

Important Note: The following text is excerpted directly from the New York State Department of Environmental Conservation's publication, *Environmental Compliance, Pollution Prevention, and Self Assessment Guide for the Marina Industry*. New York State Department of Environmental Conservation Pollution Prevention Unit. March 2003. The only changes that have been made are the addition of links to pertinent resources or regulations and Editor's Notes, where appropriate.

Pesticides Management Regulations

WHAT ARE PESTICIDES?

A pesticide is any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, weeds, or other forms of plant or animal life or viruses. Marinas may require the use of pesticides to control a variety of plant or insect pests in and around their facility, but the most visible use of pesticides may be the application of antifouling paints to boat bottoms or marine structures to control aquatic organisms, such as barnacles and algae. These products, which may contain compounds with tin or copper, are toxic to the aquatic environment and must be used carefully. The New York State regulations pertaining to these and other pesticides are found under [6 NYCRR Parts 320-329](#), <http://www.dec.state.ny.us/website/regs/ch4.htm> [Eds Note: Since these regulations and requirements do change, check the links provided and call the number below for updated information.] For more specific information regarding the use of pesticides, please call the Bureau of Pesticides Management at (518) 402-8781.

PESTICIDE PRODUCT REGISTRATION

The Environmental Conservation Law

(ECL) §33-0701 requires every pesticide product which is used, distributed, sold or offered for sale in New York State to be registered with DEC. Pesticides are registered as either general-use pesticides (or unclassified), which may be sold by anyone or used by anyone on their own property, or restricted-use pesticides, which may be sold, distributed, purchased, possessed and used only by the holder of a written permit and/or pesticide applicator certification issued by DEC. Pesticides classified as restricted-use may pose a significant risk to the applicator, the public health or the environment if stored, handled or applied improperly. A commercial permit, issued by DEC, is required to sell, offer for sale, or possess for the purpose of resale any restricted-use pesticide.

Businesses may check if the products they use are registered in NYS or if they are classified as general or restricted-use by going to the Cornell Pesticide Management Education Program (PMEP) website at pmp.cce.cornell.edu/plms, or you can go to the DEC website at www.dec.state.ny.us/website/dshm/pesticide/pestreg.htm.

PESTICIDE APPLICATOR CERTIFICATION AND BUSINESS REGISTRATION

The pesticide applicator requirements are explained in detail in Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York ([6 NYCRR Part 325](#), <http://www.dec.state.ny.us/website/regs/part325.html>) Application of Pesticides.

Marina owners, or their employees, who apply antifouling paints, as a service to boat owners, must register annually as a business with DEC and must employ at least one commercial pesticide applicator,

fully certified in subcategory 5D -Aquatic Antifouling Paints. This certified applicator may directly supervise pesticide apprentices or technicians, employed by the marina, who apply antifouling paints. An apprentice is required to receive training and application experience, according to [6 NYCRR Part 325.10](#) <http://www.dec.state.ny.us/website/regs/part325.html#325.10> before the apprentice can apply unclassified antifouling paints under the off-site direct supervision of a certified applicator.

BOAT OWNERS

The application of unclassified antifouling paints by boat owners, on marina property, is prohibited unless the boat owner personally owns the drydocked boat being painted and leases a specific area, from the marina owner, to do such work. These boat painting areas must be located away from the water's edge and designed to prevent runoff. DEC recommends that marina owners monitor such applications to assure that paint chips or other wastes are collected and prevented from contaminating the surrounding area. In addition, DEC recommends that lease agreements state that boat painters must follow label directions and to notify the marina owner immediately if a spill occurs.

Applications made by boat owners in this manner occur on marina property so any contamination or other environmental problems resulting from the customer applying antifouling paints are still the responsibility of the marina owner. Following these recommendations will greatly reduce potential liabilities related to these activities.

PESTICIDE USE SAFETY AND PERSONAL PROTECTION

Pesticides must be used in such a

manner and under such wind and other conditions as to prevent contamination of people, pets, fish, wildlife, crops, property, structures, lands, pasturage or waters adjacent to the area of use. Pesticides must always be used only in accordance with label and labeling directions.

Prior to any pesticide application, the certified pesticide applicator must provide safety training to individuals using pesticides under the certified pesticide applicator's direct supervision. The training shall include, but is not limited to, the following topics: site-typical detailed guidance for pesticide use, pesticide safety, and the use of personal protective equipment including selection of appropriate respirators.

Certified pesticide applicators must provide relevant safety information, restricted entry intervals and personal protective equipment and other safety equipment beyond normal work attire, as specified by the pesticide label, to individuals using pesticides under the certified pesticide applicator's direct supervision. However, if the certified pesticide applicator is not the owner or manager of a registered pesticide business, the owner or manager of the marina must provide such information and equipment.

All equipment containing pesticides and drawing water from any water source shall have an effective anti-siphon device to prevent backflow. Empty noncombustible pesticide containers, such as plastic or metal containers, must be cleansed before disposal, using the three-rinse technique as defined in [6 NYCRR 325.1](#), <http://www.dec.state.ny.us/website/regs/part325.html#325.1> or other methods approved by the Department, except that containers of ready-to-use pesticides that do not require dilution must be drained only for one 30-second period.

AQUATICS PERMITS

Section 15-0313 of the ECL provides NYSDEC with the authority to require an aquatic permit for the application of pesticides to water bodies of New York State that are greater than one acre in size or with an outlet to surface waters. These standards are further defined in regulation, specifically [6 NYCRR Parts 327](http://www.dec.state.ny.us/website/regs/part327.html), [328](http://www.dec.state.ny.us/website/regs/part328.html), [329](http://www.dec.state.ny.us/website/regs/part329.html) which list specific requirements for the control of aquatic vegetation, undesirable fish and aquatic insects, respectively.

In addition, aquatic pesticides are also regulated under [Part 326](http://www.dec.state.ny.us/website/regs/part326.html), [329](http://www.dec.state.ny.us/website/regs/part329.html) which, since April 1, 1993, has classified all aquatic pesticides as restricted. This means they can only be purchased and used by individuals who either possess pesticide applicator certification, or possess a special permit for the purchase and use of a restricted pesticide. An aquatic permit or a special permit for the purchase and use of a restricted pesticide may be obtained from the Department's Regional Office that covers your area.

INTEGRATED PEST MANAGEMENT

In an effort to reduce to the greatest extent possible the use of chemical pesticides, your facility should institute an integrated pest management plan (IPM). An IPM plan is a systematic approach to managing pests, including but not limited

to identifying needed repairs and keeping storage areas within the facility clean. The plan should focus on long-term prevention or suppression of pest populations with minimal impact on human health, the environment, and non-target organisms. IPM incorporates all reasonable measures to prevent pest problems by properly identifying pests, monitoring population dynamics, and utilizing cultural, physical, biological or chemical pest population control methods to reduce pests to acceptable levels.

PESTICIDE REPORTING LAW AND RECORD KEEPING

The Pesticide Reporting Law (PRL) requires the annual submission of reports, by February 1 of each year, detailing pesticide sales and use activities. All commercial applicators shall maintain pesticide use records for each pesticide application containing the following

- a. EPA registration number;
- b. product name;
- c. quantity of each pesticide used;
- d. date applied;
- e. location of application by address (including five-digit zip code).

Such records shall be maintained for a period of not less than three years. All commercial applicators shall also maintain corresponding records of the dosage rates, methods of application and target organisms for each pesticide application. These records shall be maintained on an annual basis and retained for a period of not less than three years and shall be available for inspection upon request by the department. For more information you may e-mail DEC at pri@gw.dec.state.ny.us, or call toll-free at 1-888-457-0110.

