NEW YORK STATE

Department of Environmental Conservation

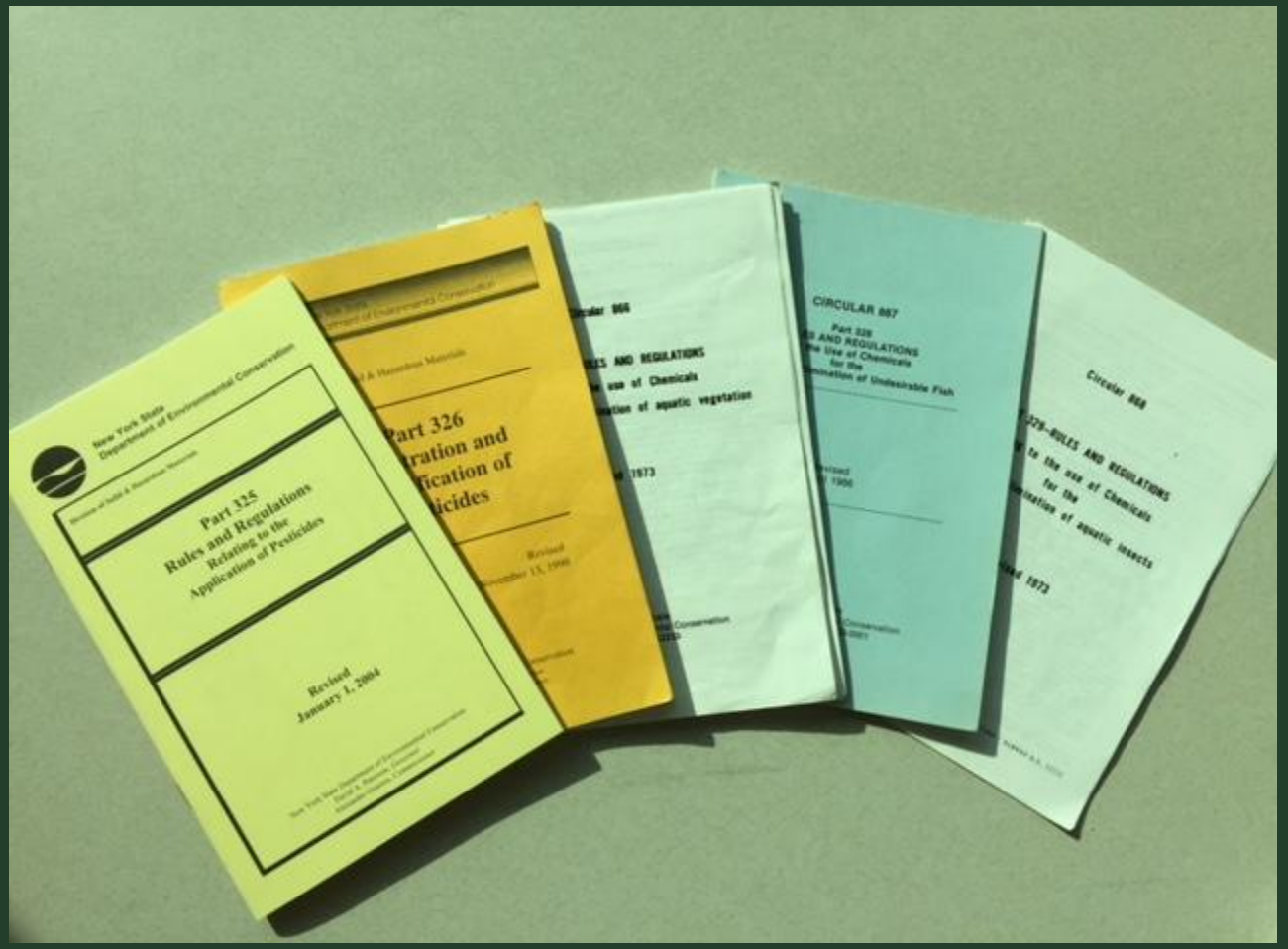
Bureau of Pesticides Management: 320 Series Rulemaking

Stakeholder Meeting

August 27, 2026

FOR INFORMATIONAL PURPOSES ONLY, NOT A FINAL PROPOSAL

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
- 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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Certification & Training

EPA Approved the State's Certification & Training (C&T) Plan on September 27, 2022

- The Approval Includes the following Implementation Timeframe Agreed to by EPA and DEC:

Date	Action
June 2027	DEC routes regulatory packet to DEC Executive for approval.
June 2028	DEC forwards proposed regulations to the Governor's office.
March 2029	DEC formally proposes new regulations.
March 2030	New regulations are adopted. Transition to new regulations begin.
March 2035	Transition to new C&T plan complete.

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Certification & Training

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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 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

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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 Take Department Approved Training Annually During a 3 Year Certification Cycle

  - Apprentices Take Department Approved Training Annually

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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

  - Add Annual Records Requirement for Certified Technician Training

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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

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Certification & Training

Mandatory Requirements of the Federal C & T Rule

- Requirement: Eliminate Non-Reader Certification for Private Applicators

  Proposed Change:

  - Eliminate Special Permits

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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

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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 Ag Plant Categories into One General “Agricultural Pest” Category
- Create New Specific Fumigation and Aerial Categories
  - Required by New Federal C & T Rule

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Certification & Training

Commercial Pesticide Certification Categories

Currently 28 Commercial Categories/Subcategories

- Streamline by Combining Similar Categories

For Example, Combine:

- 1B Agricultural Animal
- 1C Companion Animal

Into New Category:

- Agricultural & Companion Animal

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Certification & Training

Commercial Pesticide Certification Categories

For Example Combine:

- 2 Forest
- 3A Ornamentals, Shade Trees & Turf
- 3B Turf
- 3C Interior Plant Maintenance
- 6A Right-of-Way Vegetation Control

Into New Category:

- Vegetation Management

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Certification & Training

Commercial Pesticide Certification Categories

For Example Combine:

- 5A Aquatic Plant
- 5B Aquatic Insect & Misc. Organism
- 5C Aquatic Fish

Into New Category:

- Aquatic Pest Control

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Certification & Training

Commercial Pesticide Certification Categories

For Example Combine:

- 6B Right of Way In Place Pole
- 7D Lumber & Wood Products

Into New Category:

- Wood Preservation

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Certification & Training

Commercial Pesticide Certification Categories

For Example Combine:

- 7A Structural & Rodent
- 7F Food Processing

Into New Category:

- Structural Pest Control

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Certification & Training

Eligibility:

- Concern: 30 Hours of Eligibility Training is Too Much for Some 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

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Certification & Training

Eligibility:

- Concern: 30 Hours of Eligibility Training is Too Much for Some Categories

Example (5E): 18 Hours Core Training

+ 6 Hours Category Specific Training

24 Hours Eligibility Course Requirement

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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

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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
  - Require Examination Instead of Credits

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Certification & Training

Supervision:

- Concern: Apprentice Training Records Difficult to Obtain

  Proposed Changes:

  - Training Records Must Be Maintained Throughout Employment AND a Minimum of 3 Years After Employment Ends

  - Require Employer to Provide Records Upon Request

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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

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Business & Agency Registration

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Business & Agency Registration

Business:

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

  Proposed Changes:

  - Specify Businesses and Locations that Must Register

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Business & Agency Registration

Business:

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

  Proposed Changes:

  - Add Language to Allow Subcontracting

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Business & Agency Registration

Business:

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

  Proposed Changes:

  - Update Insurance Requirements

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Business & Agency Registration

Business:

- 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 Any Category of Certification

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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

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Commercial Permits

Restricted Dealers and Distributors

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Commercial Permits
Restricted Pesticide Dealers and Distributors

Mandatory Requirement 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)
    - Certification Expiration Date of Certified Applicator who Purchased the RUP
    - Certification Category Relevant to RUP Purchased

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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

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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

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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)

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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 Have Met the Applicable Training Requirements
    - Been Instructed in the Previous 12 Months on the Safe Operation of Pesticide Application Equipment

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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 Requirement to Include:
    - Name and Address of the Person for Whom the Application is Made
    - Size of Treated Area
    - Time of Application

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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 Requirement to Include:
    - Name and Certification Number of Applicator that Made or Supervised the Application
    - Name of the Noncertified Applicator that Made the Application if applicable
    - ESA Requirements- Not an EPA Requirement

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Pesticide Use

Storage

- Concern:

  Minimal Detail Pertaining to Pesticide Storage

- Proposed Change:
  - Direct Users to Follow Requirements on the Pesticide Label

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Pesticide Use

Alternative Containers

- Concern:

  Lack of 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

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Pesticide Use

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

- Requirement:

  Pesticide Labels Must Include Container Cleaning Instructions

- Proposed Change:
  - Remove Container Cleaning Language from Regulations and Refer to Product Label Requirements

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Pesticide Use

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

- Requirement:

  Pesticide Product Labels Must Contain Container Disposal Instructions

- Proposed Changes:
  - Update Pesticide Container Disposal Requirements to Refer to:
    - Product Label

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Pesticide Use

Commercial Lawn Applications Contracts

- Concern:

  Current Regulations Do Not Reflect Revisions in the Law

- Proposed Change:
  - Clarify the:
    - Contents of the Contracts
    - Items to be Supplied Prior to the Application
  - Update to be Consistent with Existing Program Policy, Statute, and Current Electronic Business Practices

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Pesticide Use

Visual Notification

- Concern:

  Date and Time May Not Be Provided on Visual Notification Markers

- Proposed Change:
  - Require Date and Time of Application on **All** Visual Notification Markers

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Pesticide Use

Visual Notification

- Concern:

  Posting of Visual Notification Marker Distances and Frequency May Not Reflect the Intent of the Law

- Proposed Change:
  - Reduce the Number of Visual Notification Markers or Reconfigure the Posting requirements

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Pesticide Use

Visual Notification

- Concern:

  Pesticide Applicator or Business/Agency Information not Required on Visual Notification Markers

- Proposed Change:
  - Require Applicator or Business/Agency Information on Visual Notification Markers

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Pesticide Use

Label Notification

- Concern:

  Not All Businesses Are Able to Provide Amended Labels

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

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Pesticide Use

Label Notification

- Concern:

  Community-Wide Pesticide Application Notifications are Not Currently in Regulations

- Proposed Change:
  - Update Label Notification Requirements to Incorporate Existing Community-Wide Notification Procedures

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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 Have a Means for Immediate Communication With the Certified Supervising Applicator

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Pesticide Use

Supervision

- Concern:

  Ensuring that On-Site Direct Supervision and Communication Requirements are Adequate to Provide Oversight of the Pesticide Application

- Proposed Change:
  - Establish Minimum Standards for Immediate Voice Communication
    - Proposing to not use voice communication, and depending on the type of supervision, the type of communication will be specified

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Pesticide Use

Supervision

- Concern:

  Ensuring that On-Site Direct Supervision and Communication Requirements are Adequate to Provide Oversight of the Pesticide Application

- Proposed Change:
  - Revise Requirements for On-Site and Off-Site Direct Supervision
    - Proposing three types of supervision
      - Direct Observation
      - Direct Supervision
      - Indirect Supervision

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Pesticide Use

Supervision

- Concern:

  Ensuring that On-Site Direct Supervision and Communication Requirements are Adequate to Provide Oversight of the Pesticide Application

- Proposed Change:
  - Direct Observation:
    - Means during pesticide use, the supervising certified applicator is physically present and interacting with the individual using the pesticide and can communicate directly with that individual in-person.

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Pesticide Use

Supervision

- Concern:

  Ensuring that On-Site Direct Supervision and Communication Requirements are Adequate to Provide Oversight of the Pesticide Application

- Proposed Change:
  - Direct Supervision:
    - Means the act or process of the application of a pesticide is made by a commercial technician, commercial apprentice or private apprentice, acting under the instruction, control and authorization of a certified applicator.
    - During pesticide use, the supervising certified applicator and individual using the pesticide must be able to immediately communicate and the supervising certified pesticide applicator is able to be physically present with the individual using the pesticide within 30 minutes.

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Pesticide Use

Supervision

- Concern:

  Ensuring that On-Site Direct Supervision and Communication Requirements are Adequate to Provide Oversight of the Pesticide Application

- Proposed Change:
  - Indirect Supervision:
    - Means the act or process in which the application of a pesticide is made by a commercial apprentice, private apprentice, or certified commercial technician, acting under the instruction, control and authorization, of a certified applicator, or a commercial apprentice acting under the control and authorization of a certified technician.
    - During pesticide use, the supervising certified applicator or technician must ensure that the individual using the pesticide has means to contact and is able to contact the supervising certified applicator or technician within a reasonable time not to exceed 30 minutes and an individual applying pesticides by aircraft maintains communication with the certified applicator

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Pesticide Use

Supervision

- Concern:

  Ensuring that On-Site Direct Supervision and Communication Requirements are Adequate to Provide Oversight of the Pesticide Application

- Proposed Change:
  - Require Apprentice Documentation in Possession During Applications

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Pesticide Use

Incorporate the Worker Protection Standard (WPS):

- Concern:

  Current Regulations do not Address The Federal WPS

- Proposed Change:
  - Incorporate WPS Requirements into Regulations

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Pesticide Use

Private Applicator Records:

- Concern:

  Private Applicator Recordkeeping Requirements Do Not Fully Describe the Application of Pesticides

- Proposed Change:
  - Update Recordkeeping Requirements to Fully Describe the Pesticide Application and meet WPS Requirements
  - Add an ESA Recordkeeping Requirement

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Pesticide Use

Anti-Siphon Device:

- Concern:

  Anti-Siphon Device Policy is Not in Regulation

- Proposed Changes:
  - Amend Requirements for Anti-Siphon Device

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Pesticide Use

Access to Application Records for Apprentices and Technicians:

- Concern:

  Records Regarding Application Experience Proving Eligibility Can Be Difficult to Obtain

- Proposed Change:
  - Upon Request by the Department, Employers Must Provide Records of Pesticide Applications Completed by Technicians and Apprentices for the Duration of the Regulatory Retention Requirement

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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.

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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

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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

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Aquatic Pesticides

Permit Application Requirements

- Concern: Outdated 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

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Birds and Bees Protection Act: Neonicotinoid Treated Seeds

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ENVIRNOMENTAL CONSERVATION LAW ARTICLE 37

ECL § 37-1101 - Hazardous Substances - Unlawful acts

- Beginning January 1, 2029, this law prohibits the sale, offer for sale or use, or distribution in NYS of corn, soybean or wheat seeds coated or treated with clothianidin, imidacloprid, and thiamethoxam
  - Also prohibits seeds coated or treated with any other neonicotinoid, as determined by the DEC in regulation
- Allows for a waiver to purchase neonicotinoid treated seeds
  - Waiver process developed DEC, in consultation with Agriculture and Markets, by regulation
- Waiver - maximum of 2 years

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ECL Article 37

Waivers are only available if the following conditions are met:

- The farm owner completes an integrated pest management training,
- A pest risk assessment and a pest risk assessment report is completed,
- The seeds are planted on the farm property or properties identified in the pest risk assessment report, and
- The farm owner maintains records of such pest risk assessment report and records of when the seeds are planted.

The department shall annually report to the legislature on the number of waivers granted.

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Regulatory Ideas

January 1, 2029

The purchase or distribution of corn, soybean or wheat seeds coated or treated with pesticides containing clothianidin, imidacloprid, thiamethoxam is not permitted unless the following conditions are met:

- A waiver has been issued by the department to the farm owner or their designated representative,
- The farm owner has completed a minimum of one hour of integrated pest management training within the previous two years from the date of the waiver request, and
- The treated or coated seeds, as identified in this section, are planted on the farm property or properties identified in the waiver and the risk assessment report.

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Regulatory Ideas

Waiver Application

A waiver to purchase treated or coated seeds shall only be granted if the following conditions are met:

The farm owner or their designated representative completes an application for a waiver at least 60 days prior to the anticipated date of seed purchase. The application must contain the following information:

- Name of the applicant,
- Applicant's position at the farm,
- Farm address,
- Pest to be controlled,
- Total amount of seed requested,

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Regulatory Ideas

Waiver Application continued:

- Neonicotinoid pesticide active ingredient (USEPA registered pesticide and EPA #) used for treating or coating the seed,
- Address where seeds will be planted,
- Anticipated date(s) of planting,
- A record of the Department-approved IPM course taken by the farm owner, and
- A pest risk assessment report specifying each location for the pest to be controlled by the treated or coated seeds.

The DEC can issue a waiver specifying the location(s) of the use of the treated or coated seeds.

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Regulatory Ideas

Pest Risk Assessment Report

A pest risk assessment report specifying each location for the pest to be controlled by the treated or coated seeds, as required by this section, must provide the following information:

- A DEC approved pest risk assessment documenting at least an estimated 14% economic loss for the crop, or
- A pest risk assessment documenting scouting information by a certified crop advisor demonstrating that the pest to be controlled is present at or above a threshold that will cause at least a 14% economic loss (crop loss) for the crop within the previous 2 years, or
- A pest risk assessment documenting at least a 14% economic loss (crop loss) due to the use of untreated seeds within the previous 2 years by the farm.

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Denial or Revocation of Waiver

A waiver may be denied or rescinded by the Department:

- If the waiver application is incomplete, incorrect, or contains inaccurate information
- If the pest risk assessment does not meet other parameters established by the Department
- If the treated or coated seeds are not planted at the site identified in the waiver
- If the treated or coated seeds are distributed to other locations or farms

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Regulatory Ideas

Records for Farm

The farm owner must maintain a record of the:

- waiver application,
- cancelled waiver,
- pest risk assessment and report,
- date(s) when the treated or coated seeds were planted,
- total amount of treated seeds purchased,
- total amount of treated or coated seeds planted, and
- location where the treated seeds were planted

These records must be maintained for 3 years following the planting date and made available upon request to the DEC

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Sales of treated or coated seeds

- All persons selling, offering for sale and use, or distributing treated or coated seeds covered by the BBPA must register as a treated seed dealer with DEC
- A treated seed dealer registration valid for 3 years
- The treated seed dealer must cancel the waiver, either partially or in its entirety, immediately after the sale of the treated or coated seeds
- The treated seed dealer must maintain a copy of the waiver and return the original canceled or partially cancelled waiver to the farm owner or their designated representative

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Regulatory Ideas

Sales of treated or coated seeds

Dealers must maintain the following record for sale or distribution of any treated or coated seeds covered by this regulation:

- Name of the applicant
- Farm address
- Purchasers title at farm
- Pest(s) to be controlled
- Neonicotinoid pesticide active ingredient (USEPA registered pesticide and EPA #) used for treating or coating the seed
- Address of where seeds will be planted
- Anticipated date of planting
- Total amount of treated or coated seeds sold to the farm
- A copy of the cancelled waiver

These records must be maintained for three years after the sale and made available to the DEC

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Regulatory Ideas

Possession and sale of seeds for out-of-state distribution

- Treated seeds may be sold, distributed, and stored within New York State for sale and distribution outside the state
- A treated seed dealer registration shall not be required if treated or coated seeds covered by the Act are not sold, offered for sale and use, or distributed to locations in NYS

Treating or coating seeds on premises

- Seeds may be treated or coated on-site with the pesticide active ingredients identified in this Act prior to planting by the farm

FOR INFORMATIONAL PURPOSES ONLY, NOT A FINAL PROPOSAL

SUBMIT ALL WRITTEN COMMENTS TO:

PESTREGS@dec.ny.gov

Or

Bureau of Pesticides Management

625 Broadway, 9th Floor

Albany, NY 12233-7254

Thank You!

Bureau of Pesticides Management

625 Broadway

Albany, NY 12233-7254

(518) 402-8788

Webpage: https://dec.ny.gov/environmental-protection/pesticides

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Department of Environmental Conservation