

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Materials Management, Bureau of Pest Management
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May 20, 2016

Dear Certified Commercial Applicators:

Re: Nesting Stinging Insects in Ground, Trees and Shrubs

This letter addresses the appropriate pesticide applicator certification category/subcategory for the control of bees, wasps, hornets, yellow jackets and other stinging insects nesting in the ground, trees and shrubs. This specific scenario is not clearly delineated in the regulations. This letter supersedes all previous guidance on this specific issue, including the letter from Tom Lynch, dated May 19, 2003.

Subcategory 3A - Ornamentals, Shade Trees and Turf and Subcategory 3B – Turf

The application of pesticides by a directed spray to control nesting bees, wasps, hornets and yellow jackets can be made under Subcategory 3A (and 3B for turf situations). These applications would not be subject to the Title 10 Commercial Lawn Care Requirements if ONLY the nest or hive is being treated by a directed spray. In this manner, the nest itself is being treated and not the tree, shrub, or ground. All other treatments to trees and turf for controlling stinging insects are subject to the Title 10 requirements.

Subcategory 6A – Right of Way Vegetation Control

The application of pesticides by a directed spray to control nesting bees, wasps, hornets and yellow jackets found when performing maintenance in rights-of-way and other related facilities can be made under Subcategory 6A. Such applications inside or on a structure that are made in conjunction with structural work such as building repair or equipment replacement that are not performed as part of right of way maintenance, should be made under Subcategory 7A.

Subcategory 7A – Structural and Rodent Pest Control and 7F Food Processing

Subcategory 7A by definition includes “stinging and biting insects within or associated with structures.” There have been questions about whether nesting, stinging insects located in a tree some distance from a structure are regarded as being “associated with the structure.” It is our interpretation that if the stinging insects pose a stinging or other health hazard to occupants of the structure, they qualify as insects “associated with structures,” regardless of the distance from the structure or if the hazard is indoors or outdoors. There is not a prescribed distance that the stinging insect nest must be from the structure. The commercial applicator will need to use reasonable judgement to determine if a particular application is “associated with a structure” and thus, can be conducted under Subcategories 7A or 7F, depending on the location of application.

Category 8 – Public Health Pest Control

6 NYCRR 325.16(h) states “This category includes State, Federal or other governmental personnel, their contractors and other commercial applicators using or supervising the use of pesticides in public health programs for the management and control of pests.” As such, Category 8 would be appropriate for the control of nesting stinging insects in most cases.

Pesticide applications to nesting and stinging insects by Emergency Responders

Emergency responders may occasionally run into unscheduled, unexpected "emergency" situations in the performance of their specific work assignments where nesting, stinging insects present an immediate hazard to that individual. These individuals may apply general use pesticides for their own "personal protection" from nesting, stinging insects discovered at a job site even though it is still considered a commercial pesticide application. The individual using a pesticide in such instances is still subject to regulatory requirements relating to pesticide product registration, and using the pesticide in accordance with the label directions. As explained above, individuals doing routine maintenance work must be certified in the appropriate category to control nesting, stinging insects, even if they present an imminent hazard to that individual.

If you have any questions, please contact a Pesticide Control Specialist in your local NYS DEC Regional office or contact the Pesticide Reporting & Certification Section by e-mail at pestmgt@dec.ny.gov or by telephone at (518) 402-8748.

Sincerely,

Pesticide Reporting & Certification Section