

1972

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Introduced by M. of A. ENGLEBRIGHT, V. LOPEZ, SCHIMEL -- Multi-Sponsored
by -- M. of A. CARROZZA, COLTON, DINOWITZ, MAYERSOHN, PAULIN -- read
once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to pesticide safety

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 33-0101 of the environmental conservation law is amended by adding a new subdivision 50 to read as follows:

50. "CONTAMINATION" MEANS THE PRESENCE OF A PESTICIDE OR PESTICIDES, IN OR ON AREAS OTHER THAN THE TARGET AREA.

S 2. Article 33 of the environmental conservation law is amended by adding a new title 14 to read as follows:

TITLE 14

PESTICIDE SAFETY

SECTION 33-1401. NOTIFICATION OF LOCAL FIRE DEPARTMENTS, EMERGENCY
RESPONSE PERSONNEL AND HEALTH OFFICIALS; EVACUATION
PLANS.

33-1403. RESPONSIBILITY FOR PESTICIDE RELEASES.

33-1405. PESTICIDE STORAGE AND INVENTORY REQUIREMENTS FOR CERTIFIED APPLICATORS.

33-1407. PESTICIDE STORAGE AND INVENTORY REQUIREMENTS FOR REGISTERED PESTICIDE BUSINESSES AND AGENCIES.

33-1409. PESTICIDE STORAGE AND INVENTORY REQUIREMENTS FOR
COMMERCIAL PERMIT HOLDERS.

S 33-1401. NOTIFICATION OF LOCAL FIRE DEPARTMENTS, EMERGENCY RESPONSE PERSONNEL AND HEALTH OFFICIALS; EVACUATION PLANS.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ALL CERTIFIED APPLICATORS, REGISTERED PESTICIDE BUSINESSES OR AGENCIES AND COMMERCIAL PERMIT HOLDERS SHALL:

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

LBD04901-01-9

1 1. ANNUALLY NOTIFY THE LOCAL FIRE DEPARTMENT AND EMERGENCY RESPONSE
2 PERSONNEL OF THE PRODUCT AND CHEMICAL NAMES, REGISTRATION NUMBERS,
3 TYPES, QUANTITIES AND LOCATION OF ALL PESTICIDES STORED;

4 2. PROVIDE THE LOCAL FIRE DEPARTMENTS, EMERGENCY RESPONSE PERSONNEL
5 AND LOCAL HOSPITALS WITH THEIR EMERGENCY RESPONSE PLAN, INCLUDING IDEN-
6 TIFICATION AND LOCATION OF RESIDENTIAL AREAS, SCHOOLS, HOSPITALS, NURS-
7 ING HOMES AND OTHER SIMILAR FACILITIES WITHIN ONE MILE OF THE STORAGE
8 SITE FOR NOTIFICATION AND EVACUATION PURPOSES; AND

9 3. MAINTAIN A CURRENT INVENTORY OF THE PESTICIDES IN STORAGE. A COPY
10 OF SUCH INVENTORY SHALL BE KEPT AT A LOCATION WHICH IS ACCESSIBLE AND
11 REMOVED FROM THE STORAGE AREA. IN THE EVENT OF A FIRE, SPILL OR OTHER
12 EMERGENCY INVOLVING THE PESTICIDE STORAGE AREA, THE CURRENT INVENTORY
13 SHALL BE AVAILABLE TO ALL FIRE, EMERGENCY RESPONSE AND HEALTH PERSONNEL.
14 S 33-1403. RESPONSIBILITY FOR PESTICIDE RELEASES.

15 1. ANY FIRE, EXPLOSION, CASUALTY OR ANY OTHER UNEXPECTED EVENT OR
16 CIRCUMSTANCE THAT RESULTS IN THE RELEASE OF ANY PESTICIDE, SUCH PESTI-
17 CIDE OR PESTICIDE CONTAMINATED MEDIA SHALL BE IMMEDIATELY CONTAINED OR
18 CONTROLLED IN A MANNER AS TO PREVENT ANY FURTHER MOVEMENT OF THE PESTI-
19 CIDE OR PESTICIDE CONTAMINATED MEDIA.

20 2. RESPONSIBILITY FOR CONTROL OR CONTAINMENT OF PESTICIDES PURSUANT TO
21 THIS SECTION SHALL BE THE JOINT AND SEVERAL RESPONSIBILITY OF:

22 A. THE OWNER OF THE PREMISES UPON WHICH THE PESTICIDE IS LOCATED;

23 B. THE PERSON RESPONSIBLE FOR THE PRESENCE OF THE PESTICIDE ON THE
24 PREMISES; AND

25 C. ANY PERSON RESPONSIBLE FOR THE PESTICIDE RELEASE.

26 3. EACH OF THE PERSONS DESIGNATED IN PARAGRAPHS A, B AND C OF SUBDIVI-
27 SION TWO OF THIS SECTION SHALL BE RESPONSIBLE FOR THE IMMEDIATE NOTIFI-
28 CATION OF THE DEPARTMENT UPON THE OCCURRENCE OF A PESTICIDE RELEASE AS
29 DESCRIBED IN THIS SECTION.

30 S 33-1405. PESTICIDE STORAGE AND INVENTORY REQUIREMENTS FOR CERTIFIED
31 APPLICATORS.

32 PESTICIDES SHALL BE STORED AND HANDLED BY PESTICIDE APPLICATORS PURSU-
33 ANT TO THE FOLLOWING REQUIREMENTS:

34 1. ALL PESTICIDE STORAGE AREAS SHALL:

35 A. BE STRUCTURALLY SEGREGATED FROM RESIDENTIAL, OFFICE AND GENERAL
36 WORK AREAS; LIVESTOCK QUARTERS; FOOD, FEED OR SEED STORAGE AREAS; AND
37 WATER SUPPLY SOURCES;

38 B. BE LOCKED AND PROMINENTLY POSTED WITH PESTICIDE STORAGE WARNING
39 SIGNS;

40 C. HAVE ADEQUATE VAPOR VENTING CAPABILITY;

41 D. HAVE A CONTINUOUS RAISED BERM ON ALL SIDES OF THE FLOOR, WITH THE
42 BERM AND FLOOR SEALED TO CREATE A CONTINUOUS IMPERVIOUS SURFACE; AND

43 E. CONTAIN SPILL CONTAINMENT MATERIALS AND FIRE EXTINGUISHERS APPRO-
44 PRIATE FOR THE PESTICIDE STORED, WHICH ARE CONVENIENTLY ACCESSIBLE IN
45 THE STORAGE AREA;

46 F. HAVE A WATER SUPPLY FOR EMERGENCY WASH OR EYEWASH AND FOR ROUTINE
47 WASH-UP LOCATED CONVENIENTLY TO THE PESTICIDE STORAGE AREA. A QUANTITY
48 OF WATER SUFFICIENT FOR AN INITIAL EMERGENCY WASH WITHIN OR IMMEDIATELY
49 ADJOINING THE PESTICIDE STORAGE AREA SHALL BE REQUIRED; AND

50 G. HAVE A FIRST AID KIT WITH APPROPRIATE EQUIPMENT FOR INITIAL
51 RESPONSE TO PESTICIDE POISONING WHICH IS READILY AVAILABLE, BUT NOT
52 LOCATED WITHIN THE PESTICIDE STORAGE AREA.

53 2. STORED PESTICIDES SHALL BE SEGREGATED BY PESTICIDAL FUNCTION AND
54 HAZARD CLASS; KEPT TIGHTLY SEALED AND PERIODICALLY INSPECTED FOR LEAK-
55 AGE, RUSTING OR OTHER DEFECTS; KEPT IN THE MANUFACTURER'S ORIGINAL
56 CONTAINER WITH LABELS CLEAN AND CLEARLY READABLE; AND IF STORED IN SUCH

1 CONTAINER OTHER THAN THE MANUFACTURER'S ORIGINAL CONTAINER AS AUTHORIZED
2 BY THE DEPARTMENT, APPROPRIATELY IDENTIFIED AND LABELED.

3 3. AREAS WHERE PESTICIDES ARE MIXED, PESTICIDE CONTAINERS RINSED, AND
4 APPLICATION EQUIPMENT LOADED OR CLEANED, SHALL BE APPROPRIATELY BERMED,
5 WITH IMPERMEABLE FLOORS. THE PESTICIDE CONTAINER RINSEATE SHALL BE
6 CONTAINED AND REUSED FOR FUTURE MIXING WITH THE SAME CONCENTRATES. WATER
7 SOURCES USED FOR PESTICIDE MIXING AND PESTICIDE CONTAINER AND APPLICA-
8 TION EQUIPMENT CLEANING SHALL HAVE BACKFLOW PREVENTION DEVICES.

9 4. PESTICIDES STORED IN BULK CONTAINERS SHALL HAVE LOCKED INLET AND
10 OUTLET CONTROLS; AND HAVE A CONTAINMENT SYSTEM TO COLLECT PRECIPITATION
11 SURFACE RUN-ON OR SPILLS WITH AT LEAST TWENTY-FIVE PERCENT OF THE STORED
12 CAPABILITY OF THE STORAGE SYSTEM.

13 5. APPROPRIATE PERSONAL PROTECTIVE EQUIPMENT, INCLUDING RESPIRATORS,
14 GLOVES, APRONS AND BOOTS, AND ANY OTHER REQUIREMENTS SPECIFIED ON THE
15 LABELS OF THE PESTICIDE PRODUCTS STORED, SHALL BE READILY AVAILABLE AND
16 STORED OUTSIDE OF THE PESTICIDE STORAGE AREA.

17 6. THE LOCAL FIRE DEPARTMENT SHALL BE NOTIFIED ANNUALLY OF THE TYPES,
18 QUANTITIES AND LOCATION OF PESTICIDES STORED IN THE PESTICIDE STORAGE
19 AREA. A BASIC FIRE RESPONSE PLAN SHOULD BE PREPARED AND SUBMITTED TO THE
20 FIRE DEPARTMENT ANNUALLY.

21 S 33-1407. PESTICIDE STORAGE AND INVENTORY REQUIREMENTS FOR REGISTERED
22 PESTICIDE BUSINESSES AND AGENCIES.

23 IN ADDITION TO THE OTHER REQUIREMENTS CONTAINED IN THIS ARTICLE,
24 PESTICIDE BUSINESSES AND AGENCIES SHALL MEET THE FOLLOWING REQUIREMENTS:

25 1. ALL PESTICIDE STORAGE AREAS SHALL:

26 A. HAVE A SEPARATE LOCKED ENTRYWAY WITH CONTROLLED ACCESS AND A WARN-
27 ING SIGN DESCRIBING PESTICIDE STORAGE HAZARDS, AND WINDOWS WHICH PREVENT
28 ACCESS;

29 B. HAVE A CONTAINMENT SYSTEM COMPOSED OF EITHER A BERMED FLOOR WHICH
30 WILL CONTAIN AT LEAST TWENTY-FIVE PERCENT OF THE TOTAL STORED LIQUID
31 VOLUME OR A SLOPED FLOOR WITH SUMP CONTAINMENT WITH THE SAME VOLUME;

32 C. HAVE A VENTILATION SYSTEM SUFFICIENT TO PREVENT ACCUMULATION OF
33 VAPORS AND A HEATING/COOLING SYSTEM WHICH WILL PREVENT FREEZING OR OVER-
34 HEATING OF PESTICIDES; AND

35 D. IF THE PESTICIDE STORAGE FACILITY CONTAINS FLAMMABLE AND COMBUSTI-
36 BLE LIQUIDS, SHALL HAVE NON-SPARKING ELECTRICAL FIXTURES AND APPLICA-
37 TIONS, APPROVED FOR USE IN SUCH FACILITIES.

38 2. IF PESTICIDES ARE IN CONTAINERS HOLDING FROM FIFTY-FIVE TO ONE
39 THOUSAND GALLONS, OR IN PORTABLE STORAGE UNITS, ALL SUCH CONTAINERS
40 SHALL:

41 A. HAVE INLET AND OUTLET LOCKS WHICH REMAIN LOCKED WHEN THE CONTAINER
42 IS NOT IN USE;

43 B. BE STORED ON A BERMED, IMPERMEABLE PAD OR FLOOR WHICH IS CAPABLE OF
44 CONTAINING AT LEAST ONE HUNDRED PERCENT OF THE TOTAL CONTAINER VOLUME OR
45 A SLOPED FLOOR WITH SUMP CONTAINMENT CAPABLE OF HOLDING THE SAME VOLUME.
46 IF THE CONTAINERS ARE NOT PROTECTED FROM PRECIPITATION OR SURFACE RUN-
47 ON, AT LEAST ONE HUNDRED TWENTY-FIVE PERCENT OF THE TOTAL CONTAINER
48 VOLUME;

49 C. BE STORED IN A FENCED OR WALLED AREA WHICH CAN BE LOCKED WHEN NOT
50 IN USE; AND

51 D. BE ROUTINELY INSPECTED AND TESTED, TO ENSURE THAT THE SYSTEMS ARE
52 FUNCTIONING PROPERLY.

53 3. PESTICIDE PRODUCTS SHALL BE STORED IN A MANNER WHICH SEPARATES
54 INCOMPATIBLE MATERIALS, AND FLAMMABLE AND COMBUSTIBLE LIQUIDS; HERBI-
55 CIDES FROM INSECTICIDES AND FUNGICIDES; AND POTENTIALLY REACTIVE MATERI-

1 ALS FROM OTHER MATERIALS BY A PHYSICAL BARRIER, SUCH AS A DIKE, BERM OR
2 WALL.

3 4. PESTICIDES SHALL BE STORED ON IMPERMEABLE SHELVES, RACKS OR
4 PALLETS, WITH ADEQUATE AISLE SPACING AND PESTICIDE LABELS VISIBLE FROM
5 THE AISLES; AND COMPLY WITH ALL STORAGE REQUIREMENTS FOR COMBUSTIBLE,
6 FLAMMABLE OR IGNITABLE MATERIALS.

7 5. THE OWNER OR THE OWNER'S AGENT OF THE PESTICIDE STORAGE FACILITY
8 SHALL PROVIDE THE FOLLOWING SAFETY AND EMERGENCY EQUIPMENT, PROCEDURES,
9 INFORMATION AND TRAINING FOR ALL PERSONNEL HAVING ACCESS TO THE PESTI-
10 CIDE STORAGE AREA OR HANDLING AND MIXING PESTICIDES:

11 A. APPROPRIATE PERSONAL PROTECTIVE EQUIPMENT, INCLUDING RESPIRATORS,
12 GLOVES, APRONS AND BOOTS, AND ANY OTHER REQUIREMENTS SPECIFIED ON THE
13 LABELS OF THE PESTICIDE PRODUCTS STORED, SHALL BE READILY AVAILABLE AND
14 STORED OUTSIDE OF THE PESTICIDE STORAGE AREA;

15 B. AN EMERGENCY RESPONSE PLAN WITH WHICH ALL EMPLOYEES OR PERSONS
16 HAVING ACCESS TO THE PESTICIDE STORAGE AREA ARE FAMILIAR; AND

17 C. TRAINING IN THE PROPER PESTICIDE USE TECHNIQUES AND REQUIREMENTS;
18 THE PROPER USE OF ALL PERSONAL PROTECTIVE EQUIPMENT AND FIRST AID EQUIP-
19 MENT; AND IN SPILL PREVENTION AND RESPONSE FOR CONTAINMENT AND CLEANUP
20 OF PESTICIDES.

21 6. PESTICIDE MIXING, PESTICIDE CONTAINER CLEANING AND APPLICATION
22 EQUIPMENT LOADING AND CLEANING AREAS SHALL:

23 A. HAVE VENTILATION HOODS, FANS OR OTHER VAPOR REMOVAL EQUIPMENT, IF
24 LOCATED INDOORS;

25 B. HAVE A SEPARATE, SECURE SECTION WITHIN THE GENERAL PESTICIDE STOR-
26 AGE AREA FOR EMPTY CONTAINER STORAGE; AND

27 C. COLLECT AND STORE ABOVE GROUND, ALL CONTAINER AND SPRAY EQUIPMENT
28 RINSEATES. ALL RINSEATES SHALL BE APPROPRIATELY RECYCLED OR REUSED FOR
29 FUTURE MIXING OF THE SAME PESTICIDE.

30 S 33-1409. PESTICIDE STORAGE AND INVENTORY REQUIREMENTS FOR COMMERCIAL
31 PERMIT HOLDERS.

32 IN ADDITION TO THE REQUIREMENTS CONTAINED IN THIS ARTICLE, THE FOLLOW-
33 ING REQUIREMENTS SHALL APPLY TO COMMERCIAL PERMIT HOLDERS:

34 1. AT THE DISCRETION OF THE LOCAL FIRE AND HEALTH DEPARTMENTS, PESTI-
35 CIDE STORAGE AREAS SHALL BE SEPARATE BUILDINGS OR ALTERNATIVELY, THE
36 PESTICIDE STORAGE AREA SHALL BE SEPARATED FROM THE REMAINDER OF THE
37 BUILDING BY FIRE RESISTANT WALLS AND DOORS, IN COMPLIANCE WITH THE RULES
38 AND REGULATIONS OF THE STATE FIRE ADMINISTRATOR, WHICH TO THE EXTENT
39 PRACTICABLE SHALL BE CONSISTENT WITH THE STANDARDS CONTAINED IN THE MOST
40 RECENT NATIONAL FIRE PROTECTION ASSOCIATION-30 FLAMMABLE AND COMBUSTIBLE
41 LIQUIDS CODE.

42 2. THE PESTICIDE STORAGE AREA SHALL HAVE A PERIMETER FENCE WITH LOCKED
43 GATE.

44 3. THE PESTICIDE STORAGE BUILDING SHALL BE CLEARLY POSTED ON ALL EXTE-
45 RIOR SIDES WITH WARNING SIGNS DESCRIBING PESTICIDE STORAGE HAZARDS.

46 4. IN SITUATIONS WHERE ADJACENT PROPERTIES ARE RESIDENTIAL, THE STOR-
47 AGE OF PESTICIDES SHOULD BE AT LEAST FIFTY FEET FROM ANY ADJACENT PROP-
48 erty lines.

49 5. AISLE SPACING AND CONTAINER PILE VOLUMES SHOULD MEET THE MOST
50 RECENT NATIONAL FIRE PROTECTION ASSOCIATION-30 FLAMMABLE AND COMBUSTIBLE
51 LIQUIDS CODE, DEPENDING ON THE TYPE OF COMBUSTIBLE, FLAMMABLE OR IGNITA-
52 BLE MATERIALS BEING STORED.

53 S 3. This act shall take effect on the sixtieth day after it shall
54 have become a law.