

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 8.
ENVIRONMENTAL AND ANIMAL CONTROL
AND PROTECTION.

CHAPTER 4.
PESTICIDE OPERATIONS.

2001 Edition

DISTRICT OF COLUMBIA OFFICIAL CODE
CHAPTER 4. PESTICIDE OPERATIONS.

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CHAPTER 4. PESTICIDE OPERATIONS.

§ 8-401. DEFINITIONS.

As used in this chapter:

(a) The term "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; and

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

(b) The term "Administrator" means the Administrator of the United States Environmental Protection Agency.

(c) The term "adulteration" refers to a pesticide the strength or purity of which falls below the professed standard or quality as expressed in its labeling or under which it is sold, or the total or partial substitution of any substance for the pesticide, or the total or partial abstraction of any valuable constituent of the pesticide.

(d) The term "animal" means all vertebrate and invertebrate species, including but not limited to man, other mammals, birds, fish, and shellfish.

(e) The term "certified applicator" means any individual who is certified by the Mayor as being competent to use or supervise the use of any restricted use pesticide or class of restricted use pesticides covered by his certification.

(f) The term "commercial applicator" means an individual, 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 the definition of "private applicator".

(g) The term "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.

(h) The term "desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

(i) The term "device" means any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest of any other form of plant or animal life (other than man and other than bacteria, virus, or other microorganism on or in living man or other living animals); but not including equipment used for the application of pesticides when sold separately therefrom.

(j) The term "distribute" means to offer for sale, hold for sale, sell, barter, or trade a commodity.

(k) The term "District" means the District of Columbia.

(l) The term "environment" includes water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these.

(m) The term "equipment" means any type of ground, water, or aerial equipment or contrivance using motorized, mechanical, or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating, or stored on or in such land, but shall not include any pressurized hand-sized household apparatus used to apply any pesticide.

(n) The term "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 135 et seq.), as amended.

(o) The term "fungus" means any non-chlorophyll-bearing thallophyte (that is, any non-chlorophyll-bearing plant of a lower order than mosses and liverworts), as for example, rust, smut, mildew, mold, yeast, and bacteria, except those on or in living man or other animals and those on or in processed food, beverages,

or pharmaceuticals.

(p) The term "insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes, and wood lice.

(q) The term "label" means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its container or wrappers.

(r) The term "labeling" means all labels and all other written, printed, or graphic matter:

(1) Accompanying the pesticide or device at any time, or

(2) Accompanying or referring to the pesticide or device except when accurate non-misleading references are made to current official publications of Federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

(s) The term "land" means all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances and machinery appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.

(t) The term "Mayor" means the Mayor of the District of Columbia or his designated agent.

(u) The term "misbranded" means:

(1) A pesticide is misbranded if:

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

(B) It is contained in a package or other container or wrapping which does not conform to the standards established by the Administrator pursuant to § 25(c)(3) of FIFRA;

(C) It is an imitation of, or is offered for sale under the name of, another pesticide;

(D) Its label does not bear the registration number assigned under § 7 of FIFRA to each establishment in which it was produced;

(E) Any word, statement, or other information required by or under authority of FIFRA to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(F) The labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if compiled with, together with any requirements imposed under § 3(d) of FIFRA are adequate to protect health and the environment;

(G) The label does not contain a warning or caution statement which may be necessary and if complied with, together with any requirements imposed under § 3(d) of FIFRA, is adequate to protect health and the environment.

(2) A pesticide is misbranded if:

(A) The label does not bear an ingredient statement on that part of the immediate container (and on the outside container or wrapper of the retail package, if there be one, through which the ingredient statement on the immediate container cannot be clearly read) which is presented or displayed under customary conditions of purchase, except that pesticide is not misbranded under this subparagraph if:

(i) The size or form of the immediate container, or the outside container or wrapper of the retail package, makes it impracticable to place the ingredient statement on the part which is presented or displayed under customary conditions of purchase; and

(ii) The ingredient statement appears prominently on another part of the immediate container, or outside container or wrapper, permitted by the Administrator;

(B) The labeling does not contain a statement of the use classification under which the product is registered;

(C) There is not affixed to its container, and to the outside container or wrapper of the retail package, if there be one, through which the required information on the immediate container cannot be clearly read, a label bearing:

(i) The name and address of the producer, registrant, or person for whom produced;

(ii) The name, brand, or trademark under which the pesticide is sold;

(iii) The net weight or measure of the content; provided, that the Administrator may permit reasonable variations; and

(iv) When required by regulation of the Administrator to effectuate the purposes of FIFRA, the registration number assigned to the pesticide under FIFRA, and the use classification; and

(D) The pesticide contains any substance or substances in quantities highly toxic to man, unless the label shall bear, in addition to any other matter required by FIFRA:

(i) The skull and crossbones;

(ii) The word "poison" prominently in red on a background of distinctly contrasting color; and

(iii) A statement of a practical treatment (first aid or otherwise) in case of poisoning by the pesticide.

(v) The term "nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts; may also be called nemas or eelworms.

(w) The term "person" means any individual, partnership, association, corporation, company, joint stock association, or any organized group of people whether incorporated or not, and includes any trustee, receiver, or assignee.

(x) The term "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 (except viruses, bacteria, or other microorganisms on or in living man or other living animals) which commonly is considered to be detrimental to man or his interests or which the Mayor may declare to be detrimental.

(y) The term "pesticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

(z) The term "pesticide applicator" means an individual who is a (1) commercial applicator; (2) private applicator; (3) public applicator; or (4) registered employee.

(aa) The term "pesticide dealer" means any person who distributes to the ultimate user restricted use pesticides or any pesticide whose use or distribution are further restricted by the Mayor.

(bb) The term "pesticide operator" means (1) any person who owns or manages a pesticide application business in which pesticides are applied upon the lands of another for hire or compensation; or (2) except as otherwise provided under the definition of "private applicator", the owner or manager of any commercial firm, business, corporation, or private institution, who directly or through his employees uses restricted use pesticides on property owned, managed, or leased by such commercial firm, business, corporation, or private institution; or (3) any District or other governmental agency whose officials or employees apply pesticides as part of their normal duties.

(cc) The term "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, it 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 nontoxic, nonpoisonous in the undiluted packaged concentration.

(dd) The term "private applicator" means any individual who uses any restricted use pesticide 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 another person.

(ee) The term "public applicator" means a commercial applicator who is an employee of the District or of a governmental agency who is authorized to use or supervise the use of pesticides.

(ff) The term "registered employee" means an individual who is registered with the Mayor, pursuant to § 8-404, and who works under the direct supervision of a licensed commercial or public applicator.

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

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

(ii) The term "weed" means any plant which grows where it is not wanted.

(Apr. 18, 1978, D.C. Law 2-70, § 2, 24 DCR 6867; Apr. 12, 2000, D.C. Law 13-91, § 138, 47 DCR 520.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-751.1.

Effect of Amendments

D.C. Law 13-91, in subsec. (n), validated a previously made technical amendment.

Legislative History of Laws

Law 2-70, the "Pesticide Operations Act of 1977," was introduced in Council and assigned Bill No. 2-180. The Bill was adopted on first and second readings on November 8, 1977, and November 22, 1977, respectively. Signed by the Mayor on February 3, 1978, it was assigned Act No. 2-145 and transmitted to both Houses of Congress for its review. D.C. Law 2-70 became effective on April 18, 1978.

Law 13-91, the "Technical Amendments Act of 1999," was introduced in Council and assigned Bill No. 13-435, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 2, 1999, and December 7, 1999, respectively. Signed by the Mayor on December 29, 1999, it was assigned Act No. 13-234 and transmitted to both Houses of Congress for its review. D.C. Law 13-91 became effective on April 12, 2000.

§ 8-402. REGISTRATION PESTICIDES.

(a) Only those compounds that are registered with the Pesticide Registration Division of the Environmental Protection Agency shall be manufactured, sold, shipped, used, or applied in the District of Columbia, and they shall be used only in the manner or manners specified and approved by the Environmental Protection Agency.

(b) The Mayor may in his discretion require that pesticides registered with the Environmental Protection Agency which are distributed within the District of Columbia also be registered with the Mayor.

(Apr. 18, 1978, D.C. Law 2-70, § 3, 24 DCR 6867.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-751.2.

Legislative History of Laws

For legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

§ 8-403. PESTICIDE APPLICATORS.

(a) *Licensing.* -- (1) No person shall purchase, use, or supervise the use of any restricted use pesticide unless he is licensed by the Mayor in accordance with this chapter and the rules and regulations promulgated thereto, except that a registered employee may purchase and use such pesticides under the direct supervision of a licensed commercial or public applicator.

(2) Application for a pesticide applicator's license shall be made in writing on a form prescribed by the Mayor. The Mayor shall establish fees in amounts sufficient to cover the cost of the licensing. A pesticide applicator license shall be valid for the period of time prescribed by the Mayor. The Mayor shall provide for the issuance of appropriate credentials for the applicator.

(b) *Certification.* -- (1) No person may be licensed to use any restricted use pesticide unless he has been certified by the Mayor in accordance with this chapter and the rules and regulations promulgated pursuant thereto.

(2) After a public hearing held in conformance with the provisions of subchapter I of Chapter 5 of Title 2, the Mayor shall prescribe regulations for the certification of private and commercial applicators.

(3) The Mayor shall establish categories and, where applicable, may establish subcategories, of commercial applicators, depending upon the types of pesticides used, the purposes for which they are used, the types of equipment required in their application, the degree of knowledge or skill required in their application, and other relevant factors.

(4) The Mayor shall require an applicant for commercial applicator certification to show, by written examination, and, as applicable, by practical testing, that he is competent in the proper handling, use, and application of pesticides in the certification categories for which he has applied, and that he knows the dangers involved and precautions to be taken in connection with the use and application of

such pesticides, and to meet such other requirements as the Mayor may hereafter prescribe.

(5) The Mayor shall develop procedures to ensure that all certified applicators continue to meet the requirements of changing technology and to assure a continuing level of competence and ability to use pesticides safely and properly.

(6) The Mayor shall establish a system for determining the competency of applicants for private applicator certification in the use and handling of pesticides.

(7) Application for certification shall be made in writing on a form prescribed by the Mayor. Applicator certification shall be valid for such period as prescribed by the Mayor. The Mayor shall provide for the issuance of appropriate credentials specifying the categories in which the applicator has demonstrated competency.

(8) If the Mayor does not certify the applicator under this section, he shall inform the applicant in writing of the reasons therefor.

(Apr. 18, 1978, D.C. Law 2-70, § 4, 24 DCR 6867.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-751.3.

Legislative History of Laws

For legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

§ 8-403.01. INFORMATION TO BE SUPPLIED CUSTOMERS.

(a) Before a pesticide is applied, the pesticide operator shall provide the customer with the following written information:

- (1) Name of pesticide operator;
- (2) Name of pesticide applicator applying pesticides if different from that of the operator;
- (3) District of Columbia pesticide operator license number;
- (4) Telephone number of pesticide operator;
- (5) National Capital Poison Control Center hotline number;
- (6) Re-entry period specified on the pesticide label, if applicable;
- (7) Pest to be controlled;
- (8) Common name of pesticide or active ingredient to be applied;
- (9) The following statement: "District of Columbia law requires that you be given the following information:

Notice of Pesticide Application:

CAUTION--PESTICIDES MAY CONTAIN TOXIC CHEMICALS. Companies that apply pesticides are licensed by the Department of Consumer and Regulatory Affairs and regulated by the District Department of the Environment ("DDOE"). The Environmental Protection Agency and DDOE approve pesticides for use. At your request, the company conducting your pest control will provide you with either or both of the Material Safety Data Sheet(s) or the pesticide label(s), both of which provide further information about the approved uses of and recommended precautions for the pesticide being applied on your property. Neither of these documents is guaranteed to list every danger associated with a pesticide. DDOE maintains a list of pesticides that present a reduced risk to humans and the environment, and encourages the use of such pesticides whenever possible. The pesticide company

☐ HAS

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chosen to apply reduced-risk pesticide(s). The District of Columbia government encourages the use of non-chemical and reduced-risk methods of pest control by residents and commercial pest control companies. Even when using reduced-risk pesticides, residents should familiarize themselves with safety information for pesticide products, and should avoid exposure to pesticides."; and

- (10) At the request of the customer, both or either of:
 - (A) An original or legible copy of the current pesticide product label; or
 - (B) A Material Safety Data Sheet.

(b) Upon the customer's request, the pesticide operator shall provide the customer with advance notice of a pesticide application.

(c) When the pesticide is to be applied on a multi-unit property, the pesticide operator shall provide the information listed in subsection (a) of this section to the customer at least 48 hours before the pesticide is to be applied.

(Apr. 18, 1978, D.C. Law 2-70, § 4a, as added June 5, 2008, D.C. Law 17- 168, § 2, 55 DCR 5180.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

Law 17-168, the "Loretta Carter Hanes Pesticide Consumer Notification Amendment Act of 2008", was introduced in Council and assigned Bill No.17-493 which was referred to the Committee on Public Service and Consumer Affairs. The Bill was adopted on first and second readings on March 4, 2008, and April 1, 2008, respectively. Signed by the Mayor on April 14, 2008, it was assigned Act No. 17-342 and transmitted to both Houses of Congress for its review. D.C. Law 17- 168 became effective on June 5, 2008.

§ 8-403.02. INFORMATION TO BE SUPPLIED MULTI-UNIT PROPERTY RESIDENTS AND TENANTS.

At least 24 hours, and not more than 7 days, before the application of pesticides on a multi-unit property, the owner of the property shall provide each resident and tenant of the property that will be treated with the information listed in § 8-403.01 by:

- (1) Delivering the information to each resident's door or mailbox, or to each resident through electronic mail or facsimile; and
- (2) Posting the information conspicuously in common spaces on the property, in reasonably close proximity to the locations where pesticide will be applied.

(Apr. 18, 1978, D.C. Law 2-70, § 4b, as added June 5, 2008, D.C. Law 17- 168, § 2, 55 DCR 5180.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 17-168, see notes following § 8-403.01.

§ 8-403.03. SIGNS POSTED FOR EXTERIOR APPLICATION.

- (a) Any person applying pesticides to a lawn or to exterior landscape plants shall post at the time of application a sign containing a uniform statement approved by the Mayor.
- (b) The sign shall remain for 48 hours following the pesticide application, after which time the property owner shall be responsible for the removal of the sign.
- (c) The sign shall be clearly visible:
 - (1) From the principal places of access to the property; and
 - (2) On the portion of the property where the pesticide is applied.

(Apr. 18, 1978, D.C. Law 2-70, § 4c, as added June 5, 2008, D.C. Law 17- 168, § 2, 55 DCR 5180.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 17-168, see notes following § 8-403.01.

§ 8-403.04. REDUCED-RISK PESTICIDES AND METHODS OF PEST CONTROL.

- (a) If a pesticide designated by the Mayor as reduced-risk pursuant to subsection (b) of this subsection is applied, the operator shall indicate on the customer notice provided in § 8-403.01(a)(9) that the customer has selected a reduced-risk pesticide.
- (b) Within 6 months of June 5, 2008, the Mayor shall approve a list of reduced-risk pesticides and methods of pest control.

(Apr. 18, 1978, D.C. Law 2-70, § 4d, as added June 5, 2008, D.C. Law 17- 168, § 2, 55 DCR 5180.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 17-168, see notes following § 8-403.01.

§ 8-404. REGISTERED EMPLOYEES.

(a) No person, not licensed pursuant to this chapter and not acting as a private applicator, shall administer any pesticide unless he is registered with the Mayor and is acting under the direct supervision of a licensed applicator.

(b) Application for registration shall be made in writing on a form prescribed by the Mayor and the registration shall be valid for the time period prescribed by the Mayor. The Mayor shall provide for the issuance of appropriate credentials for all registrants.

(Apr. 18, 1978, D.C. Law 2-70, § 5, 24 DCR 6867.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-751.4.

Legislative History of Laws

For legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

§ 8-405. PESTICIDE DEALERS.

(a) No person shall act in the capacity of, or advertise as, or assume to act as a pesticide dealer at any time unless he is licensed by the Mayor in accordance with this chapter and the rules and regulations promulgated pursuant thereto.

(b)(1) The Mayor shall provide for the licensing of pesticide dealers located within the District; provided, that any manufacturer, registrant, or distributor whose products are distributed or who distributes products in the District and who has no pesticide dealer outlet licensed within the District shall obtain a pesticide dealer's license from the Mayor for his principal out-of-state location or outlet.

(2) Application for a pesticide dealer's license shall be made in writing on a form prescribed by the Mayor.

(3) The Mayor shall establish fees in an amount sufficient to cover the cost of the licensing. The license shall be valid for the time period prescribed by the Mayor.

(c) A pesticide dealer shall be responsible for the acts of each of his employees in the solicitation and sale of restricted use pesticides, and for all claims and recommendations for the use of restricted use pesticides.

(d) The provisions of this section shall not apply to a licensed pesticide operator who sells restricted use pesticides only as an integral part of his pesticide application service, or to any District or other governmental agency which provides pesticides only for its own programs.

(Apr. 18, 1978, D.C. Law 2-70, § 6, 24 DCR 6867.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-751.5.

Legislative History of Laws

For legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

§ 8-406. PESTICIDE OPERATORS.

(a) No person shall act in the capacity of a pesticide operator, or advertise as or assume to act as a pesticide operator at any time unless he is licensed by the Mayor in accordance with this chapter and the rules and regulations promulgated pursuant thereto.

(b) Application for a pesticide operator license shall be made in writing on a form prescribed by the Mayor. Each application shall contain information regarding the applicant's proposed operations, license classification or classifications applied for, and shall include the following:

(1) The full name of the person applying for the license;

(2) The full name of each member of the firm or partnership, or the names of the principal officers of the association, corporation, or group, if the applicant is a person other than an individual;

- (3) The business address of the applicant;
- (4) A certificate of liability insurance as required by § 8-407;
- (5) Designation of those individuals who are certified and licensed in each category in which the business will engage; and
- (6) Such other information as the Mayor may prescribe.

(c)(1) No licensed pesticide operator (as defined in § 8-401(bb)(1) and (bb)(3)) shall permit the use of any pesticide by any person who is not a licensed commercial or public applicator designated pursuant to § 8-406, or a registered employee of the pesticide operator acting under the direct supervision of the licensed applicator.

(2) No licensed pesticide operator (as defined in § 8-401(bb)(2)) shall permit the use of any restricted use pesticide by any person who is not a licensed commercial or public applicator designated pursuant to § 8-406(b)(5), or a registered employee of the pesticide operator acting under the direct supervision of the licensed applicator.

(Apr. 18, 1978, D.C. Law 2-70, § 7, 24 DCR 6867.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-751.6.

Legislative History of Laws

For legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

§ 8-407. LIABILITY INSURANCE.

(a) The Mayor shall not issue a pesticide operator's license until the applicant has furnished evidence of financial responsibility in the form of liability insurance for the protection of persons who may suffer damages as a result of the operations of the applicant.

(b) The amount of minimum financial responsibility shall be established by the Mayor and shall be maintained at not less than that sum as long as the pesticide operator engages in business in those categories for which his license is issued.

(c) The insurer of a pesticide operator shall notify the Mayor in writing at least ten (10) days prior to the effective date of cancellation, if a licensee's policy is to be cancelled. It shall be the licensee's responsibility to inform his insurer of this requirement.

(d) Nothing in this chapter shall be construed to relieve any person from liability for any damages to the person or lands of another caused by the use of pesticides even though such use conforms to regulations prescribed by the Mayor.

(Apr. 18, 1978, D.C. Law 2-70, § 8, 24 DCR 6867.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-751.7.

Legislative History of Laws

For legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

§ 8-408. APPLICATION OF THIS CHAPTER TO GOVERNMENTAL ENTITIES AND PUBLIC APPLICATORS.

(a) Except as otherwise provided, all District and other governmental agencies shall be subject to the provisions of this chapter and to all rules and regulations promulgated pursuant thereto concerning the application of pesticides.

(b) Public applicators for District and other governmental agencies shall be subject to examination (as provided for in § 8-403) and to the licensing provisions of § 8-404. The Mayor shall issue a limited license to each qualified public applicator. No fee shall be charged for the issuance of such a license to an employee of the District. The public applicator license shall be valid only when the licensee is engaged as an applicator in using or supervising the use of pesticides by District and other governmental agencies on lands owned or rented by such agencies or is acting within the scope of his employment.

(c) District and other governmental agencies employing pesticide applicators shall not be subject to the

financial responsibility requirements of § 8-407.

(Apr. 18, 1978, D.C. Law 2-70, § 9, 24 DCR 6867.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-751.8.

Legislative History of Laws

For legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

§ 8-409. RECORDS AND REPORTS.

(a) Commercial applicators and pesticide operators shall maintain records containing the information the Mayor may promulgate by regulation.

(b) Pesticide dealers shall maintain records containing such information as the Mayor shall promulgate by regulation to adequately identify purchases of restricted use pesticides and the materials purchased.

(c) The Mayor may, pursuant to regulations promulgated by him, require private applicators to maintain records or file reports or other documents.

(d) Each person shall upon written request furnish the Mayor with copies of any requested records or any other information requested by the Mayor.

(e) The records required to be maintained by subsections (a), (b), and (c) shall be subject to inspection by the Mayor at any time during business hours. The applicator or operator who prepared them shall transfer to the Mayor as required by appropriate regulations all such records which were prepared during that period which is determined by the regulations, and the Mayor shall preserve them for not less than ten (10) years. Should any such applicator or operator go out of business all such records in his or her possession shall immediately be transferred to the Mayor.

(Apr. 18, 1978, D.C. Law 2-70, § 10, 24 DCR 6867.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-751.9.

Legislative History of Laws

For legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

§ 8-410. DENIAL, SUSPENSION, MODIFICATION, AND REVOCATION OF CERTIFICATION OR LICENSE.

(a) In denying a license or certificate, or before revoking, modifying, or suspending a license or certificate, the Mayor shall notify the applicant, licensee, or certificate holder in writing of the proposed action and the basis therefor. The grounds upon which the Mayor may deny, revoke, modify or suspend a license or certificate include a violation of any of the unlawful acts specified in § 8-417, or the violation of any of the rules and regulations promulgated pursuant to this chapter. The applicant, licensee, or certificate holder shall have seven (7) business days from the date of receipt of the notice of proposed action to request a hearing before the Mayor to show cause why the license or certificate should not be denied, revoked, modified or suspended.

(b) The Mayor may deny the issuance of a license, or revoke, modify, or suspend a license or certificate issued under this chapter if the applicant, licensee or certificate holder has been convicted under FIFRA, or is subject to a final order imposing a civil penalty under FIFRA.

(c) The Mayor may issue a warning notice to an applicant, licensee, or certificate holder for a violation or threatened violation of any of the unlawful acts specified in § 8-417.

(d) The Mayor may suspend a license or certificate immediately, to protect the public health, safety, or welfare pending further investigation.

(e) The Mayor shall not reissue a license to one whose license has been revoked until after at least one hundred and eighty (180) days following the revocation.

(f) Any person aggrieved by any action of the Mayor may obtain a review thereof by appealing to the Office of Administrative Hearings ("Office"). The decision of the Office shall be the final administrative remedy. Any person adversely affected by a decision of the Office may seek judicial review thereof in the District of Columbia Court of Appeals, pursuant to subchapter I of Chapter 5 of Title 2.

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-751.10.

Effect of Amendments

D.C. Law 15-354, in subsec. (f), substituted "Office of Administrative Hearings ('Office')" for "Board of Appeals and Review" in the first sentence, substituted "Office of Administrative Hearings ('Office')" for "Board of Appeals and Review" in the second sentence, and substituted "Office" for "Board" in the third sentence.

Legislative History of Laws

For legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

For Law 15-354, see notes following § 8-103.06.

§ 8-411. ADMINISTRATION AND ENFORCEMENT; ADOPTION OF REGULATIONS.

(a) The Mayor shall administer and enforce the provisions of this chapter, and is authorized to promulgate, rescind, and amend regulations, after a public hearing following due notice in conformance with the provisions of subchapter I of Chapter 5 of Title 2, to carry out the provisions of this chapter.

(b) The Mayor is authorized, after a public hearing following due notice, to declare any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism (except viruses, bacteria, or other microorganism on or in living man or other living animals) which is injurious to the environment or the health of man or other animals to be a pest.

(c) The Mayor is authorized to prescribe pesticides and equipment to be used; restrict or prohibit the use of such materials to the extent necessary to protect the public health and safety; and to take such other action as he may deem necessary to prevent any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

(d) When the Mayor has reasonable cause to believe a pesticide or device is being distributed, stored, transported, offered for sale, or used in violation of any of the provisions of this chapter, or any of the regulations prescribed under the authority of this chapter, he may issue a written "stop sale, use, or removal" order to the owner or custodian of any such pesticide or device, and after receipt of such order no person shall sell, use, or remove the pesticide or device described in the order except in accordance with the provisions of the order.

(e) Any pesticide or device that is being transported, or having been transported is sold or offered for sale in the District, or is imported from a foreign country, in violation of any of the provisions of this chapter, may be proceeded against in any court of competent jurisdiction by a process in rem for condemnation if:

(1) In the case of a pesticide, (A) it is adulterated or misbranded; (B) it is not registered pursuant to the provisions of this chapter; (C) its labeling fails to bear the information required by the FIFRA; (D) it is not colored or discolored and such coloring or discoloring is required under the FIFRA; or (E) any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration;

(2) In case of a device, it is misbranded; or

(3) In the case of a pesticide or device, when used in accordance with the requirements imposed under this chapter and as directed by the labeling, it nevertheless causes unreasonable adverse effects on the environment. In the case of a plant regulator, defoliant, or desiccant, used in accordance with the label claim and recommendations, physical or physiological effects on plants or parts thereof shall not be deemed to be injury, when such effects are the purpose for which the plant regulator, defoliant, or desiccant was applied.

(f) If the pesticide or device is condemned, it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct, and the proceeds, if sold, less the court costs, shall be paid into the District Treasury and credited to the general fund; provided, that the pesticide or device shall not be sold contrary to the provisions of this chapter, the FIFRA, or the laws of the jurisdiction in which it is sold; provided further, that upon payment of the costs of the condemnation proceedings and the execution and delivery of a good and sufficient bond conditioned upon assurances that the pesticide shall not be sold or otherwise disposed of contrary to the provisions of this subchapter, the FIFRA, or the laws of any jurisdiction in which it is sold, the court may direct that such pesticide or device be delivered to the owner thereof. The proceedings of such condemnation cases shall conform, as near as may be to the proceedings used for the condemnation of insanitary buildings under § 6-903.

(g) When a decree of condemnation is entered against the pesticide or device, court costs and fees,

storage, and other proper expenses shall be awarded against the person, if any, intervening as claimant of the pesticide or device.

(h) Nothing in this chapter shall be construed as requiring the District to prosecute or institute other proceedings for minor violations of the chapter whenever the Mayor believes that the public interest will be best served by a suitable notice in writing to the alleged violator.

(i) The Mayor may bring an action to enjoin the violation or threatened violation of any provision of this chapter or any regulation made pursuant to this chapter.

(j) In order to comply with section 4 of the FIFRA, the Mayor is authorized to make such reports to the Environmental Protection Agency in the form and containing the information as the Administrator may from time to time require.

(Apr. 18, 1978, D.C. Law 2-70, § 12, 24 DCR 6867.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-751.11.

Legislative History of Laws

For legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

§ 8-412. ENFORCEMENT.

(a) For the purpose of carrying out the provisions of this chapter, the Mayor may enter upon any public or private land in a reasonable and lawful manner during normal business hours for purposes of sampling, inspection, and observation.

(b) If denied access to any land, the Mayor may apply to a court of competent jurisdiction for a search warrant.

(c) The Mayor, or any person, may bring an action in the Superior Court of the District of Columbia to enjoin the violation or threatened violation of any provision of this chapter or of any rules or regulation promulgated thereto.

(Apr. 18, 1978, D.C. Law 2-70, § 13, 24 DCR 6867.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-751.12.

Legislative History of Laws

For legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

§ 8-413. REPORTS OF PESTICIDE ACCIDENTS OR LOSSES.

The Mayor may require the reporting of significant pesticide accidents or incidents to a designated District agency.

(Apr. 18, 1978, D.C. Law 2-70, § 14, 24 DCR 6867.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-751.13.

Legislative History of Laws

For legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

§ 8-414. STORAGE AND DISPOSAL.

No person shall transport, store, or dispose of any pesticide or pesticide container in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife, beneficial insects, or as to pollute any waterway in a way harmful to any wildlife therein. The Mayor shall publish regulations for the storage and disposal of pesticides and pesticide containers.

(Apr. 18, 1978, D.C. Law 2-70, § 15, 24 DCR 6867.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-751.14.

Legislative History of Laws

For legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

§ 8-415. RECIPROCITY.

The Mayor may waive all or part of any applicator certification examination required by this chapter and issue a license to a nonresident of the District of Columbia who is certified by a state under a certification plan that has been approved by the Administrator and which is substantially in accordance with the provisions of this chapter; provided, that such state has a reciprocity provision granting similar accommodation to applicators certified by the District of Columbia. Certifications issued pursuant to this section may be suspended or revoked in the same manner and on the same grounds as other certifications issued pursuant to this chapter, or upon suspension or revocation of the applicator's certification by the state, issuing the applicator's original certification.

(Apr. 18, 1978, D.C. Law 2-70, § 16, 24 DCR 6867.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-751.15.

Legislative History of Laws

For legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

§ 8-416. COOPERATIVE AGREEMENTS.

The Mayor may cooperate, receive grants-in-aid, and enter into agreements with any agency of the Federal Government or the District, or with any agency of a state, to obtain assistance in the implementation of this chapter, or in the enforcement of the FIFRA.

(Apr. 18, 1978, D.C. Law 2-70, § 17, 24 DCR 6867.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-751.16.

Legislative History of Laws

For legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

§ 8-417. UNLAWFUL ACTS.

It shall be unlawful for any person to:

- (a) Make a pesticide recommendation or use a pesticide in a manner inconsistent with the labeling thereof, or in violation of the restrictions imposed by the Environmental Protection Agency or the Mayor on the use of that pesticide;
- (b) Falsify, or refuse or neglect to maintain or make available, records required to be kept by this chapter and by the rules and regulations promulgated pursuant thereto;
- (c) Use fraud or misrepresentation in applying for certification or a license;
- (d) Refuse or neglect to comply with any limitations or restrictions on his certification or license;
- (e) Make false or fraudulent claims through any media which misrepresent the effect of a pesticide or the method to be utilized in the application of a pesticide;
- (f) Apply any known ineffective or improper pesticide;
- (g) Operate faulty or unsafe equipment;
- (h) Use or supervise the use of a pesticide in a faulty, careless, or negligent manner;
- (i) Make false or fraudulent records, invoices, or reports;

- (j) Aid, abet, or conspire with any other person to evade the provisions of this chapter;
- (k) Make fraudulent or misleading statements during or after an inspection concerning a pest infestation;
- (l) Impersonate any federal, state, or District inspector or official;
- (m) Distribute any pesticide which is adulterated or misbranded, or any device which is misbranded;
- (n) Fail to register a pesticide in accordance with the provisions of this chapter;
- (o) Violate any other provision of this chapter or of any rule or regulation promulgated by the Mayor pursuant thereto.

(Apr. 18, 1978, D.C. Law 2-70, § 18, 24 DCR 6867.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-751.17.

Legislative History of Laws

For legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

§ 8-418. PENALTIES.

Any person violating any provision of this chapter or of any rule or regulation promulgated pursuant thereto, shall, upon conviction, be fined not more than three hundred dollars (\$300) or be imprisoned for not more than ninety (90) days, or both. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of this chapter, or any rules or regulations issued under the authority of this chapter, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this chapter shall be pursuant to Chapter 18 of Title 2.

(Apr. 18, 1978, D.C. Law 2-70, § 19, 24 DCR 6867; Oct. 5, 1985, D.C. Law 6-42, § 414, 32 DCR 4450.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-751.18.

Legislative History of Laws

For legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

§ 8-419. SEVERABILITY.

If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this chapter and applicability thereof to other persons and circumstances shall not be affected thereby.

(Apr. 18, 1978, D.C. Law 2-70, § 20, 24 DCR 6867.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-751.19.

Legislative History of Laws

For legislative history of D.C. Law 2-70, see Historical and Statutory Notes following § 8-401.

Miscellaneous Notes

Law 19-191 added §§ 8-435 and 8-436 only "upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register, but not before October 1, 2013." As of the most recent updated publication of this section, the certification required for Law 19-191 has not been made. Therefore the sections have not been enacted.