

Regulations of Connecticut State Agencies

TITLE 22a. Environmental Protection

Agency

Department of Energy and Environmental Protection

Subject

Use of Pesticides

Inclusive Sections

§§ 22a-66-1—22a-66-7

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Use of Pesticides

Sec. 22a-66-1. Definitions

(a) The definitions of terms used in sections 22a-66-1 to 22a-66-7, inclusive, of the Regulations of Connecticut State Agencies shall be consistent with the definitions in section 22a-47 of the Connecticut General Statutes.

(b) As used in sections 22a-66-1 to 22a-66-7, inclusive, of the Regulations of Connecticut State Agencies, the following terms not defined in section 22a-47 of the Connecticut General Statutes are defined as follows:

(1) “Borer control” means the control through the use of pesticides of insects whose larval life takes place within plant stems;

(2) “Termite control” means the extermination of termites within, beneath or closely adjacent to a structure and the prevention of future termite entry which is accomplished through the use of pesticides;

(3) “Electric service entrance” means that area of a structure where the electrical power supply enters and is subsequently distributed to other parts of the structure;

(4) “Pesticide distributor” means any person representing himself or a single firm, corporation, dealership or other entity engaged in the business of distributing, selling, offering for sale, or holding for sale to the ultimate user, any restricted-use or permit-use pesticide;

(5) “Place” means the street address, unit number (if applicable) and municipality at which a pesticide is to be applied;

(6) “Site” means the specific location at the place to which a pesticide is to be applied.; and

(7) “FIFRA” means the Federal Insecticide, Fungicide and Rodenticide Act, 7 USC 136, as amended from time to time.

(Effective February 5, 1979; Amended March 4, 2013)

Sec. 22a-66-2. Control of registrations and uses

(a) The following pesticides shall not be registered and their use shall be prohibited:

(1) Arsenic products except tricalcium arsenate for control of *Poa annua*, sodium arsenate for use in the treatment of lumber for protection against termites and decay-producing fungi, calcium acid methanearsonate (CMA), monosodium methanearsonate (MSMA), disodium methanearsonate (DSMA, MAA), ammonium methanearsonates and cacodylic acid and its sodium salt.

(2) Benzene hexachloride (BHC).

(3) Cadmium products.

(4) Dichloro diphenyl dichloroethane (DDD).

(5) Dichloro diphenyl trichloroethane (DDT).

(6) Dodecachlorooctahydro-1,3,4-metheno-1H-cyclobuta (cd) pentalene (Mirex).

(7) Lead products.

(8) Mercury products except inorganic mercury products for control of winter turf

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diseases on golf courses, provided that no mercury products will be applied to land which is either: (i) (aa) within two hundred and fifty feet of high water of a potable water supply reservoir or one hundred feet of all watercourses leading to a reservoir; (bb) within the areas along watercourses which are covered by any of the critical components of a stream belt; (cc) land with slopes fifteen per cent or greater without significant interception by wetlands, swales and natural depressions between the slopes and the watercourses; (dd) within two hundred feet of groundwater wells; (ee) an identified direct recharge area or outcrop of aquifer now in use or available for future use, or (ff) an area with shallow depth to bedrock, twenty inches or less, or poorly drained or very poorly drained soils as defined by the United States soil conservation service that are contiguous to land described in subdivisions (cc) or (dd) of this subsection and that extend to the top of the slope above the receiving watercourse; or (ii) land which is either (aa) on a public drinking supply watershed which is not included in subsection (i) above or (bb) completely off a public drinking supply watershed and which is within one hundred and fifty feet of a distribution reservoir or a first-order stream tributary to a distribution reservoir.

(9) Phosphorous paste products.

(10) Selenium products.

(11) Terpene polychlorinates (65 or 66% chlorine) consisting of chlorinated camphene, pinene and related polychlorinates (Strobane).

(12) Thallium products.

(13) Toxaphene.

(b) The following pesticides shall be registered and used for the following purposes only:

(1) Aldrin for use as a termite control.

(2) Dieldrin for use as a termite control.

(3) Lindane or leafminer, bark beetle, powder post beetle, or borer control, or for prescribed use on humans by a physician licensed by the State of Connecticut, or for prescribed use on animals by a veterinarian licensed by the State of Connecticut.

(4) Endrin for use as a mouse control in commercial orchards.

(5) Sodium fluoride for use as a wood preservative.

(6) Strychnine for use as a rat and mouse control.

(7) Heptachlor to control subterranean termites when the method involves soil injection, trench application, or other soil incorporation method of application.

(c) The following pesticides shall not be registered or used for the following purposes:

(1) Any pesticide activated by thermal means, except pyrethrum, pyrethrins or pyrethroids, for indoor application, except indoor application for agricultural purposes;

(2) Captan on pets or other animals;

(3) Chlordane products

(A) for indoor applications except by applicators licensed by the State of Connecticut;

(B) on pets or other animals except by veterinarians licensed by the State of Connecticut;

(C) for indoor or outdoor application by mistblowers and other mist generators or thermal foggers.

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(4) Any antifouling paint or other substance containing a tributyltin compound for use or application on vessels or other structures or equipment in fresh water or the marine environment, except as provided in subparagraphs (B), (C) and (D) of this subdivision.

(A) For the purposes of this subdivision the following terms are defined as follows:

“Antifouling paint” means a compound, coating, paint, or treatment applied or used for the purpose of controlling fouling organisms on vessels and other structures or equipment in marine or fresh water.

“Commerical boatyard” means a facility that engages for hire in the construction, storage, maintenance, repair, or refurbishing of vessels.

“Release rate” means the rate at which a tributyltin compound is released from an antifouling paint containing a tributyltin compound over the long term, as measured using:

(1) The American Society for Testing Material (ASTM) standard test method which the U.S. Environmental Protection Agency required in its July 29, 1986, data call-in notice on tributyltin compounds used in antifouling paints; or

(2) Any alternative method adopted by the U.S. Environmental Protection Agency and published in the Federal Register.

“Tributyltin compound” means any organotin compound that has three normal butyl groups attached to a tin atom and with or without an anion, such as chloride, fluoride, oxide.

“Vessel” means every description of watercraft, other than a seaplane on water, used or capable of being used as a means of transportation on water.

(B) A person may distribute or sell an antifouling paint containing a tributyltin compound with a release rate equal to or less than 4.0 micrograms per square centimeter per day to the owner or agent of a commercial boatyard.

(C) The owner or agent of a commercial boatyard may possess and apply or purchase for application an antifouling paint containing a tributyltin compound with a release rate equal to or less than 4.0 micrograms per square centimeter per day, if such antifouling paint is applied only within a commercial boatyard and:

(i) is applied to vessels exceeding 25 meters in length; or

(ii) is applied to aluminum hulls.

(D) This subsection does not prohibit the sale, application or possession of an antifouling paint containing a tributyltin compound if such antifouling paint:

(i) is in a spray can of 16 ounces or less;

(ii) is commonly referred to as an outboard or lower drive unit paint and labeled for such purpose; and

(iii) has a release rate equal to or less than 4.0 micrograms per square centimeter per day.

(Effective March 27, 1989)

Sec. 22a-66-2a. Repealed

Repealed April 18, 1986.

Sec. 22a-66-2b. The use of microencapsulated methyl parathion

No person shall apply any microencapsulated methyl parathion except to control San Jose scale in orchards or, from January 1 through June 30, inclusive, to control first generation European corn borer on sweet corn. Prior to applying microencapsulated methyl parathion, the applicator shall ensure that the field or orchard being treated and any area subject to pesticide drift bordering thereon, is as free of flowering ground cover as possible by mowing, use of herbicide or by other techniques. It is recommended that microencapsulated methyl parathion not be applied when orchards or fields and areas subject to pesticide drift bordering thereon, contain more than five flowers per square yard.

(Effective April 18, 1986)

Sec. 22a-66-3. Application of pesticides

(a) No person may use a federally restricted-use pesticide except under the supervision of a certified applicator.

(b) There shall be a check valve or anti-siphoning device on all hoses used to draw water from a water supply if a reversal of flow would cause any pesticide to enter into the hose. The discharge side of a pump shall not be connected to any water system.

(c) All filler hoses used as the intake in drawing water from water courses shall be covered except when in use, in order to prevent pesticide contamination.

(d) No water to be used in pesticide applications shall be drawn from any stream or pond leading to a potable water supply reservoir.

(Effective July 3, 1979)

Sec. 22a-66-4. Registration of pesticide distributors

(a) All pesticide distributors shall register annually with the Commissioner. If a firm has more than one location or sales outlet at which a restricted-use or permit-use pesticide is distributed, sold, held for sale, or offered for sale, then each outlet shall have at least one person who has demonstrated his/her competency within the meaning of Section 22a-56 (b) of the General Statutes.

(b) Application for registration shall be made on forms provided by the Commissioner. Application forms shall be submitted annually prior to October 31st of each year.

(c) Repealed, June 27, 1985.

(d) In order to receive a registration, distributors must first demonstrate competence with respect to the handling of pesticides and demonstrate knowledge concerning application, hazard and impact of pesticides, including but not limited to the legal uses and precautions regarding the restricted-use and permit-use pesticides they may sell. The Commissioner may refuse registration to any applicant who has shown by previous action that he/she is not competent with respect to the handling and use of pesticides. If registration is so refused, the applicant shall be so informed in writing, giving the reasons for such refusal. Any person aggrieved by such a decision may, within thirty days from date of issuance of such denial, request a hearing before the Commissioner, which hearing shall be conducted in accordance

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with Chapter 54 of the General Statutes.

(e) Registered distributors shall maintain records of the sale of permit-use or restricted-use for at least three years. An accurate report of the sales of restricted-use and permit-use pesticides for the year shall be submitted by the distributor on forms provided by the Commissioner as a requirement for renewal of registration.

(f) Registered distributors shall maintain their restricted-use and permit-use pesticides in secure structures, physically separated from food, feed, grain, electrical service entrances, and any other condition which could create a potentially hazardous situation. The entrance shall be marked with appropriate warning signs and kept closed and locked when unattended. The structure should be well ventilated, clean and contain essential fire prevention and clean-up equipment, including but not limited to absorbent material to contain spills, fire extinguisher and respirator.

(g) Each registered distributor shall be responsible for the acts of co-workers in relation to all provisions of these regulations.

(h) Any distributor displaying restricted-use pesticides for sale, shall display such pesticides in an area separate from general-use pesticides and shall post a prominent sign bearing the statement “for sale to certified applicators only” at the display. The statement shall be imprinted in letters at least one inch high.

(i) The fee for the registration of restricted or permit use pesticide distributors shall be as specified in Section 22a-56-1 of the Regulations of Connecticut State Agencies.

(Effective June 27, 1985)

Sec. 22a-66-5. Certification of applicators.

(a) In the determination of competency required for certifying an operational commercial applicator who is not considered a certified applicator under FIFRA, the commissioner may require that an applicant meet a lower level of competency than is required of a certified supervisory commercial applicator.

(b) The commissioner shall not issue a pesticide certification to any person under 18 years of age.

(c) A certificate holder shall submit a request for a duplicate certificate to the commissioner in writing. The commissioner may charge two dollars to cover the cost of each duplicate certificate issued.

(d) The commissioner may issue two types of certification documents which may include the following information:

(1) Full size document: applicator’s name, address, certification number, expiration date and categories of certification; or

(2) Wallet size document: applicator’s name, certification number, expiration date, categories of certification, applicator’s photograph and signature. The wallet size document shall be carried on the person of anyone who applies pesticides for hire when such person is acting in the capacity of a supervisory commercial applicator.

(e) A certified applicator shall notify the commissioner of any change of address not later

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than 30 days after such change.

(f) A supervisory certificate shall be required for a commercial applicator who is responsible for deciding whether or not pesticides are to be employed, how they are to be employed, what pesticides are to be used, the dosages and timing involved in such pesticide use and the methods of application and precautions to be taken in the use of such pesticides. This includes, but is not limited to, any person who, upon inspection of stored products, crops, plants, bodies of water, or a building or other structure for pest damage, recommends or suggests treatment to control or alleviate pest damage.

(g) An operator's certificate shall be required for a commercial applicator who actively uses pesticides in other than a supervisory capacity including but not limited to:

(1) a person who applies, mixes or handles pesticides in other than completely closed containers;

(2) a person who comes in contact with pesticides through drift for more than brief periods; or

(3) a person who assists with the application of pesticides under the supervision of a holder of a supervisory certificate.

(h) There shall be two classes of operational certificates: junior operational certificate and senior operational certificate. The commissioner shall require an applicant in either class to take a written examination in order to determine the competency of the applicant. In order to obtain a senior operational certificate, the commissioner may require the applicant to take separate examinations for different categories of pesticide application. The senior operator shall be certified only in those categories in which the senior operator has passed such examination.

(i) (1) No commercial application of pesticides shall be made unless a person holding a valid supervisory certificate:

(A) is present at the time of application where such presence is required by the labeling; or

(B) where labeling does not require the presence of a certified supervisory applicator at the site of application, the certified supervisory applicator shall either be present at the time of application or provide written instruction to the certified operator. The written instructions may be delivered to the certified operator in electronic form. If the instructions are delivered in electronic form, they shall be made available in printed form or electronically transmitted to the commissioner or the commissioner's representative at the time of an inspection of the operator or the operator's business. The written instructions shall be in the possession of the certified operator at the time of application.

(2) (A) Written directions for use of a pesticide provided to a junior operator shall include the certified supervisor's name and certification number, the certified operator's name and certification number, the pest to be controlled, the pesticide to be used, directions for use of the pesticide, including but not limited to, the dilution rate of the pesticide to be used if other than a ready-to-use product and method of application, the place to be treated and the site or sites at the place that is to be treated. Site shall be specifically designated so it is

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clear which of the instructions on the pesticide label are to be followed. The written instructions may require further directions depending on the product label precautions and site specific treatment limitations. (II) A junior operator may choose not to apply a pesticide if there are no pests present or if conditions present a potential increased risk of harm if pesticides are used.

(3) (A) Written instructions for use of a pesticide provided to a senior operator shall include the certified supervisor's name and certification number, the certified operator's name and certification number, place of application, and the directions for control of each pest expected to be encountered at the place. The directions for control of a pest shall include, but not be limited to, the pesticide or pesticides to be used, the dilution rate, if applicable, of the pesticide and method of application. A senior operator may maintain the directions for control of a pest as a reference for future applications at multiple places.

(B) The written instructions provided to a senior operator shall be limited to the category of pesticide application in which the senior operator is certified.

(C) For the purposes of each pesticide application, a senior operator who is not certified to apply a particular category of pesticide shall be considered a junior operator.

(D) The senior operator may choose not to apply a pesticide if there are no pests present or if conditions present a potential increased risk of harm if pesticides are used.

(4) A certified supervisor shall be available to an operator when and if needed, and shall be able to be present at the site of pesticide application not later than two hours after being contacted by the operator.

(5) A commercial applicator shall retain the written instructions provided to the operator as part of the records described in section 22a-58(d) of the Connecticut General Statutes.

(j) (1) The commissioner may issue new certificates so that one-fifth of the certificates come due each year on the following schedule:

(A) Year one -

applicators whose last names start with letters A – C

(B) Year two -

applicators whose last names start with letters D – H

(C) Year three -

applicators whose last names start with letters I - M

(D) Year four -

applicators whose last names start with letters N – S

(E) Year five -

applicators whose last names start with letters T – Z

(2) The commissioner may pro-rate the required fee in order to have the next renewal date fall due according to the schedule in subdivision (1) of this subsection.

(Effective April 22, 1982; Amended March 4, 2013)

Sec. 22a-66-6. Permits

(a) Repealed, June 27, 1985

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(b) All permit applications shall be made on forms furnished by the Commissioner and the applicant shall furnish all information required by the Commissioner.

(c) A permit-use pesticide requires the permit holder to be physically present at the time the permit-use pesticide is applied.

(Effective July 3, 1979)

Sec. 22a-66-7. Aircraft application

(a) Application for a permit to apply pesticides or fertilizers from the air shall be made on forms furnished by the Commissioner and the applicant shall furnish all information required by the Commissioner.

(b) No pesticide may be applied from the air to a tract of land less than 10 acres in size unless the tract of land to be treated is part of a larger parcel of land that is at least 10 acres in size. All aerial applications must have the prior inspection and approval required by Section 22a-54 (e) of the General Statutes.

(c) No pesticidal dust may be applied within 100 feet of a public highway.

(d) Repealed, December 22, 1982.

(e) No pesticide shall be applied from the air for agricultural purposes within 200 feet of a watercourse, pond or lake.

(f) Congested areas shall be considered those areas zoned ½ acre or less, or municipally or privately owned public parks, public playgrounds, and public swimming areas.

(g) (1) For the aerial application of pesticides and fertilizers other than *Bacillus thuringiensis* (B.t.), a written release is necessary from any landowner or resident whose property is under the spray pattern of the aerial application or subject to drift from such an application. The area subject to drift will be considered to be a minimum of 200 feet from the flight path of a helicopter and 300 feet from the flight path of a fixed-wing aircraft.

(2) (A) An applicant for a permit for aerial application of *Bacillus thuringiensis* (B.t.) must notify each landowner or resident whose property is under the spray pattern of an aerial application or subject to drift from such an application at least 31 days prior to the proposed date of spraying. The area subject to drift will be considered to be a minimum of 200 feet from the flight path of a helicopter and 300 feet from the flight path of a fixed-wing aircraft.

(B) Such notice shall be in writing and shall state:

(i) the proposed date or dates on which spraying is to occur;

(ii) the name of the pesticide to be sprayed;

(iii) the name of the permit applicant;

(iv) the name of the applicator, if known;

(v) in what manner, to whom and at what address the landowner or resident is to object to such spraying if he or she desires;

(vi) the time limit within which he or she must object; and

(vii) that if no objection is made, the area will be sprayed.

(C) After receiving notice, a landowner or resident may waive his or her right to object

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by signing a written release. If all landowners or residents in an area waive their right to object, that area may be sprayed prior to expiration of the objection period, provided, however, that the information specified in subparagraph (E) is forwarded to the commissioner, and a permit is obtained.

(D) *Bacillus thuringiensis* (B.t.) shall not be applied from the air if a landowner or resident whose property is under the spray pattern or subject to drift from the application objects, in writing, to the permit application within 30 days of the date notification was received.

(E) At the end of the objection period, the permit applicant shall forward to the commissioner (i) all objections received; (ii) a list of those landowners or residents who have consented, those who have objected, and those who have not responded; and (iii) proof that all landowners or residents have received written notice. Acceptable proof may include receipts of certified mail delivery or signatures secured at time of delivery.

(h) In accordance with subsection (e) of Section 22a-54 of the General Statutes, a fee shall be submitted with each application filed under this section according to the following schedule:

- (1) Permitted area 10 to 49 acres, \$30.00.
- (2) Permitted area 50 to 149 acres, \$150.00.
- (3) Permitted area 150 acres or larger, \$300.00.

Any application submitted without the proper fee shall be considered incomplete, and shall not be processed.

(i) Payment of fees under this section shall be by certified check, money order or personal check payable to the Department of Environmental Protection.

(j) Fees paid under this section shall be nonrefundable.

(Effective July 13, 1993)