

**DSHM-PES-05-10**  
**Compliance with the Pesticide Reporting Law**

New York State Department of Environmental Conservation

**DEC Program Policy**

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

**Date Issued:** 10/05/05

**Latest Date Revised:**

**I. SUMMARY**

**This Program Policy was formerly identified as TAGM 99-10.**

The Pesticide Reporting Law (PRL) requires every certified commercial pesticide applicator, certified commercial pesticide technician and commercial permit holder, including importers, manufacturers and compounders of pesticides, to report regulated pesticide activities occurring each year from January 1 through December 31. The report must be submitted to the Department no later than February 1 of the year following the calendar year for which the report is being submitted. [See ECL §§33-1205(1) & (2)(a), and 33-1207(2).] Report forms must be submitted with accurate, legible information or the forms will be rejected.

**II. POLICY**

A. General Information Regarding the Pesticide Reporting Program

Staff, who may be reached at 518-402-8748, are available at the Department's Central Office to provide assistance regarding the Pesticide Reporting Law.

The Pesticide Reporting & Certification Section may be reached by e-mail at [prl@gw.dec.state.ny.us](mailto:prl@gw.dec.state.ny.us). The Department's PRL webpage is available at <http://www.dec.state.ny.us/website/dshm/pesticid/prl.htm>. On view are copies of the Annual Reports of New York State Pesticide Sales and Applications, downloadable reporting forms, and additional information concerning the Pesticide Reporting Law.

Those subject to the Pesticide Reporting Law are required to submit a report annually, even if no pesticide applications or sales were made. Certified commercial pesticide applicators and certified commercial pesticide technicians employed by State, federal, county, city, town and village agencies (i.e., Department of Transportation, Department of Correctional Services, Office of Parks and Recreation, Thruway Authority, Health Department, etc.) that apply pesticides are also required to complete annual reports.

In lieu of the regulatory language found under 6 NYCRR 325.25 and 6 NYCRR 326.10, the Department shall allow and accept an annual report or reports submitted in accordance with ECL §§33-1205(1), 33-1205(2)(a) and/or 33-1207(2).

### **Electronic Reporting**

The Department encourages electronic reporting of pesticide data. If you are currently storing your records on a computer, or expect to do so in the future, you may find electronic filing more convenient, cost effective, and the most accurate method of reporting. Information regarding electronic filing is now available. For further details, please contact the Pesticide Reporting & Certification Section as indicated above or visit the Department's Electronic Reporting web site at <http://www.nysprl.com> for available electronic reporting options.

### **Paper Forms**

For current and future years, if you choose not to report electronically you must use the approved NYSDEC format. Certified commercial pesticide applicators and certified commercial pesticide technicians must submit the "*Applicator/Technician Pesticide Annual Report*" Form 44-15-26 (*see end of document*) **even if they made no applications** during that reporting year. Commercial permittees must submit the "*Annual Report for Restricted Pesticide Sales,*" Form 44-15-25 (*see end of document*) and/or the "*Annual Report for Pesticide Sales to Certified Private Applicators*" Form 44-15-27 (*see end of document*), **even if they made no sales** during that reporting year. If you need copies of the forms, please contact the Department's Pesticide Reporting & Certification Section. Additional blank paper reporting forms should be photocopied as needed.

#### **B. Special Reporting Requirements**

Under the Pesticide Reporting Law, a pesticide must be reported based on its classification (General Use Pesticide or Restricted Use Pesticide) at the time of sale or application.

In the case of the use of Special Local Need Pesticides (SLN's), Experimental Use Permit Pesticides (EUP's), and Section 18 Pesticides (emergency exemptions), all products that currently have an EPA registration number on the label are registered pesticides. Therefore, the applications of those pesticides must be reported. If the SLN's, EUP's, and Section 18 Pesticides (emergency exemptions) product label does not list an EPA registration number, it is not a registered pesticide and the use of that product should not be reported.

C. Commercial Permittees (Including Importers, Manufacturers, and Compounders)

***Sales of Restricted Use Pesticides and General Use Agricultural Pesticides to Certified Private Applicators***

A commercial permittee must record and report the sale and intended place of application of all restricted use pesticides, as well as any general use pesticides sold to certified private applicators for use in agricultural crop production. The Environmental Protection Agency (USEPA) requires a Federal Worker Protection Standard (WPS) statement on all pesticide products labeled for use on agricultural crops. Therefore, the sale of a WPS-labeled product in many cases would be an indicator to the commercial permittee that the purchaser may be a certified private applicator, and that the sale may need to be reported. However, if the product is labeled for both agricultural and non-agricultural use, and the purchaser states that the pesticide will not be used for agricultural purposes, then the sale need **not** be reported. Additionally, if a private applicator uses his/her tax exempt status when purchasing a general use product, this should prompt the commercial permittee to ask if the product will be used on an agricultural crop, and obtain the required information.

Commercial permittees must issue a record (bill of sale, receipt, invoice, etc.) to any private applicator purchasing a restricted use pesticide or a general use pesticide used in agricultural crop production. This record must be provided at the time of sale (i.e., when the applicator takes custody of the pesticide). The invoice or receipt can serve as this record, provided it includes all of the following information:

- EPA Registration Number
- Name of the pesticide product purchased
- Quantity of the pesticide purchased
- Date purchased
- Location of intended application by address (including five-digit zip code); or if address is unavailable, by town or city (including five-digit zip code), if the location of intended application differs from the billing address.

***Sales of Restricted Use Pesticides to other Commercial Permit Holders for Resale and/or Sales to Certified Commercial Pesticide Applicators and Certified Commercial Pesticide Technicians for End Use, Including Purchase Permit Sales***

Commercial permittees, including importers, manufacturers, and compounders that sell restricted use pesticides in New York State, must complete the “*Annual Report for Restricted Pesticide Sales*,” *Form 44-15-25*. Information recorded on this form should represent the total amounts of restricted use pesticide products sold throughout the year. The appropriate box at the top of the form should be checked ( ) to show if it is a “Report for Sales to Commercial Permit Holders for Resale,” or a “Report for Sales to Commercial Applicators for End Use Including Purchase Permit Sales.” A separate sheet should be used for each type of sale.

D. Certified Commercial Pesticide Applicators, Certified Commercial Pesticide Technicians, and Registered Pesticide Businesses/Agencies

A certified commercial pesticide applicator is responsible for reporting all pesticide applications made by commercial pesticide apprentices working under their supervision or in their employ.

Please note: Certified commercial pesticide applicators and certified commercial pesticide technicians are required to keep pesticide use records for each pesticide application containing the following information:

1. EPA registration number
2. Product name
3. Quantity of each pesticide used
4. Date applied
5. Location of application by address  
(including five-digit zip code)
6. Dosage Rate
7. Method of Application
8. Target Organism
9. Place of Application

These records must be kept for three years, must be made available for inspection upon request by the Department and must be sufficient to accurately and precisely provide Department staff with a complete description about each pesticide application. They must also enable an individual to return to a site and identify the exact location of the application and the individual responsible for making that specific application.

If a certified commercial pesticide applicator or certified commercial pesticide technician purchases and applies general use pesticides on property owned or rented by the applicator or technician, excluding any establishment selling or processing food, and excluding any residential structure other than the specific dwelling unit in which the applicator or technician resides, those applications are not to be reported on the *“Applicator/Technician Pesticide Annual Report,”* Form 44-15-26. However, if the certified commercial pesticide applicator purchases and applies **restricted use** pesticides on such property, those applications **must** be recorded and reported on the *“Applicator/Technician Pesticide Use Annual Report,”* Form 44-15-26. The only exception for reporting these types of applications (restricted use pesticides on property owned or rented by the certified commercial pesticide applicator) is if the certified commercial pesticide applicator is also certified as a private applicator and holds dual certifications in the appropriate commodities/categories for both commercial and private certification.

**Note:** All applications of pesticides made by certified commercial pesticide applicators or certified commercial pesticide technicians as “Donated Services” on the property of churches, schools, neighboring landscapes, clubs, etc., must be reported on the *“Applicator /Technician Pesticide Annual Report,”* Form 44-15-26.

A registered pesticide business/agency, or a non-registered business making pesticide applications and having an employee/employer relationship with one or more certified commercial pesticide applicators and/or certified commercial pesticide technicians, may submit “*Applicator/Technician Pesticide Use Annual Report*,” Form 44-15-26, and “*List of Commercial Applicators and Technicians*,” Form 44-15-26A (*see end of document*), on behalf of their employees. If a business or agency chooses to report for the applicators and technicians in their employ, **all** certified commercial pesticide applicator and certified commercial pesticide technician names and numbers who were employed at any time during the reporting year must be included (even if no applications were made by certain individuals) and **all** applications made by all employees for the year must be reported. Please do not include the names of those employees that are commercial pesticide apprentices.

Certified commercial pesticide applicators and certified commercial pesticide technicians leaving general use pesticides such as bait stations, insecticide vapor/attractant strips, or aerosol containers with customers for them to apply at a later date should not report those pesticides on their “*Applicator/Technician Pesticide Annual Report*,” Form 44-15-26, since the certified commercial pesticide applicators or certified commercial pesticide technicians are not actually making the applications. These applications are treated as if the customers bought the product from a retail establishment and applied it themselves.

When pesticides are applied to locations where a street address cannot be associated with that location (such as rights-of-way, transmission lines, stream tributaries, etc.), the applications are to be reported by county, municipality, and individual zip code. The street address can be omitted in these instances.

Applications made to telephone poles and areas around fire hydrants, etc., that are located within specific property boundaries must be reported using that specific address as the place of application. If the pole or hydrant being treated is in the right-of-way between the sidewalk and roadway in front of 50 Wolf Road, then the address of the application should be reported as 50 Wolf Road.

If the same pesticide product (for example: anti-foulant paint) is applied by a marina (registered pesticide business) throughout the day, the **daily total** for that pesticide can be recorded and reported on one line of the annual report. It is not necessary to record individual boat applications separately. However, if more than one pesticide product is used on that day, a separate line must be used to record the day’s total for each pesticide product.

The Department recognizes the problems of reporting thousands or millions of individual addresses associated with a large-scale, community-wide spraying operation (such as the large-scale West Nile Virus mosquito applications).

Upon review of these unique situations and the difficulties involved with obtaining an accurate, commercially-available street address database, which is required for the calculation of the exact amount applied to each individual address during a large-scale spraying, the Department will allow the applications to be reported by county, municipality and zip code. Until the means of obtaining such a database is widely available, in these instances only, the street address may be omitted.

When a certified commercial pesticide applicator or certified commercial pesticide technician makes an application of this type, the applicator or technician is also required to furnish a detailed map of the area of application to the Regional DEC office, so the Department and any health researcher can determine precisely where the pesticides have been applied within a zip code. Any areas within the area of application that were not sprayed must be clearly identified and quantified. Total amount of undiluted pesticide used must be consistent with the measurement of the area actually treated, and should reflect a rate of application consistent with label directions (or as otherwise modified by a permit issued by the Department). This documentation should be submitted to the local DEC Regional office within two weeks of the date of application. It is important to note that a copy of the annual report and additional record keeping information be retained for a minimum of three years and shall be available for inspection upon request by the Department.

All applications made in these situations must be reported. An emergency situation has no impact on the Pesticide Reporting Law annual reporting requirements.

#### E. Certified Private Applicators

Certified private applicators must maintain records of all restricted use pesticides purchased, the crops treated by such pesticides, and the methods and dates of application. A certified private applicator shall, upon request, within six months, provide site-specific information relating to these pesticide applications to any researcher entitled to receive such information pursuant to the Public Health Law, provided however that such request shall not be granted during planting and harvesting unless at a time and in a manner that is mutually convenient. [See ECL 33-1205(5)(c).]

When a certified private applicator purchases any restricted use pesticide, or a general use pesticide for the production of agricultural crops, the applicator must provide the “Location of Intended Application” for that pesticide to the commercial permittee at the time of sale.

### **III. PURPOSE AND BACKGROUND**

Program Policies are developed to provide guidance and clarify program issues to facilitate compliance with statutory and regulatory requirements. They also provide assistance to Department staff and the regulated community in interpreting and applying regulations and to Division of Solid & Hazardous Materials (DSHM) staff in achieving program uniformity throughout the State. A Program Policy cannot impose new requirements beyond those contained in existing regulations or statutes. Furthermore, a Program Policy is not a fixed rule; therefore, it does not create any enforceable right by any party using the Program Policy.

The purpose of this Program Policy is to provide DEC staff, the regulated community, and the public with additional information on the requirements of the Pesticide Reporting Law (Chapter 279, Laws of 1996) and it supplements Program Policy PES 05-08. Much of Chapter 279 referred to in this Program Policy was codified as Title 12 of the Environmental Conservation Law (ECL).

All Program Policies are in effect until revised or rescinded. To ensure a Program Policy is the most recent version, visit our website page:

<http://www.dec.state.ny.us/website/dshms/regs/tagminindex.html>

### **IV. RESPONSIBILITY**

The NYSDEC Division of Solid & Hazardous Materials, Bureau of Pesticides Management, is responsible for interpreting, implementing, maintaining and updating this policy. The Bureau can be reached at 518-402-8748 for additional guidance on this Program Policy, if needed.

### **V. PROCEDURE**

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

#### **Related References and Forms:**

6 NYCRR 325.25, Application of Pesticides, Records and Reports

<http://www.dec.state.ny.us/website/regs/part325.html#325.25>

6 NYCRR 326.10 Registration and Classification of Pesticides, Cancellation Procedure

<http://www.dec.state.ny.us/website/regs/part326.html#326.10>

New York State Consolidated Laws, Environmental Conservation, Title 12, Pesticide Sales and Use Data Base and Record keeping and Reporting, ECL §§33-1205(1), 33-1205(2)(a) and/or 33-1207(2), <http://assembly.state.ny.us/leg/?cl=37&a=148>

Applicator/Technician Pesticide Annual Report Form, 44-15-26 - PDF file, 35Kb

<http://www.dec.state.ny.us/website/dshm/prl/form26.pdf>

List of Commercial Applicators and Technicians Form 44-15-26A - PDF file, 21Kb

<http://www.dec.state.ny.us/website/dshm/prl/form26a.pdf>

Annual Report for Restricted Pesticide Sales Form 44-15-25- PDF file, 19Kb

<http://www.dec.state.ny.us/website/dshm/prl/form25.pdf>

Annual Report for Pesticide Sales to Certified Private Applicators Form 44-15-27 - PDF file, 24Kb

<http://www.dec.state.ny.us/website/dshm/prl/form27.pdf>

Pesticide Application Record Keeping Form for Private Applicators- PDF file, 48Kb

<http://www.dec.state.ny.us/website/dshm/pesticid/privatercdfrm.pdf>

Electronic Reporting Options <http://www.nysprl.com>

**If you have questions regarding this Program Policy, please contact:**

Bureau of Pesticides Management  
Division of Solid & Hazardous Materials  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, NY 12208-7254

Telephone: 518-402-8748