

## DIVISION III

## PESTICIDES

### CHAPTER 15

#### PESTICIDES

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**NOTE:** Rule-making authority cited for formulation of pesticide regulations by the Guam Environmental Protection Agency, 10 GCA §§50101-50124. The pesticide regulations are reprinted here in form as exact as possible to those filed on January 29, 1981 with the Legislative Secretary. The substance of the regulations has not been changed. However, for the purpose of uniformity and ease of use, a new system of numbering has been adopted by the Editor.

**§15101. General Provisions: Words in Singular Form.** Words used in the singular forms in these regulations shall include the plural and vice-versa, as the case may be.

**§15102. Same: Terms Defined and Construed.** All terms used in these regulations 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 Guam Pesticide Act, 10 GCA Chapter 50.

(b) *Adulteration* means when the strength or purity of a Pesticide falls below the professed standard or quality as expressed on its labeling or under which it is sold, or when any substance has been substituted wholly or in part for the article, or when any valuable constituent of the article has been wholly or in part abstracted, the pesticide is considered adulterated.

(c) *Certification* means the authorization granted by the Territory or Federal government to U.S. citizens or permanent residents to use, handle or supervise the use of restricted use pesticides.

(d) *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 specified in the definition of private applicator, and shall include but not be limited to persons engaged in right-of-way pest control, structural pest control, public health pest control, agricultural pest control, ornamental and turf pest control and other commercial categories as specified.

(e) *Competent* means the state of being able and qualified to perform a particular function in pesticide application, the degree of competence being directly related to the nature of the activity and the associated responsibility.

(f) *Dealer* means any person, company or corporation engaged in purchasing and selling of restricted use pesticide products and devices.

(g) *Hazard* means a situation where there exists a probability that a given pesticide will cause injury or have an adverse effect on the environment.

(h) *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 his employer of (if applied without compensation

other than trading of personal services between producers of agricultural commodities) on the property of another person.

(i) *Qualified Pesticide Sales Manager* means a person in charge of the sales of restricted use pesticides and who has successfully passed an examination to qualify for that position.

(j) *Sales Outlet* means a place or location within the Territory where a stock of restricted use pesticides is kept for sale and where records of such sales are kept.

(k) *Under the Direct Supervision of a Certified Applicator* means unless otherwise prescribed by its labeling, that the certified applicator is physically present at the time and place the pesticide is applied.

(l) *Restricted Pesticide* shall mean a pesticide so designated by regulation under Section 3(d) of FIFRA or determined by the Board to be unsafe for use by persons other than a certified applicator and so designated by inclusion on a list of restricted pesticides adopted by the Board.

(m) *General Use Pesticide* shall mean a pesticide other than one designated as restricted pesticide.

**§15103. Same: Local Enforcement of FIFRA.** The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, and all regulations promulgated under FIFRA, are applicable throughout the nation, including the territory of Guam. Under §57136 of the Guam Act and Section 23 of FIFRA, the Guam Environmental Protection Agency and the U.S. Environmental Protection Agency have entered into a Cooperative Agreement. This Agreement gives the GEPA authority to enforce the FIFRA within the territory of Guam. These regulations are written to conform with the FIFRA as well as the Act:

(a) A number of sections of FIFRA and the rules and regulations enacted pursuant thereto require that State or Territorial standards must conform and be at least equal to those of FIFRA and its rules and regulations.

Those requirements are presently contained in these rules and regulations. Future amendments to FIFRA and the rules and regulations enacted pursuant thereto which require conformance to or equality by State or Territorial standards are to be incorporated herein when enacted without the requirements of a public hearing as

such amendments are mandatory and must be contained herein. [3.1]

(b) Future amendments to FIFRA and the rules and regulations enacted pursuant thereto which require State or Territorial compliance, but which allow discretion to be exercised by the States or Territories in meeting FIFRA compliance standards, shall be enacted pursuant to the requirements of the Administrative Adjudication Act.

**§15104. Pesticide Registration and Sale: Labeling Required.** Every pesticide product shall bear a label conforming with §57129 of the Act, applicable with FIFRA requirements and subsequent rules and regulations promulgated under FIFRA.

**§15105. Same: Coloration.** Coloration standards shall meet the requirements of §57130 of the Act as well as applicable FIFRA requirements and Federal rules and regulations.

**§15106. Same: Adulteration.** Under no circumstances shall an adulterated pesticide product be offered for sale, distribution or use within the territory of Guam.

**§15107. Same: Misbranding.** The Act provides that a pesticide is misbranded if "its labeling bears any statement, design or graphic representation thereto or to its ingredients which is false or misleading in any particular". The pesticide product must satisfy §57121(26) of the Act, and applicable FIFRA requirements and Federal rules and regulations.

**§15108. Same: Registration.** Any person in the Territory who distributes, sells, offers for sale, holds for sale, ships, delivers for shipment, or receives and (having so received) delivers or offers to deliver to any person a pesticide imported from any foreign country shall apply for the registration of such pesticide, unless such pesticide meets all labeling requirements of §15104, prior to importation. Procedures regarding registration of all imported pesticide products as stated above must meet applicable FIFRA requirements.

The Administrator may allow local registration of pesticides to meet special local needs in compliance with the FIFRA requirements under Sections 24(c) and 25(a) of the FIFRA upon issuance of Federal rules and regulations.

**§15109. Same: Procedures for Collection and Examination of Samples.** (a) **Collection of Samples.** An

unbroken package shall be taken as the official sample where the pesticide is packed in small bottles, or small packages. Where the pesticide is packed in large containers, the official samples shall be a portion taken from one original unopened package in a lot.

(b) **Examination of Samples.** Methods of examination of samples shall be those adopted and published by the Association of Official Analytical Chemists, where applicable, and such other methods as may be necessary to determine whether the product complies with the Act or this regulation.

**§15110. Same: Enforcement Procedures.** (a) All procedures shall comply with the Territorial Administrative Adjudication Act.

(b) **Notice of Violation.** If from an examination or analysis a pesticide or device appears to be in violation of the Act or these regulations, a Notice of Violation in writing shall be sent to the person against whom criminal proceedings are contemplated, stating the violation, and giving him thirty (30) days to correct the problem. The notice shall state the manner in which the alleged violator fails to meet the requirements of the Act or these regulations, and what should be done to correct the problem.

(c) **Order.** After the termination of the thirty (30) day period, if no action has been taken by the recipient to respond to the Notice of Violation, an Order in writing shall be sent, via registered mail, charging the recipient with the violation. If the recipient has responded to the Notice of Violation, the case will be discussed and either dropped or, if the recipient is still found to be in violation, the thirty (30) day time period before sending of the Order may be extended so as to count the period as starting from the time the case was discussed, rather than from the date of receipt of the Notice.

(d) **Notice of Defense.** A Notice of Defense shall be included with the Order, which will allow the recipient fifteen (15) days to request a hearing by the GEPA Board of Directors. If a Notice of Defense is received by the GEPA Board, further action upon the case will be suspended until the hearing has been concluded.

(e) **Prosecution.** If no action has been taken to correct the violation after a period of thirty (30) days from receipt of the order, or, for the cases requesting a hearing,

after a time period as specified by the GEPA Board, the Violation shall be referred to the Attorney General's office for prosecution.

(f) **Stop-Sale and Removal from Sale Orders.** The Administrator is authorized to issue "Stop-Sale" or "Removal from Sale" Orders as to any pesticide or device which violates or fails to comply with the provisions of the Act or this regulation, and may place written or printed "Stop-Sale" or "Removal from Sale" notices on any such pesticide or device:

(1) Upon receipt of such Orders, the alleged violator shall correct the violation and effect full compliance therewith. Such articles shall not thereafter be sold, offered for sale, transferred or disposed of except upon authorization by the Administrator.

(2) No person shall remove, deface or tamper with any "Stop-Sale" or "Removal from Sale" notices.

(g) Nothing in these regulations shall prevent the Agency from making efforts to obtain voluntary compliance through warning, conference or any other appropriate means.

**§15111. Same: Experimental Use Permits.** This Section requires that any applicant for an Experimental Use Permit shall be required to submit information or data outlined in §57124 of the Act, so that the Agency can effectively evaluate the proposed use of an Experimental Pesticide. The procedures for applying for an Experimental Use Permit shall be done in compliance with applicable FIFRA requirements and applicable Federal rules and regulations.

**§15112. Same: Restricted Use Pesticide Dealer License.** [12.0] (a) No person shall sell a restricted use pesticide unless such person has obtained a license from the Guam Environmental Protection Agency (GEPA) 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 license shall be accompanied by a Twenty-Five Dollars (\$25.00) annual license fee for each principle sales outlet and a fee of Ten Dollars (\$10.00) for each branch sales outlet, and shall be on a form prescribed by the Administrator and shall include name and address of applicant, location and address of principal and all branch sales outlets and names of the qualified pesticide sales manager at each sales outlet.

(b) All sales outlets of restricted use pesticides shall have a Certified Pesticide Sales Manager. The names of such qualified sales managers will be submitted together with the application for a license for sales outlet. The Administrator will be notified forthwith of any change of personnel in this position.

(c) Persons seeking to be certified pesticide sales managers shall apply for examination on forms prescribed by the Administrator. To qualify, an applicant shall pass a written examination at a time and place designated by the Administrator. The examination shall test the applicant's knowledge of pesticide laws and regulations, pesticide hazards, proper usage, safe storage, distribution, safety and disposal methods. Successful completion of the examination will result in the issuance of a certification card.

(d) Every licensed pesticide dealer shall hold joint responsibility with his certified pesticide sales managers and every other person employed by him in the solicitation, sales and handling of pesticides. The dealer's license and/or the pesticide certification sales managers, may be suspended or revoked, after hearing, for any violation of the Act or these regulations.

**§15113. Same: Sales of Restricted Use Pesticides.**  
No restricted use pesticide shall be sold to a person who is not a certified applicator or has not received certification from the Administrator.

**§15114. Same: Records and Reports of Restricted Use Pesticide Sale and Application.** [14.0] (a) Licensed dealers and commercial pesticide companies shall keep a monthly record of each sale or use of restricted use pesticides at each outlet on forms prescribed by the Administrator. 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 quantity, certification number of purchaser and selling clerk's signature.

(b) The copy of the monthly sales record required under §15114(a) shall be submitted to the Administrator within five (5) working days after 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 (1) year.

(c) Commercial applicators shall keep and maintain for the period of at least two (2) years routine operational

records containing information on kinds, amounts, uses, dates and places of application of restricted use pesticides.

(d) Commercial applicators shall make these operational records available to the Administrator or his authorized representatives during all regular business hours, and shall submit to the Administrator within five (5) working days after the end of each calendar year copies of all operational records of the application of restricted use pesticides as required by §15114(c) for said calendar year.

**§15115. Same: Storage, Display and Sales of Pesticides.** 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.

**§15116. Same: Disposal of Unwanted Pesticides and Empty Containers.** (a) Any pesticide that is unwanted shall not be disposed of so as to create a hazard. The owner of such unwanted pesticides shall contact the Administrator for specific disposal instructions.

(b) Disposal of Empty Pesticide Containers.

(1) Reusable empty containers of pesticides shall not be used for purposes other than for refilling or repacking with the same pesticide; provided, however, the Administrator may prescribe and allow uses for other purposes when empty containers are properly prepared.

(2) Unusable empty containers of restricted use pesticides shall be emptied, cleaned and disposed of as prescribed by the Administrator.

**§15117. Same: Restricted Use Pesticides.** (a) The GEPA Board of Directors shall publish a list of all pesticides or pesticide formulations classified for restricted use pursuant to Section 3(d) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended. Additions to and deletions from this list shall be made without public hearing when said additions to or deletions from said list are made by the Administrator of the Federal Environmental Protection Agency pursuant to the provisions of Section 3(d) of FIFRA, as amended, or by other authority of the Administrator of the Federal Environmental Protection Agency. Failure to include on the above-mentioned list any pesticide determined by the



Administrator of the Federal Environmental Protection Agency, pursuant to Section 3(d) of FIFRA or by other authority of the Administrator of GEPA, to be a restricted use pesticide, shall not invalidate said classification as a restricted use pesticide for the purposes of Public Law 14-22 and the rules and regulations enacted pursuant thereto.

The list of restricted use pesticides determined by this Section shall be an attachment to these regulations.

(b) The Board of Directors of the GEPA may determine that certain pesticides are unsafe for use by persons other than a certified applicator. Said determination shall be made after a public hearing. The pesticide so determined shall be designated on a list which shall be an attachment to these regulations. Any revision of this list under §15117(b) shall be made only after the holding of a public hearing. Revision is defined herein to be addition or deletion.

**§15118. Pesticide Use: Certification of Applicators for Restricted Pesticide Use.** The following categories, procedures, conditions and standards for certification shall apply:

(a) Classes of Applicators:

Class I. Commercial Applicators

Categories. Persons applying for supervising the use of restricted use pesticides in pest control work, demonstration work or similar pest control activity shall be classified into one or more of the following categories:

(1) **Regulatory Pest Control.** This category includes territory of Guam, Federal or other governmental employees who use or supervise the use of restricted use pesticides in the control of regulated pests.

(2) **Public Health Pest Control.** This category includes territory of Guam, Federal or other governmental employee 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.

(3) **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.

(4) **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.

(5) **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, institutions such as schools and hospitals, industrial establishments, including warehouses and grain elevators, and any other structures and adjacent areas, public or private; and for the production of stored, processed or manufactured products.

(6) **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 power lines, pipelines, railway rights-of-way or other similar areas.

(7) **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; the territorial sea; and bays and harbors of Guam, excluding applicators engaged in public health related activities included in category (2) above.

(8) **Agricultural Pest Control:**

a. **Plant.** This category includes commercial applicators using or supervising the use of restricted use pesticides in production of agricultural crops, including without limiting the foregoing, vegetables, small fruits, tree fruits and nuts; as well as on grasslands and non-crop agricultural lands.

b. **Animal.** This category includes commercial applicators using or supervising the use of restricted use pesticides on animals, including without limiting the foregoing: beef cattle, dairy cattle, swine, sheep, horses, goats, poultry and 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.

**Class II. Private Applicators.** This class includes persons using or supervising restricted use pesticides for the purpose 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 another person.

(b) Standards for Certification of Commercial Applicators:

(1) **Determination of Competency.** Competence in the use and handling of pesticides shall be determined on the basis of written examinations and, as appropriate, performance testing based upon standards set forth below and which are approved by the Administrator. Such examination and testing shall include the general standards applicable to all categories and the additional standards specifically identified for each category or subcategory (if any) in which an applicator is to be classified, and to the pesticide or class of pesticides covered by the person's

(2) **General Standards for All Categories of Certified Commercial Applicators.** 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 of the following areas of competency:

**(A) Label and Labeling Comprehension:**

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

**(B) Safety.** Factors including:

1. Pesticide toxicity and hazard to man and common exposure routes;
2. Common types and causes of pesticides accidents;
3. Precautions necessary to guard against injury to applicators and other individuals in or near treated areas;
4. Need for and use of protective clothing and equipment;
5. Symptoms of pesticide poisoning;
6. First aid and other procedures to be followed in case of a pesticide accident; and
7. Proper identification, storage, transport, handling, mixing procedures and disposal methods for pesticides and used pesticide containers, including precautions to be taken to prevent children from having access to pesticides and pesticide containers.

**(C) 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 substrate;
3. Presence of fish, wildlife and other non-target organisms; and
4. Drainage patterns.

**(D) Pests.** Factors such as:

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

2. Recognition of relevant pests; and

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

(E) **Pesticides.** Factors such as:

1. Types of pesticides;

2. Types for formulations;

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

4. Hazards and residues associated with use;

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

6. Dilution procedures.

(F) **Equipment.** Factors including:

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

2. Uses, maintenance and calibration.

(G) **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 pesticides to proper use, unnecessary use and misuse; and

3. Prevention of drift and pesticides loss into the environment.

(H) **Laws and Regulations.** Applicable Territorial and Federal laws and regulations.

(3) **Specific Standards of Competency for General Categories of Commercial Applicators.** Applicators in the general categories should

demonstrate additional competence and knowledge appropriate to their particular category of certification:

(A) **Regulatory Pest Control.** Applicators shall demonstrate practical knowledge of regulated pests, applicable laws relating to quarantine and other regulation of pests, and the potential impact on the environment of restricted use pesticides used in suppression and eradication programs. They shall demonstrate knowledge of factors influencing introduction, spread and population dynamics of relevant pests. Their knowledge shall extend beyond that required by their immediate duties since their services are frequently required in other areas of the Territory where emergency measures are invoked to control regulated pests, and where individual judgments must be made in new situations.

(B) **Public Health Pest Control.** Applicators must demonstrate knowledge of pests of public health importance, vector-disease relationships and etiology of disease-host relationships. Since a wide variety of pests are involved, these pests must be known and recognized by public health control applicators, and the life cycles and habitats of each thoroughly understood. These applicators should be familiar with a great variety of environmental conditions ranging from streams to dwellings. They should also be cognizant of such non-chemical control methods as sanitation, waste disposal and drainage.

(C) **Agricultural Pest Control:**

1. **Plant** - Applicators must demonstrate knowledge of the crops grown and the specific pests on these crops on which they may be using restricted use pesticides. An operational knowledge is needed concerning soil and water problems, pre-harvest intervals, re-entry intervals, phytotoxicity and potential for environmental contamination, non-target injury and community problems from the use of restricted use pesticides in agricultural areas.

2. **Animal** - Persons applying pesticides directly to animals must demonstrate knowledge of such animals and their

associated pests. Special understanding is needed concerning pesticide toxicity to host animals and the hazards associated with such factors as formulation, application techniques, age of animals, stress and extent of treatment.

(D) **Forest Pest Control.** Applicators should demonstrate knowledge of the extent and types of forests, forest nurseries and seed production in this Territory and the pests involved. They should demonstrate special knowledge of the cyclic occurrence of certain pests, population dynamics and the impact of biotic agents and their vulnerability to pesticide application. Because forest stands frequently include aquatic situations and harbor wildlife, the applicators 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.

(E) **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 the hazards to humans, pets and other domestic animals associated with the restricted use pesticide utilized in this Category.

(F) **Industrial, Institutional, Structural and Health Related Pest Control.** Depending on the subdivisions of this Category specific requirements may vary. In general, applicators must demonstrate special knowledge of a wide variety of pests including their life cycles, as well as the formulations appropriate for their control and of application that avoid contamination of food habitation and do not cause hazards to children and pets. Since human exposure is frequently a potential problem, applicators must demonstrate special knowledge of the toxicity of the pesticides used and factors which may constitute a hazard.

Because public health related pest control generally involves outdoor applications, applicators in this Category must demonstrate knowledge of environmental conditions particularly related to their subclassification.

(G) **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. Aerial applicators doing right-of-way work should demonstrate special knowledge of application equipment, contaminant of the pesticide within the right-of-way area, and special drift control methods and procedures.

(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. 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 or other uses; 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, speed at which application equipment will be driven, and the quantify 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 pesticide accident.

(F) Be aware of sources of advice and guidance necessary for the safe and proper use of each pesticide related to his certification.

(d) **Certification of Private Applicators.** Applications for certification as a private applicator shall be on forms prescribed by the Administrator. To qualify, applicant must pass an examination based on standards contained in §15118(c).

(e) Standards for Supervision of Non-Certified Applicators by Certified Private and Commercial Applicators:

(1) Certified applicators whose activities indicate a supervising role must demonstrate a practical knowledge of Federal and Territorial supervisory requirements, including labeling, regarding the application of restricted use pesticides by non-certified applicators.

(2) Under the direct supervision of a certified applicator shall mean unless otherwise specified by its labeling, that the certified applicator is physically present at the time and place the pesticide is applied.

(f) **Duration of Certificate, Renewals.** Unless revoked, all certifications issued under this Section shall be valid for two (2) years, following date of issuance. Application for renewal shall be on forms provided by the Administrator. The Administrator may require re-examination of the applicant for renewal if such action is deemed necessary because of changes in pesticide use, material and technology.

**§15119. Same: Conditions and Limitations on Applications of Restricted Pesticides by Aircraft, Power Rigs, Mist Blower and Other Ground Equipment.** [19.0] (a) No person shall apply restricted

use pesticides by aircraft except by special permit issued by the Administrator:

(1) A written statement shall be filed by an applicant (plantation, farm, ranch) for such permit on forms provided by the Administrator.

(2) Statement shall include date, name, address and certification number of applicant, purpose of aerial treatment, pesticide formulation, dosage, method of aerial treatment and the proposed number of treatments to be made. A sketch or map to indicate general wind directions, proposed site(s) to be treated, surrounding homes, roadways, waterways and crop plantings in the vicinity shall be submitted together with the written statement.

(3) The Administrator may refuse to issue a Special Permit if it is determined that the proposed aerial treatment may cause unreasonable adverse effects to the environment or will create a hazard. All refusals must be in writing and the reasons for refusal stated.

(4) A Special Permit issued under §15119(a) shall specify the time period for which the special permit is valid. The Administrator may specify and limit special permit to cover a single treatment or to permit multiple and continued treatments when conditions are not expected to change or vary during subsequent treatments that are conducted in the same designated area or areas.

(5) Any Special Permit issued under §15119(a) may be cancelled by the Administrator before its stated expiration date for reasonable cause. Such cancellation shall be in writing and reasons for cancellation stated.

(6) The Administrator shall be notified at least three (3) days in advance of any aerial pesticide treatment except in an emergency, a notice of at least twenty-four (24) hours be given before treatment is made.

(7) The issuance of a Special Permit to apply a restricted use pesticide by aircraft under §1119(a) shall not relieve the permittee from the penalty provisions of the Act or any litigation for any damage or contamination of crops or plants, animals, man and the environment resulting from such aerial treatment.

(b) Operational condition of aircraft, power rigs, mist blowers and ground equipment used to apply restricted use pesticides:

(1) Spray equipment on aircraft shall be leak-proof. Spray nozzles shall be equipped with a device to prevent dribble when spray is turned off.

(2) Self-propelled power rigs used for inter-row or broadcast applications shall be equipped with a pressure control device and a pressure gauge.

(3) Power rigs, mist blowers and other equipment shall be in good working order with no excessive leaks along the pesticide material flow route.

**§15120. Same: Posting of Signs in Areas Treated With Highly Toxic Pesticides.** [20.0] (a) Upon determination that a hazard exists in an area treated with a highly toxic pesticide, the Administrator may require the posting of appropriate warning signs on roads leading into the treated area. The Administrator may specify wording, letter size, language and coloring to be used on such signs as well as the number and location of signs deemed necessary to protect against inadvertent trespass by the public.

(b) All warnings and signs required to be posted under regulations promulgated under the provisions of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), or any other Federal or territorial act shall also be required under this Section and made a part of this regulations.

**§15121. Same: Denial, Suspension or Revocation of Certificates.** (a) An application for any certificate issued pursuant to this Act or any regulation promulgated thereunder, may be denied by the Board as provided in §57135 of the Act, for the following causes:

(1) Falsification of any information required in the application process.

(2) Falsification of or failure to maintain records required by the Act and the regulations promulgated pursuant thereto.

(3) Conviction in a court of competent jurisdiction within a five (5) year period immediately preceding the date of application of any violation of the Act or rules and regulations promulgated pursuant thereto.

(4) Failure to comply with any order of the Board made pursuant to the Act and rules and regulations promulgated pursuant thereto.

(5) A suspension of applicants certification under this Act and the rules and regulations promulgated pursuant thereto within a five (5) year period immediately preceding the date of application.

(6) Misuse of a pesticide as defined by the Act and regulations promulgated pursuant thereto.

(b) An application for any certificate issued pursuant to this Act or any regulation promulgated thereunder, shall be denied by the Board as provided in §57135 of the Act, for the following causes:

(1) Applicant has been convicted in a court of competent jurisdiction within a five (5) year period immediately preceding the date of the application of two (2) or more violations of the Act or rules and regulations promulgated pursuant thereto or of the Federal Insecticide, Fungicide and Rodenticide Act as amended, or the rules and regulations promulgated pursuant thereto.

(2) Two (2) or more suspensions of applicants certification under this Act and the rules and regulations promulgated pursuant thereto within a five (5) year period immediately preceding the date of application.

(3) Revocation of applicants certification under this Act and the rules and regulations promulgated pursuant thereto within a one (1) year period immediately preceding the date of application.

(c) A certificate issued pursuant to this Act or any regulation promulgated hereunder may be suspended pursuant to §57135 of the Act for the following causes:

(1) Falsification of any information required in the application process or falsification of or failure to maintain records required by the Act and the regulations promulgated thereunder.

(2) Misuse of a pesticide as defined by the Act and regulations promulgated pursuant thereto.

(d) A certificate issued pursuant to this Act or any regulation promulgated hereunder shall be suspended for not less than thirty (30) days and not more than

one hundred eighty (180) days for the following causes:

(1) Conviction in a court of competent jurisdiction of a violation of §57131 of the Act.

(2) Failure to comply with two (2) warning notices issued by GEPA within a two (2) year period.

(e) A certificate issued pursuant to this Act or any regulation promulgated hereunder may be revoked for the following causes:

(1) Conviction in a court of competent jurisdiction of a violation of §57131 of the Act.

(2) Misuse of a pesticide as defined by the Act and regulations promulgated pursuant thereto.

(3) Falsification of any information required in the application process or falsification of or failure to maintain records required by the Act and the regulations promulgated thereunder.

**§15122. Imported Pesticides and Devices: Notice of Arrival of Pesticides and Devices.** An importer desiring to import pesticides from foreign countries into this Territory shall submit to the Administrator a Notice of Arrival of Pesticides and Devices (Environmental Protection Agency Form 3540-1, attached as part of these regulations), hereinafter referred to as a Notice of Arrival, prior to the arrival of shipment in the Territory. The Administrator shall complete the Notice of Arrival, indicating the disposition to be made of the shipment of pesticides or devices upon its arrival in the Territory, and shall return the completed Notice of Arrival to the importer or his agent.

**§15123. Same: Arrival of Shipment.** (a) **Notice of Arrival Presented** - Upon the arrival of a shipment of pesticides or devices, the importer or his agent shall present to the Custom Official, at the port of entry, the Notice of Arrival completed by the Administrator and indicating the Custom's Action to be taken with respect to the foreign shipment. The Custom Officer shall compare entry documents for the shipment of pesticides or devices with the Notice of Arrival and notify the Administrator of any discrepancies.

(b) **Notice of Arrival Not Presented** - When shipment of foreign pesticides and/or devices arrives

in the Territory without the presentation by the importer or his agent of the Notice of Arrival completed by the Administrator, the shipment shall be detained by the Custom Officer at the importer's risk and expense until the completed Notice of Arrival is presented or until other disposition is ordered by the Administrator, but not to exceed thirty (30) days, or such extended period, not in excess of thirty (30) additional days as the Custom Officer may authorize for good reasons.

(c) **Disposition of Pesticides or Devices Remaining Under Detention.** A shipment of pesticides and/or devices that remains detained or undisposed of due to failure to present a completed Notice of Arrival or non-receipt of an Order of the Administrator as to its disposition shall be refused delivery and treated as prohibited importation.

**§15124. Same: Release of Shipment or Refusal of Delivery.** If the completed Notice of Arrival directs the Custom Officer to release the shipment of pesticides and/or devices, the shipment shall be released to the Consignee. If the completed Notice of Arrival directs the Custom Officer to refuse delivery of the shipment, the shipment shall be refused delivery and treated as prohibited importation. The Custom Officer shall notify the importer or his agent of the exportation of the shipment refused entry within ninety (90) days after notice of such refusal of delivery. A shipment of pesticides and devices refused entry can be detained at the broker's storage area pending exportation to the country of origin. However, shipment shall not be used or otherwise disposed of until shipment can be released for exportation. All expenses for the handling, transfer and storage of pesticides and devices refused entry into Guam shall be at the risk and expense of the carrier, assuming the entry documents clearly state what the shipment contains and it is in obvious violation of these regulations; in such cases, it shall be the responsibility of the importer.

**§15125. Same: Samples.** Upon the request of the Administrator, either on the completed Notice of Arrival or otherwise, the Custom Officer shall allow the Administrator to collect samples from a shipment of pesticides or devices. If the sample is found to be in compliance with the Act, the Administrator shall

notify the Custom Officer that the shipment may be released to the Consignee. If upon the examination or analysis of a sample from a shipment of pesticides and devices, the sample is found to be in violation of the Act, the importer shall be notified promptly by the Administrator of the nature of the violation and be given reasonable time, not to exceed thirty (30) days, to appear before the Administrator and introduce testimony, to show cause why shipment should not be refused entry. If after consideration of all the evidence presented, it is still the opinion of the Administrator that the shipment is still in violation of the Act, the Administrator shall notify the Custom Officer that the shipment shall be refused entry and treated as a prohibited importation.

**§15126. Severability.** If any provision of these regulations is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of these regulations and applicability thereof to other persons and circumstances shall not be affected.

GUAM ENVIRONMENTAL PROTECTION AGENCY  
POST OFFICE BOX 2999  
HAGATNA, GUAM 96910  
TELEPHONE: 646-8863/69  
RESTRICTED USE PESTICIDES

RESTRICTED PESTICIDES RESTRICTED CONCENTRATION

**Acrolein	All
**Acrylonitrile	All
**Aldicarb	All
**Aldrin	All (For subsurface insertion for ter- mite control on)
**Allyl Alcohol	All
**Aluminum Phosphide (Phos- toxin)	All

22 GAR - GEPA  
DIV. III - PESTICIDES

\*Arsenic Compounds (Inorganic) All (Except finished baits)

\*\*Azinphos Methyl All

Carbon Disulfide All

Chlordane All

Chloropicrin All

Copper Aceto Arsenite

(Paris Green) All

\*\*Cyanides (Calcium/Sodium) All

Borlax All

\*\*Demeton All

Dieldrin All

Diphacinone All (Except finished baits)

DNBP, DNOSB (Dinoseb) All

\*\*Endrin All

Ethion All

Fenthion All

\*\*Fluroacetamide/1081 All

Fumarin All (Except finished baits)

Heptachlor All (Same as Aldrin)

\*\*Hydrocyanic Acid All

Mercury Compounds All

Methomyl (Lannate) All

\*\*Methyl Bromide All

Methyl Parathion All

\*\*Mevinphos All



22 GAR - **GEPA**  
DIV. III - PESTICIDES

Nemagon (DBCP)	All
**Paraquat	All
Parathion	All
Pentachlorophenol	All (Above 5%)
**Picloram	All (Uses restricted except for treating trees, including papayas and bananas by a cut surface method with 5.4% Picloram)
*Silvex 2 (2, 4, 5 Trichloro-phenoxy) Propionic Acid	All
***Sodium Fluroacetate (1080)	All
	All
**Strychnine	All
***Sulfo Tepp	All
Toxaphene	All
Vapam	All
*Warfarin and Salts	All (Except finished baits)
Zinc Phosphide	All
*2, 4-Dichlorophenoxy Acetic Acid	All
*2, 4, 5 Trichlorophenoxy Acetic Acid and its Esters and Salts	All

A pesticide preceded by an asterisk (\*) may be sold for general use when marketed in quantities of one quart or less.

Pesticides preceded by a double asterisk (\*\*) are also on the EPA restricted list.

