

## Chapter 06

### PESTICIDE REGULATION

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## I. GENERAL PROVISIONS

### 24.0601 Words in singular form.

Words used in the singular form in this chapter shall include the plural, and vice versa as the case may be.

**History:** Rule 3-85, eff 9 Jul 85, § 1.

### 24.0602 Terms defined and construed.

All terms used in this chapter shall have the meanings set forth for such terms in the Act. In addition, as used in this section, the following terms shall have the meanings stated below:

- (a) "Act" means the American Samoa Pesticide Act of 1979.
- (b) "Agricultural commodity" means any plant, or part thereof, or animal, or animal products, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation or other use by man or animals.
- (c) "Certification" means the recognition by a certifying agency that a person is competent and thus authorized to use or supervise the use of restricted use pesticides.
- (d) "Certification standard " means a requirement for certification.
- (e) "Common exposure route" means a likely way (oral, dermal, respiratory) by which a pesticide may reach and/ or enter the organism.
- (f) "Forest" means a concentration of trees and related vegetation in nonurban areas sparsely inhabited by and infrequently used by humans, characterized by natural terrain and drainage patterns.
- (g) "Hazard" means a probability that a given pesticide will have an adverse effect on man or the environment in a given situation; the relative likelihood of danger or ill effect being dependent on a number of interrelated factors present at any given time.
- (h) "Host" means any plant or animal on, or in which another lives for nourishment, development, or protection.
- (i) "Nontarget organism " means a plant or animal other than the one against which the pesticide is applied.

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

(k) "Pesticide vendor" means any person selling pesticides for general and/or restricted use.

(l) "Practical knowledge" means the possession of pertinent facts and comprehension together with the ability to use them in dealing with specific problems and situations.

(m) "Protective equipment" means clothing of any other materials or devices that shield against unintended exposure to pesticides.

(n) "Qualified pesticide sales manager" means a person in charge of a sales outlet of restricted use pesticides and who has successfully passed an examination to be certified for that position.

(o) "Regulated pest" means a specific organism considered by a state or federal agency to be a pest requiring regulatory restrictions, regulations or control procedures in order to protect the host, man and/or his environment.

(p) "Sales outlet" means a geographical location within the territory where a stock of restricted use pesticides is kept for sale and where records of such sales are kept.

(q) "Toxicity" means the property of a pesticide to cause any adverse physiological effects.

**History:** Rule 3-85, eff 9 Jul 85, § 2.

#### **24.0603 Administration.**

The director is authorized to take such action as may be necessary in the administration and enforcement of the Act and this chapter.

**History:** Rule 3-85, eff 9 Jul 85, § 3.

## II. PESTICIDE LICENSING AND SALE

### 24.0610 Licensing.

- (a) All pesticides used and sold in American Samoa must be registered by the EPA.
- (b) All pesticides used and sold in American Samoa must be licensed with the Department of Agriculture, American Samoa government.
  - (1) Application for licensing of a pesticide with ASG must be submitted by a pesticide vendor in writing on forms provided by the Department of Agriculture, to the director with copies of labels and labeling of such formulations that would be sold to the public.

**History:** Rule 3-85, eff 9 Jul 85, § 4.

### 24.0611 Label requirements.

- (a) All pesticides used and sold in American Samoa shall bear a label conforming to the information required by 40 CFR S 162.10.
- (b) All statements, words and other information required to appear on the label or labeling of any pesticide shall be in the English language; provided, however, that the director may require the use of the Samoan language version of the label or labeling in addition to English.

**History:** Rule 3-85, eff 9 Jul 85, § 5.

### 24.0612 Experimental use permits.

- (a) Because of the delicate nature of our island territory , pesticides not registered with EPA will not be considered for experimental use permits at any time under any circumstances.
- (b) Issuance of experimental use permits shall be confined to pesticides registered by EP A for a use not previously approved in the registration of the pesticide (SLN). These permits issued by the director shall be valid for a period not longer than one year.
- (c) The issuance of an experimental use permit and the subsequent experimentation shall comply with provisions as specified by 40 CFR 172 and its subparts.

**History:** Rule 3-85, eff 9 Jul 85, § 6.

### 24.0613 Restricted use pesticide dealer license.

(a) No person shall sell a restricted use pesticide unless such person has obtained a license from the Department of Agriculture which shall expire on December 31 of each year and shall be renewed on or before January 1 of each year. A license shall be required for each sales outlet located within the territory. Application for a dealer license shall be accompanied by a \$25 annual license fee for each principal sales outlet and a fee of \$10 for each branch sales outlet and shall be on a form prescribed by the director and shall include the name and address of the applicant, the location and address of principal and all branch sales outlets and the names of the qualified pesticide sales manager at each sales outlet.

(b) All sales outlets of restricted use pesticides shall have a qualified pesticide sales manager. The names of such qualified sales manager will be submitted together with the application for a dealer license for the sales outlet. The director will be notified forthwith of any changes of personnel in this position.

(c) Persons seeking to be certified as a qualified pesticide sales manager shall apply for examination on forms provided by the director. To be certified, an applicant shall pass a written examination at a time and place designated by the director. Examinations shall test the applicant's knowledge of pesticide laws and regulations, pesticide hazards, proper usage, safe storage and distribution and disposal methods.

**History:** Rule 3-85, eff 9 Jul 85, § 7.

#### **24.0614 Dealer's records and reports of restricted use pesticide sale.**

(a) Licensed dealers shall keep a record of each sale of restricted use pesticides at each sales outlet on forms provided by the director. Such records will be prepared in duplicate and shall show the name and address of purchaser, date of sale, identity of the formulation or brand sold and its quantity, certification number of the purchaser, intended use, and selling clerk's signature.

(b) The original copy of the sales record required under subsection (a) of this section shall be submitted to the director at the end of each month and the duplicate copy shall be kept at the sales outlet where the sales were made for a period of one year.

**History:** Rule 3-85, eff 9 Jul 85, § 8.

#### **24.0615 Storage, display and sales of pesticides.**

(a) No pesticide shall be stored, displayed, placed for sale, or transported under conditions where food and food containers, feed or any other products are likely to become contaminated and may create a hazard or cause injury to humans, vegetation, crops, livestock, wildlife, beneficial insects and aquatic life.

(b) Pesticides labeled for pest control in lawns and gardens and other outdoor uses shall be offered for sale only in garden supply centers or in other retail outlets that have separate and distinct sections for sale. Such lawn and garden pesticide products shall also be displayed and

sold in a separate section from other home and garden pesticide products formulated and registered for use inside the home. A prominent sign with legible bold print not less than one-half inch in height to read "PESTICIDE PRODUCTS FOR GARDEN AND LAWN" or "OUTDOOR USE ONLY - IT IS UNLAWFUL AND MAY BE HAZARDOUS TO USE INSIDE YOUR HOME", shall be posted in the area where such lawn and garden pesticide products are displayed and sold.

(c) After December 31, 1980, no restricted use pesticides shall be sold to any person who is not certified as an applicator.

**History:** Rule 3-85, eff 9 Jul 85, § 9.

#### **24.0616 Disposal of pesticides and empty containers.**

(a) Pesticides may not be disposed of so as to create hazard. The owner of such pesticides shall notify or contact the director whenever information or assistance on the proper means of disposal is needed.

(b) Empty containers of pesticides shall be disposed of in a manner consistent with its label or labeling.

**History:** Rule 3-85, eff 9 Jul 85, § 10.

#### **24.0617 Restricted use pesticides.**

(a) Any pesticide or pesticide formulation classified as a restricted use pesticide by the EPA shall be considered as such in this chapter; however, the director under the provision of 24.1207 of the Act, may declare additional pesticides for restricted use within the territory.

(b) The director shall publish a list of all pesticides or pesticide formulations classified for restricted use and amend the list whenever necessary. Such list shall be made available to the public.

**History:** Rule 3-85, eff 9 Jul 85, § 11.

### **III. PESTICIDE USE**

#### **24.0620 Certification of applicators for restricted pesticide use.**

The following classes, procedures, conditions and standards for certification shall apply:

(a) Classes of Applicators.

(1) Commercial Applicators.

(A) Agricultural Pest Control.

(i) Plant. This category includes commercial applicators using or supervising the use of pesticides in production of agricultural crops including but not limited to taro, bananas, tobacco, yams, vegetables, small fruits, tree fruits and nuts, as well as on grasslands and noncrop agricultural lands.

(ii) Animal. This category includes commercial applicators using or supervising the use of restricted use pesticides on animals, including but not limited to beef, cattle, dairy cattle, swine, sheep, horses, goats, poultry and other livestock 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, or engaged in large-scale use of pesticides are included in this category.

(B) Forest Pest Control. This category includes commercial applicators using or supervising the use of restricted use pesticides in forests, forest nurseries and forest seed producing areas.

(C) Ornamental and Turf Pest Control. This category includes commercial applicators using or supervising the use of restricted use pesticides to control pests in the maintenance and production of ornamental trees, shrubs, flowers and turf.

(D) Seed Treatment. This category includes commercial applicators using or supervising the use of restricted use pesticides on seeds.

(E) Aquatic Pest Control. This category includes commercial applicators using or supervising the use of any restricted use pesticide purposefully applied to standing or running water, excluding applicators engaged in public health related activities included in subdivision H of this subsection.

(F) Right-of-Way Pest Control. This category includes commercial applicators using or supervising the use of restricted use pesticides in the maintenance of public roads, electric powerlines, pipelines, wells and other similar areas.

(G) Industrial, Institutional, Structural and Health Related Pest Control. This category includes commercial applicators using or supervising the use of restricted use pesticides in, on, or around food handling establishments, human dwellings, including warehouses and any other structures and adjacent area, public or private; and for the protection of stored, processed or manufactured products.

(H) Public Health Pest Control. This category includes territorial, federal or other governmental employees using or supervising the use of restricted use pesticides in public health programs for the management and control of pests having medical and public health importance.

(I) Regulatory Pest Control. This category includes territorial, federal or other governmental employees using or supervising the use of restricted use pesticides in the control of regulated pests.

(1) Demonstration and Research Pest Control.

(i) This category includes

(a) individuals who demonstrate to the public the proper use and techniques of application of restricted use pesticides or supervise such demonstration, and

(b) persons conducting field research with pesticides, and in doing so, use or supervise the use of restricted use pesticides. Included in the first group are such persons as extension specialists, commercial representatives demonstrating pesticide products and those individuals demonstrating methods used in public programs. The second group includes territorial, federal and commercial persons conducting field research on or utilizing restricted use pesticides.

(ii) Private Applicators. This class includes certified persons using or supervising 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 his employer or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of person.

(b) Standards for Certification of Commercial Applicators.

(1) Determination of Competency. Competence in the use and handling of pesticides shall be determined upon written examination and as appropriate, upon demonstration based upon standards which meet those set forth below.

(2) General standards for all categories of certified 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 subcategory of the applicator's certification and the following areas of competency.

(i) Label and Labeling Comprehension.

1. The general format and terminology of pesticide label and labelling.
2. The understanding of instructions, warnings, terms symbols, and other information commonly appearing on the pesticide label.
3. Classification of the product, general, or restricted.
4. Necessity for use consistent with the label.

(ii) Safety. Factors including:

1. Pesticide toxicity and hazard to man and common exposure routes.
2. Common types and causes of pesticide accidents.

3. Precautions necessary to guard against injury to applicators and other individuals in or near treated areas.

4. Need for and use of protective clothing and equipment.

5. Symptoms of pesticide poisoning.

6. First aid and other procedures to be followed in case of a pesticide accident.

7. Proper identification, storage, transport, handling, mixing procedures and disposal methods for pesticides and used pesticide containers, including precautions to be taken to prevent children from having access to pesticides and pesticide containers.

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

1. Weather and other climatic conditions.

2. Types of terrain, soil or other substrates.

3. Presence of fish, wildlife and other non-target organisms,

4. Drainage patterns.

(iv) Pests. Factors such as:

1. Common features of pest organisms and characteristics of damage needed for pest recognition.

2. Recognition of relevant pests.

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

(v) Pesticides. Factors such as:

1. Types of pesticides.

2. Types of formulations.

3. Compatibility, synergism, persistence and animal and plant toxicity of the formulation.

4. Hazards and residues associated with use.

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

6. Dilution procedures.

(vi) Equipment. Factors including:

1. Types of equipment and the advantages and limitations of each type.

2. Uses, maintenance and calibration.

(vii) Application techniques. Factors including:

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

(viii) Laws and regulations. Applicable territorial and federal laws and regulations.

(3) Special standards of competency for categories of commercial applicators. Commercial applicators in each category shall be particularly qualified with respect to the practical knowledge standards elaborated below.

(A) Agricultural Pest Control.

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

(ii) 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 most animals will frequently be used as food. Further, the applicator must know the relative hazards associated with such factors as formulation, application techniques, age of animals, stress and extent of treatment.

(B) 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 frequently include aquatic situations and harbor wildlife, the applicator must demonstrate knowledge of control methods, which will minimize the possibility of secondary problems. Proper use of specialized equipment must be demonstrated especially as it may relate to meteorological factors and adjacent land use.

(C) Ornamental and Turf Pest Control. Applicators should demonstrate a knowledge of problems associated with the production and maintenance of ornamental trees, shrubs, plantings and turf, including cognizance of potential phytotoxicity, drift and persistence beyond the intended period of pest control. They must demonstrate special knowledge of

hazards to humans, pets and other domestic animals associated with the restricted use pesticides utilized in this category.

(D) Seed Treatment. Applicators should demonstrate knowledge of types of seeds that require chemical protection against pests and special understanding of factors such as seed coloration and carriers and surface active agents which influence pesticide binding and may affect germination. They must demonstrate knowledge of hazards associated with handling and misuse of treated seed such as inadvertent introduction of treated seeds into food and feed use channels, as well as proper disposal of unused treated seeds.

(E) Aquatic Pest Control. Applicators should demonstrate special understanding of the secondary effects which can be caused by improper application rates, incorrect formulations, and faulty application of restricted use pesticides used in this category. Certified commercial applicators should demonstrate special awareness of the possibility of oxygen depletion and an understanding of possible pesticide effects on fish, birds, beneficial insects and desirable plant and other organisms which may be present in aquatic environments. They should also demonstrate an understanding of limited area application.

(F) Right-of-Way Pest Control. Applicators should demonstrate specific knowledge of a wide variety of environments since rights-of- ways can traverse many different terrains, including waterways. They should demonstrate thorough knowledge of problems of runoff, drift, and excessive foliage destruction and should be able to immediately identify target organisms. They should demonstrate special knowledge of the nature of herbicides.

(G) Industrial, Institutional, Structural and Public Health Related Pest Control. Applicators must demonstrate a practical knowledge of a wide variety of pests including their life cycles, types of formulations appropriate for their control, and methods of application that avoid contamination of food, damage and contamination of habitat and exposure of people and pets. Since human exposure, including babies, children, and 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 category. Because health related pest control may involve outdoor applicators, applicators must also demonstrate practical knowledge of environmental conditions particularly related to this activity.

(H) 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 involved, and it is essential that they be known and recognized, and appropriate life cycles and habitats be understood as a basis for control strategy. These applicators shall have practical knowledge of a great variety of environments ranging from streams to those conditions found in buildings. They should also have practical knowledge of the importance and employments of such nonchemical control methods as sanitation, waste disposal, and drainage.

(I) Regulatory Pest Control. Applicators shall demonstrate practical knowledge of regulated pests, and the potential impact on the environment of restricted use pesticides used in suppression and eradication programs. They shall demonstrate knowledge of factors influencing introduction, spread and population dynamics of relevant pests. Their knowledge shall extend beyond that required by their immediate duties since their services are frequently

required in other areas of the territory where emergency measures are invoked to control regulated pests, and where individual judgements must be made in new situations.

(J) Demonstration and Research Pest Control. Persons demonstrating the safe and effective use of pesticides to other applicators and the public will be expected to meet comprehensive standards reflecting a broad spectrum of pesticide uses. Many different pest problem situations will be encountered in the course of activities associated with demonstration, and practical knowledge of problems, pests, and population levels occurring in each demonstration situation is required. Further, they should demonstrate an understanding of pesticide organism interactions and the importance of integrating pesticide use with other control methods.

(c) Standards for certification of private applicators.

(1) Competence in the use and handling of pesticides by a private applicator will be determined by procedures set forth below. A private applicator must show that he possesses a practical knowledge of 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 labelling information, including the common name of pesticides he applied; pest(s) to be controlled, timing and methods of application; safety precautions and preharvest 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, speed at which application equipment will be driven, and the quantity dispersed in a given period of operation.

(D) Recognized local environmental situations that must be considered during application to avoid contamination.

(E) Recognized poisoning symptoms and procedures to follow in case of a pesticide accident.

(2) Competence will be determined by written examinations.

(d) Commercial Applicator Recordkeeping Requirements. Commercial applicators in the categories (A) through (1) shall keep records of restricted use pesticides applied on every jobsite of their operation. Such records shall be made available for inspection to the director at his request. Recordkeeping information shall include the items listed in 24.1230, (c), (1)-(12) of the Act.

**History:** Rule 3-85, eff 9 Jul 85, § 12.

## **24.0621 Conditions and limitations on applications of restricted use pesticides.**

(a) No person shall apply a restricted use pesticide by aircraft except by a special permit issued by the director.

(b) No person shall apply a restricted use pesticide within 20 feet of a water well, stream or any natural body of water except by a special permit issued by the director with the approval of the Environmental Quality Commission after concurrence of the Water Division of the Public Works Department and the Director of Health.

**History:** Rule 3-85, eff 9 Jul 85, §13.

## **24.0622 Enforcement.**

(a) Inspections and Examinations.

(1) The director or his duly designated agent is authorized to enter any place or conveyance where pesticides or devices are manufactured, stored, packed, delivered for transportation, transported offered for sale or sold, and to inspect and/or to take samples of such pesticides and devices.

(2) The director or his duly designated agent is authorized to enter any place where restricted use pesticides are sold or used to examine the application techniques and records that are required to be kept.

(b) Notice of Apparent Violation.

(1) If from an examination or inspection, a pesticide or device appears to be in violation of the Act of this chapter, a notice in writing shall be sent to the person against whom legal action is contemplated, giving him an opportunity to offer such written explanation as he may desire. The notice shall state the manner in which the sample fails to meet the requirements of the Act or this chapter.

(2) Any such person may, in addition to his written reply to such notice, file with the director within 20 days of receipt of the notice a written request for a hearing in connection therewith.

(c) "Stop-sale" and "Removal from Sale" Orders.

(1) The director or his designated agent is authorized to issue "stop-sale " and "removal from sale " notices as to any pesticide or device which violates or fails to comply with the provisions of the Act or this chapter and may place written or printed "stop-sale " or "removal from sale " notices on any such pesticide or device.

(2) Upon receipt of such orders, the vendor shall correct the violation and effect full compliance therewith. Such articles shall not hereafter be sold, offered for sale, transferred or disposed of except upon authorization by the director, or his designated agent.

(3) No person shall remove, deface or tamper with any "stop-sale " or "removal from sale" notices.

(d) Seizures.

(1) The director or his designated agent may seize any pesticide or device that is distributed, sold, offered for sale, transported or delivered for transportation in violation of the Act or this chapter.

(2) No notice or hearing shall be required prior to such seizures of a pesticide or device.

**History:** Rule 3-85, eff 9 Jul 85, § 14.

**24.0623 Out of state certificates.**

Valid applicator certificates issued by certifying agencies of other states and territories of the United States or employees of the Government Agency Plan (GAP) will be honored as such for use in the territory upon successful review of the local laws and regulations.

**History:** Rule 3-85, eff 9 Jul 85, § 15.