited to, detailed guidance for applying the pesticide properly and provisions for contacting the certified applicator in the event he is needed. In other situations, and as required by the label, the actual physical presence of a certified applicator may be required when application is made by a non-certified applicator. In either situation, responsibility for proper application shall remain with the certified applicator.

4.7 Temporary Certification. The Administrator may issue a temporary certificate valid for a period not to exceed ninety (90) days to a person who holds a valid pesticide applicator's certificate issued in another state or territory of the United States having an approved state plan. Written application for temporary certification shall be made to the Administrator on a form provided for that purpose. Temporary certification shall be limited to the same type and category of pesticide use for which the applicant is certified in the other state or territory. Except under such special circumstances as the Administrator may recognize, a temporary pesticide applicator certificate shall be non-renewable.

4.8 Denial, Suspension or Revocation, and Appeal

(a) Denial. The Administrator may deny certification to:

- (1) any person who is not a resident of the Trust Territory.
- (2) any person whose certificate is suspended or revoked.

(3) any person who has been found to be in violation of any part of these regulations.

(b) Suspension or Revocation. Any certificate issued pursuant to this part may be suspended or revoked by the Administrator for violation of any condition of the certificate or of these regulations, or upon assessment of civil or criminal penalty against the holder of the certificate under Section 14 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended.

(c) Appeal. Any person who has been denied certification pursuant to Part 4.3(a) or whose certificate has been suspended or revoked may appeal to the EPB to set aside such denial, suspension, or revocation.

PART 5 LICENSING OF RESTRICTED USE PESTICIDE DEALERS

Every person engaged in the sale or distribution of restricted use pesticides and every person importing restricted use pesticides who is not a certified applicator shall obtain a license from the Administrator. Application for a license shall be made to the Administrator on a form provided for that purpose and shall be accompanied by a fee of \$5.00, which is non-refundable, except that no fee is required of the Government of the Trust Territory. Each license shall expire one (1) year from the date of issue.

A dealer's license may be suspended or revoked by the Administrator for any violation of these regulations whether committed by the dealer or an employee thereof. Any such violation during the three (3) years preceding the date of

application for a license may serve as grounds for rejection of same.

PART 6 RECORDS

6.1 Records to be Kept by Commercial Applicators. Each certified commercial applicator shall keep and maintain for a period of not less than two (2) years true and accurate records of the use and application of restricted use pesticides, including the following information:

(a) At the time of purchase or receipt of a restricted use pesticide, a record of:

- (1) the brand name, quantity, and EPA registration number of the product.
- (2) the name and address of the person from whom purchased or received.
- (3) the date of purchase or receipt.

(b) At the time of application of a restricted use pesticide, a record of:

(1) the brand name and EPA registration number of the product, and the date of purchase or receipt.

(2) the amount of product used and, if the product is to be mixed with another substance prior to use, the name of the other substance and the total amount of mixture prepared.

(3) the site of use and purpose of use.

(4) the date and time of application.

(5) the signature of the certified applicator and, if the pesticide is used by a person acting under the supervision of the certified applicator, the name of the user.

(c) At the time of disposal of a restricted use pesticide product, container, or mixture, a record of:

(1) the brand name and EPA registration number of the product, and the date of purchase or receipt.

(2) the amount of product or mixture disposed, or the number and type of containers disposed, and, if a mixture, the concentration of active ingredient(s).

(3) the date, site, and method of disposal.

6.2 Records to be Kept by Licensed Dealers. Each licensed dealer shall keep and maintain for a period of not less than two (2) years true and accurate records of the receipt and sale or distribution of restricted use pesticides, including the following information:

(a) Upon receipt of a restricted use pesticide, a record of:

- (1) the brand name, EPA registration number, and number of containers.

(2) the net weight of each container, and the type of container construction, e.g., glass, metal, paper carton, paper bag, hard plastic, etc.

(3) the name and address of the person from whom purchased or received.

(4) the date of receipt.

(b) Upon sale or distribution of a restricted use pesticide, a record of:

(1) the name, address, and certification number or dealer's license number of the person purchasing or receiving the pesticide.

(2) the date of sale or distribution.

(3) the brand name, EPA registration number, and quantity of product sold or distributed.

(4) the signature of the person selling or distributing the pesticide.

6.3 Additional Records. Additional records, as found to be necessary for the enforcement of these regulations, may be prescribed by the Administrator with the approval of the EPB.

6.4 Access to Records. The Administrator shall have access to such records at any reasonable time to examine, copy, or make copies of such records for the purpose of carrying out the provisions of these regulations. Unless required for the enforcement of the regulations, such information shall be confidential and, if summarized, shall not identify an individual person.

PART 7 IMPORTATION

7.1 Notice of Intent. Persons desiring to import a pesticide into the Trust Territory shall submit a notice of intent to the Administrator on a form provided for that purpose prior to arrival of the pesticide shipment. The Administrator shall then instruct his representative in the district in which the shipment is to be delivered as to the disposition of the shipment. Such instructions may include, but are not limited to, directions to release the shipment to the consignee, detain the shipment for sampling, deny delivery to the consignee, or impound the shipment.

7.2 Inspection. Upon arrival of the shipment, the Administrator's representative shall inspect the pesticide and shall compare the results of the inspection and the entry papers for the shipment with the information provided by the importer on the notice of intent. If no discrepancies are noted and the Administrator has not instructed to the contrary, the shipment shall be released. However, any discrepancies shall be reported to the Administrator, and the shipment may be detained until such discrepancies are resolved.

7.3 Shipments Arriving Without Notice. When a shipment of pesticide arrives in the Trust Territory and the district representative of the Administrator has not been provided with instructions for disposition, the shipment shall be detained and the Administrator shall be notified. The Administrator shall then determine whether a notice of intent to import pesticides has been submitted and shall provide instructions for disposition of the shipment.

7.4 Detained, Denied, and Impounded Shipments. All expenses arising from detainment of a pesticide shipment due to failure of the importer to submit a notice of intent to the Administrator in a timely manner shall be payable by the importer. Failure of the importer to pay assessed costs may result in impoundment of the shipment or of any future importation made by the importer.

Any pesticide shipment for which delivery is denied shall be disposed of by the Administrator if not exported by the consignee within ninety (90) days of denial of delivery. All expenses for storage, cartage, labor, and shipping shall be payable by the consignee and in default of such payment shall constitute a lien against any further importation made by the importer.

If the owner of an impounded pesticide shipment does not satisfy any and all liens against such shipment within ninety (90) days after notification in writing of the amount of said liens, the Administrator shall instruct the Attorney General to enter into such action as may be necessary to effect transfer of ownership of the shipment to the Administrator for satisfaction of said liens.

PART 3 RESTRICTING AND BANNING OF PESTICIDES.

8.1 Restricting of Pesticides. The EPB may restrict any use of any pesticide to application by a certified applicator or a person acting under the supervision of a certified applicator when misuse by non-certified applicators has produced or is deemed likely to produce substantial adverse effects on human health or the environment. Any pesticide having had one or more uses restricted by the EPB shall be a 'restricted use pesticide' for the purposes of these regulations and must be labeled as such.

8.2 Banning of Pesticides. The EPB may prohibit the importation, sale, distribution, and use of any pesticide or prohibit a specific use or uses of any pesticide when such use or uses has produced or is deemed likely to produce substantial adverse effects on human health or the environment. For the purposes of these regulations, any use suspended or cancelled by the EPA shall constitute a banned use.

PART 9 REVOCATION OF REGISTRATION OF A PESTICIDE USED TO MEET A SPECIAL LOCAL NEED

Registration of a pesticide to meet a special local need under Section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, may be revoked by the EPB if:

- (a) the pesticide is found to produce substantial adverse effects on human health or the environment; or,
- (b) the special local need for which the pesticide was registered no longer exists, or can be met by another pesticide which is more acceptable in terms of greater safety or effectiveness.

Whenever practical, the EPB shall consult with the EPA prior to revoking a registration. Having revoked a registration, the EPB may allow continued sale and use of existing stocks of the pesticide if to do so would not be inconsistent with the purposes of these regulations.

PART 10 ENFORCEMENT

10.1 Rights of Entry. For purposes of enforcing the provisions of these regulations, the Administrator is authorized:

- (a) to enter, at reasonable times, any establishment or other place where pesticides are stored, held for distribution or sale, or used, for the purpose of:
 - (1) inspecting any pesticide, pesticide container, labels and labeling, or application equipment.
 - (2) collecting samples of any pesticide, suspected pesticide, or pesticide labeling.
 - (3) observing operations involving the use or disposal of any pesticide, or the disposal of pesticide containers.
 - (4) investigating suspected misuse of any pesticide.
- (b) to enter any premises at any time if there is substantial reason to believe that any pesticide used, stored, or otherwise present on such premises is, through accident, carelessness, or other circumstance, producing adverse effects on human health or the environment, for the purpose of taking such action as may be necessary to prevent or mitigate further adverse effects.

10.2 Seizure. A pesticide may be seized for condemnation by the Administrator if:

- (a) it is adulterated or misbranded.
- (b) in the case of a restricted use pesticide, it is found in the possession of a person other than a licensed dealer or an employee of such dealer, or a certified applicator or a person acting under the supervision of a certified applicator.

No notice or hearing shall be required prior to the seizure. Proceedings for condemnation shall be held in the High Court of the Trust Territory in the district in which the pesticide was seized. If the pesticide is condemned it shall, after entry of the decree, be disposed of by the Administrator, and court costs and fees, storage, and other proper expenses shall be awarded against the owner of the pesticide. If the pesticide is disposed of by sale, the proceeds shall be paid into the treasury of the Trust Territory. However, upon payment of the costs of the condemnation proceedings and the execution and delivery of a good and sufficient bond conditioned that the pesticide shall not be sold or otherwise disposed of contrary to the provisions of these regulations, the court may direct that such pesticide be delivered to the owner.

10.3 Stop Sale, Etc., Orders. Whenever any pesticide is found by the Administrator in any district and there is reason to believe on the basis of inspection or tests that such pesticide is in violation of any of the provisions of these regulations, or that such pesticide has been or is intended to be distributed or sold in violation of any such provisions, or when the EPA registration of the pesticide has been cancelled, or when the Territorial registration of a pesticide to meet a special local need is disapproved by the EPA or revoked by

the EPB, the Administrator may issue a written or printed 'stop sale, use, or removal' order to any person who owns, controls, or has custody of such pesticide, and after receipt of such order no person shall sell, use, or remove the pesticide described in the order except in accordance with the provisions of the order.

PART 11 EXPERIMENTAL USE PERMITS

11.1 Application for Experimental Use Permit. Persons wishing to conduct small scale laboratory or field tests of an unregistered pesticide use must obtain an experimental use permit prior to conducting such tests. The application for the experimental use permit must contain:

- (a) the name, address, and qualifications of the applicant.
- (b) a description of the proposed experiment, including the amount of pesticide to be used, the type of pest or organism to be experimented with, the crop or animal for which the pesticide is to be used, the location at which it is proposed to conduct the experiment, and the duration of the testing program.
- (c) the brand name or designation of the pesticide, ingredient statement, name and address of the manufacturer, and amount of pesticide to be purchased or requested.
- (d) data regarding the toxicity of the product, precautions to be taken for the protection of those who may handle or be exposed to the experimental formulations, and instructions for the treatment of poisoning or injury resulting from ingestion, inhalation, or other exposure to the pesticide.
- (e) if the pesticide is to be tested in any place likely to be frequented by people not directly associated with the testing, a description of the measures that will be taken to prevent exposure of such people to the pesticide.
- (f) when food or feed is likely to be contaminated, either a full statement of the action which will be taken to prevent the food or feed from being consumed, except by laboratory or experimental animals, or convincing evidence that the proposed use will not result in residue which would be hazardous to man, other animals, or the environment.
- (g) data regarding the environmental hazards associated with the proposed use of the pesticide, including its biological half-life, and a description of the precautions to be taken for the protection of the environment.
- (h) the EPA registration number, if any uses of the product are registered with the EPA.
- (i) a statement that the pesticide will be used for experimental purposes only.
- (j) a statement indicating the method of disposal of any unused experimental pesticides.

11.2 Restrictions. The Administrator may limit the quantity of pesticide to be purchased or requested for experimental use and may make such other restrictions to the permit as he may determine to be necessary for the protection

of the public and the environment.

11.3 Denial. The Administrator may refuse to issue an experimental use permit if any information required in Part 11.1 is not furnished in the application for such permit, or if the information furnished is deemed insufficient to insure that adequate precautions will be taken for the protection of the public and the environment, or if the Administrator determines that the applicant is not qualified by education and/or experience to undertake the proposed program.

11.4 Duration of Permits. Unless revoked by the Administrator, an experimental use permit shall be effective for a specified period of time. The duration of the permit shall be determined by the nature of the proposed testing program and may be extended upon request if circumstances warrant.

11.5 Special Label Requirements. If the label of the pesticide to be tested does not bear an EPA registration number, additional labels shall be affixed as necessary so that the following information is displayed clearly and in English on the outside of each container of experimental formulation:

- (a) the prominent statement 'For Experimental Use Only'.
- (b) a warning or caution statement which, if complied with, is adequate for the protection of those who may handle or be exposed to the experimental formulation.
- (c) the name and address of the holder of the experimental use permit.
- (d) the name or designation of the experimental formulation.
- (e) such other statements or information as may be required by the experimental use permit.

11.6 Reports. The holder of an experimental use permit shall report to the Administrator:

- (a) immediately, incidents of adverse effects on human health or the environment resulting from use of or exposure to a pesticide formulation covered by the permit.
- (b) within thirty (30) days after termination of experimental use, that such use has been terminated.
- (c) within thirty (30) days after disposal of unused experimental pesticide, the method and site of disposal, and the quantity of pesticide discarded.

11.7 Revocation. The Administrator may revoke an experimental use permit at any time upon finding of violation of the terms or conditions of such permits or upon finding that the terms or conditions are inadequate to prevent unreasonable risk to human health or the environment.

PART 12 PENALTY FOR VIOLATION

Any person who violates these regulations shall be subject to a fine of not more than \$10,000 or be imprisoned for not more than one (1) year, or both.

PART 13 RESTRICTED USE PESTICIDES

13.1 Pesticide Use Classification. The following uses of pesticide products containing the active ingredients specified are classified for restricted use.

| <u>Active Ingredient</u> | <u>Formulation</u> | <u>Restricted Use</u> |
|--------------------------|---|-------------------------------------|
| Acrolein | As sole active ingredient. | All uses. |
| Acrylonitrile | In combination with carbon tetra-chloride. | All uses. |
| Aldicarb | As sole active ingredient. | Ornamental uses (indoor & outdoor). |
| Allyl alcohol | All formulations. | All uses. |
| Aluminum phosphide | As sole active ingredient. | All uses. |
| Azinophos methyl | All liquids with a concentration greater than 13.5%. | All uses. |
| Calcium cyanide | As sole active ingredient. | All uses. |
| Carbofuran | All concentrate suspensions and wettable powders 40% and greater. | All uses. |
| Chlorfenvinphos | All concentrate solutions or emulsifiable concentrates 21% and greater. | All uses. |
| Clonitralid | All wettable powders 70% and greater. All granulars and wettable powders. | All uses. Molluscide uses. |
| Demeton | 1% fertilizer formulation; all granular formulations, emulsifiable concentrates, and concentrated solutions. | All uses. |
| Dioxathion | All concentrate solutions or emulsifiable concentrates greater than 30%.* All solutions 3% and greater.* | All uses. Domestic uses. |
| Disulfoton | All emulsifiable concentrates 65% and greater; all emulsifiable concentrates and concentrate solutions 21% and greater with fensulfothion | All uses. |

* Percentages given are the total of dioxathion plus related compounds

| <u>Active Ingredient</u> | <u>Formulation</u> | <u>Restricted Use</u> |
|--------------------------|---|--|
| | 43% and greater; all emulsifiable concentrates 32% and greater in combination with 32% fensulfothion and greater. | |
| Endrin | All emulsions, dusts, wettable powders, pastes, and granular formulations. | All uses. |
| Ethoprop | Emulsifiable concentrates 40% and greater. | All uses. |
| Ethyl parathion | All granular, dust, and fertilizer formulations, wettable powders, emulsifiable concentrates, concentrated suspensions, and concentrated solutions. | All uses. |
| Fenamiphos | Emulsifiable concentrates 35% and greater. | All uses. |
| Fensulfothion | Concentrate solutions 63% and greater; all emulsifiable concentrates and concentrate solutions 43% and greater with disulfoton 21% and greater; all emulsifiable concentrates 32% and greater in combination with disulfoton 32% and greater. Granular formulations 10% and greater. | All uses. Indoor uses (greenhouse). |
| Fluoroacetamide/1081 | As sole active ingredient in baits. | All uses. |
| Fonofos | Emulsifiable concentrates 44% and greater. | All uses. |
| Hydrocyanic acid | As sole active ingredient. | All uses. |
| Methomyl | As sole active ingredient in 1% to 2.5% baits (except 1% fly bait); all concentrated solution formulations and all 90% wettable powder formulations not in water soluble bags. | All uses. |
| Methyl bromide | All formulations in containers greater than 1.5 lbs; formulations containing no indicator and packaged in quantities of 1.5 lbs or less per container. | All uses. |

| <u>Active Ingredient</u> | <u>Formulation</u> | <u>Restricted Use</u> |
|---|---|---|
| Methyl parathion | All formulations. | All uses. |
| Mevinphos | All emulsifiable concentrates and liquid concentrates; psycodid filter fly liquid formulations and 2% dusts. | All uses. |
| Monocrotophos | Liquid formulations 19% and greater. | All uses. |
| Paraquat (dichloride) and paraquat bis (methyl sulfate) | All formulations and concentrations except those listed below: Pressurized spray formulations containing 0.44% paraquat bis (methyl sulfate) and 15% petroleum distillates as active ingredients. Liquid fertilizers containing concentrations of 0.025% paraquat dichloride and 0.03% atrazine, 0.03% paraquat dichloride and 0.37% atrazine, or 0.04% paraquat dichloride and 0.49% atrazine. | All uses. All uses restricted except spot weed and grass control. No uses restricted. |
| Phorate | Liquid formulations 65% and greater. | All uses. |
| Phosacetim | Baits 0.1% and greater. | All uses. |
| Phosphamidon | Liquid formulations 75% and greater; dust formulations 1.5% and greater. | All uses. |
| Picloram | All formulations and concentrations except Tordon 101R. Tordon 101R forestry herbicide containing 5.4% picloram and 20.9% 2,4-D. | All uses. All uses restricted except control of unwanted trees by cut surface treatment. |
| Sodium cyanide | All capsules and ball formulations. | All uses. |
| Sodium fluoroacetate | All solutions and dry baits. | All uses. |
| Strychnine | All dry baits, pellets, and powder formulations greater than 0.5%. All dry baits, pellets, and powder formulations. All dry baits, pellets, and powder formulations 0.5% and below. | All uses. All uses calling for burrow builders. All uses except subsoil. |

| <u>Active Ingredient</u> | <u>Formulation</u> | <u>Restricted Use</u> |
|--------------------------|--|-----------------------|
| Sulfotepp | Sprays and smoke generators. | All uses. |
| Tepp | Emulsifiable concentrate formulations. | All uses. |

13.2 Additional Restricted Uses. Any other pesticide or pesticide formulation classified for restricted use under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, shall be a restricted use pesticide for the purposes of these regulations.

13.3 List of Restricted Use Pesticides. The Administrator shall prepare a list of all pesticides or pesticide formulations classified for restricted use and shall amend such list whenever necessary. Such list shall be made available to pesticide dealers, certified pesticide applicators, and to any person requesting such list.

PART 14 SEVERABILITY CLAUSE

If any provision of these regulations or the application of any provision of these regulations to any person or circumstance is held invalid, the application of such provision to other persons or circumstances and the remainder of this regulation shall not be affected thereby.

PART 15 DATE OF EFFECT

These regulations shall become effective at one minute past midnight on August 1, 1980.

PART 16 REPEAL OF FORMER REGULATIONS

These regulations repeal the former Trust Territory Pesticides Regulations (Title 63, Chapter 13, Subchapter IV) which were made effective by public notice on August 19, 1979.