

**PES-05-08**  
**Compliance with the Pesticide Reporting Law**  
**(Chapter 279, Law of 1996)**

New York State Department of Environmental Conservation

**DEC Program Policy**

**Issuing Authority:** Carl Johnson, Deputy Commissioner

**Date Issued:** 8/18/2005

**Latest Date Revised:**

**I. SUMMARY**

**This Program Policy was formerly identified as TAGM PES-97-08.**

This Program Policy provides guidance and clarifies program issues for Division staff to ensure compliance with statutory and regulatory requirements of the Pesticide Reporting Law. This Program Policy provides Department staff, the regulated community and the public with information on the requirements of the Pesticide Reporting Law (Chapter 279, Laws of 1996). This policy also helps Department staff and the regulated community in interpreting and applying regulations and statutes to assure program uniformity through New York State.

The Pesticide Reporting Law requires every certified commercial applicator, commercial permit holder, and importers, manufacturers and compounders of pesticides to report regulated pesticide activities from January 1 through December 31 of each year. The report is due to the Department of Environmental Conservation no later than February 1 of the year following the calendar year for which the report is being submitted. See ECL Sections 33-1205(1) & (2)(a), and 33-1207(2).

**II. POLICY**

**A. General Information for Pesticide Reporting Program**

A phone number (1-518-402-8748) has been established at the Department's Central Office for compliance assistance regarding the Pesticide Reporting Law. Entities subject to the Pesticide Reporting Law are required to report regulated pesticide activities annually, starting with the period from January 1, 1997 through December 31, 1997. **The first report was due to the Department no later than February 1, 1998.** See Chapter 279, Laws of 1996, Section 8(b).

Blank reporting forms were direct-mailed during January 1997 to all certified applicators, registered pesticide businesses and importers, manufacturers and compounders registered in New York State. A copy may be obtained from the Department's Central Office in Albany (1-518-402-8748) or from any Regional Department Office. A revised Pesticide Reporting Form

(#44-15-25) combining reporting requirements of two forms [#44-15-1 (12/95-28a) and #44-15-25] was direct-mailed to Commercial Permittees on May 16, 1997.

The information listed on reporting forms must be maintained and/or filed pursuant to ECL Title 12. These forms were developed by the Department to facilitate the filing of information in compliance with Title 12.

The regulated community is encouraged to make copies of reporting forms for their use. The form may be reduced to 8 ½" x 11". However, the information entered on the report must be readily legible to the average person. Reports containing illegible information will be rejected. The headings on the reporting form can be reduced (as the entire form can be reduced) in order to increase the number of entries per page, as long as the information contained within it is readily legible. However, the headings on each page of the report are needed in case the forms get separated. It is not necessary to copy the instructions on any additional copies of the report; they are only provided for the assistance of those filling out the forms. For keypunching reasons, only reporting on one side of the form will be accepted, at least for this first year.

It is anticipated that regulated entities will be able to submit the new pesticide reporting forms on a less than annual basis, once the computer data base system is operational. Everyone is encouraged to submit electronically, in a format acceptable to the Department (more details on how to do this will be forthcoming). The Department is looking into developing and releasing a computer program to be used for electronic submission of records.

Although the Pesticide Reporting Law establishes new reporting requirements for calendar year 1997, all previously existing recordkeeping requirements still apply. For example, Private applicators DO NOT have to submit annual reports to the Department. They must, however, continue to keep records of restricted pesticide purchases and use.

#### B. Commercial Applicators

Businesses can submit annual reports for all certified applicators that work for them as they have in the past. The form must list at least one certification ID number. A separate list should be attached listing all certified applicators that work for them for which room was not available on the form. This list should be on a separate sheet or sheets, and include the applicator's name and certification number, and the business registration number of the business submitting the report. Businesses must also submit information for any applications made by applicators that are not certified but are working under another applicator's certification.

Unless their employer submits a report on their behalf, every commercial applicator must complete and submit an annual report. If an applicator does not do any applications during 1997, he/she must still submit an annual report by completing all the information in the headings at the top of the page and then writing across column 1 through column 9 areas ..... NO ACTIVITY THIS YEAR ..... or ..... NO PESTICIDE APPLICATIONS MADE DURING 1997.

The applicator must record the registered pesticide product name, not the active ingredient. See ECL Section 33-1205(1). The quantity used is the amount of the undiluted product used from the container with the EPA registration number on it. When reporting the quantity of undiluted pesticides, extend four places to the right of the decimal point, if necessary. Any figures that extend beyond four places to the right of the decimal point are to be rounded off

to the nearest ten thousandth (i.e., .0001). There may be some products that do not list a measurement or weight on the label. In these instances, the applicator will have to contact the manufacturer to determine this information.

In the case of pre-mixed, ready-to-use pesticides, the amount of undiluted pesticide applied is the amount of the pre-mixed product used. For instance, if 50 pounds of a ready-to-use granular herbicide with fertilizer is applied at a site, the quantity of pesticide used would be 50 pounds. This would be true with any ready-to-use product. The fact that this material may have contained only 10 percent or 70 percent active ingredient has no bearing on the recording of quantity used, nor does the fact that the product may contain multiple active ingredients. Use of an aerosol product would require an applicator to estimate how much aerosol was used at a particular site. That amount would be recorded. A total release aerosol would be recorded as the total volume of the container used; whereas controlled release products would require an estimation of how much of the contents were released.

Locations without a street address (such as rights-of-way, transmission lines, etc.) are to be reported by county, municipality and zip code.

The confidentiality of submitted information remains a prominent concern. Section 33-1203 of the ECL states in pertinent part:

The commissioner shall not provide the name, address, or any other information which would otherwise identify a commercial or private applicator, or any person who sells or offers for sale restricted use or general use pesticides to a private applicator, or any person who received the services of a commercial applicator. In accordance with [the Freedom of Information Law], proprietary information contained within such record, including price charged per product, shall not be disclosed. The provisions of this paragraph shall not apply to the provision of pesticide data to the commissioner of health, the health research science board and researchers pursuant to title one-B of article twenty-four of the public health law.

The commercial applicator's annual report form is to be in the format we have provided. However, if an applicator wants to be able to use one form for both reporting and daily recordkeeping requirements, it is acceptable to add additional columns to the right-hand side of the annual report form (i.e., target organism, method of application, dosage rate, etc.), as long as the applicator does not alter the order of the original nine columns on the form. Another option would be to add the additional columns for information on the reverse side of the form.

1. Pesticides Purchased and Applied in New York State

All commercial applicators (except as indicated below) who purchase and apply a registered pesticide product in New York State must complete an annual report (including boat bottom painters, golf course superintendents, etc.).

**EXCEPTION:** Commercial or custom applicators who apply a pesticide which was purchased by a private applicator are exempt from reporting, since the information has already been recorded by the Commercial Permittee at the time of sale. However, the commercial or custom applicator would still have to keep individual spray records. If, however, the commercial or custom applicator

invoices the cost of the pesticide being applied, as well as the cost of the service to make the application, then the commercial or custom applicator would be responsible for reporting the application information. If a pesticide is recorded and reported at the point of sale, then the applicator does not have to report the pesticide application because it will result in double counting; however, all recordkeeping requirements still apply.

## 2. Pesticides Purchased Out of State and Applied in New York State

If private applicators purchase a restricted use pesticide product out of State and apply the product themselves, they would be required to keep records but not submit an annual report form to the Department. See ECL Section 33-1205(2)(b).

If a commercial applicator applies a pesticide product that has been purchased out of State, regardless of who purchases the product, the commercial applicator would be required to report it [using Commercial Applicators Annual Report - Pesticides Used form (44-15-26)] and keep daily use records. See ECL Section 33-1205(1).

The following are several questions that we have received concerning pesticides applied in New York State and our responses to those questions:

### **Question 1.**

A firm has two certified applicators with Lumber & Wood Certification. The firm pressure-treats lumber with CCA compounds, day in and day out, all at the facility, never anywhere else. Does each individual day's usage have to be recorded? Could one report somehow suffice instead of 300 lines of data which are virtually the same? Could this also apply to cooling tower applicators, especially using in-line metered applicators?

### **Response 1.**

It is not necessary that each individual day's use be recorded because it always occurs on site and utilizes the same product. One report will suffice in these two particular situations so long as it accurately reflects the total quantity of pesticide use during the reporting year.

### **Question 2.**

Can towns applying Bti to streams for black fly larvae control simply report the town and zip code for the location of intended application? Many of the streams treated are not near any roads and do not have a name.

### **Response 2.**

The Department recognizes that certain types of pesticide applications are carried out on property without an associated street address. When this occurs, report the name of the smallest geographical location where the application is made. For instance, if it is within the boundaries of a village, the name of the village and its zip code should be recorded as

the location. If there is no street address, they should record the information which most closely identifies where the application has taken place. If the stream has a name, it should be recorded.

### **Question 3.**

Do entries have to be reported chronologically or can a separate reporting sheet be supplied for each customer (i.e., all applications done at ABC Hotel)?

### **Response 3.**

Entries DO NOT have to be recorded chronologically, as long as each application made during the course of the calendar year is recorded. Therefore, a separate reporting sheet may be used for each customer, as long as all of the information is recorded for each application at that site. It is acceptable to write “same” or use arrows or ditto marks in each column when the information does not change on the form (such as the address).

### **Question 4.**

If applications are made at several apartments at one location, do you have to list every apartment separately, or just the one address? What if the applicator is hired by each individual apartment owner? What if the applicator is hired by the complex owner and applying at several apartments?

### **Response 4.**

The applicator would only have to list the one address of the complex, unless each building has a separate address. It would make no difference who hired the applicator. We are interested in the address and product used.

### **C. Commercial Permittees, Importers, Manufacturers and Compounders**

If a restricted use pesticide is imported into, manufactured, or compounded to be sold in New York State, the importer, manufacturer or compounder must maintain records and report the information listed on Restricted Pesticides Annual Report for Commercial Permittees (including Importers, Manufacturers and Compounders), form number 44-15-25. See ECL Section 33-1207.

#### **1. Sales Made to Commercial Permit Holders or Certified Commercial Applicators**

Commercial Permittees must record sales of restricted use pesticides to **all** certified commercial applicators. They must also report information listed on the form entitled Restricted Pesticides Annual Report for Commercial Permittees (including Importers, Manufacturers and Compounders), form 44-15-25. The Commercial Permittee is to indicate (in the boxes at the top of the form) whether the sale was made to a Commercial Permit Holder for Resale or to a Commercial Applicator for End Use. Please use a separate

form to indicate sales made to commercial permit holders for resale and a separate form to indicate sales made to commercial applicators for end use.

## 2. Sales Made to Private Applicators

All sales of restricted use, or general use pesticides to be used in agricultural crop production made to any private applicator must be reported. Pesticides used in agricultural crop production are often easily identified because they carry the Worker Protection Standard (WPS) label. The Commercial Permittee is to report the information listed on the form entitled Commercial Permittee Restricted or Agricultural Pesticide Sales Report, form 44-15-27. See ECL Section 33-1205(2)(a).

If the location of the intended pesticide application is the private applicator's billing address, this address should be recorded. If the location of the intended application is different from the billing address, the law permits the location to be recorded by town/city and five-digit zip code when a complete address is unavailable. See ECL Section 33-1205(2)(a)(5).

Commercial Permittees are not required to keep track of location of application information for sales of restricted use pesticides made to any commercial applicator. However, they do need to keep track of the location of the application for the sales made to private applicators.

The following are several questions we have received concerning sales of pesticides and our responses to those questions:

### **Question 1.**

If a Commercial Permittee imports and sells pesticides in New York State, which form does the permittee complete?

### **Response 1.**

A Commercial Permittee who imports restricted use pesticides into New York and then sells the restricted use pesticide to a distributor for resale, or directly to a **commercial applicator**, is to report those sales by completing the Restricted Pesticides Annual Report for Commercial Permittees (including Importers, Manufacturers and Compounders), form 44-15-25. The Commercial Permittee is to indicate (in the boxes at the top of the form) whether the sale was made to a Commercial Permit Holder for Resale or to a Commercial Applicator for End Use. Please use a separate form to indicate sales made to commercial permit holders for resale and a separate form to indicate sales made to commercial applicators for end use.

However, if the Commercial Permittee (who imports the pesticide) sells a restricted use pesticide or a general use pesticide used in agricultural crop production directly to a

private applicator, the **Commercial Permittee is also to complete** the Commercial Permittee Restricted or Agricultural Pesticide Sales Report, Form 44-15-27.

If the Commercial Permittee sells the pesticide to a distributor for resale and the distributor then sells the pesticide to a private applicator, that **distributor is to complete** the Commercial Permittee Restricted or Agricultural Pesticide Sales Report.

### **Question 2.**

For sales to private applicators, what address should be recorded if the location of intended application is out of State (i.e., Connecticut, Massachusetts, New Jersey, etc)?

### **Response 2.**

The fact that the location of intended application is out of State does not matter. The seller can record the out-of-State town/city and five-digit zip code, but only if the address is unavailable.

### **Question 3.**

How are repackagers to be addressed?

### **Response 3.**

If they are only repackaging, and not importing or manufacturing, then no reporting is necessary, unless they sell pesticides, then they would fall under the commercial permittee requirements.

## **III. PURPOSE and BACKGROUND**

The purpose of this Program Policy is to provide Department staff, the regulated community and the public with information on the requirements of the Pesticide Reporting Law (Chapter 279, Laws of 1996). Much of Chapter 279 referred to in this Program Policy was codified as Title 12 of the Environmental Conservation Law (ECL).

The Pesticide Reporting Law requires every certified commercial applicator, commercial permit holder, and importers, manufacturers and compounders of pesticides to report regulated pesticide activities from January 1 through December 31. The report is due to the Department of Environmental Conservation no later than February 1 of the year following the calendar year for which the report is being submitted. See ECL Sections 33-1205(1) & (2)(a), and 33-1207(2).

## **IV. RESPONSIBILITY**

The responsibility for interpreting and updating this document resides in the Department's Division of Solid & Hazardous Materials, Bureau of Pesticides Management, Pesticide Reporting & Certification Section (518-402-8748).

**V. PROCEDURE**

This policy may be used for purposes of annual reporting under the Pesticide Reporting Law.

**Related Reference:**

ECL Title 12 (Pesticide Reporting Law)

**If you have any questions, please contact:**

Pesticide Compliance Section  
Bureau of Pesticides Management  
Division of Solid & Hazardous Materials  
New York State Department of Environmental Conservation  
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