

**New York State Department of Environmental Conservation
Division of Solid and Hazardous Materials**

Bureau of Pesticides Management, 9th Floor
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December 19, 2002

Mr. William G. Smith
Senior Extension Associate
Cornell University
5123 Comstock Hall
Ithaca, New York 14853-0901

Dear Mr. Smith:

John Wainwright asked me to respond to your December 12, 2002 letter. In this letter, you requested clarification on two issues. The first issue you asked about referred to a copy of a magazine article that you had enclosed with your letter. This article was entitled "EPA: UNLESS THE LABEL SAYS 'NO,' IT'S LEGAL." The author of the article was questioning a United States Environmental Protection Agency (USEPA) policy on the use of pesticides in greenhouses, which do not have specific greenhouse uses listed on the label.

The information in this article appears to be correct. The current USEPA policy on this issue is that a pesticide can be used in a greenhouse as long as the target crop and organism are listed on the label, even if it does not have specific greenhouse uses on the label. The pesticide could not be used in the greenhouse if there is a specific greenhouse prohibition on the label. New York State is going to adopt this federal policy.

The second matter you brought to our attention was the storage and use of unregistered pesticides by Cornell Cooperative Extension (CCE) employees. Employees of CCE are allowed to store unregistered pesticides for research purposes. If the pesticides are restricted use, CCE must employ a certified applicator to possess the materials. Pesticides listed in 6 NYCRR §326.2(c), pesticides banned for possession in New York State, are not allowed to be stored by CCE employees.

Pesticide use requirements may differ from pesticide storage requirements in New York State. The use of a pesticide that is not registered in New York State is only permitted under certain circumstances. One of the circumstances in which research staff at CCE may be able to use unregistered pesticides, for experimental purposes, falls under 6 NYCRR §326.22(b)(1). This section relates to the use of experimental pesticides that are not registered with the Department. It allows for the use of an experimental unregistered pesticide without having federal or State experimental use permits, or having a specific State notification process. This section only applies for experimental programs conducted on property owned or managed by pesticide registrants or recognized research institutions. From your letter and a conversation we had, it seems that the use of the unregistered pesticides is on CCE property and conducted by research staff. Since CCE is a recognized research institution, the requirements of this regulation have been met. With the requirements of this regulation met, CCE can continue to use unregistered pesticides for research purposes. This section of the regulations only applies when there is not a requirement for a federal or State experimental use permit.

If you have any further questions regarding these issues, please contact me, at 518-402-8781.

Sincerely,

Anthony C. Lamanno Pesticide
Control Specialist 2 Pesticide
Compliance Section