

● ENVIRONMENTAL CONSERVATION LAW (*PESTICIDES*)

STATUTORY CITATION: N.Y. Environmental Conservation Law §§ 33-0101 – 33-1503 and §§ 71-2901 – 71-2915

RELATED REGULATIONS: N.Y. Comp. Codes R. & Regs. Title 6, Part 325

GENERAL SUMMARY: Article 33 of the environmental conservation statutes regulates the registration, commercial use, purchase, and custom application of pesticides in New York. Of immediate relevance to the agricultural workplace are provisions requiring certain permits and certification for the purchase and application of restricted-use pesticides, requiring the registration of pesticide businesses, and defining certain unlawful acts involving pesticide products. Article 71, in turn, delimits the state's powers and procedures in enforcing the substantive pesticide standards, and grants the enforcement agency authority to adopt additional regulatory controls over pesticides and pesticide users.

SPECIFIC TERMS AND CONDITIONS

PURCHASE PERMITS — With few exceptions, a purchase permit issued by the state is required for the purchase, possession or use of a restricted-use pesticide. The applicant for a purchase permit has to justify the need for the quantity and type of pesticide requested and must demonstrate sufficient knowledge and experience concerning the proper handling, application and disposal of the product. A permit is valid only for the compound and quantity indicated on its face and must be properly canceled by the seller at the time the product is purchased.

APPLICATOR CERTIFICATION — No one may engage in the commercial application of any pesticide, or the private agricultural application of a restricted-use pesticide, without first being certified by the state. An applicant for certification must show adequate knowledge and experience in the proper application of pesticides and the use of pesticide equipment by completing an examination. Certification is not valid unless the certificate-holder also has a valid identification card issued by the state agency.

PESTICIDE BUSINESS REGISTRATION — Apart from the preceding requirements, any individual or firm that performs commercial application of pesticides for hire must register with the state and meet state-prescribed standards of competence in the use of pesticides and pesticide equipment.

APPLICATOR RECORDKEEPING — Every application business and commercial applicator must keep a record of each application of any pesticide. Among other information, the record must include the date and location of the application, the pesticide and dosage applied, the target pest involved, and the total acreage treated.

UNLAWFUL ACTS — Among numerous other prohibited activities, it is illegal for anyone (1) to detach, alter or deface any part of the labeling on a pesticide product, (2) to store or dispose of a pesticide or pesticide container in a manner contrary to state regulations, (3) to purchase, possess or use a restricted-use pesticide without a purchase permit or a certified applicator identification card, (4) to apply pesticides commercially without a certified applicator identification card (unless working under the direct supervision of a certified applicator), or (5) to engage in the pesticide application business without being registered.

SPECIAL NOTES OR ADVISORIES

EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (*see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards*) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Bureau of Pest Management, Division of Materials Management, New York State Department of Environmental Conservation, Albany, New York 12233-7250 (518-402-8652)*. The registration of pesticide application businesses in the state, the certification of pesticide applicators, and the issuance of pesticide purchase permits is administered exclusively by the Department. In enforcing compliance with the rules applicable to the purchase and use of pesticides, the Department may conduct investigations, hold hearings, subpoena witnesses and documents, and take sworn testimony. Whenever the Department finds, or has probable cause to believe, that a pesticide is being used in violation of the state pesticide laws, the agency may issue a stop-use order requiring immediate cessation of the pesticide operation involved. Anyone who violates the pesticide provisions is liable to a civil penalty of up to \$5,000 for the first violation, assessed by the Department and enforceable in court by the state attorney general. Acts prohibited under the pesticide laws are also deemed a criminal offense, punishable by fine and imprisonment.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *None*.