

Notice Number 2022-214

Rule Number Pes 500, Pes 700, and Pes 1000

<p>1. Agency Name & Address: Division of Pesticide Control Department of Agriculture, Markets & Food 25 Capitol Street PO Box 2042 Concord, NH 03302-2042</p>	<p>2. RSA Authority: <u>RSA 430:31, IV(a), (b), (c), (e), (l), and (x)</u></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment <u> X </u></p>
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5. Short Title: **Amendments to Restrictions on the Use of Pesticides, Prohibited-Limited Use Pesticides, and Restrictions to Protect Water Resources**

6. (a) Summary of what the rule says and of any proposed amendments:

Pes 500, “Restrictions on the Application of Pesticides by Commercial Applicators and Permittees” establishes restrictions on certain pesticide activity. The proposal readopts Pes 500 with amendment to Pes 502.03 and Pes 502.04 to better clarify the process for requesting a special permit relative to surface water consideration. It is not a new requirement but a refinement.

Pes 502.03(a) The proposal readopts Pes 502.03 by identifying the definition of “Buffer of surface waters not included in RSA 483-B” in place of “Protected Shoreland” to better clarify the intention of the rule, that is, to regulate pesticide use in a buffer area. RSA 483-B is the Shoreland Water Quality Protection Act administered by the Department of Environmental Services. This is not a new requirement but a clarification.

Pes 502.03(b) The proposal readopts Pes 502.03 to align with RSA 483-B by identifying the definition of waterfront buffer, a designated area that includes securing a special permit to apply pesticides. This is not a new requirement but a clarification.

Pes 502.03(d) The proposal readopts Pes 502.03 with amendment to replace the phrase “protected shoreland” with “waterfront buffer” to better clarify the restricted buffer and to add “other biting arthropods” to better clarify the organisms considered for control.

Pes 502.03(e) establishes the information to include on a request for a special permit for applying pesticide in a waterfront buffer. A special permit is already required. This amendment more appropriately identifies the placement of the special permit request information within the rules.

Pes 502.04(c) establishes the name of the form used to provide a special permit request. The current version does not specify a form name.

Pes 700, “Sale and Use of Pesticides” This is a proposal to readopt Pes 700 with the following amendment:

Pes 701.05 The proposal readopts Pes 701.05(a) with amendment to allow the use of Avitrol, a bird control pesticide, with restrictions, by individuals that hold certificates of registration to use restricted use pesticides.

Pes 1000 “Restrictions on the use of Pesticides to Protect Ground and Surface Waters” The proposal readopts Pes 1000 without amendment.

6. (b) Brief description of the groups affected:

Individuals that hold a certificate of registration to use pesticides.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule	Statute Rule Intended to Implement
Pes 501.01	RSA 430:36
Pes 502.01	RSA 430:31, IV(e)
Pes 502.02 – Pes 502.06	RSA 430:41, IV
Pes 503.01 – Pes 503.02	RSA 430:41, IV
Pes 503.03	RSA 430:31, IV(a),(e)
Pes 504.01	RSA 430:41, II, IV
Pes 504.02	RSA 430:41, IV
Pes 504.03	RSA 430:41, V
Pes 505.01	RSA 430:31, IV(e)
Pes 505.02 – 505.04	RSA 430:41, IV
Pes 505.05	RSA 430:31, IV(c)
Pes 505.06	RSA 430:31, IV(e)
Pes 505.07	RSA 430:41, IV
Pes 506.01 – Pes 506.03	RSA 430:34-a, I and RSA 430:41, IV
Pes 506.04	RSA 430:34-a, I, II, III and RSA 430:41, IV
Pes 506.05	RSA 430:34-a, I, II and RSA 430:41, IV
Pes 506.06	RSA 430:34-a, I, II, III and RSA 430:41, IV
Pes 506.07 – Pes 506.08	RSA 430:34-a, I and RSA 430:41, IV
Pes 506.09 - Pes 506.10	RSA 430:41, IV
Pes 507.01 – Pes 507.04	RSA 430:41, IV
Pes 508.01	RSA 430:41, IV
Pes 701.01 – Pes 701.03	RSA 430:31, IV(l)
Pes 701.04 – Pes 701.05	RSA 430:31, IV(e)
Pes 701.06 – Pes 701.07	RSA 430:31, IV(l)
Pes 1001.01– Pes 1001.02	RSA 430:31, IV(a)
Pes 1002.01 – Pes 1002.17	RSA 430:41, IV and RSA 430:41, V

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

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TTY/TDD Access: Relay NH 1-800-735-2964
 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **January 17, 2023**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Monday, January 9, 2023 at 9:30 a.m.**

Place: **Room 201, 25 Capitol Street, Concord, New Hampshire**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 22:169, dated 09/13/2022

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

Negligible. There is no difference in cost when comparing the proposed rules to the existing rules.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

Cost negligible, protection of human health and the environment benefits.

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

None.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposal does not impose any programs, responsibilities, or administrative duties upon any political subdivision of the state, and thus does not violate the NH Constitution, Part I, Article 28-a.