

Readopt Pes 701.01 through Pes 701.05, effective 8-22-24 (Document #14064), to read as follows:

CHAPTER Pes 700 SALE AND USE OF PESTICIDES

Statutory Authority: RSA 430:31, IV

PART Pes 701 PROHIBITED, PROHIBITED-LIMITED USE AND RESTRICTED PESTICIDES

Pes 701.01 Statement of Purpose. The purpose of these rules is to list the prohibited, prohibited-limited and restricted use pesticides and the basic requirements for their sale and use in New Hampshire.

Pes 701.02 Basic Requirements For the Sale and Use of Pesticides. The sale and use of pesticides shall be prohibited or restricted as follows:

(a) All uses of pesticides restricted or prohibited by the U. S. Environmental Protection Agency shall be so classified in New Hampshire.

(b) All pesticides having labeling designating them as restricted use shall be so classified in New Hampshire.

(c) The sale and use of the compounds listed in Pes 701.04 shall be prohibited in the state of New Hampshire. No uses shall be allowed.

(d) The sale and use of the compounds listed in Pes 701.05 shall be restricted in the manner indicated. The materials may be distributed, sold, offered for sale or held for sale only by licensed dealers for the uses shown in Pes 701.05, after license requirements are met.

Pes 701.03 Restricted Use Pesticides. For the purpose of controlling their sale, the pesticides listed in Pes 701.06 may be sold or distributed only by pesticide dealers pursuant to RSA 430:35, Pes 306, and Pes 700.

Pes 701.04 Prohibited Compounds.

(a) None of the following compounds, listed by common chemical name, shall be sold or used:

- (1) 2,4,5-T, Salts and Esters;
- (2) Aldrin;
- (3) BHC;
- (4) Chlordane;
- (5) DDD;
- (6) DDT;
- (7) Dieldrin;
- (8) Dinoseb;
- (9) Endrin;
- (10) Heptachlor;
- (11) Mercury and its compounds;

- (12) Rothane;
- (13) Strobane;
- (14) TDE;
- (15) Tepp;
- (16) Thallium Salts, thallium acetate, thallium sulfate; and
- (17) Toxaphene, Chlorinated camphene.

Pes 701.05 Prohibited - Limited Use Compounds. These compounds, listed by common chemical name, shall be allowed for sale and use only for the uses listed below:

(a) Avitrol shall not be sold to the general public and shall only be used upon issuance of a special permit by:

- (1) Government agencies who have jurisdiction over federally protected birds; -
- (2) Commercial pest control operators for non-protected birds; and
- (3) Private applicators certified to use restricted use pesticides using a formulation including 0.5 percent active ingredient or less as allowed by product label;

(b) DRC 1339 Starlicide shall only be used by government agencies who have jurisdiction over federally protected birds, and commercial pest control operators for non-protected birds, upon issuance of a special permit. This compound shall not be sold to the general public;

(c) Fenthion shall only be used by government agencies who have jurisdiction over federally protected birds, and commercial pest control operators for non-protected birds, upon issuance of a special permit. This compound shall not be sold to the general public;

(d) Methyl Parathion Encapsulated, or any formulation thereof used in New Hampshire, shall be subject to the following restrictions and conditions:

- (1) Those provisions contained on the manufacturer's label;
- (2) Regardless of whether bees or other pollinators are known to be visiting areas to be treated, this pesticide shall not be:
 - a. Applied to any corn crop having 10% or more of its plants with spike anthers;
 - b. Applied on any field crop, orchard, vineyard or other agricultural crop listed on the manufacturer's label where there exists weeds or other non-target plants having an average of 5 or more blooms per square yard; or
 - c. Allowed to drift to any non-target areas where weeds or other non-target plants having an average of 5 or more blooms per square yard exist; and
- (3) Use of this pesticide shall be by special permit only as follows:
 - a. Only applicators certified under RSA 430:33 may apply for a special permit under this subparagraph;
 - b. Individuals seeking special permits to use Methyl Parathion shall include the following information on application forms provided by the division:

1. Name and address of applicant;
2. Crops to be treated;
3. Location of application;
4. Maximum number of applications;
5. Target pests;
6. Approximate date of application; and
7. Method of notification of apiary owners;

c. Special permit applications under this subparagraph shall be submitted at least 20 days prior to the intended treatment date;

d. The division shall grant a special permit within 10 days of receipt of such application if the following are true:

1. The applicant has provided the information required in b. above;
2. The applicant has complied with a. and c. above;
3. The pesticide can be used without causing adverse effects on non-target organisms; and
4. The proposed use is in compliance with (d)(2) above; and

e. An applicator issued a special permit under this paragraph shall notify all beekeepers registered under Agr 1805.01, who indicated through registration they may have apiaries located within 2 miles of the area to be treated, at least 48 hours prior to each application;

(e) Ornitol shall only be used by government agencies who have jurisdiction over federally protected birds, and commercial pest control operators for non-protected birds, upon issuance of a special permit. This compound shall not be sold to the general public;

(f) Sodium Arsenite, and any formulation thereof, shall be used by special permit only pursuant to Pes 505.05(b)(c) and (d);

(g) Sodium Fluoroacetate, compound 1080, shall be used by a licensed pest control applicator, upon consultation with the department of health and human services; and

(h) Tergitrol shall be used only by government agencies who have jurisdiction over federally protected birds, and commercial pest control operators for non-protected birds, upon issuance of a special permit. This compound shall not be sold to the general public.

Readopt with amendment Pes 701.06, effective 8-1-25 (Document #14333), to read as follows:

Pes 701.06 Restricted Use Materials.

(a) Pesticides containing the following compounds, listed in Table 7.1 Restricted Use Pesticides by common chemical name and use or concentration affected, shall be classified as restricted use:

Table 7.1 Restricted Use Pesticides

COMMON CHEMICAL NAME	USE/CONCENTRATION AFFECTED
Acetochlor	all with use requiring a 50-foot setback from private water wells
Acrolein	all
Acrylonitrile	all
Alachlor	all
Aldicarb	all
Allyl Alcohol	all
Aluminum Phosphide	all
Amitrole	all above 2%
Arsenic (inorganic)	all above 1% as expressed as Metallic Arsenic in water soluble form; and all used as wood preservatives
Arsenic Acid	all
Arsenic Pentoxide	all used as wood preservatives
Atrazine	all
Azinphos-ethyl	all
Azinphos-methyl	all
Baythroid	all above 2%
Bis(tributyltin) oxide	all used as marine coatings
Bomyl	all
Brodifacoum	all above .05%
Bromadiolone	all
Bromoxynil	all
Cadmium Chloride	all
Calcium Cyanide	all
Carbofuran	all
Carbon Bisulfide	all
Carbon Disulfide	all
Carbon Tetrachloride	all
Carbophenothion	all
Chlorfenvinphos	all
Chlorophacinone	all tracking powder, dust and ready to use formulations .2% or greater
Chloropicrin	all
Chromic Acid	all except brush-on used as wood preservatives
Clonitralid	all wettable powders 70% and above; all granular and wettable powders used as molluscides
Coal Tar	all
Coal Tar Creosote	all
Coumafuryl	all
Creosote	all
Creosote Oil	all
Cyanazine	all
Cycloheximide	all
Daminozide	all
Demeton	all

Diallate	all
Dichloropropene	all
Dichlorvos	all above 1%; except 20% resin strips or others so impregnated resin products not in excess of 20%
Diclofop Methyl	all
Dicrotophos	all
Difenacoum	all
Difethialone	all
Diflubenzuron	all; except feed-through fly control formulations
Dinitrocyclohexylphenol	all
Dioxathion	all
Diphacinone	all above 1%
Diquat	all concentrations labeled for aquatic use; all other formulations above 2% provided that those products containing 2% or less are labeled for terrestrial use only
Disulfoton	all above 2%
DNOC	all
Dodemorph	all
Endosulfan	all above 3%
Endothall	all
EPN	all
Ethion	all
Ethoprop	all
Ethyl Parathion	all
Ethylene Dibromide	all
Famphur	all above 1%
Fenamiphos	all emulsifiable concentrates 35% and above
Fenitrothion	all forestry uses
Fensulfothion	all
Fenthion	all above 1%
Fluorocetamide	all
Flucythrinate	all
Fonofos	all
Formetanate Hydrochloride	all
Hydrocyanic acid	all
Lambda-Cyhalothrin	all above 1%
Leptophos	all
Lethane 384	all
Magnesium Phosphide	all
Methamidophos	all
Methidathion	all
Methomyl	all above 1%
Methyl Bromide	all
Methyl Isothiocyanate	all
Methyl Parathion	all including Methyl Parathion on Prohibited-Limited Use list
Metolachlor	all
Mevinphos	all

Mexacarbate	all above 2%
Monocrotophos	all
Niclosamide	all
Nicotine Alkaloid	all
Nicotine Salts	all above 40% nicotine expressed as alkaloid
Nitrogen, liquid	all
Oxamyl	all
Oxydemeton Methyl	all
Paraquat	all above .2% cation
Parathion	all
Pentachlorophenol	all
Phorate	all
Phosacetim	all
Phosalone	all above 2%
Phosphamidon	all
Phosphorus (white & yellow)	all
Phostoxin	all
Picloram	all except for treating trees by a "cut surface" method with 5.4% or less Picloram
Pindone	all above 3%
PMP	all above 6%
Potassium Pentachlorophenate	all
Pronamide	all wettable powders 50% or above
Propetamphos	all emulsifiable concentrates 50% or greater
Propoxur	all above 3%; except impregnated type resin materials with a concentration not exceeding 10%
Pyriminil	all
Schradan	all
Selenium and its compounds	all
Simazine	all above 10%
Sodium Cyanide	all
Sodium Dichromate	all formulations except brush-on
Sodium Methylthiocarbamate	all
Sodium Pyronarsenate	all formulations except brush-on
Strychnine	all
Sulfotepp	all
Sulfuric Acid	all
Sulfuryl Fluoride	all
Sulprofos	all
Terbufos	all
TFM	all
Tralomethrin	all above 2%
Tributyltin	all used as marine coatings
Tributyltin Fluoride	all used as marine coatings
Tributyltin Methacrylate	all used as marine coatings
Triphenyltin Hydroxide	all
Warfarin	all above 3%

Zinc Phosphide	all
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Readopt Pes 701.07, effective 8-22-24 (Document #14064), to read as follows:

Pes 701.07 Lindane Classification. Notwithstanding the manufacturers' labeling, pesticides containing lindane as the active ingredient shall be classified as one of the following:

(a) Prohibited-limited use provided it shall only be used for the control of:

- (1) Bark and wood borers;
- (2) White pine weevil with single stem applications only;
- (3) Spruce gall aphids;
- (4) Leafminers;
- (5) Aphids;
- (6) Thrips;
- (7) Gall midges;
- (8) Leafrollers on trees, shrubs, and ornamental plants;
- (9) Soil insects as a seed treatment;
- (10) Symphylids in soil application;
- (11) Fungus gnats;
- (12) Sowbugs and millipedes; and
- (13) Mange mites and lice on humans in conjunction with programs to protect public health under the direction of the New Hampshire department of health and human services, office of community and public health;

(b) Those lindane products restricted by the U.S. Environmental Protection Agency pursuant to 40 CFR 152.160-152.175 shall also be restricted in New Hampshire and use shall be limited to those uses under Pes 701.07(a); and

(c) A lindane product shall be classified as general use, as defined by RSA 430:29 XIII-a, only when the product is registered, and when the formulation and labeled use is as follows:

- (1) Liquid formulations containing 20% or less lindane and packaged in containers not exceeding one pint, for control of wood boring insects;
- (2) Paste formulations for the control of wood boring insects, and containing 2% or less lindane and packaged in containers not exceeding 2 oz; or
- (3) Pet supplies containing one percent or less lindane including shampoos, flea collars, flea tags and insecticides.

Adopt Pes 701.08, to read as follows:

Pes 701.08 Neonicotinoid Classification.

(a) Neonicotinoid pesticides containing clothianidin, dinotefuran, imidacloprid or thiamethoxam shall be classified as one of the following:

(1) Prohibited for use on outdoor turf or lawn with the exception of a suppression of pests judgement pursuant to RSA 430:2;

(2) Restricted for use outdoors to an individual issued a current registration certificate pursuant to RSA 430:33, I or II with the following exemptions:

- a. Products identified as general use pursuant to Pes 701.08(3);*
- b. Products used for pet and veterinary care for preventing, destroying, repelling, or mitigating fleas, mites, ticks, heartworms, or other insects or organisms;*
- c. Products used in accordance with the label for:*
 - 1. controlling wood-destroying and structural pests;*
 - 2. wood preservation;*
 - 3. foundation or limited exterior treatments applied directly to a structure's foundation, or limited exterior perimeter applications confined to within 5 feet of the building foundation perimeter, when performed by a certified applicator; or*
 - 4. a suppression of pests pursuant to RSA 430:2.*

(3) General use for the following unless restricted otherwise by the United States Environmental Protection Agency:

- a. Products whose labels are for indoor use only;*
- b. Pet and veterinary care products used for preventing, destroying, repelling, or mitigating fleas, mites, ticks, heartworms, or other insects or organisms;*
- c. Products intended for the treatment of lice and bedbugs or personal care;*
- d. Products labeled and intended solely for aquarium use or contained aquatic systems to control aquatic pests; and*
- e. Products used on plants grown in enclosed greenhouses.*

APPENDIX

Rule	Specific State Statute the Rule Implements
Pes 701.01 – Pes 701.03	RSA 430:31, IV(l)
Pes 701.04 – Pes 701.05	RSA 430:31, IV(e)
Pes 701.06 – Pes 701.08	RSA 430:31, IV(e) and (l)