

STATE OF NEW YORK

9287

IN ASSEMBLY

February 23, 2024

Introduced by M. of A. LEVENBERG -- read once and referred to the
Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to
establishing nutrient inactivant applicator permits

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

Section 1. Article 17 of the environmental conservation law is amended
by adding a new title 23 to read as follows:

TITLE 23

SPECIAL PERMITS FOR APPLICATION OF NUTRIENT INACTIVANTS

Section 17-2301. Definitions.

17-2303. Nutrient inactivant applicator permits.

17-2305. Denial or revocation of permits.

17-2307. Permit fees.

17-2309. Sanctions.

§ 17-2301. Definitions.

As used in this title the following terms shall have the following
meanings:

1. "Nutrient inactivant application business" shall mean a business
that commercially applies nutrient inactivants.

2. "Nutrient inactivants" are products used for controlling phosphorus
levels in lakes to prevent and inhibit harmful algal blooms including
aluminum sulfate, sodium aluminate, lanthanum, and other such products
as determined by the department.

3. "Application of nutrient inactivants" shall mean the commercial
application of nutrient inactivants.

4. "Nutrient inactivant applicator" shall be a person certified by the
department pursuant to section 17-2303 of this title.

5. "Nutrient inactivant applicator permit" shall mean a special SPDES
permit issued under this title for the application of nutrient inacti-
vants. Such permit shall be considered a SPDES permit issued under title
eight of this article and shall have the same requirements and privi-
leges as a SPDES permit issued under title eight of this article;

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 provided, however, where the requirements and privileges of a permit
2 issued under this title is inconsistent with that of a permit issued
3 under title eight of this article, the requirements and privileges
4 described in this title shall apply.

5 § 17-2303. Nutrient inactivant applicator permits.

6 1. Notwithstanding any other provision of law or regulation pursuant
7 to this title, a person who has a valid nutrient inactivant applicator
8 permit issued by the commissioner may engage in the commercial applica-
9 tion of nutrient inactivants.

10 2. Application for a nutrient inactivant applicator permit shall be
11 made to the commissioner. The application shall be on a form prescribed
12 by the commissioner and shall be accompanied by the fee or fees provided
13 in section 17-0821 of this article.

14 3. An applicant for a nutrient inactivant applicator permit shall:

15 (a) provide proof to the commissioner of such applicant's knowledge of
16 the safe and proper use, handling, storage and disposal of nutrient
17 inactivants and application equipment and/or satisfy the commissioner as
18 to the applicant's knowledge and experience concerning the proper use,
19 handling, storage, and disposal of nutrient inactivants and application
20 equipment; and

21 (b) be a certified pesticide applicator, be registered as a pesticide
22 business or agency, and have a commercial permit under title nine of
23 article thirty-three of this chapter.

24 4. Nutrient inactivant applicator permits shall be valid for three
25 years after which every applicator shall recertify.

26 5. No certification shall be valid unless the certified person also
27 holds a valid identification card issued by the commissioner. Certifi-
28 cation identification cards shall be valid for three years.

29 6. A person with a valid nutrient inactivant applicator permit shall
30 maintain such records and shall furnish such reports concerning the
31 application of nutrient inactivants as the commissioner shall require.
32 All records required to be kept under this section shall be available
33 for inspection by the commissioner.

34 § 17-2305. Denial or revocation of permits.

35 The commissioner, after due notice and opportunity of hearing to an
36 applicant or person with a valid nutrient inactivant applicator permit,
37 may deny an application or revoke a permit pursuant to title eight of
38 this article.

39 § 17-2307. Permit fees.

40 All fees established by the commissioner pursuant to this title shall
41 be the same as those established by section 17-0821 of this article.

42 § 17-2309. Sanctions.

43 Notwithstanding any other provision of law or regulation pursuant to
44 this title and/or any provision of this article as it relates to the
45 application of nutrient inactivants, any person who violates any
46 provision of this title or any rule, regulation or order issued there-
47 under shall be liable to the people of this state for a civil penalty of
48 up to one thousand dollars for a first violation to be assessed by the
49 commissioner after a hearing or opportunity to be heard. In determining
50 the amount of the penalty, the commissioner shall take into account
51 whether the violation posed an immediate threat to the environment or
52 the health and safety of the public. Any subsequent violation of this
53 title and/or any provision of this article as it relates to the applica-
54 tion of nutrient inactivants would be subject to the appropriate sanc-
55 tions pursuant to title eight of this article.

1 § 2. Section 33-0103 of the environmental conservation law is amended
2 by adding a new subdivision 4 to read as follows:

3 4. This article shall not apply to the application of nutrient inacti-
4 vants, as such term is defined in section 17-2301 of this chapter, by a
5 person holding a nutrient inactivant applicator permit under title twen-
6 ty-three of article seventeen of this chapter.

7 § 3. The environmental conservation law is amended by adding a new
8 section 17-0833 to read as follows:

9 § 17-0833. SPDES permits; nutrient inactivant applicator permit.

10 For the purposes of this title, nutrient inactivant applicator permits
11 issued under title twenty-three of this article shall be considered a
12 special type of SPDES permit. SPDES permits shall not be issued for the
13 application of nutrient inactivants, as such term is defined in section
14 17-2301 of this article, except as provided for under title twenty-three
15 of this article.

16 § 4. This act shall take effect on the one hundred eightieth day
17 after it shall have become a law. Effective immediately, the addition,
18 amendment and/or repeal of any rule or regulation necessary for the
19 implementation of this act on its effective date are authorized to be
20 made and completed on or before such effective date.