

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of the General Counsel

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SUBJECT: Enforcement Discretion for Extension of Pesticide Applicator Recertification and Business and Agency Registration during the COVID-19 Emergency

DATE: April 7, 2020

To Whom It May Concern:

Due to the COVID-19 crisis, the New York State Department of Environmental Conservation (DEC) will exercise its enforcement discretion with respect to certain provisions of 6 NYCRR Part 325, as set forth in this letter. During this period, the procedures delineated herein may be used as an alternative to the requirements for recertification of private and commercial applicators, and renewals of registrations of pesticide businesses and agencies. All other provisions of Part 325 remain in full force and effect and will be enforced.

This DEC action is taken in light of Governor Cuomo's state of disaster emergency declaration (Executive Order 202) issued on March 7, 2020.¹ The Department issued an Emergency Declaration, which is set to expire on September 7, 2020. As identified in the Guidance on Executive Order 202.6,² essential business or entities that are not required to reduce in-person workforce by 100% include businesses that manufacture pesticides and businesses that provide pest control services, including pesticides applications and other pest control measures.

DEC recognizes that many certified commercial and private applicators may have difficulty obtaining the continuing education credits or in the alternative taking a recertification exam because all classroom courses and exam sessions scheduled in the near term have been cancelled. Additionally, DEC recognizes that the available computer-based training might not be a viable option for people in remote parts of the State, those who do not have access to computers, or who are not computer proficient. DEC shares the concern that lapsed business and agency registrations would prevent applicators and businesses from continuing to operate during the current crisis.

Therefore, during the effective period of this enforcement discretion, the procedures delineated herein may be used by pesticide applicators as alternative to

¹ <https://www.governor.ny.gov/news/no-202-declaring-disaster-emergency-state-new-york>

² <https://www.governor.ny.gov/news/no-2026-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>



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possessing on his or her person a valid certification identification card issued by the Department as required by 6 NYCRR 325.7(a), and having a valid decal on a pesticide application equipment or vehicle as required by 6 NYCRR 325.26(a). Additionally, the 6 hours of additional training that would otherwise be required by 6 NYCRR 325.21(e) for these applicators, will be waived.

Procedure:

Certified commercial and private pesticide applicators will not face enforcement under the certification requirements of 6 NYCRR 325.7 during the time period specified herein, provided that certified commercial and private pesticide applicators adhere to the following procedures:

- 1) The expiration date on your certification identification card is after November 1, 2019;
- 2) You continue to have in your possession your expired certification identification card; and
- 3) You have a copy of this enforcement discretion letter in your possession.

Registered businesses and agencies will not face enforcement under the registration requirements of 6 NYCRR 325.23 and 325.26 during the time period specified herein, provided that registered businesses and agencies adhere to the following procedures:

- 1) The expiration date of your business or agency registration is after March 1, 2020;
- 2) You continue to keep your current decals on your pesticide application equipment or vehicle;
- 3) You have a copy of this enforcement discretion in your possession.

This enforcement discretion will terminate 60 days after the expiration of the Department's Emergency Declaration, or any extensions issued thereto.

Sincerely,



Thomas S. Berkman
Deputy Commissioner, General Counsel