

WELCOME TO THE NYSDEC
Pesticide Regulations Webinar
We will begin shortly.

Technical difficulty call: 518-402-8044



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Meeting Procedures

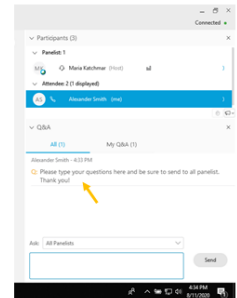
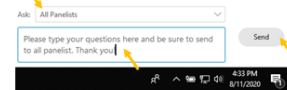
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1. Attendees should be on mute at all times.
 - ❖ If using a phone for audio, please tap the phone mute button.
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2. After each segment the presenter will respond to questions from attendees in the chat. To ask a question, attendees should use the chat feature and type their question to **EVERYONE**. Each presenter will answer as many questions as time allows.
 - ❖ **Note:** If technical problems arise, please contact the NYSDEC at 518-402-8044.



You'll see  when your microphone is muted

Asking a Question



How To Mail Questions or Comments

Written comments on the proposed pesticide regulations Parts 320-329 may also be submitted after the webinar by email or by USPS mail using the Comment Form provided on our website.

To send written comments mail to: Martin Williams, NYS DEC – Bureau of Pesticides Management, 625 Broadway, Albany, NY 12233-7254 or Email comments to:

pestregs@dec.ny.gov

Include "**Parts 320-329**" in the subject line.





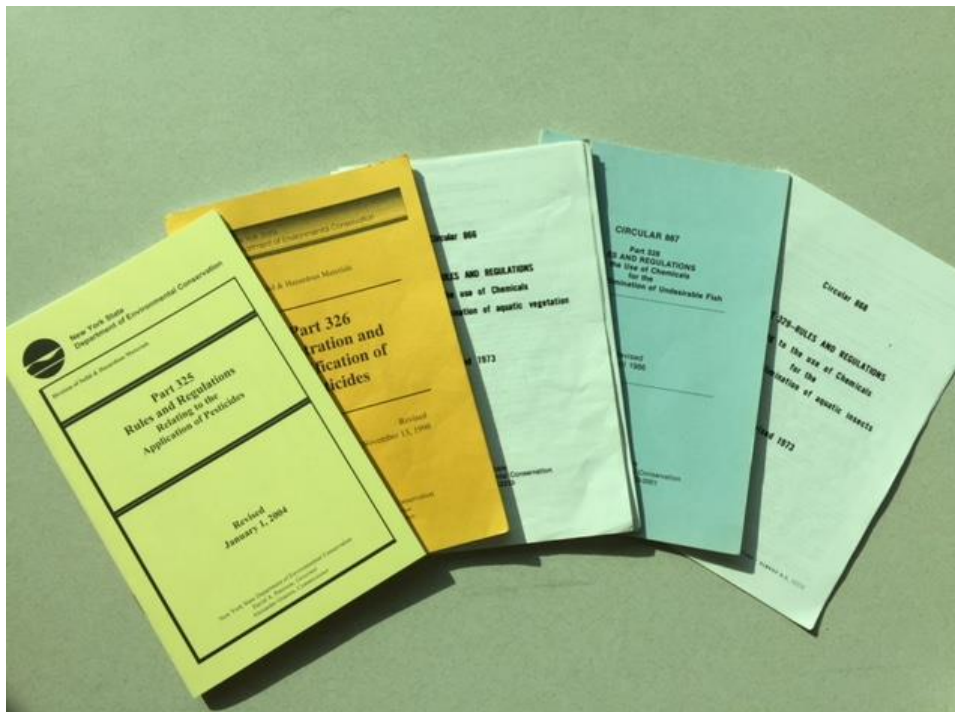
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Bureau of Pesticides Management: 320 Series Rulemaking

Stakeholder Meeting
September and October 2020

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Revising Part 320 Series Regulations



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Part 320 Series Regulations

- Restructure and Clarify Current Regulations
- Update Regulations to Reflect Current Business Practices and Application Methods
- Registration of Minimum Risk Pesticide Products
- Incorporate the Requirements of the:
 - Federal Certification of Pesticide Applicators Rule (Referred to as the Federal C & T Rule)
 - Federal Worker Protection Standard (WPS)
 - Federal Container & Containment (C&C) Rule

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Chlorpyrifos

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Chlorpyrifos

- The Legislature passed a bill to ban uses of chlorpyrifos to protect New Yorkers from adverse public health impacts
- Governor Cuomo vetoed the bill and directed DEC to take regulatory action on chlorpyrifos
- The DEC will be proposing additions to the pesticide regulations prohibiting the use of chlorpyrifos
- Separate track from other regulatory revisions
- Final proposal later this year or early next year

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Questions or Comments?

Submit Written Comments to:

pestregs@dec.ny.gov

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Questions?

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Federal Certification & Training Rule

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Certification & Training

Mandatory Requirements of the Federal C & T Rule

- DEC did Submit a State Certification & Training Plan to EPA by March 4, 2020
- EPA's Deadline to Approve the State's Plan is March 4, 2022
 - The Approval will Include an Implementation Timeframe Agreed to by EPA and DEC

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Certification & Training

Mandatory Requirements of the Federal C & T Rule

- Requirement: Minimum Age of 18 for All Certified Applicators and Noncertified Applicators

Proposed Changes:

- Establish a Minimum Age of 18 for:
 - Private Applicators
 - Commercial Applicators
 - Technicians
- Maintain the Minimum Age of 16 for Apprentices
 - Prohibit Apprentices from Handling Federal Restricted Use Pesticides (RUPs) Until The Age of 18

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Certification & Training

Mandatory Requirements of the Federal C & T Rule

- Requirement: Certification Categories for Aerial Application, Soil Fumigation, and Non-Soil Fumigation

Proposed Changes:

- Add a Soil/Non-Soil Fumigation to Both Commercial and Private Certification Categories
- Develop a Separate Aerial Category for Private Certification

Certification & Training

Mandatory Requirements of the Federal C & T Rule

- Requirement: Annual Training for Noncertified Applicators*
(***EPA** Guidance **states** Apprentices and Certified **Technicians are Considered Noncertified Applicators**)

Proposed Changes:

- Technicians Will Be Required to Recertify Similar to Applicators
- Apprentices Take Department Approved Course Annually

Certification & Training

Mandatory Requirements of the Federal C & T Rule

- Requirement: Recordkeeping Requirements for Annual Noncertified Applicator Training

Proposed Changes:

- Add the Apprentice Annual Training Records Requirement to the Current Apprentice Training Records Requirements
- Certified Technician Required to Complete Recertification Training

Certification & Training

Mandatory Requirements of the Federal C & T Rule

- Requirement: Eliminate Non-Reader Certification for Private Applicators

Proposed Change:

- Eliminate Special Permits

Certification & Training

Mandatory Requirements of the Federal C & T Rule

- Requirement: Use of Only Materials Approved by the State Certifying Authority to be Provided and Collected by the Proctor at the Certification Examinations

Proposed Change:

- Initiate Closed Book Category Exams

Certification & Training

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Certification & Training

Pesticide Certification Categories:

- Concern: Numerous Categories Make it Difficult to Qualify and Obtain Recertification Credits and Some Categories Overlap in Methods, Sites or Uses

Proposed Changes:

- Renumber Categories and Remove “Subcategory” Language
- Redefine Categories to Include Policy Documents and Enforcement Discretion Memoranda
- Combine Similar Categories

Certification & Training

Private Pesticide Certification Categories:

Currently 7 Private Categories/Subcategories:

Field & Forage; Fruit; Vegetable; Greenhouse & Florist;
Nursery, Ornamentals & Turf; Ag Animal; and Aquatic

- Streamline by Combining into One General “Agricultural” Category without Aquatic uses
- Create New Specific Fumigation and Aerial Categories
 - Required by New Federal C & T Rule

Certification & Training

Private Pesticide Certification Categories:

Proposed Categories	Description
Agricultural Pest Control	As allowed in Current Categories 21, 22, 23, 24, 25, 31
Agricultural Fumigation	Restricted-Use fumigation of soil and non-soil
Agricultural Aerial	Private aerial applications

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Certification & Training

Commercial Pesticide Certification Categories:

Currently 28 Commercial Categories/Subcategories

- Streamline by Combining Similar Categories

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Certification & Training

Commercial Pesticide Certification Categories:

Proposed Categories	Description
Agricultural Plant	As allowed in Current Category 1A
Agricultural and Companion Animal	Combination of allowances of Current Categories 1B and 1C

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Certification & Training

Commercial Pesticide Certification Categories:

Proposed Categories	Description
Vegetation Management	Combination of allowances of Current Categories 2, 3A, 3B, 3C, 6A
Seed Treatment	As allowed in Current Category 4

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Commercial Pesticide Certification Categories:

Proposed Categories	Description
Aquatic Pest Control	Combination of allowances of Current Categories 5A, 5B, 5C
Aquatic Anti-Fouling Paint	As allowed in Current Category 5D

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Certification & Training

Commercial Pesticide Certification Categories:

Proposed Categories	Description
Sewer Line Root Control	As allowed in Current Category 5E <ul style="list-style-type: none">Restricted Use Fumigation will require concurrent certification
Wood Preservation	Combination of allowances of Current Categories 6B and 7D

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Certification & Training

Commercial Pesticide Certification Categories:

Proposed Categories	Description
Structural Pest Control	Combination of allowances of Current Categories 7A and 7F <ul style="list-style-type: none">• Restricted Use Fumigation will require concurrent certification

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Commercial Pesticide Certification Categories:

Proposed Categories	Description
Soil Restricted-Use Fumigation	Portion of allowances of Current Category 1D <ul style="list-style-type: none">• Only Soil fumigation
Non-Soil Restricted-Use Fumigation	Combination of a portion of allowances of Current Categories 1D, 7B and 7F

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Commercial Pesticide Certification Categories:

Proposed Categories	Description
Termite	As allowed in Current Category 7C
Cooling Towers, Pulp and Paper Process	As allowed in Current Category 7G

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Certification & Training

Commercial Pesticide Certification Categories:

Proposed Categories	Description
Public Health Pest Control	As allowed in Current Category 8 <ul style="list-style-type: none">• For Government sponsored programs
Regulatory Pest Control	As allowed in Current Category 9 <ul style="list-style-type: none">• For Government personnel

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Commercial Pesticide Certification Categories:

Proposed Categories	Description
Aerial Pest Control	As allowed in Current Category 11

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Certification & Training

Additional Commercial Pesticide Certifications:

Proposed Certifications	Description
Aquatic Antifouling Paint Applicator	As allowed in Current Category 13
Sales	As allowed in Current Category 12 <ul style="list-style-type: none">• No additional categories

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Certification & Training

Mold Remediation - Future Regulation?

- Concern: Lack of Oversight of Mold Remediation Businesses and Pesticide Products Used in Mold Abatement

Proposed Change:

- Require Pesticide Certification of Mold Remediation Applicators

Proposed New Category	Description
Mold Control	When Using Pesticides for mold abatement

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Certification & Training

Eligibility:

- Concern: 30 Hours of Eligibility Training is Appropriate for Some Categories and Too much for Other Categories

Proposed Changes:

- Update Certification Eligibility (aka 30 Hour) Course Requirements so its Elements Reflect the Complexity of the Particular Category
- Establish a Core Training Standard

Certification & Training

Eligibility:

- Concern: 30 Hours of Eligibility Training is Appropriate for some Categories and Too Much for Other Categories

- Examples:

(Ag. Plant): 18 Hours Core Training
 +12 Hours Category Specific Training
 30 Hours Eligibility Course Requirement

(Seed Treatment): 18 Hours Core Training
 + 6 Hours Category Specific Training
 24 Hours Eligibility Course Requirement

Certification & Training

Private Eligibility: 18 Core Credits Plus:

12 Category-Specific Credits

Agricultural Pest Control

Agricultural Fumigation

Agricultural Aerial

Certification & Training

Commercial Eligibility: 18 Core Credits Plus

6 Category-Specific Credits

Ag. & Companion Animal

Seed Treatment

Aquatic Anti-fouling Paint

Sewer Line Root Control

Wood Preservation

Soil Restricted Fumigation

Cooling Towers, Pulp and Paper

Mold Control

Sales*

12 Category-Specific Credits

Ag. Plant

Vegetation Mgt.

Aquatic

Structural Pest

Non-soil Restricted Fumigation

Termite Control

Public Health

Regulatory

Aerial

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Certification & Training

Eligibility:

- Concern: Description of documentation required for eligibility is not outlined in regulation

Proposed Change:

- Outline the requirements of documentation of verifiable experience
- Describe allowances of seasonal categories
 - At least 8 consecutive months of experience

Certification & Training

Eligibility:

- Concern: Description of documentation required for eligibility is not outlined in regulation

Proposed Change:

- Describe eligibility allowances not currently in regulation
 - Private applicator eligibility for commercial technician with 2 years experience
 - Commercial technician eligibility for private applicator with 1 year experience
 - Out-of-State eligibility
 - Previous certification

Certification & Training

Recertification:

- Concern: Applicators Taking Category Specific Training Only May Not Receive Updated Safety or Regulatory Information
 - Proposed Change:
 - Develop a Core Recertification Credit Requirement

Certification & Training

Private Recertification: 5 Core Credits over 5 years

5 Category-Specific Credits

Agricultural Pest Control

Agricultural Fumigation

Agricultural Aerial

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Certification & Training

Commercial Applicator and Technician Recertification: 3 Core Credits over 3 years

3 Category-Specific Credits

Ag. & Companion Animal

Seed Treatment

Aquatic Anti-fouling Paint

Sewer Line Root Control

Wood Preservation

Cooling Towers, Pulp and Paper

Mold Control

6 Category-Specific Credits

Ag. Plant

Aquatic

Soil Restricted Fumigation

Non-soil Restricted Fumigation

Termite Control

Public Health

Regulatory

Aerial

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Certification & Training

Commercial Applicator and Technician Recertification: 3 Core Credits over 3 years

9 Category-Specific Credits

Vegetation Management

Structural Pest Control

0 Category-Specific Credits

Sales

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Certification & Training

Recertification:

- Concern: Continuing Education Should Not Be Considered a Penalty

Proposed Changes:

- Eliminate Penalty Credits
- Revise Expiration Deadlines for Recertification
- Simplify the Process for Reinstatement
 - If not recertified within 60 days after recertification date, must take Core and Category Exams.

Certification & Training

Supervision:

- Concern: Some Apprentices May Not Receive Appropriate Amount of Instruction or Training.

Proposed Changes:

- All apprentices must receive 6 hours of instruction prior to making any application.
- Apprentices conducting applications under direct or indirect supervision (off-site direct) must receive 30 hours of use experience.
 - 15 hours of use experience for each additional category.

Certification & Training

Supervision:

- Concern: Apprentice Training Can Be Difficult to Verify
Proposed Changes:
 - Training Records Must Be Maintained Throughout Employment AND a Minimum of 3 Years After Employment Ends
 - Require Employer to Provide Records to the Department Upon Request

Certification & Training

Course Sponsors and Instructors:

- Concern: Pesticide Training Course Procedures Not Currently Outlined in Regulations

Proposed Changes:

- Incorporate Existing Course Procedures
- Clarify Acceptable Course Instructor Credentials
- Include Distance-Learning Course Requirements

Certification & Training

Course Sponsors and Instructors:

- Concern: Pesticide Training Course Procedures Not Currently Outlined in Regulations

Proposed Changes:

- Incorporate Sponsor Responsibilities for Submission of Course Agenda and Course Roster
 - Applications for new courses submitted 45 days prior
 - Applications for repeat courses submitted 30 days prior
 - Rosters submitted within 7 days

Certification & Training

Course Sponsors and Instructors:

- Concern: Pesticide Training Course Procedures Not Currently Outlined in Regulations

Proposed Changes:

- Clarify Acceptable Course Instructor Credentials Including:
 - Education, Board-certification, Current Certification with 3 years experience, Manufacturer's Technical Rep., Qualified Instructor Exam

Certification & Training

Course Sponsors and Instructors:

- Concern: Pesticide Training Course Procedures Not Currently Outlined in Regulations

Proposed Changes:

- Include Requirements for Distance-Learning Courses
 - Verify Identity of students
 - Ensure completion of course by timing slides and including assessment quiz
 - Submit Rosters twice per month

Questions?

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Questions or Comments?

Submit Written Comments for Pesticide
Certification & Training Regulations to:

pestregs@dec.ny.gov

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Business & Agency Registration

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Business & Agency Registration

Businesses:

- Concern: Existing Regulations Need Clarification and Updating to Include Department Procedures and Current Business Practices

Proposed Changes:

- Specify Businesses and Locations that Must Register

Business & Agency Registration

Businesses:

- Concern: Existing Regulations Need Clarification and Updating to Include Department Procedures and Current Business Practices

Proposed Changes:

- Add Language to Establish Subcontracting Requirements

Business & Agency Registration

Businesses:

- Concern: Existing Regulations Need Clarification and Updating to Include Department Procedures and Current Business Practices

Proposed Changes:

- Update Insurance Requirements

Business & Agency Registration

Businesses:

- Concern: Existing Regulations Need Clarification and Updating to Include Department Procedures and Current Business Practices

Proposed Changes:

- Clarify Business Requirements and Restrictions for Employees and Supervising Applicators

Business & Agency Registration

Businesses:

- Concern: Existing Regulations Need Clarification and Updating to Include Department Procedures and Current Business Practices

Proposed Changes:

- Allow Certified Technicians to Register a Business in Most Categories of Certification

Business & Agency Registration

Businesses:

- Concern: Existing Regulations Need Clarification and Updating to Include Department Procedures and Current Business Practices

Proposed Changes:

- Modify Vehicle and Equipment Identification Requirements

Business & Agency Registration

Agencies:

- Concern: Existing Regulations Need Updating, Clarification, and a Provision for Agency Shared Service Agreements

Proposed Changes:

- Specify Agencies and Locations that Must Register
- Registration of Not-For-Profit Organizations that Apply Pesticides
- Allow for Agency Shared Services Agreements

Questions?

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Questions or Comments?

Submit Written Comments for Pesticide Business or Agency Registration Regulations to:

pestregs@dec.ny.gov

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Commercial Permits

Restricted Pesticide Dealers and Distributors

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Commercial Permits Restricted Pesticide Dealers and Distributors

Mandatory Requirements of the Federal C & T Rule

- Requirement: Recordkeeping Requirements for Restricted Use Retail Dealers

Proposed Changes:

- Expand Existing Commercial Permit Recordkeeping Requirements to Include:
 - Name and Address of Certified Applicator who Purchased the Restricted Use Pesticide (RUP)

Commercial Permits Restricted Pesticide Dealers and Distributors

Mandatory Requirements of the Federal C & T Rule

- Requirement: Recordkeeping Requirements for Restricted Use Retail Dealers

Proposed Changes:

- Expand Existing Commercial Permit Recordkeeping Requirements to Include:
 - Certification Expiration Date of Certified Applicator who Purchased the RUP

Commercial Permits Restricted Pesticide Dealers and Distributors

Mandatory Requirements of the Federal C & T Rule

- Requirement: Recordkeeping Requirements for Restricted Use Retail Dealers

Proposed Changes:

- Expand Existing Commercial Permit Recordkeeping Requirements to Include:
 - Certification Category Relevant to RUP Purchased

Commercial Permits Restricted Pesticide Dealers and Distributors

- Concern: Existing Regulations for RUP Sales are in Multiple Parts and Need Clarification

Proposed Changes:

- Combine Regulations for Commercial Permits and RUP Sales into One New Part

Commercial Permits Restricted Pesticide Dealers and Distributors

- Concern: Existing Regulations for RUP Sales are in Multiple Parts and Need Clarification

Proposed Changes:

- Refer to Commercial Permit Holders as Restricted Pesticide Dealers

Commercial Permits Restricted Pesticide Dealers and Distributors

- Concern: Existing Regulations for RUP Sales are in Multiple Parts and Need Clarification

Proposed Changes:

- Require Commercial Permit for E-Sales/
E-Commerce (Internet Sales) of RUPs

Commercial Permits Restricted Pesticide Dealers and Distributors

- Concern: Existing Regulations for RUP Sales are in Multiple Parts and Need Clarification

Proposed Changes:

- Clarify Sales and Delivery of RUPs:
 - Who can Purchase or Possess
 - Delivery Requirements

Questions?

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Questions or Comments?

Submit Written Comments for Commercial Permit
Pesticide Regulations to:

pestregs@dec.ny.gov

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Pesticide Use

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Pesticide Use

Mandatory Requirements of the Federal C & T Rule

- Requirement:

Establish Supervision Requirements for Certified Commercial and Private Pesticide Applicators

- Proposed Changes:

- Require Supervising Applicators to:

- Ensure Noncertified Applicators Under Their Supervision are Qualified.

- Minimum Age of 18 (16 for Immediate Family Member of Supervising Private Applicator).

Pesticide Use

Mandatory Requirements of the Federal C & T Rule

- Requirement:
 - Establish Supervision Requirements for Certified Commercial and Private Pesticide Applicators
- Proposed Changes:
 - Require Supervising Applicators to:
 - Have Met the Applicable Training Requirements.
 - Been Instructed in the Previous 12 Months on the Safe Operation of Pesticide Application Equipment.

Pesticide Use

Mandatory Requirements of the Federal C & T Rule

- Requirement:
 - Establish Supervision Requirements for Certified Commercial and Private Pesticide Applicators
- Proposed Changes:
 - Require Supervising Applicators to:
 - Ensure Noncertified Applicators Under Their Supervision Have a Means for Immediate Communication With the Certified Supervising Applicator.

Pesticide Use

Mandatory Requirements of the Federal C & T Rule

- Requirement:
Establish Additional Recordkeeping Requirements for Certified Commercial Applicators
- Proposed Changes:
 - Expand the Existing Commercial Applicator Recordkeeping Requirements to Include:
 - Name and Address of the Person for Whom the Application is Made.
 - Size of Treated Area.
 - Time of Application.

Pesticide Use

Mandatory Requirements of the Federal C & T Rule

- Requirement:
 - Establish Additional Recordkeeping Requirements for Certified Commercial Applicators
- Proposed Changes:
 - Expand the Existing Commercial Applicator Recordkeeping Requirements to Include:
 - Name and Certification Number of Applicator that Made or Supervised the Application.
 - Name of Noncertified Applicator that Made the Application if applicable.

Pesticide Use

Definition of Terms

- Concern:
Terms used in Proposed Language need to be defined
- Proposed Change:
 - **Direct Observation**
 - the supervising certified pesticide applicator is physically present and interacting with the individual using the pesticide.
 - can speak directly with that individual in-person.

Pesticide Use

Definition of Terms

- Proposed Change:

➤ **Direct Supervision**

- the supervising certified pesticide applicator and individual using the pesticide must be able to immediately communicate.
- supervising certified pesticide applicator is able to be physically present with the individual using the pesticide within 30 minutes.
- In the event immediate communication is not possible, the pesticide use must cease until immediate communication is again established or the supervisor is physically present with the applicator.

Pesticide Use

Definition of Terms

- Proposed Change:

➤ Indirect Supervision

- the supervising certified pesticide applicator must ensure that the individual using the pesticide has a means to contact, and is able to contact, the supervising certified applicator within a reasonable time not to exceed 30 minutes.
- an individual applying pesticides by aircraft maintains communication with the certified applicator.
- In the event it is necessary to contact the supervising certified pesticide applicator to continue the pesticide use, the pesticide use must cease until contact is established.

Pesticide Use

Definition of Terms

- Proposed Change:
 - **Physical address**
 - the identifying location, which may include house and building number, apartment number, street name, city, state, and zip code.
 - Large scale pesticide applications may include GPS coordinates.

Pesticide Use

Definition of Terms

- Proposed Change:
 - **Mixing rate**
 - the ratio that the pesticide is combined with water or other carrier (diluent).
 - **Application rate**
 - the amount of mixed or unmixed pesticide applied per specific unit of area or volume.

Pesticide Use

Requirements for the Use of Pesticides

- Concern:
 - Pesticide Use Requirements Need to be Updated
- Proposed Change:
 - All equipment containing pesticides and drawing water from any water source shall have an effective anti-siphon device to prevent backflow.
 - During pesticide use, an apprentice must possess on their person a copy of their training documentation.

Pesticide Use

Requirements for the Use of Pesticides

- Concern:
 - Pesticide Use Requirements Need to be Updated
- Proposed Change:
 - During pesticide use, the certified commercial applicator, certified commercial technician, commercial pesticide apprentice, or certified private applicator must possess and have accessible at the site of application a written copy of the label for each pesticide being used.

Pesticide Use

Termite Regulations

- Concern:
Industry Standards for Termite Control Have Changed
- Proposed Change:
 - Update Termite Regulations to Reflect Current Practices.

Pesticide Use

Requirements of the 2009 Federal Container & Containment (C&C) Rule

- Requirement:

The 2009 Federal Container & Containment (C&C) Rule requires that the cleaning and disposal instructions be contained on the pesticide label. Current regulations are outdated.

- Concern – The current regulations are not consistent with approved methods disposal and need to be updated to reflect the C&C
- Proposed changes to the regulations:
 - Pesticide container must be cleaned according to instructions on the label.

Pesticide Use

Requirements of the 2009 Federal Container & Containment (C&C) Rule

- Proposed changes to the regulations:
 - Containers without cleaning instructions must be cleaned with the triple rinse technique as defined in the current 325.1 definitions.
 - Ready to use pesticide containers must be drained for one 30 second period.
 - Pesticides and Pesticide containers must be disposed in accordance to label instructions and 6NYCRR Part 360 or Part 370 requirements.

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Pesticide Use

Requirements of the 2009 Federal Container & Containment (C&C) Rule

- Proposed changes to the regulations:
 - Burying and Burning of pesticides and pesticide containers is prohibited except at a permitted facility.
 - Pesticides and Pesticide containers that qualify as a hazardous material must be managed in accordance with 6NYCRR Part 370 regulations.
 - Pesticide container may be recycled in accordance with label instructions and state and local regulations.

Pesticide Use

Pesticide Storage:

- Concern:

The current regulations provide minimal detail pertaining to pesticide storage

- Proposed Change:

- Pesticides shall be stored according to label directions.
- No person shall store any pesticide or pesticide containers in such a manner as may be injurious to human, plant or animal life, or to property.

Pesticide Use

Alternative Pesticide Containers:

- Concern:

Current Regulations lack any Requirements for Proper Labeling of Pesticides that are Not in the Manufacturer's Original Container (Referred to as Alternative Pesticide Containers in the Law)

- Proposed Change:

- Require the Proper Labeling of Alternative Pesticide Containers.

Pesticide Use

Supervision Requirements:

- Concern:

Ensure supervision and communication requirements are adequate to provide oversight of the application

- Proposed Change:

- Supervision of Apprentices, Technicians, and Handlers when Direct Observation, Direct Supervision, or Indirect Supervision is required.

Pesticide Use

Supervision Requirements:

- Apprentice Supervision Proposed Change:

Direct Observation is required:

- During the use experience requirement of the apprentice in training;
- When an apprentice applies any federally restricted use fumigant;
- When an apprentice applies pesticides with a label requiring direct supervision;
- When an apprentice applies pesticides within or on the premises of licensed day care facilities, elementary and secondary schools and hospitals;

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Pesticide Use

Supervision Requirements:

- Apprentice Supervision Proposed Change:

Direct Observation is required:

- When an apprentice engages in the subsurface ground application of liquid termiticides, the surface application of liquid termiticides to exposed soil in basements and crawl spaces, or the placement of liquid termiticides in voids of masonry foundations;
- When an apprentice applies general use or state restricted use pesticides by aircraft.

Pesticide Use

Supervision Requirements:

- Apprentice Supervision Proposed Change:

Direct Supervision is required:

- When an apprentice applies a federally restricted use pesticide;
- When an apprentice applies aquatic pesticides and the supervising applicator is on the same waterbody maintaining visual contact with the apprentice.

Pesticide Use

Supervision Requirements:

- Apprentice Supervision Proposed Change:

Indirect Supervision is required:

- When an apprentice applies a general use or state restricted use pesticide;
- When an apprentice engages in the application of larvicide pesticides by ground equipment in or over any surface waters of the State.

Pesticide Use

Supervision Requirements:

- Technician Supervision Proposed Change:

Direct Observation is required:

- When a technician applies pesticides with a label requiring direct supervision;
- When a technician applies any federally restricted use fumigant;
- When a technician engages in the subsurface ground application of liquid termiticides, the surface application of liquid termiticides to exposed soil in basements and crawl spaces, or the placement of liquid termiticides in voids of masonry foundations;

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Pesticide Use

Supervision Requirements:

- Technician Supervision Proposed Change:

Direct Supervision is required:

- When a technician applies aquatic pesticides subject to an Article 15, Part 327 permit and the supervising applicator is on the same waterbody;
- When a technician applies general use or state restricted use pesticides by aircraft.

Pesticide Use

Supervision Requirements:

- Technician Supervision Proposed Change:

Indirect Supervision is required:

- When a technician engages in the application of microbial pesticides by ground equipment in or over any surface waters of the State;
- When a technician applies any aquatic pesticide to water bodies not subject to an Article 15, Part 327 permit.
- When a technician applies a federally restricted use pesticide.

Pesticide Use

Supervision Requirements:

- Handler Supervision Proposed Addition:

Direct Observation is required:

- When a handler applies any federally restricted use fumigant;
- When a handler applies pesticides with a label requiring direct supervision;
- When a handler applies general use or state restricted use pesticides by aircraft.

Pesticide Use

Supervision Requirements:

- Handler Supervision Proposed Addition:

Direct Supervision is required:

- When a handler applies a federally restricted use pesticide;
- When a handler applies aquatic pesticides and the supervising applicator is on the same waterbody maintaining visual contact with the handler.

Pesticide Use

Supervision Requirements:

- Handler Supervision Proposed Addition:

Indirect Supervision is required:

- When a handler applies a general use or state restricted use pesticide.

Pesticide Use

Applicator Recordkeeping and Reporting Requirements:

- Concern:
 - Federal C&T Rule and WPS Changes Require More Information for Commercial and Private Pesticide Applicators
- Proposed Change:
 - Require Pesticides businesses and commercial applicators (this include certified applicators, technicians, and apprentices) to maintain true and accurate records prior to leaving the physical address of the pesticide application.

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Pesticide Use

Pesticide Applicator Recordkeeping Requirements:

- Proposed Change for Commercial Pesticide Applicators in Current Regulations and in addition to C&T Requirements:
 - physical address of the pesticide application,
 - total undiluted amount of each pesticide applied per location,
 - mixing rate,
 - application rate,

Pesticide Use

Pesticide Applicator Recordkeeping Requirements:

- Proposed Change for Commercial Pesticide Applicators:
 - This information must be recorded prior to leaving the physical address of the pesticide application, retained for a minimum of three years, and must be available for inspection upon request by the department.

Pesticide Use

Pesticide Applicator Reporting Requirements:

- Proposed Change for Commercial Pesticide Applicators in Current Regulations:
 - All certified commercial applicators and technicians must file annual reports with the Department's headquarters in Albany, NY, on or before February 1st of each year.

Pesticide Use

Pesticide Applicator Recordkeeping Requirements:

- Concern:
 - Federal C&T Rule and WPS Changes Require More Information for Commercial and Private Pesticide Applicators
- Proposed Change:
 - Require certified private applicators to maintain true and accurate records of all restricted use pesticides upon completion of the pesticide application.

Pesticide Use

Pesticide Applicator Recordkeeping Requirements:

- Proposed Change for Certified Private Pesticide Recordkeeping Requirements in Current Regulations and in addition to C&T Requirements:
 - date and time application started and ended,
 - location by physical address and description of the treated area,
 - active ingredient(s),
 - REI, and
 - wind speed and direction.

Pesticide Use

Pesticide Applicator Recordkeeping Requirements:

- Proposed Change for Certified Private Pesticide in Current Regulations:
 - This information must be recorded upon completion of the pesticide application, retained for a minimum of three years, and must be available for inspection upon request by the department.

Pesticide Use

Access to Application Records for Apprentices and Technicians

- Concern:

Apprentices and Technicians can Encounter Difficulties in Obtaining Proof of Their Pesticide Application Experience for the Departments Eligibility Requirements
- Proposed Change:
 - Upon request by the department, employers must provide records of pesticide applications made by technicians and apprentices for the duration of regulatory retention requirement.

Pesticide Use

Commercial Lawn Application Contracts:

- Concern:
 - Current Regulations Do Not Reflect Revisions in the Law
- Proposed Change to Contract Requirements:
 - Contracts must include the following items:
 - specify the approximate date or dates of application or applications; not to exceed to 21 days;
 - state the name of the property owner or owner's agent and the address of the premises to be treated;

Pesticide Use

Commercial Lawn Application Contracts:

- Proposed Change:
 - Contracts must include the following items:
 - be signed by both the pesticide applicator or business providing the commercial lawn application and the owner or owner's agent of the property to which the commercial lawn application is to be made; or documentation of the contract payment by the owner or owner's agent;

Pesticide Use

Commercial Lawn Application Contracts:

- **Proposed Change:**

- Contracts amendments must meet the following requirements:
 - For the purposes of this section, an amendment to the date or dates specified, the alternate date or dates cannot exceed 21 days.
 - Acceptance of the amendments can be oral, written, or electronic.
 - The documentation of such acceptance may be either written or electronic and shall be maintained for the duration of the contract and three years after expiration of the contract.

Pesticide Use

Commercial Lawn Application Contract Information:

- Concern:

Current Regulations Do Not Reflect Revisions in the Law and When Specific Information Has to be Supplied Not Included in the Contract.
- Proposed Change:
 - Prior to the commercial lawn application, the following information must be supplied to the property owner or agent in either written, digital, or electronic format as determined by the property owner or agent.

Pesticide Use

Commercial Lawn Application Contract Information:

- Proposed Change:
 - a list of pesticides to be applied including brand names and generic names of active ingredients; and
 - any warnings that appear on the label(s) of pesticide(s) to be applied that are pertinent to the protection of humans, animals or the environment; and,

Pesticide Use

Commercial Lawn Application Contract Information:

- Proposed Change:
 - the name, address, telephone number, and pesticide business registration number of the pesticide business providing the commercial lawn application service and the pesticide applicator certification identification card number of the person employed by the pesticide business who will provide or supervise the commercial lawn application service.

The applicator must have a written copy of this information in his or her possession

Pesticide Use

Visual Notification:

- Concern:
 - Date and Time May Not Be Provided on Visual Notification Markers
- Proposed Change:
 - the specific date and time of the actual commercial lawn application on each visual notification marker.

Pesticide Use

Visual Notification:

- Concern:

Posting of Visual Notification Marker Distances and Frequency May Not Reflect the Intent of the Law
- Proposed Change:
 - Every treated premises or treated area must be marked by at least one visual notification marker.

Pesticide Use

Label Notification:

- Concern:
 - Not All Businesses Are Able to Provide Amended Labels

- Proposed Change:
 - Replace “Amended Label” with “Abridged Label”.
 - Update Label Notification Requirements to Incorporate Abridged Label Allowances for **All** Applications.

Pesticide Use

Label Notification:

- Concern:

Community-Wide Pesticide Application Notifications are Not Currently in Regulations
- Proposed Change:
 - Incorporate community-wide notification requirements regarding adulticiding, larviciding, and other community wide activities as required in current procedures.

Pesticide Use

Incorporate The Worker Protection Standard (WPS):

- Concern:
Current Regulations do not Address 2015 Revisions to The Federal WPS
- Proposed Change:
 - Incorporate WPS Requirements into Regulations.

Questions?

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Questions or Comments?

Submit Written Comments for Pesticide Use
Regulations to:

pestregs@dec.ny.gov

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Minimum Risk Pesticide Products

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Minimum Risk Pesticides

Concerns:

- Minimum Risk Pesticide Products Specifically Exempted for Registration by EPA in 1996
 - No Oversight from EPA has Lead to Confusion and Non-Compliant Products
 - Unfair to Registrants of EPA Registered Products
 - Products are Still Considered Pesticides

Minimum Risk Pesticides

Concerns:

- Most States Require Registration
 - Different Label and Registration Requirements
 - Confusing and Cumbersome to Registrants

Minimum Risk Pesticides

Concerns:

- NYS Does Not Register Products but All Other Pesticide Use and Recordkeeping Requirements Apply
 - Confusion Regarding NYS Requirements
 - Users and Potential Users in the State are Unsure of Product Compliance with EPA Exemption Criteria
 - Commercial Applicators are Hesitant to Use Minimum Risk Products Due to Uncertainty of Compliance with Exemption Criteria
 - Staff Spend a lot of Time Reviewing Labels for Compliance

Minimum Risk Pesticides

Concerns:

- Fraudulent Products Pose a Risk to Public Health and the Environment
 - Consumer Protection Concerns Regarding Unrealistic Product Claims
 - Inappropriate and Ineffective Products Labeled for Control of Pests of Significant Public Health Importance (Example: Mosquitoes, Ticks, Bed Bugs)

Minimum Risk Pesticides

Proposed Changes:

- Require Registration in NYS Which Would:
 - Provide Oversight of Products in the State
 - Mitigate Confusion and Clarify Requirements
 - Ensure Compliance with Exemption Criteria
 - Provide a Database of Compliant Products
 - Provide an Online Copy of NYS Acceptable Label
 - Increase Confidence in Compliance
 - Increase Use of Minimum Risk Pesticide Products

Minimum Risk Pesticides

Proposed Changes:

- NYS Registration Would Clarify That Certain Products Should Not Be Used
 - Protect Public Health by Ensuring Products with Public Health Claims are Not Registered for Use
 - Ensure Products Are Not Labeled for Aquatic Use

Minimum Risk Pesticides

Proposed Changes:

- Revise Regulations to be In-Line with:
 - Other States
 - Guidance developed by Association of American Pesticide Control Officials (AAPCO) 25(b) Workgroup

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Minimum Risk Pesticides

AAPCO 25(b) Workgroup Label Guidance:

- Products Must Comply with 6 Conditions Outlined by EPA
- Signal Word and Keep Out of Reach of Children Statement to be Located Prominently on the Front Panel of the Label
- Both Active and Inert Ingredients are to be Listed in Column Form and Total 100%
- Inert Ingredients are to be Listed on the Label In Order of Highest Percentage First

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Minimum Risk Pesticides

AAPCO 25(b) Workgroup Label Guidance:

- NO Images of Children are Acceptable on Labels Unless the Product is Intended for Use on Children
- All Claims on the Manufacturer's Website Must Comply with 6 Conditions Outlined by EPA
- Labels to Include Specific Use Site Locations

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Minimum Risk Pesticides

AAPCO 25(b) Workgroup Label Guidance:

- Non-Toxic Claims are Not Acceptable. The Terms “Organic” or “Certified Organic” in Reference to the 25(b) Product are Unacceptable
- “Natural” Claims Not Allowed if Product Includes Synthetic Chemicals or Those Derived Synthetically
- Claims such as “Safe” or “Safe Around Children and Pets” are Acceptable Only When Accompanied by the Qualifier “...When Used as Directed”

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Minimum Risk Pesticides

AAPCO 25(b) Workgroup Label Guidance:

- Data May be Required to Substantiate Any Claim That Appears on the Label or Labeling
 - Department Does Not Intend to Require Efficacy Data to be Submitted with All Products
 - Request efficacy data as needed to verify label claims

Questions?

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Questions or Comments?

Submit Written Comments for Minimum Risk
or Part 326 Pesticide Regulations to:

pestregs@dec.ny.gov

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Aquatic Pesticides

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Aquatic Pesticides

- Concern: Current Regulations are Outdated and Do Not Reflect the 1990 Amendments to Article 15 of the ECL
 - Distinction Between Application of “Pesticides” and “Chemicals”
 - Eliminated References to Specific Pests
 - Department is authorized to adopt rules and regulations governing the direct application to surface waters. Such regulations may forbid the direct application of pesticides except pursuant to a permit

Aquatic Pesticides

- Proposed Change:
 - Combine All Aquatic Regulations (Parts 327, 328, 329) Into One Part
 - Streamline and Eliminate Discrepancies
 - Clarify permit jurisdiction is over the application of pesticides to control all aquatic pests
 - Specify Permit Exemptions

Aquatic Pesticides

Proposed Permit Exemptions

- Application of pesticides to privately owned ponds with no outlet to other surface waters of the state
- Application of Pesticides to control bacteria or algae by water supply agencies
- Application of pesticides to control fish by the DEC
- Application of microbial pesticides with no water use restrictions for the control of Black flies or mosquitos by Gov't agencies
- Application of pesticides above surface waters where no pesticide enters the water.

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Aquatic Pesticides

- Concern: Giving reasonable notice to persons who may be adversely affected and gain consent from persons who may reasonably be expected to suffer substantial harm or injury.

Proposed Change:

- Define the term “adversely affected”
- Describe what could cause substantial harm or injury:

Potable and domestic water use
Irrigation or livestock watering

Aquatic Pesticides Permit Application Requirements

Concern- Out dated regulations do not reflect current practices

Proposed Change

- Update regulation to reflect current practices
- Update the process for notifying riparian owners
- List permit application requirements

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Aquatic Pesticides

- Concern: Lists of Authorized Chemicals and Specifications are Outdated

Proposed Change:

- Update Regulations to Remove Specific References to pesticides and pests
- Refer to Label as Primary Source for Use and Restrictions

Questions?

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Questions or Comments?

Submit Written Comments for Aquatic Pesticide Regulations to:

AQpestregs@dec.ny.gov

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Thank You!

Bureau of Pesticides Management

625 Broadway

Albany, NY 12233-7254

(518) 402-8788

Webpage: <http://www.dec.ny.gov/chemical/298.html>

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