

Express Terms

Part 326

Registration and Classifications of Pesticides

6 NYCRR Part 326 is amended to read as follows:

Section 326.1 through Paragraph 326.2(c)(14) remains unchanged.

Paragraph 326.2(c)(15) through Paragraph 326.2(c)(16) is amended to read as follows:

(15) Thallium; [or]

(16) Toxaphene; or

A new paragraph (17) is added to subdivision 326.2(c) to read as follows:

(17) after July 31,2021, Chlorpyrifos.

Subdivision 326.2(d) through Section 326.26 remains unchanged.

REGULATORY IMPACT STATEMENT

INTRODUCTION

This proposed rulemaking will revise 6 NYCRR Part 326 by amending paragraphs 326.2(c)(15) and 326.2(c)(16). In addition, paragraph 326.2(c)(17) will be added to prohibit the sale, possession, and use of pesticide products containing chlorpyrifos.

The Department of Environmental Conservation's (DEC) statutory authority associated with the proposed regulations is outlined in Section 1 below. Section 2 summarizes relevant legislative objectives, and Section 3 discusses the needs and benefits of the proposed regulations. An assessment of the potential costs associated with the proposed regulations is found in Section 4. Mandates on local government are described in Section 5, while sections 6 through 8 address the paperwork requirements, whether the regulations duplicate other federal and state programs, and alternatives to the proposed rules. Sections 9 and 10 describe the applicability of any federal programs to the activities covered by the proposed regulations and the compliance schedule of the proposed rules for the regulated community. Section 11 describes the review of the rule.

1. STATUTORY AUTHORITY

The Department's statutory authority to promulgate regulations related to the sale, possession, and use of pesticides is found in:

- ECL 1-0101 declares a policy of the state to conserve, improve and protect its natural resources and environment and to prevent, abate and control water, land and air pollution in order to enhance the health, safety and welfare of the people of the state and their overall economic and social wellbeing.
- ECL 3-0301 empowers the Commissioner to adopt rules and regulations as may be necessary to carry out the environmental policy of the State set forth in section 1-0101.
- Environmental Conservation Law (ECL) Article 33, Pesticides.
 - Section 33-0301 declares it to be in the public interest of the State to regulate the registration, commercial use, purchase and custom application of pesticides to ensure the protection of public health, property and wildlife and require persons to register or obtain permits before engaging in activities involving pesticides.
 - Section 33-0303 authorizes the Commissioner to promulgate regulations to implement and give full force and effect of the provisions of Article 33.
 - Section 33-0303(3) authorizes the Commissioner to, among other things, promulgate a list of restricted use pesticides and the usages of such pesticides

that may be permitted subject to whatever conditions or limitations which the Commissioner deems appropriate to fully protect the public interest.

2. LEGISLATIVE OBJECTIVES

The New York State Assembly and Senate passed legislation in 2019 amending Section 33-1301 of the New York Environmental Conservation Law to completely prohibit the use of chlorpyrifos by December 1, 2021. This legislation was intended to add a new subdivision to phase out use of chlorpyrifos over two years. However, the Governor vetoed the bill and directed DEC, the State agency responsible for pesticide product regulation, registration and enforcement, to adopt regulations to prohibit the use of pesticide products containing chlorpyrifos based upon data available on chlorpyrifos exposures. To accomplish this directive, and on the basis of the available data, the DEC is proposing a regulation that will prohibit the sale, possession, and use of pesticide products containing chlorpyrifos to protect environmental resources, pollinators, pesticide applicators, agricultural workers, and the public.

3. NEEDS AND BENEFITS

DEC proposes to revise 6 NYCRR Part 326 by amending paragraphs 326.2(c)(15) and 326.2(c)(16). In addition, paragraph 326.2(c)(17) will be added to prohibit the sale, possession, and use of pesticide products containing chlorpyrifos.

The Governor, the New York State Legislature, and others expressed concerns over chlorpyrifos exposure to people; natural resources, including pollinators; and the environment. These concerns led DEC to review a summary of chlorpyrifos exposure information compiled by the United States Environmental Protection Agency (EPA), the New York State Department of Health (NYDOH) Bureau of Toxic Substance Assessment, and the California Department of Pesticide Regulation's chlorpyrifos human health risk assessment and mitigation documents.

Chlorpyrifos is an organophosphate pesticide, which is currently registered in New York State for use in fifty different products, the majority of which are approved for use in agricultural production. The largest agricultural market for chlorpyrifos in terms of total pounds of active ingredient is corn. It is also used on soybeans, fruit and nut trees, brussels sprouts, onions, broccoli, cauliflower, and seed treatments, as well as other row crops and in greenhouses. Non-agricultural uses include turf and golf courses. Chlorpyrifos has not been registered for residential use since 2001.

In some cases, chlorpyrifos containing pesticides are the only available products labeled for use against certain pests. They are effective in protecting fruit crops against the American plum borer and black stem borer. Chlorpyrifos containing pesticide products can be important tools to use in rotation with other pesticides and other methods of pest management, such as treated seeds, as a means of managing pesticide resistance. As New York and nearby states are infiltrated by invasive species, such as the black stem borer, pest management tools are needed to prevent their spread and ensuing damage if left unchecked.

It is well documented that chlorpyrifos inhibits the enzyme acetylcholinesterase, which is critical for neurological functions. It is also associated with developmental neurotoxicological effects. EPA noted in its 2016 risk assessment of chlorpyrifos that there is a breadth of information available on the potential adverse neurodevelopmental effects in infants and children as a result of prenatal exposure to chlorpyrifos. However, there has been some controversy and debate over the extent of its potential human health impacts and the levels at which those impacts occur.

Risks associated with chlorpyrifos have been assessed several times by EPA as part of its registration review process, in 2011, 2014, and again in 2016. Each assessment built upon or refined some aspect of the previous one in light of more current information. The risk assessments identified a number of exposure scenarios that posed unacceptable risk based in part on studies indicating potential adverse neurodevelopmental effects in children at low exposure levels. Nevertheless, in 2017, EPA issued a Denial Order (Order) to a petition that sought its early decision on chlorpyrifos registration. That Order indicated that, while safety questions were raised from the results of certain epidemiological studies, the findings were not consistent with other scientific research and they raised novel, highly complex scientific issues that required further evaluation. EPA is currently undergoing registration review of chlorpyrifos and has recently released their revised draft ecological risk assessment and draft human health risk assessment associated with the registration review of chlorpyrifos. A final decision is scheduled for October 2022.

EPA's September 15, 2020, draft ecological risk assessment for registration review provided a biological evaluation on chlorpyrifos. The summary included in this assessment indicates that chlorpyrifos may have contributed to a number of adverse incidents associated with aquatic species, birds, crops, and terrestrial invertebrates, including bees. In addition, the September 21, 2020 draft human health risk assessment for registration review indicates that although residential post-application and many occupational risk estimates for chlorpyrifos are not a concern, occupational handler risk estimates remain a concern and that the neurodevelopmental effects from chlorpyrifos still remain uncertain.

The California Department of Pesticide Regulation also evaluated the exposures and risks associated with chlorpyrifos and designated it a toxic air contaminant in accordance with its regulations and based on potential exposures to bystanders due to spray drift, possible hand to mouth exposure by children, and exposure through food and drinking water. Its primary concerns were potential health effects from dermal and inhalation exposures due to spray drift. Their regulations prohibit some chlorpyrifos uses and significantly restrict others. Hawaii has also restricted chlorpyrifos uses and Oregon has proposed regulations restricting its use as well.

Exposure incident reports reviewed by NYSDOH revealed a total of about 280 incidents of human exposure to chlorpyrifos between January 2002 and January 31, 2020 nationwide. One quarter of those were attributed to occupational exposures through misapplication, spray drift, spillage, or standard labeled use of the product. Three quarters were attributed to non-occupational exposures. At least half of the incidents were considered residential exposures. The type of product (residential or agricultural) could be determined from a few reports. Two incident reports involved turf use pesticide products. Twenty-six incident reports involved

exposures to agricultural pesticide products. Half of those were residential exposures, mostly due to spray drift from an adjacent field.

NYSDOH found 17 incident reports of human exposure to chlorpyrifos that occurred in New York State. Of these incident reports, 15 were classified as residential exposures, 1 occupational exposure and 1 unknown. For adverse events where a product was identified, none were attributed to use of chlorpyrifos by aerial or tree-trunk application.

Although the reviewed data sources are limited in that the incidents are self-reported and subject to recall bias and incomplete/inaccurate information, and exposure is not quantified, they do indicate that New Yorkers, as well as residents of other states, have been exposed to chlorpyrifos either by applying it themselves or as innocent bystanders.

In addition, Cornell's Neonicotinoid Insecticides in New York State Economic Benefits and Risk to Pollinators report (Travis A. Grout, Phoebe A. Koenig, Julie K. Kapuvvari & Scott H. McArt; 2020) did not specifically focus on the uses of chlorpyrifos but mentioned chlorpyrifos as posing a substantial risk to bees in certain situations, for instance, in areas adjacent to orchards.

In light of all these factors, and to fulfill the intent of the Assembly and Senate's proposed legislation and the Governor's directive to protect New Yorkers from potential exposure while the scientific studies and assessments continue, DEC is proposing regulations to prohibit the sale, possession, and use of pesticide products containing chlorpyrifos. This proposal is being pursued even though chlorpyrifos may be the only available product labeled for use in limited instances against certain pests. It is anticipated that alternatives to pesticide products containing chlorpyrifos for these limited uses will be researched and developed due to this prohibition.

4. COSTS

Costs to Industry:

This proposed rulemaking designates pesticide products containing chlorpyrifos as prohibited pesticides. Since businesses will not be able to use chlorpyrifos, pesticide applicators may need to use alternative pesticides and/or additional pest management practices that may be more expensive or less cost effective. Fiscal information received from the agricultural industry and educational institutions indicate that alternatives to chlorpyrifos for agricultural pest control purposes can cost substantially more per acre to control certain pests. For example, at the lower label rates, some alternatives to chlorpyrifos may cost up to ten times more per acre and at the higher label rates the alternative may cost almost two to three times more per acre.

As mentioned above, for some agricultural pests, there are few or no available alternatives. In those cases, costs may increase at least temporarily until alternative products are available or integrated pest management techniques are developed. For example, one California study on chlorpyrifos use on alfalfa (Chlorpyrifos Use in Alfalfa – Defining and Refining Critical Uses; Goodell, Berger, Long, Hays and Halsey; 2014), which is not a major crop in New York, indicated that on average use of alternatives could cost about one third more than use of

chlorpyrifos products. Some new alternative methods will likely be developed by California's Alternatives to Chlorpyrifos Work Group. They have a plan to invest in and develop short (within 1 year), intermediate (within 5 years) and long term (beyond 5 years) alternatives that will likely have significant application nationwide. These will provide even more options over time than are already available for growers and other users.

Although the costs may be more per acre to apply alternative pesticides, it is common practice for applicators to rotate pesticide active ingredients and pest management methods in order to minimize the possibility of pests developing resistance to one type of pesticide product or active ingredient. Therefore, in general, switching from one product to another is a normal business practice which may already be accounted for by growers and applicators who use chlorpyrifos.

DEC recognizes that costs could increase significantly in individual cases depending on the target pest, target site and area, method of application, quantity of product used, and many other case-specific factors. However, it is also worth noting that the cost of chlorpyrifos products is generally low compared with other comparable pesticides and annual reports of chlorpyrifos sales and use in New York from 2013 through 2016 indicate relatively little use in the state. Considering all these factors, and the fact that, in general, the cost of using different products is already accounted for in normal business operations, using an alternative pesticide product should not significantly affect users overall.

There are also some costs to registrants and distributors of chlorpyrifos products who may have to recall or arrange for reverse distribution of their products from customers. Without reverse distribution, customers who already have the products will have to dispose of them. There is also the possibility of a temporary disruption of business as well as costs to develop redistribution networks to ensure the product is not sold into the state.

Costs to DEC and the State:

The regulatory costs of this prohibition lie with DEC for implementation and administration of the regulatory program. Initially, it is anticipated that this prohibition may increase costs through staff time associated with compliance assistance efforts. It is anticipated that this will decrease as existing stocks of chlorpyrifos decrease.

Pesticide costs for invasive species and public health pest control by state agencies may increase for the same reasons as the costs to industry associated with the use of alternative products and methods. Alternatives may be more expensive than the chlorpyrifos products, but it is anticipated that the cost impacts will generally be minimal as pesticides are generally used in rotation with other pesticides and pest management methods.

Costs to Local Governments:

Local governments may need to use alternative pesticides, if they are unable to use chlorpyrifos. If this occurs, alternatives may be more expensive than the chlorpyrifos products, but it is anticipated that the cost impacts will generally be minimal as pesticides are generally used in rotation with other pesticides and pest management methods.

5. LOCAL GOVERNMENT MANDATES

This proposal does not directly mandate the expenditure of funds by local government agencies.

6. PAPERWORK

This proposal does not require any paperwork.

7. DUPLICATION

The proposed regulations will not duplicate any other federal or state regulations or statutes. The proposal is a prohibition related to the sale, possession, and use of chlorpyrifos in New York.

8. ALTERNATIVE APPROACHES

The no action alternative would continue to allow the sale, possession, and use of pesticide products containing chlorpyrifos that may have impacts on the environment, natural resources, and people. This alternative was rejected since it did not provide enough protection for the environment, natural resources, and people of the State.

Limiting the use of pesticide products containing chlorpyrifos for only critical pest management needs where no other pest management alternatives are available may still have impacts on the environment, natural resources, and people. Therefore, this alternative was rejected.

9. FEDERAL STANDARDS

Under the Federal Insecticide, Fungicide, and Rodenticide Act, (FIFRA), specifically 7 U.S.C. 136v, a State may regulate the sale or use of any federally registered pesticide in the State but only if, and to the extent, the regulation does not permit any sale or use prohibited by FIFRA. Currently, chlorpyrifos is registered with EPA, allowing it to be sold and used in New York and other states. This proposal would exceed the federal minimum standards in that the sale and use of chlorpyrifos would be prohibited in New York.

10. COMPLIANCE SCHEDULE

Compliance with this proposed rulemaking will be required upon the effective date of the final rule.

11. INITIAL REVIEW OF RULE

DEC will conduct an initial review of the rule within three years as required by SAPA § 207.

SUMMARY REGULATORY IMPACT STATEMENT

This proposed rulemaking will revise 6 NYCRR Part 326 by amending paragraphs 326.2(c)(15) and 326.2(c)(16). In addition, paragraph 326.2(c)(17) will be added to prohibit the sale, possession, and use of pesticide products containing chlorpyrifos.

1. LEGISLATIVE OBJECTIVES

The New York State Assembly and Senate passed legislation in 2019 amending Section 33-1301 of the New York Environmental Conservation Law to completely prohibit the use of chlorpyrifos by December 1, 2021. This legislation was intended to add a new subdivision to phase out use of chlorpyrifos over two years. However, the Governor vetoed the bill and directed the New York State Department of Environmental Conservation (DEC), the State agency responsible for pesticide registration and enforcement, to adopt regulations to prohibit the use of pesticide products containing chlorpyrifos based upon data available on chlorpyrifos exposures. To accomplish this directive the DEC is proposing a regulation that will prohibit the sale, possession, and use of pesticide products containing chlorpyrifos to protect environmental resources, pollinators, pesticide applicators, agricultural workers, and the public.

2. NEEDS AND BENEFITS

To protect the environment, natural resources, and people from the potential impacts from pesticide products with the active ingredient chlorpyrifos the DEC will amend paragraphs and add a new paragraph to section 326.2 of 6 NYCRR Part 326 to prohibit the distribution, sale, purchase, possession, or use of pesticide products containing the active ingredient chlorpyrifos.

3. COSTS

Costs to Industry:

This proposed rulemaking designates pesticide products containing chlorpyrifos as prohibited pesticides. Since businesses will not be able to use chlorpyrifos and pesticide applicators may need to use alternative pesticides and/or additional pest management practices that may be more expensive or less cost effective. Fiscal information received from the agricultural industry and educational institutions indicate that alternatives to chlorpyrifos for agricultural pest control purposes can cost substantially more per acre to control certain pests. For example, at the lower label rates, some alternatives to chlorpyrifos may cost up to ten times more per acre and at the higher label rates the alternative may cost almost two to three times more per acre.

For some agricultural pests there are few or no available alternatives to chlorpyrifos. In these cases, costs may increase at least temporarily until alternative products are available or integrated pest management techniques are developed. Although the costs may be more per acre to apply alternative pesticides, it is common practice for applicators to rotate pesticide active ingredients and pest management methods in order to minimize the possibility of pests developing resistance to one type of pesticide product or active ingredient. Therefore, in general, switching from one

product to another is a normal business practice which may already be accounted for by growers and applicators who use chlorpyrifos.

There are also some costs to registrants and distributors of chlorpyrifos products who may have to recall or arrange for reverse distribution of their products from customers. Without reverse distribution, customers who already have the products will have to dispose of them. There is also the possibility of at least a temporary disruption of business as well as costs to develop redistribution networks to ensure the product is not sold into the state.

Costs to DEC and the State:

The regulatory costs of this prohibition lie with DEC for implementation and administration of the regulatory program. Initially it is anticipated that this prohibition may increase costs through staff time associated with compliance assistance efforts. It is anticipated that this will decrease as existing stocks of chlorpyrifos decrease.

Pesticide costs for invasive species and public health pest control by state agencies may increase for the same reasons as the costs to industry associated with the use of alternative products and methods. Alternatives may be more expensive than the chlorpyrifos products, but it is anticipated that the cost impacts will generally be minimal as pesticides are generally used in rotation with other pesticides and pest management methods.

Costs to Local Governments:

Local governments may need to use alternative pesticides, if they are unable to use chlorpyrifos. If this occurs, alternatives may be more expensive than the chlorpyrifos products, but it is anticipated that the cost impacts will generally be minimal as pesticides are generally used in rotation with other pesticides and pest management methods.

4. LOCAL GOVERNMENT MANDATES

This proposal does not directly mandate the expenditure of funds by local government agencies.

5. PAPERWORK

This proposal does not require any paperwork.

6. DUPLICATION

The proposed regulations will not duplicate any other federal or state regulations or statutes. The proposal is a prohibition related to the sale, possession, and use of chlorpyrifos in New York.

7. ALTERNATIVE APPROACHES

The no action alternative would continue to allow the sale, possession, and use of pesticide products containing chlorpyrifos that may have impacts on the environment, natural resources, and people. This alternative was rejected since it did not provide enough protection for the environment, natural resources, and people of the State.

Limiting the use of pesticide products containing chlorpyrifos for only critical pest management needs where no other pest management alternatives are available may still have impacts on the environment, natural resources, and people. Therefore, this alternative was rejected.

8. FEDERAL STANDARDS

Under the Federal Insecticide, Fungicide, and Rodenticide Act, (FIFRA), specifically 7 U.S.C. 136v, a State may regulate the sale or use of any federally registered pesticide in the State but only if and to the extent the regulation does not permit any sale or use prohibited by FIFRA. Currently, chlorpyrifos is registered with EPA, allowing it to be sold and used in New York and other states. This proposal would exceed the federal minimum standards in that the sale and use of chlorpyrifos would be prohibited in New York.

9. COMPLIANCE SCHEDULE

Compliance with this proposed rulemaking will be required upon the effective date of the final rule.

10. INITIAL REVIEW OF RULE

The Department will conduct an initial review of the rule within three years as required by SAPA § 207.

RURAL AREA FLEXIBILITY ANALYSIS

The New York State Department of Environmental Conservation (Department) proposes a rulemaking to amend and add a new paragraph to section 326.2 of 6 NYCRR Part 326 to prohibit the distribution, sale, purchase, possession, or use of pesticide products containing the active ingredient chlorpyrifos. The Department of Environmental Conservation (DEC) does not expect the proposed regulations to have a significant negative impact on rural areas.

1. TYPES AND NUMBERS OF RURAL AREAS AFFECTED

The proposed regulations apply statewide, including rural areas of the State. All areas of the State, including rural areas, will not be significantly affected directly or indirectly by the proposed rulemaking.

2. REPORTING, RECORDKEEPING AND OTHER COMPLIANCE REQUIREMENTS

The proposed rulemaking is intended to prohibit the distribution, sale, purchase, possession, or use of pesticide products containing the active ingredient chlorpyrifos. It does not include any recordkeeping or other compliance requirements.

3. COSTS

This proposal does not directly mandate the expenditure of funds by any sector of local government. The proposed regulations will not directly impose any significant service, duty or responsibility upon any county, city, town, village, school district or fire district in a rural area.

Costs for business and local governments may increase based upon pesticide selection and the inability for businesses and local governments to apply pesticide products containing the active ingredient chlorpyrifos. Alternative pesticides may cost more than the pesticides covered by this proposed regulation or may require additional applications for similar levels of pest control, potentially increasing costs. In many cases these increased costs should already be factored into business and local government economic plans since pesticide applicators traditionally rotate different pesticide products to prevent pesticide resistance. In addition, there may be minimal costs associated with the research associated with the selection of alternative pesticide products or pest control practices. There may also be some costs to small rural distributors of chlorpyrifos products who may have to send these products back to the registrants or otherwise potentially dispose of them.

4. MINIMIZING ADVERSE IMPACTS

The proposed rulemaking is not expected to have significant rural area adverse impacts in New York State. In order to minimize any potential adverse impacts to rural communities the timing of the effective date of the rule will allow for certain agricultural uses into the beginning of the 2021 agricultural use season. This timeframe will give industry and agricultural businesses time

to research and adopt new pest control alternatives while still allowing for critical pest control needs in 2021.

5. RURAL AREA PARTICIPATION

DEC has conducted informal meetings and calls with interested parties associated with this proposed rulemaking, including those in rural areas.

6. INITIAL REVIEW OF RULE

DEC will conduct an initial review of the rule within three years as required by SAPA § 207.

JOB IMPACT STATEMENT

The New York State Department of Environmental Conservation (Department) proposes to amend and add a new paragraph to section 326.2 of 6 NYCRR Part 326 to prohibit the distribution, sale, purchase, possession, or use of pesticide products containing the active ingredient chlorpyrifos. The regulation will apply statewide.

The Department does not expect the proposed regulations to have a negative impact on jobs and employment opportunities in the State.

This proposal amends the existing registration regulations to prohibit the distribution, sale, purchase, possession, or use of pesticide products containing the active ingredient chlorpyrifos. This proposed amendment to the regulations should not impact jobs within the regulated sectors.

1. NATURE OF IMPACT

There should be no impact on jobs associated with this proposed regulatory amendment. In most cases there are alternative pesticides or practices to chlorpyrifos to control pests, but in the few cases where there are no alternatives, or few alternatives available, research and new product development and practices will find replacements for these products. Consequently, the proposed amendment should not inhibit the growth of or employment in the pesticide and agricultural industry.

2. CATEGORIES AND NUMBERS OF JOBS OR EMPLOYMENT OPPORTUNITIES AFFECTED

The implementation of the proposed regulation is not expected to have an adverse impact on jobs or employment opportunities. In most cases alternative practices and products to chlorpyrifos containing pesticides are available. In situations where alternative pesticides or practices are not currently available research and product development will provide for future pest control needs. Nothing being proposed is expected to result in diminished economic activity, which typically results in adverse impacts on employment opportunities.

3. REGIONS OF ADVERSE IMPACT

There is no region of the State expected to be adversely impacted from the proposed pesticide regulations more so than any other. All certified pesticide applicators and pesticide dealers must adhere to the same requirements regardless of where they are located.

4. MINIMIZING ADVERSE IMPACT

The proposed regulations are not expected to have an adverse impact on jobs and employment opportunities. The Department already regulates pesticide sales and use, and in several other

cases have already prohibited active ingredients through regulation to protect the public, natural resources, and the environment.

5. SELF-EMPLOYMENT OPPORTUNITIES

The proposed regulations are not expected to negatively impact self-employment opportunities for the pest control and agricultural industry.

6. INITIAL REVIEW OF RULE

The Department will conduct an initial review of the rule within three years as required by SAPA § 207.

REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES AND LOCAL GOVERNMENTS

The New York State Department of Environmental Conservation (Department) proposes a rulemaking to amend and add a new paragraph to section 326.2 of 6 NYCRR Part 326 to prohibit the distribution, sale, purchase, possession, or use of pesticide products containing the active ingredient chlorpyrifos.

1. EFFECT OF RULE

The purpose of this proposed rulemaking is to prohibit the distribution, sale, purchase, possession, or use of pesticide products containing the active ingredient chlorpyrifos. Pesticides containing the active ingredient chlorpyrifos may impact environmental resources, pollinators, pesticide applicators, agricultural workers, and the public. The proposed rulemaking is not expected to significantly impact local governments. However, it may have a minimal impact if local governments are required to find an alternative to chlorpyrifos containing pesticide product to control a pest. It is not anticipated that local governments will have any regulatory responsibilities associated with this proposed rulemaking, since pesticides are primarily regulated by the Department.

Small businesses, including agricultural businesses, may be impacted by this proposed rulemaking. This proposed rulemaking prohibits the distribution, sale, purchase, possession, or use of pesticide products containing the active ingredient chlorpyrifos. Therefore, other pesticides and pest management practices may be necessary, which may be less cost effective for small businesses. In these cases, the increased costs may already be factored into business planning since pesticide applicators already traditionally rotate different pesticide products to prevent pesticide resistance.

2. COMPLIANCE REQUIREMENTS

Small businesses and local governments would no longer be permitted to distribute, sell, purchase, possess, or use pesticide products containing the active ingredient chlorpyrifos.

3. PROFESSIONAL SERVICES

There is no anticipated need for additional professional services for local governments or small businesses associated with this proposed rulemaking.

4. COMPLIANCE COSTS

The anticipated costs to small business and local governments should not be significant, but costs for small business and local government may increase somewhat due to their inability to apply pesticide products with chlorpyrifos as an active ingredient. Alternative pesticides may cost more than pesticide products counting chlorpyrifos as an active ingredient or may require additional applications for similar levels of pest control, potentially increasing costs. In many cases these increased costs should already be factored into business expenses since pesticide

applicators traditionally rotate different pesticide products to prevent pesticide resistance. There may also be some costs to small distributors of chlorpyrifos products who may have to send these products back to the registrants or otherwise potentially dispose of them.

5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY

DEC has focused on proposing this regulation in a manner that is technically sound and economical. In order to minimize any economic impacts, the timing of the effective date of the rule will allow for certain agricultural uses into the beginning of the 2021 agricultural use season. This timeframe will give local governments and industry time to research and adopt new pest control alternatives or technologies while still allowing for critical pest control needs in 2021.

6. MINIMIZING ADVERSE IMPACTS

The proposed rulemaking is not expected to have adverse impacts on local governments or small businesses in New York State. The proposed rulemaking minimizes any adverse impacts on small businesses and local governments by limiting this revision to one active ingredient.

7. SMALL BUSINESS AND LOCAL GOVERNMENT PARTICIPATION

In addition to comprehensive internal review, the DEC has conducted informal meetings and calls with interested parties associated with this proposed rulemaking.

8. CURE PERIOD OR OTHER OPPORTUNITY FOR AMELIORATIVE ACTION

Compliance with this proposed rulemaking will be required upon the effective date of the final rule.

9. INITIAL REVIEW OF RULE

The Department will conduct an initial review of the rule within three years as required by SAPA § 207.