State School Pest Management Laws & Rules
As Compiled by the National Pest Management Association
December 2011
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(V) = Voluntary
(I) = Schools must maintain a list of pesticide hypersensitive students
Section
300. Certification requirements
305. Certification procedures
310. Certification renewal
315. Certification modification, suspension, or revocation

18 AAC 90.300. Certification requirements. (a) Certification under 18 AAC 90.300 – 18 AAC 90.315 for the applicable category of use described in (c) of this section is required before an individual may

(1) use a restricted-use pesticide, unless that use is under the direct supervision of a certified applicator for the applicable category of use;

(2) supervise the use of a restricted-use pesticide;

(3) purchase a restricted-use pesticide, unless that purchase is authorized in writing by a certified applicator for the applicable category of use;

(4) act as a restricted-use pesticide dealer;

(5) engage in the custom, commercial, or contract use of a pesticide unless that use is under the direct supervision of a certified applicator for the applicable category of use;

(6) supervise the custom, commercial, or contract use of a pesticide;

(7) act as a pesticide consultant;

(8) use or supervise the use of pesticides at a school unless the pesticide is an antimicrobial pesticide; or

(9) use or supervise the use of a pesticide at a public place unless the pesticide is an antimicrobial pesticide.

(b) Unless specifically authorized in writing by the department, an individual certified under (a) of this section may use pesticides only in a category of use for which that individual is certified.

(c) The department may certify an applicant for one or more categories of use listed in this subsection if the applicant meets the requirements of 18 AAC 90.305:

(1) Regulatory Pest Control: state, federal, or other government employees, or their agents, who use or supervise the use of pesticides;

(2) Demonstration and Research Pest Control: individuals such as government employees, extension specialists, and extension agents who use or supervise the use of pesticides or who advise, demonstrate, supervise demonstrations, make recommendations, or conduct field research on pesticide use;
(3) Private Agricultural Pest Control: individuals who apply restricted-use pesticides to

(A) agricultural commodities and property, including greenhouses and nurseries;

(B) the feed, bedding, or bodies of animals; and

(C) treat seeds grown and stored for distribution and planting;

(4) Ornamental and Turf Pest Control: individuals who apply pesticides to plants and grass used for decorative and sporting purposes on residential, commercial, federal, state, or municipal property;

(5) Antifouling Paint: individuals who apply antifouling paint, such as Tri-butyl-tin antifouling paint;

(6) Aquatic Pest Control: individuals who apply pesticides to water to control unwanted animals, fish, microbes, plants, or other pests;

(7) Industrial, Institutional, Structural, and Health-Related Pest Control: individuals who apply pesticides to residential, commercial, federal, state, or municipal structures to control insects, fungi, viruses, rodents, bacteria, and other pests;

(8) Public Health Pest Control: individuals such as environmental health officers, public health nurses, entomologists, and others in a preventive medicine or health care field who use or recommend pesticides;

(9) Right-of-Way Pest Control: individuals who use pesticides to control unwanted vegetation along the rights-of-way of roads, waysides, railroads, airfields, pipelines, power lines, tank farms, or industrial sites;

(10) Mosquito and Biting Fly Pest Control: individuals who apply pesticides to control mosquitoes or biting flies;

(11) Aerial Pest Control: pilots of fixed-wing, rotary wing, and air cushion vehicles who apply pesticides by air;

(12) Forest Pest Control: individuals who use pesticides to control forest insects, control vegetation for forestry vegetation management programs, to maintain or create logging roads, paths, or loading areas, or for other similar uses;

(13) Wood Preservatives: individuals who apply pesticides to preserve wood; and

(14) Restricted-Use Pesticide Dealer: individuals who distribute or sell restricted-use pesticides.
(d) An individual certified under 18 AAC 90.300 - 18 AAC 90.315 shall have a copy of the certification

(1) in that individual's possession when conducting an activity described in (a) of this section; or

(2) displayed in that individual's place of business.

(e) An individual certified under 18 AAC 90.300 - 18 AAC 90.315 shall notify the department within 30 days after a change in

(1) the individual’s business name or organization of the individual’s business; or

(2) other information provided in the certification application.

(f) Certification under 18 AAC 90.300 - 18 AAC 90.315 may not be transferred.

(g) An individual who uses only a general-use pesticide as part of the individual’s workplace activity is exempt from the certification requirements of 18 AAC 90.300 - 18 AAC 90.315 if

(1) the use is only on property owned or leased by the individual or the individual’s employer;

(2) the individual’s employer is not engaged in the custom, commercial, or contract use of pesticides; and

(3) the use is not in a public place. (Eff. 2/15/98, Register 145; am 3/31/2002, Register 161; am 11/30/2003, Register 168; am 9/30/2007, Register 183)

**Authority:**

AS 41.17.100

AS 46.03.020

AS 46.03.330

AS 46.03.010

AS 46.03.320

AS 46.03.730

**18 AAC 90.305. Certification procedures.** (a) An individual who seeks certification under 18 AAC 90.300 shall submit an application on a form supplied by the department and the fee required by 18 AAC 90.860.

(b) Subject to (f) of this section, the department will certify an applicant who

(1) is at least 18 years of age;

(2) attends a training session or completes an Internet or other correspondence course approved by the department; and

(3) demonstrates knowledge of pesticide statutes, regulations, hazards, and safety by passing a written or oral examination administered by the department or the department’s representative.

(c) The department will include in an examination administered under (b)(3) of this
(f) The notice described in (e) of this section must be repeated in an appropriate language other than English if it is probable that persons who do not understand English will come to the enclosure.

(g) The posting of a warning notice other than as specified in (e) of this section must be approved by the department.

(h) The words "POISON" or "CHEMICAL" may be substituted for the word "PESTICIDE" in a warning notice required under (e) of this section. (Eff. 2/15/98, Register 145; am 11/30/2003, Register 168; am 9/30/2007, Register 183)

Authority: AS 46.03.010 AS 46.03.320 AS 46.03.730
AS 46.03.020 AS 46.03.330

Editor's note: The warning notices required in 18 AAC 90.615(e) are available at the department's pesticide program offices in Wasilla or Anchorage or on the Internet at http://www.dec.state.ak.us/ch/pest/index.htm.

18 AAC 90.620. Insurance required. (a) Except as provided in (c) of this section, a person may not engage in the custom, commercial, or contract use of a pesticide unless the person or the person's employer has furnished evidence to the department of a liability insurance policy of not less than $500,000 per person for bodily injury, and not less than $300,000 per incident for property damage. The person shall notify the department in writing each year of the current liability coverage, and within 30 days if coverage is changed.

(b) The department will modify or suspend certification under this chapter if insurance required under (a) of this section is not provided or is reduced below the minimum amounts required.

(c) The requirements of this section do not apply to a local, state, or federal agency employee who engages in the custom, commercial, or contract use of a pesticide as part of the employee's employment activities. (Eff. 2/15/98, Register 145)

Authority: AS 46.03.010 AS 46.03.320 AS 46.03.730
AS 46.03.020 AS 46.03.330

18 AAC 90.625. School use and notification. (a) The administrator of a school shall,
whenever practical, ensure the use of nonchemical methods to control pests, including proper sanitation practices, structural repair, and window screens.

(b) Except as provided in (h) of this section, at least 24 hours before the application of a pesticide to an area of the school that is used by or is accessible to children, the administrator of the school shall notify parents or guardians of children of the application; a notice under this subsection must include

1. a description of the area where the pesticide will be applied;

2. the date and approximate time of application; if the application will be outdoors, the notification must include three dates in chronological order in case the preceding date is cancelled due to weather;

3. the common or brand name of each pesticide to be used;

4. the targeted pests to be controlled by the pesticide;

5. each active ingredient in the pesticide;

6. the EPA registration number;

7. the contact telephone number, if any, on the label of the pesticide for additional information about each pesticide; and

8. a contact name and telephone number at the school.

(c) During the school term the notification required in this section must be made by individual notice delivered by phone, face to face oral communication, electronic mail, postal mail, or facsimile. A school or school district may also develop a registration system to provide this notification only to those parents who wish to receive the notification. If the school or school district develops a registration system, the administrator of each school shall provide written notice to the parents or guardians of the children at the beginning of the school year or upon a child's enrollment that pesticides may be used in or around the school, and shall explain to each parent or guardian how to register to be notified at least 24 hours before a pesticide treatment.

(d) If given in writing, the notice required in (c) of this section may not be included with any other notice being provided to parents or guardians on another matter.

(e) If pesticides are used outside the school term and the school is open to or accessible by the public, the notification required under this section must be prominently posted in a conspicuous location on the school premises at least 24 hours before the pesticide treatment is scheduled to begin.

(f) Immediately before starting the application of a pesticide, the certified applicator shall post an 8 1/2 x 11 inch sign in the area where pesticides are being applied. The school administrator shall ensure the sign remains posted and children are kept out of the treated area until the reentry interval on the label, if any, has expired, or, if the label does not specify a reentry interval, for at least 24 hours. The sign must contain the following message, along with
the name of the pesticide, the pesticide's EPA registration number, the name and telephone number of a contact for the school, and the date and time of application:

PESTICIDE TREATED AREA
KEEP OUT until dry (or other time required by the label)

Pesticide Product

EPA Registration Number

School Contact Name/Telephone Number

Date and Time of Application
(g) A school administrator may authorize an immediate pesticide treatment without prior notification if the administrator determines an emergency exists. An emergency includes an immediate and unanticipated threat to the health and safety of the individuals at the school. An emergency does not exempt the school from the requirements of (f) of this section.

(h) The following pesticide applications are not subject to the notification or posting requirements of this section:

(1) applications of antimicrobial pesticides;

(2) an application where the school remains unoccupied for a continuous 72 hour period following the application of the pesticide;

(3) applications of rodenticides in tamper resistant bait stations or in areas inaccessible to children;

(4) applications of silica gels and other ready-to-use pastes, foams, or gels that will be used in areas inaccessible to children.

(i) A school administrator shall keep records of pesticide applications subject to the notification and posting requirements of this section. Records must be kept for two years and include

(1) a copy of each notice issued under this section; if a school administrator authorizes a pesticide application under (g) of this section, all the information that is required in a notice under (b) of this section must be included in the record;

(2) the date of application;

(3) the name and employer of the individual who applied the pesticide, including the individual's certification number;

(4) the rate of application;

(5) the concentration of the pesticide applied; and

(6) the total amount of pesticide product used.

(j) Records required to be kept under this section must be made available to the department and to the public for review. (Eff. 3/31/2002, Register 161; am 9/30/2007, Register 183)

Authority: AS 46.03.010 AS 46.03.320 AS 46.03.730
AS 46.03.020 AS 46.03.330

Editor's note: The sign required in 18 AAC 90.625(f) is available at the department's pesticide program offices in Wasilla and Anchorage and on the Internet at http://www.dec.state.ak.us/eh/pest/index.htm.

As of Register 178 (July 2006), the regulations attorney made a technical revision under
18 AAC 90.630. Public notification and posting of pesticide applications to public places. (a) A person may not apply a pesticide in a public place without first posting a written notice on the application site. The notice

(1) must be conspicuously posted at each point of customary access to each public place or each portion of each public place requiring a written notice;

(2) must be at least 8 1/2 x 11 inches and be reasonably designed to remain legible for the longest of the following time periods:

(A) at least 24 hours after the application;

(B) the period until, according to the product label, entering the application site will be safe;

(3) if posted outdoors and not on a structure, must be posted at least 12 inches above ground level:

(4) if posted indoors or on a structure, must be

(A) posted no less than three and no more than four feet above floor level; and

(B) attached so as to remain in place;

(5) must be posted immediately before the pesticide application begins and remain in place for the longest period of time set out in (2)(A) and (B) of this subsection; and

(6) must contain the following wording, in substantially the following format, along with the date and time of application, the name, address, and telephone number of the contact person, and the time at which the pesticide will be dry, or if entering the application site is not yet safe when the pesticide is dry, the time when, according to the label, entering the site will be safe:

ATTENTION!

Pesticide Application

Date _____ & Time _____ of application

Details available from (Name) at (address) or (phone number)

KEEP OUT UNTIL _______
(untill dry or other time req'd by label)

(b) Before beginning the application, or before the time at which the pesticide agent shall make
available to the contact person a written statement containing

(1) the name, address, and telephone number of the applicator, or of the applicator’s employer;

(2) the common or trade name, EPA registration number, amount used, and target pests for each pesticide applied;

(3) adjuvants used, if any; and

(4) any post-application re-entry precautions, including at a minimum those contained on the label.

(c) The contact person shall make the statement required under (b) of this section available to a person upon request.

(d) The following pesticide applications are not subject to the notification or posting requirements of this section:

(1) applications of antimicrobial pesticides;

(2) applications of rodenticides in tamper resistant bait stations;

(3) applications of silica gels and other ready-to-use pastes, foams, or gels.

(e) The contact person may authorize an immediate pesticide treatment without prior posting or notification if the contact person determines that an emergency exists. An emergency is an immediate and unanticipated threat to the health and safety of humans or the environment at the public place. An emergency does not exempt the applicator or the applicator’s agent from the requirements of (b) of this section or the contact person from the requirements of (c) and (i) of this section.

(f) The contact person shall keep accurate written records of all pesticide applications that are subject to the posting and notification requirements of this section. Those written records must

(1) contain all the information required under (b) of this section;

(2) be kept for at least two years; and

(3) be made available to the department or any person directly affected by the application upon request during the two-year period. (Eff. 9/30/2007, Register 183; am 9/30/2007, Register 183)

**Authority:**

AS 46.03.010  AS 46.03.320  AS 46.03.730

AS 46.03.020  AS 46.03.330
18 AAC 90.900. Right to appeal department’s decision. (a) A person subject to this chapter who is aggrieved by a decision of the department under this chapter may request an informal review of the decision under 18 AAC 15.185.

(b) This section does not affect the right of a person to request an adjudicatory hearing under 18 AAC 15.195 – 18 AAC 15.340. (Eff. 2/15/98, Register 145; am 7/11/2002, Register 163)

Authority: AS 46.03.010  AS 46.03.320  AS 46.03.730
           AS 46.03.020  AS 46.03.330

18 AAC 90.990. Definitions. Unless the context indicates otherwise, in this chapter

1. "active ingredient" means, in the case of a

   (A) pesticide other than a plant regulator, defoliant, or desiccant, an ingredient that will prevent, destroy, repel, or mitigate a pest;

   (B) plant regulator, an ingredient that, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or a product of those plants;

   (C) defoliant, an ingredient that will cause leaves or foliage to drop from a plant; and

   (D) desiccant, an ingredient that will artificially accelerate the drying of plant tissue;

2. "adjuvant" means a substance

   (A) with or without toxic properties of its own, intended to be used with or added to a pesticide as an aid to application, safety, or effect; and

   (B) sold in a package or container separate from that of the pesticide with which it is to be used;

3. "adulterated" means a pesticide

   (A) the strength or purity of which falls below the professed standard of quality expressed on the label under which it is sold;

   (B) for which a substance has been substituted wholly or in part; or

   (C) from which a valuable constituent has been abstracted wholly or in part;

4. "agricultural commodity" means a plant or part of a plant, livestock, or an animal product that is produced by a farmer, rancher, plant propagator, Christmas tree grower, aquaculturist, floriculturist, orchardist, forester, or similar person and that is produced primarily
for sale, consumption, propagation, or other use by humans or animals;

(5) "antimicrobial pesticide" means a pesticide that is intended to

(A) disinfect, sanitize, reduce, or mitigate growth or development of
microbiological organisms; or

(B) protect inanimate objects, industrial processes or systems, surfaces,
water, or other chemical substances from contamination, fouling, or deterioration caused
by bacteria, viruses, fungi, protozoa, algae, or slime;

(6) "apparatus" means a type of ground, water, or aerial equipment, or
contrivance using motorized, mechanical, or pressurized power to apply a pesticide; "apparatus"
does not include

(A) a pressurized, hand-held household appliance used to apply a
pesticide; or

(B) an appliance, equipment, or contrivance if the person who is applying
the pesticide is the source of power or energy in applying the pesticide;

(7) "certified applicator" means a person certified under 18 AAC 90.300 -
18 AAC 90.315;

(8) "custom, commercial, or contract applicator" means an applicator who uses
or supervises the use of a pesticide on property other than the applicator's, whether or not the use
is for profit or hire;

(9) "custom, commercial, or contract use" means to apply, or offer to apply,
pesticides on property other than the applicator's, whether or not the use is for profit or hire;

(10) "defoliant" means a substance or mixture of substances intended to cause
leaves or foliage to drop from a plant;

(11) "department" means the Department of Environmental Conservation;

(12) "desiccant" means a substance or mixture of substances intended to
artificially accelerate the drying of plant tissues;

(13) "device" means an instrument or contrivance intended to trap, destroy,
control, repel, or mitigate pests, but does not include equipment used to apply pesticides if that
equipment is sold separately from the pesticide;

(14) "direct supervision" means

(A) for a custom, commercial, or contract applicator, direct on-the-job
supervision; or

(B) for all other applicators, that the pesticide is applied by a competent
person acting under the instructions and control of a certified applicator who is available
if and when needed, even though the certified applicator is not physically present when the pesticide is applied;

(15) "distribute or sell" means to distribute, sell, offer for sale, display, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and, having so received, deliver or offer to deliver;

(16) "drift" means the physical airborne movement, at the time and as a result of pesticide use, from the target site to a nontarget site in an amount sufficient to cause injury at the nontarget site, made in a manner inconsistent with product label directions or the requirements of this chapter or from treatment made in a careless, faulty, or negligent manner; "drift" does not include the off-target movement by erosion, volatility, or windblown soil particles after treatment; for purposes of this paragraph, "amount sufficient to cause injury" means an amount of pesticide that could cause

(A) pesticide residue in excess of the established tolerance for the pesticide on an affected agricultural commodity at a nontarget site;

(B) death, stunting, deformation, or another effect that is detrimental to the environment, including humans, domestic animals or wildlife, or desirable plants at the nontarget site; or

(C) movement to a nontarget site of a measurable amount of pesticide that is objectionable to the owner of or resident at the nontarget site;

(17) "EPA" means the United States Environmental Protection Agency;

(18) "FIFRA" means the provisions of 7 U.S.C. 136 - 7 U.S.C. 136y (Federal Insecticide, Fungicide and Rodenticide Act);

(19) "food" means a liquid or solid substance consumed by humans, including water or another beverage, a confection, condiment, food ingredient, food additive, or ice, or a substance that enters into the composition of these things, whether simple, blended, mixed, or compounded;

(20) "forestry vegetation management" means the application of a pesticide for afforestation or reforestation, including conifer release; "forestry vegetation management" does not include the application of a pesticide for control of nonindigenous species or pests that may present a risk to human health or the environment; for purposes of this paragraph,

(A) "afforestation" means the establishment of a forest or a stand in an area where the preceding vegetation or land use was not a forest;

(B) "conifer release" means a project to clear weedy vegetation from the area around young conifer seedlings;

(C) "reforestation" means the natural or artificial restocking of an area with forest trees;

(21) "fungi" or "fungus" means any of the numerous plants of the division or
kingdom *Thallophyta*, lacking chlorophyll, ranging in form from a single cell to a body mass of branched filamentous hyphae that often produce specialized fruiting bodies, and including yeasts, molds, smuts, and mushrooms;

(22) "fungicide" means a substance or mixture of substances intended to prevent, destroy, repel, or mitigate fungi, except fungi on or in

(A) living humans or other animals; or

(B) processed food, beverages, or pharmaceuticals;

(23) “general-use pesticide” means a pesticide that may be legally purchased and used by a person other than a certified applicator;

(24) "herbicide" means a substance or mixture of substances intended to prevent, destroy, repel, or mitigate vegetation;

(25) "inert ingredient" means any part of a pesticide product that is not an active ingredient;

(26) "insect" means any of the small invertebrate animals generally having a body more or less obviously segmented, for the most part belonging to the class *Insecta*, comprising

(A) six-legged, usually winged forms, including beetles, bugs, bees, and flies; and

(B) other allied classes of arthropods whose members are wingless and usually have more than six legs, including spiders, mites, ticks, centipedes, and wood lice;

(27) "insecticide" means a substance or mixture of substances intended to prevent, destroy, repel, or mitigate insects;

(28) "label" means the written, printed, or graphic matter on, or attached to, a pesticide or device, or its containers or wrappers;

(29) "labeling" means the label affixed to a pesticide container and all other written, printed, or graphic matter to which reference is made on the label or in literature accompanying the pesticide or device, except current official publications of federal and state government agencies or institutions;

(30) "land" means land and water areas, including airspace above those areas, and everything growing or built on those areas;

(31) “mean higher high water mark” means the average of all the higher high water heights over a specified period of time; for purposes of this paragraph, “higher high water” means the higher of the high water of a specified day;

(32) “misbranded” means a pesticide bearing a label
(A) on which any word, statement, or other information required by or under authority of federal law is not prominently placed or is missing;

(B) that has been obscured, destroyed, or defaced wholly or in part; or

(C) that contains a false or misleading statement, design, or graphic representation about the ingredients or functions of the pesticide;

(D) other than the manufacturer's approved label, or that does not contain a label;

(33) "ordinary high water mark" means the mark along the bank or shore up to which the presence and action of the tidal or nontidal water are so common and usual, and so long continued in all ordinary years, as to leave a natural line impressed on the bank or shore and indicated by erosion, shelving, changes in soil characteristics, destruction of terrestrial vegetation, or other distinctive physical characteristics;

(34) "pass" or "passing" means to receive at least 70 percent of the highest possible grade;

(35) "person" means a corporation, company, partnership, firm, association, organization, business trust, society, government agency, and an individual;

(36) "pest" includes an insect, rodent, nematode, fungus, weed, and other forms of terrestrial or aquatic plant or animal life, bacterium, virus, or other microorganism, except a virus, bacterium, or other microorganism on or in a living human or other animal;

(37) "pesticide" means a chemical or biological agent intended to prevent, destroy, repel, or mitigate plant or animal life and any substance intended for use as a plant regulator, defoliant, or desiccant, including insecticides, fungicides, rodenticides, herbicides, nematocides, and biocides; "pesticide" does not include a new animal drug, as defined in 21 U.S.C. 321, that

(A) has been determined by the Secretary of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use; or

(B) is animal feed as defined in 21 U.S.C. 321;

(38) "pesticide-free zone" means a strip of land where pesticides may not be directly applied or allowed to reach through natural transport; for purposes of this paragraph, natural transport includes wind, runoff, and leaching;

(39) "pesticide consultant" means a person who is

(A) an independent agricultural commodity adviser who makes recommendations on the use of pesticides; or

(B) a pesticide manufacturer's representative, distributor's representative, or field representative of a company or organization that deals in pesticide commodities, and who advises, demonstrates, supervises, or makes recommendations on the use of a
pesticide, except a pesticide labeled and intended only for home and garden use;

(40) "pesticide dealer" means a person who distributes or sells a pesticide;

(41) "plant regulator" means a substance, or mixture of substances intended through physiological action to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of plants or produce; "plant regulator" does not include a substance intended for use as a plant nutrient, trace element, nutritional chemical, plant inoculant or soil amendment;

(42) "premises" means land and improvements or attachments, or a part of the improvements or attachments;

(43) "private agricultural applicator" means a certified applicator who applies restricted-use pesticides to

(A) agricultural commodities and property, including greenhouses and nurseries;

(B) the feed, bedding, or bodies of animals; or

(C) treat seeds grown and stored for distribution and planting;

(44) "producer" means the person who manufactures, prepares, compounds, propagates, or processes a pesticide or device, or an active ingredient used to produce a pesticide;

(45) “protective area” means an area of land

(A) between the treatment area and either a pesticide-free zone or another area that requires protection; and

(B) where pesticides are not directly applied but some pesticides may enter through natural transport; for purposes of this subparagraph, natural transport includes wind, runoff, and leaching;

(46) "public pesticide program or project" means a program or project involving the use of a pesticide that

(A) is directed, carried out, or participated in by the state or a borough or city of any class; or

(B) involves funds, materials, or equipment of the state, borough, or city;

(47) “rate of application” means the amount of pesticide applied to

(A) a plant or animal;

(B) an area or surface, usually measured as per acre or per 1,000 square feet; or
(C) a volume, usually measured as per cubic foot;

(48) "restricted-use pesticide" means a pesticide that may be legally purchased only by a certified applicator and that may be used only by a certified applicator or a person under the direct supervision of a certified applicator because it has been designated for restricted use under FIFRA or this chapter;

(49) "rodenticide" means a substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents;

(50) "school" means a facility used for educational instruction from kindergarten through 12th grade; "school" includes associated playgrounds, playing fields, gardens, lawns, or other real property devoted to the functions of the facility; "school" does not include a private home or teacher residential area;

(51) "special local need" means an existing or imminent pest problem within the state for which the department, based upon satisfactory supporting information, has found that an appropriate federally-registered pesticide is not available;

(52) "supplemental labeling" means the written, printed, or graphic material that

(A) is on or attached to, or that accompanies, a pesticide container; and

(B) provides supplemental information for a special local need under 18 AAC 90.230;

(53) "surface water" means any of the following water bodies, the designated uses of which are protected under 18 AAC 70:

(A) a fresh water lake or pond with a surface outlet; for purposes of this subparagraph, "fresh water lake or pond" means a confined fresh water body with perennial water and defined shorelines;

(B) a fresh water spring with a surface outlet; for purposes of this subparagraph, "fresh water spring" means a place where subterranean fresh water naturally flows from a rock or soil upon the land or into a body of surface water; and

(C) a fresh water stream; for purposes of this subparagraph, "fresh water stream" means a perennial flow of fresh water along a defined channel, or an intermittent flow of fresh water along a defined channel that is significant for protection of downstream water quality.

(54) "unreasonable adverse effect" means an unreasonable risk to humans, animals, or the environment, taking into account the economic, social, and environmental costs and benefits of the use of a pesticide, as determined by the department;

(55) "waters" has the meaning given that term in AS 46.03.900;

(56) "working day" means a day other than Saturday, Sunday, or a state holiday;
(57) "contact person" means the person who hires the applicator to apply
pesticides in a public place;

(58) "public place" has the meaning given in AS 46.03.320(c). (Eff. 2/15/98,
Register 145; am 3/31/2002, Register 161; am 11/30/2003, Register 168; am 9/30/2007, Register
183)

Authority:  AS 41.17.100  AS 46.03.020  AS 46.03.330
            AS 46.03.010  AS 46.03.320  AS 46.03.730

Editor's note: Other definitions applicable to this chapter are found in AS 46.03.900.
As of Register 162 (July 2002), and as of Register 168 (January 2004), the definitions in
18 AAC 90.990 were reorganized to put them in alphabetical order, regardless of when each of
them was adopted.
report from the acting director.

32-2307. **Notification of pesticide applications to schools and child care facilities; exemptions; definitions**

A. A business licensee or licensed applicator shall notify a school or a child care facility at least seventy-two hours in advance of any pesticide application in order to permit the school to comply with section 15-152 and the child care facility to comply with section 36-898. The seventy-two hour advance notice shall include the date and time the application is to occur. The seventy-two hour advance notice shall also include the brand name, concentration, rate of application, pesticide label and material safety data sheet and any use restrictions required by the pesticide label. Only an individual holding an applicator license may make pesticide applications at schools and child care facilities.

B. Immediately prior to application of a pesticide a business licensee or licensed applicator shall provide the school or child care facility with a written preapplication notification containing the following information:
   1. The brand name, concentration and rate of application and any use restrictions required by the label of the herbicide or specific pesticide.
   2. The area or areas where the pesticide is to be applied.
   3. The date and time the application is to occur.
   4. The pesticide label and the material safety data sheet.

C. The pesticide label and material safety data sheet may be used in place of the information required pursuant to subsections A and B of this section if all of the information required by those subsections is already contained on the label or material safety data sheet.

D. The following pesticide applications are exempt from the notification requirement prescribed in subsections A and B of this section:
   1. Nonresidual pesticide applications performed or contracted by public health agencies for adult vector control, provided that oral notification is attempted at least seventy-two hours before the application, when possible, to the school office or child care facility office with a statement of the pest problem, treatment procedure, area to be treated and approximate time of the application.
   2. Emergency applications of a pesticide that has a toxicity category of III or IV pursuant to 40 Code of Federal Regulations section 156.62 to control harmful pests that pose an immediate threat to the public health. Under the circumstances described in this paragraph or paragraph 1 of this subsection, the business licensee or licensed applicator shall do all of the following:
      (a) Notify the school office or child care facility office before the application with a statement of the pest problem, treatment procedure, area to be treated and approximate time of application.
      (b) Immediately after the application has been completed, notify the school office or the child care facility office of the name of the pesticide applied, the formulation, the strength and dosage and the date and time of application and provide the pesticide label.
      (c) Post the treated area immediately after the application. The posting shall be at least eight and
one-half inches by eleven inches and shall include the name of the pesticide, the registration number
issued by the United States environmental protection agency, the date and time of application and the
name and telephone number of the business licensee and licensed applicator. A copy of the posting
shall also be placed at the main entrance to the school or child care facility. The posting and the
copy of the posting shall remain in place for at least forty-eight hours after the application.
3. Disinfectants or swimming pool chemicals.
4. Block, gel or paste-type bait that is a toxicity category III or IV formulation of insecticide
pursuant to 40 Code of Federal Regulations section 156.62 and that is either of the following:
(a) Secured in an enclosed, tamper-resistant bait station and placed in an area that is inaccessible to
children.
(b) Applied to a crack or crevice inaccessible to children.
5. Block-type bait that is a toxicity level III or IV formulation of rodenticide pursuant to 40 Code of
Federal Regulations section 156.62 and that is secured in an enclosed, tamper-resistant bait station
placed in an area inaccessible to children.
6. Personal repellants.
7. Any pesticide exempt from regulation by the United States environmental protection agency
pursuant to the federal insecticide, fungicide and rodenticide act (7 United States Code section
136w).
E. The provisions of this chapter shall regulate and determine all requirements regarding licenses,
fees, testing, education, and all other requirements regarding the business of pest control for persons
licensed pursuant to this chapter.
F. For the purposes of this section:
1. "Child care facility" means a facility regulated pursuant to title 36, chapter 7.1.
2. "Pesticides" does not include nonrestricted use disinfectants, sanitizers or deodorizers.
3. "School" means an educational institution that provides instruction in prekindergarten programs,
kindergarten programs or any of grades one through twelve.

32-2308. Joint responsibility for supervised persons
A. A business licensee, qualifying party or applicator may be held jointly responsible for the acts or
omissions of another person who is under the supervision of the business licensee, qualifying party
or applicator if the supervising licensee fails to properly train, equip or supervise the other person or
fails to maintain records of proper training, equipping or supervising.
B. Failure to timely and fully respond to requests by the acting director for information relating to
training, equipping and supervising is a prima facie showing of a failure to properly train, equip or
supervise. The supervising licensee has the burden of proof by a preponderance of the evidence that
the business licensee, qualifying party or applicator has fulfilled the required duties as prescribed by
this chapter, rules adopted pursuant to this chapter or a written order of the acting director.

32-2311. Persons not required to be licensed; civil penalties; definition
A. This chapter does not apply to:
1. Persons licensed or certified pursuant to title 3, chapter 2, article 6.
2. Persons applying pesticides on property that they own and occupy.
3. Authorized representatives of any educational institution engaged in research in the study of pest management or a state agency engaged in research or the study of pest management.
4. Employees of political subdivisions or their designated agents while performing emergency response or rescue services.
5. Persons using a nonrestricted, ready to use disinfectant, sanitizer or deodorizer.
6. Except as provided in section 32-2307, persons who are conducting lawn, garden, shrub or tree maintenance and who apply herbicides for the purpose of weed management. This exemption does not apply to:
   (a) The use of herbicides that are labeled with the words "restricted use" or "danger" and that are not commercially available to the general public.
   (b) The use of sterilants.
   (c) Persons who offer weed management as their primary service.
   (d) Persons who use application equipment that holds more than eight gallons of total mixed liquid herbicide.
   (e) Persons who use more than twenty-five pounds of a nonliquid herbicide.
   (f) Persons who do not follow label and labeling directions.
7. A utility and the utility's employees if pest management services are needed for an employee's health and safety in order for the employee to continue performing work tasks.
8. Except as provided in section 32-2307, volunteers of political subdivisions who apply herbicides for the purpose of the eradication and control of noxious weeds as defined in section 3-201 and who are under the immediate supervision of a licensed applicator. This exemption does not apply to:
   (a) The use of herbicides that are labeled with the words "restricted use" or "danger" and that are not commercially available to the general public.
   (b) The use of sterilants.
   (c) Volunteers of political subdivisions who use application equipment that holds more than eight gallons of total mixed liquid herbicide.
   (d) Volunteers of political subdivisions who use more than twenty-five pounds of a nonliquid herbicide.
   (e) Volunteers of political subdivisions who do not follow label and labeling directions.
   (f) Volunteers of political subdivisions who have not completed an office of pest management approved herbicide application training program conducted by the political subdivision.

B. An employee of a political subdivision who engages in pest management:
1. Is not required to be licensed under section 32-2313 or 32-2314.
2. Must be licensed as an applicator under section 32-2312, except as provided by subsection A, paragraph 4 of this section.
C. A person who is exempt pursuant to subsection A, paragraph 6 of this section shall provide
treatment records to each customer on application of herbicides for the purpose of weed management and shall retain records containing the same information provided to customers. For the purposes of this subsection, treatment records shall include all of the following:

1. The address of the location of the herbicide application.
2. The date of the herbicide application.
3. The trade name or common name of the herbicide applied.
4. If a person is exempt pursuant to subsection A, paragraph 6 of this section but does not comply with subsection C of this section or if a person is not licensed under this chapter and the person is not exempt pursuant to subsection A, paragraph 6 of this section as a result of doing something prescribed in subsection A, paragraph 6, subdivisions (a) through (f) of this section, the acting director shall:
   1. On a first violation, issue a written notice of correction that contains a warning and a copy of this section and that provides full notice of the exemption requirements.
   2. On a second violation, impose a civil penalty of not more than two hundred fifty dollars.
   3. On a third or any subsequent violation, impose a civil penalty of not more than five hundred dollars.

E. Volunteers of political subdivisions who are not working under the immediate supervision of a licensed applicator may be subject to section 32-2304, subsection D, paragraph 12.

F. For the purposes of this section, "volunteers of political subdivisions" means persons who work without compensation other than reimbursement of actual expenses incurred or disbursement of meals or other incidental benefits.

32-2312. Applicator licenses; application; categories; renewal; inactive licenses

A. An application for an applicator license shall be in a form prescribed by the acting director and accompanied by the prescribed fee. The application shall set forth whether the applicant has ever been convicted of a felony and, if so, the nature of the felony, when and where it was committed and the disposition of the conviction.

B. An applicant may apply for a license in any one or a combination of the following categories:
   1. General and public health pest management, excluding management of wood-destroying insects, wood-destroying insect inspection, antimicrobial pest management, fungi inspection, right-of-way and weed management, fumigation, aquatic pest management and turf and ornamental horticulture pest management.
   3. Right-of-way and weed management.
   4. Fumigation.
   5. Turf and ornamental horticulture pest management.
   6. Antimicrobial pest management.
   7. Fungi inspection.
   8. Wood-destroying insect inspection.
California Healthy Schools Act

EDUCATION CODE
SECTION 17608-17613

17608. This article and Article 17 (commencing with Section 13180) of Chapter 2 of Division 7 of the Food and Agricultural Code shall be known and cited as the Healthy Schools Act of 2000.

17609. The definitions set forth in this section govern the construction of this article unless the context clearly requires otherwise:

(a) "Antimicrobial" means those pesticides defined by the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136(mm)).

(b) "Crack and crevice treatment" means the application of small quantities of a pesticide consistent with labeling instructions in a building into openings such as those commonly found at expansion joints, between levels of construction and between equipment and floors.

(c) "Emergency conditions" means any circumstances in which the school designee or a property owner of a property where a privately operated child day care facility is located, or the property owner's agent, deems that the immediate use of a pesticide is necessary to protect the health and safety of pupils, staff, or other persons, or the schoolsite.

(d) "School designee" means the individual identified by a schoolsite or school district to carry out the requirements of this article at the schoolsite.

(e) "Schoolsite" means any facility used as a child day care facility, as defined in Section 1596.750 of the Health and Safety Code, or for kindergarten, elementary, or secondary school purposes. The term includes the buildings or structures, playgrounds, athletic fields, vehicles, or any other area of property visited or used by pupils. "Schoolsite" does not include any postsecondary educational facility attended by secondary pupils or private kindergarten, elementary, or secondary school facilities. For child day care
facilities, the State Department of Social Services shall serve as the liaison to these facilities, as needed.

17610. (a) It is the policy of the state that effective least toxic pest management practices should be the preferred method of managing pests at schoolsites and that the state, in order to reduce children's exposure to toxic pesticides, shall take the necessary steps, pursuant to Article 17 (commencing with Section 13180) of Chapter 2 of Division 7 of the Food and Agricultural Code, to facilitate the adoption of effective least toxic pest management practices at schoolsites. It is the intent of the Legislature to encourage appropriate training to be provided to school personnel involved in the application of a pesticide at a schoolsite.

(b) (1) A property owner of a property where a child day care facility is located, or the property owner's agent, who personally applies any pesticides on any area listed in paragraph (2) shall provide notice to the child day care facility as described in paragraph (3) at least 120 hours before the application, unless an emergency condition, as defined in Section 17609, exists.

An owner of property on which a child day care facility is located shall be subject to the requirement to provide notice pursuant to this subdivision 30 days after it has received notice from a child day care facility of its presence at the property, unless the property owner, or his or her agent received that notice pursuant to paragraph (1) of subdivision (d) of Section 1597.40 of the Health and Safety Code prior to the effective date of this subdivision in which case the property owner will be subject to the notice requirements on and after the effective date of this subdivision.

(2) This subdivision applies when a property owner or his or her agent intend to personally apply pesticides on any of the following:

(A) Inside the rented premises on which child day care facility is located.

(B) Upon a designated child day care facility playground designated by the property owner.

(C) Upon an area designated for use by the child day care facility.

(D) Upon an area within 10 feet of the perimeter of the child day care facility.
(3) The notice required by paragraph (1) shall include the following:
   (A) The product name.
   (B) The manufacturer's name.
   (C) The active ingredients of each pesticide.
   (D) The United States Environmental Protection Agency's product registration number.
   (E) The intended date of application.
   (F) Those areas of application listed in paragraph (2).
   (G) The reason for application.

(4) A notice of pesticide application provided to a tenant pursuant to subdivision (d) of Section 13186 of the Food and Agricultural Code shall satisfy the notice requirements of this section.

(5) If the child day care facility ceases to operate on the property, the provisions of this act shall no longer apply to the property.

17610.1. (a) (1) The use of a pesticide on a schoolsite is prohibited if that pesticide is granted a conditional registration, an interim registration, or an experimental use permit by the Department of Pesticide Regulation, or if the pesticide is subject to an experimental registration issued by the United States Environmental Protection Agency, and either of the following is applicable:
   (A) The pesticide contains a new active ingredient.
   (B) The pesticide is for a new use. This paragraph does not apply to a conditionally registered pesticide that is approved for other uses that has fulfilled all registration requirements that relate to human health, including, but not limited to, the completion of mandatory health effect studies pursuant to the Birth Defect Prevention Act of 1984 (Art. 14 (commencing with Sec. 13121), Ch. 2, Div. 7, F. & A.C.). The requirements of this section are not intended to impose any new labeling requirements.

(2) The use of a pesticide on a schoolsite is prohibited if the Department of Pesticide Regulation cancels or suspends registration, or requires phase out of use, of that pesticide.

(b) Vendors or manufacturers of pesticides that are prohibited for
use on a schoolsite pursuant to subdivision (a) are prohibited from furnishing those pesticides to school districts or schoolsites either by sale or by gift.

(c) This section does not apply to public health pesticides or antimicrobial pesticides registered pursuant to Section 12836 of the Food and Agricultural Code.

17610.5. Sections 17611 and 17612 shall not apply to a pesticide product deployed in the form of a self-contained bait or trap, to gel or paste deployed as a crack and crevice treatment, to any pesticide exempted from regulation by the United States Environmental Protection Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.), or to antimicrobial pesticides, including sanitizers and disinfectants.

17611. Each schoolsite shall maintain records of all pesticide use at the schoolsite for a period of four years, and shall make this information available to the public, upon request, pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). A schoolsite may meet the requirements of this section by retaining a copy of the warning sign posted for each application required pursuant to Section 17612, and recording on that copy the amount of the pesticide used.

17612. (a) The school designee shall annually provide to all staff and parents or guardians of pupils enrolled at a schoolsite a written notification of the name of all pesticide products expected to be applied at the schoolsite during the upcoming year. The notification shall identify the active ingredient or ingredients in each pesticide product. The notice shall also contain the Internet address used to access information on pesticides and pesticide use reduction developed by the Department of Pesticide Regulation pursuant to Section 13184 of the Food and Agricultural Code and may contain other information deemed necessary by the school designee. No other
written notification of pesticide applications shall be required by this act except as follows:

(1) In the written notification provided pursuant to this subdivision, the school designee shall provide the opportunity for recipients to register with the schoolsite if they wish to receive notification of individual pesticide applications at the schoolsite. Persons who register for notification shall be notified of individual pesticide applications at least 72 hours prior to the application. The notice shall include the product name, the active ingredient or ingredients in the product, and the intended date of application.

(2) If a pesticide product not included in the annual notification is subsequently intended for use at the schoolsite, the school designee shall, consistent with this subdivision and at least 72 hours prior to application, provide written notification of its intended use.

(b) The school designee shall make every effort to meet the requirements of this section in the least costly manner. Annual notification by a school district to parents and guardians shall be provided pursuant to Section 48980.3. Any other notification shall, to the extent feasible and consistent with the act adding this article, be included as part of any other written communication provided to individual parents or guardians. Nothing in this section shall require the school designee to issue the notice through first-class mail, unless he or she determines that no other method is feasible.

(c) Pest control measures taken during an emergency condition as defined in Section 17609 shall not be subject to the requirements of paragraphs (1) and (2) of subdivision (a). However, the school designee or property owner shall make every effort to provide the required notification for an application of a pesticide under emergency conditions.

(d) The school designee shall post each area of the schoolsite where pesticides will be applied with a warning sign. The warning sign shall prominently display the term "Warning/Pesticide Treated Area" and shall include the product name, manufacturer's name, the United States Environmental Protection Agency's product registration number, intended date and areas of application, and reason for the pesticide application. The warning sign shall be visible to all persons entering the treated area and shall be posted 24 hours prior to the application and remain posted until 72 hours after the
application. In case of a pest control emergency, the warning sign shall be posted immediately upon application and shall remain posted until 72 hours after the application.

(e) Subdivisions (a) and (d) shall not apply to schools operated by the Division of Juvenile Justice. The school administrator of a school operated by the Division of Juvenile Justice shall notify the chief medical officer of that facility at least 72 hours prior to application of pesticides. The chief medical officer shall take any steps necessary to protect the health of pupils in that facility.

(f) This section and Section 17611 shall not apply to activities undertaken at a school by participants in the state program of agricultural vocational education, pursuant to Article 7 (commencing with Section 52450) of Chapter 9 of Part 28, if the activities are necessary to meet the curriculum requirements prescribed in Section 52454. Nothing in this subdivision relieves schools participating in the state program of agricultural vocational education of any duties pursuant to this section for activities that are not directly related to the curriculum requirements of Section 52454.

(g) Sections 17610 to 17612, inclusive, shall not apply to family day care homes or property owners of day care homes, as defined in Section 1596.78 of the Health and Safety Code, or their agents who personally apply any pesticides.

(h) If pesticide is applied by a property owner or his or her agent, or by a pest control operator, failure to provide notice pursuant to subdivision (b) of Section 17610 or subdivision (d) of Section 13186 of the Food and Agricultural Code shall relieve a privately operated child day care facility from the requirements of this section.

17613. Section 17612 shall not apply to any agency signatory to a cooperative agreement with the State Department of Health Services pursuant to Section 116180 of the Health and Safety Code.

**FOOD AND AGRICULTURAL CODE**

**SECTION 13180-13188**

13180. This article, Article 4 (commencing with Section 17608) of
Chapter 5 of Part 10.5 of the Education Code, and Article 2 (commencing with Section 105500) of Chapter 7 of Division 103 of the Health and Safety Code, shall be known and may be cited as the Healthy Schools Act of 2000.

13181. Notwithstanding any other provision of law, for purposes of this article, "integrated pest management" means a pest management strategy that focuses on long-term prevention or suppression of pest problems through a combination of techniques such as monitoring for pest presence and establishing treatment threshold levels, using nonchemical practices to make the habitat less conducive to pest development, improving sanitation, and employing mechanical and physical controls. Pesticides that pose the least possible hazard and are effective in a manner that minimizes risks to people, property, and the environment, are used only after careful monitoring indicates they are needed according to preestablished guidelines and treatment thresholds. This definition shall apply only to integrated pest management at school facilities and child day care facilities.

13182. It is the policy of the state that effective least toxic pest management practices should be the preferred method of managing pests at schoolsites and that the state, in order to reduce children's exposure to toxic pesticides, shall take the necessary steps, pursuant to this article, to facilitate the adoption of effective least toxic pest management practices at schoolsites. It is the intent of the Legislature to encourage appropriate training to be provided to school personnel involved in the application of pesticide at a schoolsite.

13183. (a) The Department of Pesticide Regulation shall promote and facilitate the voluntary adoption of integrated pest management programs for schoolsites, excluding privately-operated child day care facilities, as defined in Section 1596.750 of the Health and Safety Code, that voluntarily choose to do so. For these schoolsites, the department shall do all of the following:
(1) Establish an integrated pest management program for schoolsites consistent with Section 13181. In establishing the program, the department shall:

(A) Develop criteria for identifying least-hazardous pest control practices and encourage their adoption as part of an integrated pest management program at each schoolsite.

(B) Develop a model program guidebook that prescribes essential program elements for schoolsites that have adopted a least-hazardous integrated pest management program. At a minimum, this guidebook shall include guidance on all of the following:

(i) Adopting an IPM policy.

(ii) Selecting and training an IPM coordinator.

(iii) Identifying and monitoring pest populations and damage.

(iv) Establishing a community-based school district advisory committee.

(v) Developing a pest management plan for making least-hazardous pest control choices.

(vi) Contracting for integrated pest management services.

(vii) Training and licensing opportunities.

(viii) Establishing a community-based right-to-know standard for notification and posting of pesticide applications.

(x) Recordkeeping and program review.

(2) Make the model program guidebook available to schoolsites and establish a process for systematically updating the guidebook and supporting documentation.

(b) The department shall promote and facilitate the voluntary adoption of integrated pest management programs at child day care facilities, as defined in Section 1596.750 of the Health and Safety Code, through the following:

(1) Modifying the department's existing integrated pest management program for schoolsites as described in subdivision (a) of Section 13183 for the child day care setting.

(2) Creating or modifying existing educational and informational materials on integrated pest management for the child day care setting.

(3) Making the materials available to child day care facilities and establishing a process for systematically updating them.
13184. (a) In implementing Section 13183, the department shall establish and maintain an Internet website as a comprehensive directory of resources describing and promoting least-hazardous practices at schoolsites. The website shall also make available an electronic copy of the model program guidebook, its updates, and supporting documentation. The department shall also establish and maintain on its website an easily identified link that provides the public with all appropriate information regarding the public health and environmental impacts of pesticide active ingredients and ways to reduce the use of pesticides at school facilities.

(b) It is the intent of the Legislature that the state assist school districts to ensure that compliance with Section 17612 of the Education Code is simple and inexpensive. The department shall include in its website Internet-based links that allow schools to properly identify and list the active ingredients of pesticide products they expect to be applied during the upcoming year. Use of these links by schools is not mandatory but shall be made available to all schools at no cost. The department shall ensure that adequate resources are available to respond to inquiries from school facilities or districts regarding the use of integrated pest management practices.

13185. (a) The department shall establish an integrated pest management training program in order to facilitate the adoption of a model IPM program and least-hazardous pest control practices by schoolsites. In establishing the IPM training program, the department shall do all of the following:

(1) Adopt a "train-the-trainer" approach, whenever feasible, to rapidly and broadly disseminate program information.

(2) Develop curricula and promote ongoing training efforts in cooperation with the University of California and the California State University.

(3) Prioritize outreach on a regional basis first and then to school districts. For outreach to child day care facilities, the department shall participate in existing trainings that provide opportunities for disseminating program information broadly on a regional basis.

(b) Nothing in this article shall preclude a schoolsite from
adopting stricter pesticide use policies.

13186. (a) The Legislature finds and declares that the Department of Pesticide Regulation, pursuant to Section 12979 of the Food and Agricultural Code and Sections 6624 and 6627 of Title 3 of the California Code of Regulations, requires persons engaged for hire in the business of pest control to maintain records of pesticide use and report a summary of that pesticide use to the county agricultural commissioner or director. The Legislature further finds and declares that it is in the interest of the state, in implementing a school integrated pest management program pursuant to this article, to collect specified information on the use of pesticides at schoolsites.

(b) The Department of Pesticide Regulation shall prepare a school pesticide use form to be used by licensed and certified pest control operators when they apply any pesticides at a schoolsite. The form shall include, for each application at a schoolsite, the name and address of the schoolsite, date and location of application, pesticide product name, and the quantity of pesticide used. Nothing in this section shall change any existing applicable pesticide use reporting requirements.

(c) Persons who are required to submit pesticide use records to the county agricultural commissioner or director shall complete and submit to the director the school pesticide use forms established pursuant to this section. The forms shall be submitted annually and may be submitted more often at the discretion of the pest control operator maintaining the forms. Child day care facilities, excluding family day care homes, as defined in Section 1596.78 of the Health and Safety Code, which are subject to the Healthy Schools Act of 2000, shall inform contractors hired to apply pesticides at the schoolsite that the facility must comply with the Healthy Schools Act of 2000.

(d) Any person who is hired to apply pesticides at a child day care facility, excluding family day care homes, as defined in Section 1596.78 of the Health and Safety Code, shall provide that facility's school designee with all of the following information at least 120 hours in advance of any pesticide application, except in the case of an emergency condition, as defined in Section 17609 of the Education
Code:
(1) The pesticide product name.
(2) The pesticide manufacturer's name.
(3) The United States Environmental Protection Agency's product registration number.
(4) The active ingredient or ingredients in the pesticide product.
(5) The areas of application.
(6) The intended date of application.
(7) The reason for the pesticide application.
(e) If a person hired to apply pesticides contracts directly with the property owner or his or her agent rather than directly with the child day care facility, excluding family day care homes, as defined in Section 1596.78 of the Health and Safety Code, the property owner or his or her agent must notify the contractor that a child day care facility is being operated on the property at which the pesticides are to be applied to enable the contractor to comply with subdivision (d).

13187. Section 13186 shall not apply to any agency signatory to a cooperative agreement with the State Department of Health Services pursuant to Section 116180 of the Health and Safety Code.

13188. The Director of Pesticide Regulation may adopt regulations to implement this article.

California Code of Regulations

6147. Exempted Pesticide Products.

(a) Manufacturers of, importers of, and dealers in the following pesticide products or classes of pesticide products are exempt from the requirements of Division 7 of the Food and Agricultural Code, provided the pesticide products are exempt pursuant to section 25(b)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. sec. 136w(b)(2)]:

(1) Pheromones and identical or substantially similar compounds labeled for use only in pheromone traps (or labeled for use in a manner which the
Director determines poses no greater risk of adverse effects on the environment than use in pheromone traps), and pheromone traps in which those compounds are the sole active ingredient(s), as specified in 40 Code of Federal Regulations 152.25(b).

(2) Preservatives for biological specimens, including:

(A) Embalming fluids;

(B) Products used to preserve animal or animal organ specimens, in mortuaries, laboratories, hospitals, museums and institutions of learning; and

(C) Products used to preserve the integrity of milk, urine, blood, or other body fluids for laboratory analysis.

(3) Products consisting of foods that are used to attract pests and which contain no active ingredient(s).

(4) (A) Natural cedar blocks, chips, shavings, balls, chests, drawer liners, paneling, and needles that meet all of the following criteria:

1. The product consists totally of cedar wood or natural cedar.

2. The product is not treated, combined, or impregnated with any additional substance(s).

3. The product bears claims or directions for use solely to repel arthropods other than ticks or to retard mildew, and no additional claims are made in sale or distribution. The labeling must be limited to specific arthropods, or must exclude ticks if any general term such as "arthropods," "insects," "bugs," or any other broad inclusive term is used.

(B) The exemption does not apply to natural cedar products claimed to repel ticks. The exemption also does not apply to cedar oil, or formulated products, which contain cedar oil, other cedar extracts, or ground cedar wood as part of a mixture.

(5)(A) Products containing the following active ingredients alone or in combination with other substances listed in paragraph (5)(A), provided that all the criteria specified in paragraphs (5)(C) and (5)(D) are met:

Castor oil (U.S.P. or equivalent)
Cedar Oil ¹
Cinnamon
Cinnamon oil ¹
Citric acid ¹
Citronella (non-topical uses only)
Citronella oil (non-topical uses only)
Clove oil ¹, ²
Corn gluten meal
Corn oil
Cottonseed oil
Dried blood
Eugenol ¹, ²
Garlic
Garlic oil ¹
Geraniol ²
Geranium oil ²
Lauryl sulfate ¹
Lemongrass oil ¹
Linseed oil
Malic acid ¹
Mint
Mint oil ¹
Peppermint ²
Peppermint oil \(^1,^2\)
2-Phenethyl propionate (2-phenylethyl propionate) \(^1\)
Potassium sorbate \(^1\)
Putrescent whole egg solids
Rosemary \(^2\)
Rosemary oil \(^1,^2\)
Sesame (includes ground sesame plant)
Sesame oil
Sodium chloride (common salt)
Sodium lauryl sulfate \(^1,^2\)
Soybean oil
Thyme \(^2\)
Thyme oil \(^1,^2\)
White pepper \(^1\)

Zinc metal strips (consisting solely of zinc metal and impurities)

\(^1\) Products containing 8.5% or more of this active ingredient in the formulated product must at a minimum bear the signal word "CAUTION," the phrase "Keep Out of Reach of Children," appropriate precautionary language, and a requirement for appropriate protective eyewear and gloves.

\(^2\) Products containing this active ingredient intended for topical application to human skin must at a minimum bear the signal word "CAUTION," the phrase "Keep Out of Reach of Children," a dermal sensitization precautionary statement, a prohibition against application to the hands of children, and use directions requiring adult supervision during application to children.

(B) Topical use products containing less than or equal to 1 % of the following active ingredients alone or in combination with each other,
provided: the product label carries as a minimum the signal word
"CAUTION," the phrase "Keep Out Of Reach of Children," a dermal
sensitization precautionary statement, a prohibition against application to
the hands of children, and use directions requiring adult supervision during
application to children, and (ii) all the criteria specified in paragraphs (5)(C)
and (5)(D) are met:

Citronella

Citronella oil

(C) A pesticide product exempt under paragraphs (5)(A) and (5)(B) of
subsection (a) may include as inert ingredients only those substances
listed in the U.S. Environmental Protection Agency's most current List 4A
"Inerts of Minimal Concern." U.S. EPA's list of minimal risk inert ingredients
is updated periodically and is published in the Federal Register.

(D) In addition, all of the following conditions must be met for products to
be exempted under subsection (a)(5):

1. Each product containing the substance must bear a label identifying the
name and percentage (by weight) of each active ingredient and the name
of each inert ingredient.

2. The product must not bear claims either to control or mitigate
microorganisms that pose a threat to human health, including but not
limited to disease transmitting bacteria or viruses, or claims to control
insects or rodents carrying specific diseases, including, but not limited to
ticks that carry Lyme disease.

3. The product must not include any false and misleading labeling
statements, including those listed in 40 CFR 156.10(a)(5)(i) through (viii).

(b) Whenever the manufacturer of, importer of, or dealer in any product
 exempted pursuant to this section has factual or scientific evidence of any
adverse effect or risk to human health or the environment that has not
previously been submitted to the department, the manufacturer, importer,
or dealer shall report the evidence to the department within 60 days of
learning of the information.

NOTE: Authority cited: Section 11456, 12781, and 12803, Food and
Agricultural Code.
Reference: Section 12803, Food and Agricultural Code.

6148. Fee for Each Product Submitted for Registration.

(a) The fee for each pesticide product submitted for registration is $750. The fee applies to each:
(1) New pesticide product;
(2) Additional brand name of a pesticide product; and
(3) Pesticide product where there is a change in business ownership of the product.
(b) If the Director returns an incomplete application for product registration to the applicant, the applicant has 180 days from the date the Director initially returned the application to resubmit a complete application without payment of a new registration fee. A new registration fee must accompany applications resubmitted after 180 days from the date the Director returned the application.

NOTE: Authority cited: Sections 12781 and 12812, Food and Agricultural Code.
Reference: Section 12812, Food and Agricultural Code.


(a) In addition to the reporting requirements of section 6627, persons engaged for hire in the business of pest control at a school site and required to maintain pesticide use records pursuant to section 6624 shall report the use of pesticides to the Director. The report shall be submitted, at least annually, by the 30th day following the end of the calendar year.

(b) The report shall be on a Department form, School Site and Child Day Care Facility Pesticide Use Reporting (DPR-ENF-117 Rev. 8/11), hereby incorporated by reference, or in a format approved by the Director. The report shall include the following:

(1) The name and address of the person who, or business/organization which, applied the pesticide(s);
(2) County where the pest control was performed;
(3) Date and time of pesticide use;

(4) Name and address of school site/child day care facility or school site/child day care facility identification number;

(5) Location of application;

(6) Pesticide, including the U.S. Environmental Protection Agency or State registration number which is on the pesticide label, and the amount used.

b) The use of rodenticide baits or insecticide baits that are in any of the following formulations: gel baits, solid baits, granular, or self-contained bait stations that prevent contact with the insecticide or rodenticide. Applications shall only be applied to common areas, in a manner where no physical contact can be made with the pesticide, or units, other than the pesticide sensitive person’s individual dwelling unit. Compliance with the notice of application requirements in sections 10.04 and 10.05 of these rules are still required.


13.01. Any commercial, registered limited commercial, or registered public applicator making a pesticide application in any turf or ornamental category shall post, at the time of application, at least one sign notifying the public of the application.

13.02. The bottom of each notice-of-application sign must project at least 18 inches above the ground and the top of the sign shall be no higher than 48 inches above the ground.

13.03. The sign must be posted on a lawn or yard at the property boundary between two feet and five feet from the sidewalk; if there is no sidewalk, between two and five feet from the road; or, if there is no road, between two and five feet from the property boundary. When landscaping or other conditions would make a sign inconspicuous or illegible if the sign were posted within the distances specified in this paragraph, the sign shall be posted in a similar manner such that it is conspicuous and easily legible to any adult or child entering or passing the property on foot.

13.04. For greenbelts, parks, golf courses, athletic fields, playgrounds, common property of multi-unit residential and commercial properties, or other similar recreational or common property, the signs must be posted immediately adjacent to areas within the property where pesticides have been applied in a manner that is conspicuous and easily legible to any adult or child entering the treated area(s). For applications on a golf course, the applicator shall post a sign at the clubhouse and at the first tee and the tenth tee notifying the public of the application.

13.05. Any commercial, registered limited commercial, or registered public applicator making an aquatic pesticide application in any body of water with any legal public access shall post a sign notifying the public of the application at each place of legal public access.

Part 14. Invoice
CT School Pesticide Use Law


Sec. 10-231a. Pesticide applications at schools: Definitions. As used in sections 10-231b to 10-231d, inclusive, and section 19a-79a, (1) "pesticide" means a fungicide used on plants, an insecticide, a herbicide or a rodenticide, but does not mean a sanitizer, disinfectant, antimicrobial agent or pesticide bait, (2) "lawn care pesticide" means a pesticide registered by the United States Environmental Protection Agency and labeled pursuant to the federal Insecticide, Fungicide and Rodenticide Act for use in lawn, garden and ornamental sites or areas, and (3) "integrated pest management" means use of all available pest control techniques, including judicious use of pesticides, when warranted, to maintain a pest population at or below an acceptable level, while decreasing the use of pesticides.

(P.A. 99-165, S. 1, 6; P.A. 05-252, S. 2; P.A. 06-14, S. 1; 06-196, S. 223.)

History: P.A. 99-165 effective July 1, 1999; P.A. 05-252 added subdivision designators and definitions of "lawn care pesticide" and "integrated pest management", effective January 1, 2006; P.A. 06-14 made a technical change; P.A. 06-196 made technical changes, effective June 7, 2006.


(a) No person, other than a pesticide applicator with supervisory certification under section 22a-54 or a pesticide applicator with operational certification under section 22a-54 under the direct supervision of a supervisory pesticide applicator, may apply pesticide within any building or on the grounds of any school, other than a regional agricultural science and technology education center. This section shall not apply in the case of an emergency application of pesticide to eliminate an immediate threat to human health where it is impractical to obtain the services of any such applicator provided such emergency application does not involve a restricted use pesticide, as defined in section 22a-47.

(b) No person shall apply a lawn care pesticide on the grounds of any public or private preschool or public or private school with students in grade eight or lower, except that (1) on and after January 1, 2006, until July 1, 2010, an application of a lawn care pesticide may be made at a public or private school with students in grade eight or lower on the playing fields and playgrounds of such school pursuant to an integrated pest management plan, which plan (A) shall be consistent with the model pest control management plan developed by the Commissioner of Environmental Protection pursuant to section 22a-66l, and (B) may be developed by a local or regional board of education for all public schools under its control, and (2) an emergency application of a lawn care pesticide may be made to eliminate a threat to human health, as determined by the local health director, the Commissioner of Public Health, the Commissioner of Environmental Protection or, in the case of a public school, the school
superintendent.

(P.A. 99-165, S. 2, 6; P.A. 05-252, S. 3; P.A. 06-14, S. 2; 06-196, S. 224; P.A. 07-168, S. 1; P.A. 08-152, S. 8; 08-170, S. 26; P.A. 09-56, S. 2.)

History: P.A. 99-165 effective July 1, 1999; P.A. 05-252 designated existing language as Subsec. (a) and made a technical change therein, and added Subsec. (b) to prohibit, with certain exceptions, the use of lawn care pesticides on the grounds of a public or private preschool or public or private elementary school, effective January 1, 2006; P.A. 06-14 amended Subsec. (b) to make technical changes; P.A. 06-196 made technical changes in Subsec. (b), effective June 7, 2006; P.A. 07-168 amended Subsec. (b) to extend ban to any school with students grade eight or lower, and to extend end date of when certain applications are permitted to July 1, 2009; P.A. 08-152 and 08-170 amended Subsec. (a) to change "vocational agriculture" to "agricultural science and technology education", effective July 1, 2008; P.A. 09-56 amended Subsec. (b)(1) to extend end date of when certain applications are permitted to July 1, 2010, effective July 1, 2009.

Sec. 10-231c. Pesticide applications at schools without an integrated pest management plan.
(a) As used in this section, "local or regional board of education" means a local or regional board of education that does not have an integrated pest management plan for the schools under its control that is consistent with an applicable model plan provided by the Commissioner of Environmental Protection under section 22a-66l and "school" means a school, other than a regional agricultural science and technology education center, under the control of a local or regional board of education.

(b) On and after July 1, 2000, at the beginning of each school year, each local or regional board of education shall provide the staff of each school and the parents or guardians of each child enrolled in each school with a written statement of the board's policy on pesticide application on school property and a description of any pesticide applications made at the school during the previous school year. Such statement and description shall be provided to the parents or guardian of any child who transfers to a school during the school year. Such statement shall (1) indicate that the staff, parents or guardians may register for prior notice of pesticide applications at the school, and (2) describe the emergency notification procedures provided for in this section. Notice of any modification to the pesticide application policy shall be sent to any person who registers for notice under this section.

(c) On and after July 1, 2000, parents or guardians of children in any school and school staff may register for prior notice of pesticide application at their school. Each school shall maintain a registry of persons requesting such notice. Prior to providing for any application of pesticide within any building or on the grounds of any school, the local or regional board of education shall provide for the mailing of notice to parents and guardians who have registered for prior notice under this section such that the notice is received no later than twenty-four hours prior to such application. Notice shall be given by any means practicable to school staff who have
registered for such notice. Notice under this subsection shall include (1) the name of the active ingredient of the pesticide being applied, (2) the target pest, (3) the location of the application on the school property, (4) the date of the application, and (5) the name of the school administrator, or a designee, who may be contacted for further information.

(d) On and after July 1, 2000, no application of pesticide may be made in any building or on the grounds of any school during regular school hours or during planned activities at any school except that an emergency application may be made to eliminate an immediate threat to human health if (1) it is necessary to make the application during such a period, and (2) such emergency application does not involve a restricted use pesticide, as defined in section 22a-47. No child may enter an area where such application has been made until it is safe to do so according to the provisions on the pesticide label.

(e) On and after July 1, 2000, a local or regional board of education may make an emergency application of pesticide without prior notice under this section in the event of an immediate threat to human health provided the board provides for notice, by any means practicable, on or before the day that the application is to take place to any person who has requested prior notice under this section.

(f) A copy of the record of each pesticide application at a school shall be maintained at the school for a period of five years. Such record shall include the information required under section 22a-66a.

(P.A. 99-165, S. 3, 6; P.A. 08-152, S. 9; 08-170, S. 27.)

History: P.A. 99-165 effective July 1, 1999; P.A. 08-152 and 08-170 amended Subsec. (a) to change "vocational agriculture" to "agricultural science and technology education", effective July 1, 2008.

Sec. 10-231d. Pesticide applications at schools with an integrated pest management plan. (a) As used in this section, "local or regional board of education" means a local or regional board of education which has an integrated pest management plan for the schools under its control that is consistent with an applicable model plan provided by the Commissioner of Environmental Protection under section 22a-66l and "school" means a school, other than a regional agricultural science and technology education center, under the control of a local or regional board of education.

(b) On and after July 1, 2000, at the beginning of each school year, each local or regional board of education shall provide the staff of each school with written guidelines on how the integrated pest management plan is to be implemented and shall provide the parents or guardians of each child enrolled in each school with a statement that shall include a summary of the integrated pest management plan for the school. Such statement shall be provided to the parents or guardian of
any child who transfers to a school during the school year. Such statement shall (1) indicate that
the staff, parents or guardians may register for notice of pesticide applications at the school, and
(2) describe the emergency notification procedures provided for in this section. Notice of any
modification to the integrated pest management plan shall be sent to any person who registers for
notice under this section.

(c) On and after July 1, 2000, parents or guardians of children in any school and school staff may
register for notice of pesticide application at their school. Each school shall maintain a registry of
persons requesting such notice. Notice under this subsection shall include (1) the name of the
active ingredient of the pesticide being applied, (2) the location of the application on the school
property, (3) the date of the application, and (4) the name of the school administrator, or a
designee, who may be contacted for further information.

(d) On and after July 1, 2000, a local or regional board of education shall provide notice, by any
means practicable, to any person who has requested notice under this section on or before the
day that any application of pesticide is to take place at a school. No application of pesticide may
be made in any building or on the grounds of any school during regular school hours or during
planned activities at any school except that an emergency application may be made to eliminate
an immediate threat to human health if (1) it is necessary to make the application during such a
period and (2) such emergency application does not involve a restricted use pesticide, as defined
in section 22a-47. No child may enter an area of such application until it is safe to do so
according to the provisions on the pesticide label.

(e) A copy of the record of each pesticide application at a school shall be maintained at the
school for a period of five years. Such record shall include the information required under
section 22a-66a.

(P.A. 99-165, S. 4, 6; P.A. 08-152, S. 10; 08-170, S. 28.)

History: P.A. 99-165 effective July 1, 1999; P.A. 08-152 and 08-170 amended Subsec. (a) to
change "vocational agriculture" to "agricultural science and technology education", effective July
1, 2008.
CHAPTER 12. PESTICIDES
SUBCHAPTER 1. GENERAL PROVISIONS

§ 1201. Declaration of purpose.
The purposes of this chapter are:
(1) To regulate the sale, use and application of pesticides in the interest of the overall public welfare;
(2) To protect the consumer by requiring that pesticides sold in this State be correctly labeled with warnings and adequate directions for use; and
(3) To restrict the use of any pesticides which are found to be so hazardous to man or to his environment that restrictions are necessary in the overall public interest, weighing the benefits and the risks of that use.

§ 1202. Definitions.
For the purposes of this chapter:
(1) "Active ingredient" means:
   a. In the case of pesticides other than a plant regulator, defoliant or desiccant, an ingredient which will prevent, destroy, repel or mitigate insects, mites, nematodes, fungi, rodents, weeds or other pests;
   b. In the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the produce thereof;
   c. In the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from the plant; or
   d. In the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

(2) "Adulterated" shall apply to any pesticide if its strength or purity falls below the standard of quality expressed on labeling under which it is sold, or if any substance has been substituted wholly or in part for the article, or if any valuable constituent of the article has been wholly or in part abstracted.

(3) "Animal" means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish and shellfish.

(4) "Applicators":
   a. "Certified applicator" means any individual who is certified under this chapter to use or supervise the use of any pesticide which is classified for restricted use.
   b. "Private applicator" means a certified applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or his employer or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person.
   c. "Commercial applicator" means a certified applicator (whether or not he is a private applicator with respect to some uses) who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on any property other than as provided by paragraph b. of this subdivision. The Secretary may by regulation declare certain types of applicators, who use or supervise the use of any pesticide on property owned or rented by the applicator or the applicator's employer, to be commercial applicators.
   d. "Under the direct supervision of a certified applicator" means unless otherwise prescribed by its labeling, a pesticide shall be considered to be applied under the direct supervision of a certified applicator if it is applied by a competent person acting under the instructions and control of a certified applicator who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied.

(5) "Committee" means the Pesticide Advisory Committee.

(6) "Defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.
20.1.3 The term "dealership" means any site owned or operated by a restricted use pesticide dealer where any restricted use pesticide is made available for use, or where the dealer offers to make available for use any such pesticide.

20.2 Effective December 31, 1990, no person shall make available for use any restricted use pesticide unless that person has a valid Dealer Permit issued by the Department.

20.3 A separate Dealer Permit shall be required for each dealership owned or operated by the restricted use pesticide dealer.

20.4 Issuance of a Dealer Permit:

20.4.1 Application for a Dealer Permit shall be made in writing to the Department on a designated form obtained from the Department.

20.4.2 The Department shall issue a Dealer Permit to an applicant upon payment of a fee of $25.00 for a calendar year or any part of a calendar year.

20.4.3 All permits shall remain in full force and effect until December 31st of each year whereupon they shall become invalid unless renewed, except that a permit for which a renewal application has been submitted to the Department by November 30th shall remain in full force and effect until such time as the Department gives written notice to the permit holder of renewal or denial.

20.5 A restricted use pesticide dealer is responsible for the acts of his employees in the solicitation and sale of all pesticides and all claims and recommendations for the use of pesticides.

20.6 A dealer permit is not transferable.

20.7 The Department, in addition to any penalties authorized by the Law, may deny, suspend, or revoke the application or permit of a restricted use pesticide dealer if he has failed to comply with any provisions of the Law or any rules and regulations promulgated thereunder.

21.0 Institutional and Maintenance Pesticide Use Restrictions

21.1 For the purposes of these regulations, the following definitions shall apply:

"General use pesticide" shall include all pesticides as defined by 3 Del.C. §1202(27), with the following exceptions:

Any Restricted Use Pesticides, as defined by 3 Del.C. §1202 (30);

Any State Restricted Use Pesticide, as defined by 3 Del.C. §1202 (31);

Any anti-microbial pesticide used for controlling bacteria, viruses, or other microorganisms.

"School" shall mean a completed structure utilized as a public or private school, grades kindergarten through post graduate.

"Apartment building" shall mean a building that contains four or more dwelling units that are rented primarily for nontransient, permanent dwelling purposes, with rental paid by intervals of at least one week.

"Nursing home" shall have the same meaning assigned by 16 Del.C. §1101.

"Hospital" shall have the same meaning assigned by 16 Del.C. §1001 (1).

"Child day-care center" shall mean a facility, other than a school as defined elsewhere herein, which provides care, education, supervision and guidance on a regular basis for children. Services are provided for part of the 24 hour day, unattended by parent or guardian, and for compensation. Provided, nevertheless, that "child day-care center" shall not include any such facility which is operated within a private home.

"Private home" shall mean a non-public residence such as a house, duplex, townhouse, apartment, or mobile home where the provider of child day-care services lives and has control over the furnishings and use of space. An individual unit in public housing and university housing complexes is considered a private home.

"Institutional and Maintenance applicator" means any person who: operates or maintains a school, apartment building, nursing home, hospital or child day-care center, or is an employee of a school, apartment building, nursing home, hospital, or child day-care center; and who applies general use pesticides inside the school, apartment building, nursing home, hospital, or child day-care center.

21.2 A person certified as an Institutional and Maintenance applicator may not engage in the business of pest control outside the scope of their employment at a school, apartment building, nursing home, hospital, or child day-care center, unless the person becomes certified as otherwise provided by the Law.
(i) The skull and crossbones;

(ii) The word "poison" prominently in red on a background of distinctly contrasting color; and

(iii) A statement of a practical treatment (first aid or otherwise) in case of poisoning by the pesticide.

(v) The term "nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts; may also be called nemas or eelworms.

(w) The term "person" means any individual, partnership, association, corporation, company, joint stock association, or any organized group of people whether incorporated or not, and includes any trustee, receiver, or assignee.

(x) The term "pest" means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism (except viruses, bacteria, or other microorganisms on or in living man or other living animals) which commonly is considered to be detrimental to man or his interests or which the Mayor may declare to be detrimental.

(y) The term "pesticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

(z) The term "pesticide applicator" means an individual who is a (1) commercial applicator; (2) private applicator; (3) public applicator; or (4) registered employee.

(aa) The term "pesticide dealer" means any person who distributes to the ultimate user restricted use pesticides or any pesticide whose use or distribution are further restricted by the Mayor.

(bb) The term "pesticide operator" means (1) any person who owns or manages a pesticide application business in which pesticides are applied upon the lands of another for hire or compensation; or (2) except as otherwise provided under the definition of "private applicator" the owner or manager of any commercial firm, business, corporation, or private institution, who directly or through his employees uses restricted use pesticides on property owned, managed, or leased by such commercial firm, business, corporation, or private institution; or (3) any District or other governmental agency whose officials or employees apply pesticides as part of their normal duties.

(cc) The term "plant regulator" means any substance or mixture of substances, intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments. Also, it shall not be required to include any of such of those nutrient mixtures or soil amendments as are commonly known as vitamin-hormone horticultural products, intended for improvement, maintenance, survival, health, and propagation of plants, and as are not for pest destruction and are nontoxic, nonpoisonous in the undiluted packaged concentration.

(dd) The term "private applicator" means any individual who uses any restricted use pesticide for purposes of producing any agricultural commodity on property owned or rented by him or his employer or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person.

(ee) The term "public applicator" means a commercial applicator who is an employee of the District or of a governmental agency who is authorized to use or supervise the use of pesticides.
§ 8-403.03. Signs posted for exterior application.

(a) Any person applying pesticides to a lawn or to exterior landscape plants shall post at the time of application a sign containing a uniform statement approved by the Mayor.

(b) The sign shall remain for 48 hours following the pesticide application, after which time the property owner shall be responsible for the removal of the sign.

(c) The sign shall be clearly visible:

(1) From the principal places of access to the property; and

(2) On the portion of the property where the pesticide is applied.

after each such reinspection or retreatment, a signed report indicating the presence or absence of wood-
destroying organisms covered by the contract, whether retreatment was made, and the common or brand
name of the pesticide used. Such report need not be on a form prescribed by the department. A person may
not perform periodic reinspections or retreatments unless she or he has an identification card issued under
s. 482.091(9).

(4) When a wood-destroying organism inspection is provided in accordance with subsection (1), the licensee
shall post notice of such inspection immediately adjacent to the access to the attic or crawl area or other
readily accessible area of the property inspected. This notice must be at least 3 inches by 5 inches in size
and must consist of a material that will last at least 3 years. It is a violation of this chapter for anyone other
than the property owner to remove such notice at any time. The licensee’s name and address and the date
of inspection must be stated on the notice.

(5) In addition to the notice required by subsection (4), any licensee who performs control of any wood-
destroying organism shall post notice of such treatment immediately adjacent to the access to the attic or
crawl area or other readily accessible area of the property treated. This notice must be at least 3 inches by
5 inches in size and must consist of a material that will last at least 3 years. It is a violation of this chapter
for anyone other than the property owner to remove such notice at any time. The licensee’s name and
address, the date of treatment, the name of the pesticide used, and the wood-destroying organism for which
treatment was performed must be stated on the notice. The contract for treatment between the licensee
and the consumer must state the location of such notice.

(6) Any licensee that performs wood-destroying organism inspections in accordance with subsection (1)
must meet minimum financial responsibility in the form of errors and omissions (professional liability)
insurance coverage or bond in an amount no less than $500,000 in the aggregate and $250,000 per
occurrence, or demonstrate that the licensee has equity or net worth of no less than $500,000 as determined
by generally accepted accounting principles substantiated by a certified public accountant’s review or
certified audit. The licensee must show proof of meeting this requirement at the time of license application
or renewal thereof.

History.—s. 18, ch. 78-292; s. 2, ch. 81-318; ss. 12, 14, 15, ch. 82-229; s. 98, ch. 83-218; s. 1, ch. 85-335; s.
16, ch. 89-180; ss. 51, 59, ch. 92-203; s. 436, ch. 97-103; s. 6, ch. 2011-192; s. 12, ch. 2011-206.

482.2265 Consumer information; notice of application of pesticide.—

(1) Any person, partnership, firm, corporation, or other business entity that is licensed or certified under
this chapter to engage in the business of pest control, or any other person who is a limited certificateholder
under this chapter, shall, upon request, provide a customer of its pest control services with the following
information:

(a) The business name of the licensee or certificateholder or the name of the limited certificateholder.

(b) The identification card number of the person applying the pesticide or, if a limited certificateholder,
the name of that person.
(c) The common or brand name of the pesticide to be used and the common name of the active ingredient in that pesticide.

(d) Appropriate safety information pertaining to the pesticide product to be used, as provided on the label for that product.

(2) Any person who is licensed or certified under this chapter, including any person who is a limited certificateholder, shall post a notice in a conspicuous location at the time of application of a pesticide to a lawn or to exterior foliage. The department shall provide for the wording and physical makeup of such notice by rule, but the notice must:

(a) Be at least 4 inches by 5 inches in size;
(b) Be constructed of rigid, durable weatherproof material;
(c) Have a background and lettering of contrasting colors; and
(d) Clearly set forth the business name of the licensee or name of the limited certificateholder making the pesticide application.

The notice may be made part of a larger sign containing additional information, but the department may not require a sign larger than 4 inches by 5 inches unless the licensee or limited certificateholder seeks to include additional information on the sign.

History.—ss. 17, 18, ch. 89-180; ss. 1, 2, ch. 89-198; ss. 52, 59, ch. 92-203; s. 1, ch. 95-317.

482.2267 Registry of persons requiring prior notification of the application of pesticides.—

(1) The department shall maintain a current registry of persons requiring prior notification of the application of pesticides. Upon request, the department shall register any person who pays an initial registration fee of $50 and submits to the department a certificate signed by a physician licensed pursuant to chapter 458, stating:

(a) That the physician has examined the person and determined that the placement of the person on the registry for prior notification of the application of a pesticide or class of pesticides is necessary to protect that person’s health;
(b) Whether the physician is board certified by the American Board of Medical Specialties in allergy, toxicology, or occupational medicine;
(c) The distance surrounding the person’s primary residence for which the person requires prior notification of the application of a pesticide or class of pesticides in order to protect the person’s health;
(d) The pesticide or class of pesticides for which the physician has determined that prior notification to the person is necessary to protect the person’s health; and
(e) The license number of the physician.

(2) The distance specified pursuant to paragraph (1)(c) shall be limited to those properties adjacent and contiguous to the person’s primary residence unless the physician is board certified in one of the specialties
management" deals with any aspect of pest management. Example topics would include: inspection (locating and monitoring pests), establishing treatment thresholds, sanitation/habitat modification, trapping, biological and use of pesticides, and pesticide application equipment. "Applicable federal and state laws and rules" deal with any aspect of government regulation of the pest control industry. Example topics would include: reviewing federal FIFRA requirements, reviewing or discussing modifications to Chapter 482, F.S., and/or Chapter 5E-14, F.A.C., and reviewing other regulatory agencies or legislative bodies regulations dealing with pesticide use, hazardous waste storage/disposal and/or transportation.

Rulemaking Authority 482.051, 482.091(10) FS. Law Implemented 482.091, 482.151 FS. History—New 6-12-02, Amended 2-24-09.

5E-14.147 Notice of Pesticide Application.
(1) In accordance with Section 482.2265(2), F.S., a notice shall be posted in a conspicuous location at the time of application of a pesticide to a lawn or to exterior foliage. The following example represents the required physical makeup of the notice.

SEE FLORIDA ADMINISTRATIVE CODE FOR "SIGN"

(2) In addition to the example of notice the following requirements shall apply:

(a) Minimum size 4" × 5".

(b) Constructed of rigid durable weatherproof material.

(c) Background and lettering shall be of contrasting color.

(d) The size of print and symbol shall be in conformity with the example.

(e) The business name of the licensee making the pesticide application shall be clearly set forth on the notice.

(f) The notice may be made part of a larger sign containing additional information.

Rulemaking Authority 482.051, 482.2265(2) FS. Law Implemented 482.2265(2) FS., Section 1, Chapter 92-203, Laws of Florida. History—New 10-25-90, Formerly 10D-55.147, Amended 8-11-93.

5E-14.149 Enforcement and Penalties.
(1) List of Penalties. The Department will apply one or more of the following penalties for violation of Chapter 482, F.S., or Chapter 5E-14, F.A.C., or as provided in Section 482.161, F.S.

(a) Denial of an application for licensure or license renewal and/or permits or refusal of a pest control registration, license, and/or permit.

(b) Revocation or Suspension of any license including permits.

(c) Warning Letter.

(d) Probation for a specified period of time not to exceed two years subject to conditions.

(e) Administrative fine not to exceed $5,000 for each violation.

(f) Criminal prosecution by referral to the State Attorney under Sections 775.082 and 775.083, F.S.

(g) Injunctive relief.

(h) Issuance of a Cease and Desist Order, Immediate Stop Use or Stop Work Orders.

(i) Institution of an action under Chapter 501, Part II, Sections 501.204, 207, 2075, 2077, 209, 211, 2105, 212, and 213, F.S., for violations involving deceptive and unfair trade practices where the legal remedies provided under Chapter 501, Part II, F.S., are needed to further protect consumers or recover damages associated with identified violations.

(2) Violation and Repeat Violation. Each and every breach of Chapter 482, F.S., and related rules, or part thereof, is a violation. A repeat violation is a violation for which the person has been previously disciplined within the last three (3) years.

(3) Category of Violations. Minor violations are all violations other than those classified as major violations. Major violations are violations where:

(a) Death or serious bodily harm requiring medical attention to humans or veterinary attention to animals occurs as a result of misuse of a pesticide or mismanagement of another pest control method, and the injury or death is attributable to the misuse or mismanagement.

(b) Misuse of a highly toxic pesticide (Category I, Danger signal word) as established in 40 CFR 156.64(a), is documented and such a misuse could result in death or serious bodily harm to humans or animals, but where the death or injury did not occur.

(c) The licensee, certificate holder, permit holder or applicator causes serious harm to an ecological system, or contamination of
620-6-.04 Control Measures. Amended.

(1) Minimum adequate subterranean termite control treatment for post construction shall include the following:

(a) For pesticide products applied as a comprehensive soil termiticide application consistent with registered label directions:

1. Removal of all cellulosic material from underneath the building and removal of any other debris which would interfere with inspection or treatment in such area.

2. Removal of all wooden contacts between buildings and outside soil, other than those wooden supports which have been treated with preservatives to a minimum preservative retention designed for ground contact. The top of all supports for untreated wooden members shall be no closer than six (6) inches to the soil. In no case shall the minimum clearance between untreated wood and soil be less than six (6) inches. This requirement shall apply only to those situations where wood is exposed and by design is not separated from the outside soil line by anything other than air space. Such clearance shall not apply to sill plates or other wooden members of a structure which may be physically closer to the earth than the required clearance but are by design enclosed by and insulated from the earth by brick, stucco or other construction material.

3. Removal of all wooden contacts between buildings and inside soil, other than those wooden supports which have been treated with preservatives to a minimum preservative retention designed for ground contact. In no case shall the minimum clearance between wood and soil in a crawl space be less than eighteen (18) inches.

4. Removal of all visible accessible termite tunnels.

5. Trenching of soil along the outside and inside of foundation walls and around pillars and other supports to a minimum depth of six (6) inches, but not lower than the top of the footing in contact with the soil. Rodding may be performed from the bottom of the trench to lower depths as required. When the top of any footing is exposed and not in contact with the soil, trenching should not extend below the bottom of the footing.

6. Application of approved termiticide.

(i) Approved termiticides shall be those registered by the United States Environmental Protection Agency (EPA) and/or the Georgia Department of Agriculture. Under no circumstances shall the concentration applied be lower than the minimum nor greater than the maximum concentration specified on the product label for the termiticide as a soil termiticide application. Termiticide applications may be made to a school structure only if children or students are not expected to be present in the school structure for a minimum of three (3) hours after application. If the products label directions specify a longer reentry interval then the longer reentry interval shall apply. In addition to the requirements of Rules 620-3-.02(1)(f) and 620-3-.02(1)(l) all pesticide use records and pesticide use statements for schools shall include the start and completion times, noting AM or PM, for all pesticide applications.

(ii) Rate of application shall be four (4) gallons per ten (10) linear feet per foot of depth from the soil surface to the lesser of either the top of footings or a depth of four (4) feet applied to the trenches and backfill. Soil into which pipes extend from the structure, soil under expansion joints, and soil in any other critical point of potential termite entry must also be treated with the approved termiticide at the above application rate.

Effective 10-1-43
(iii) Measures must be taken to prevent the back siphoning of pesticides and the contamination of public water supplies during dilution and filling operations. Do not apply pesticide while precipitation is occurring in any area where the application would be impacted by the precipitation.

(iv) Precautions must be taken to prevent the contamination of wells or cisterns, in or close to the structure being treated.

7. Drilling of all tile, brick, concrete block or other type cavity walls, chimneys, hollow pillars or other similar structure parts and application of the approved termicide at a rate of two (2) gallons per ten (10) linear feet. Drilling of concrete blocks or other hollow masonry parts shall be made into the large voids only, as opposed to the vertical mortar joints, at horizontal intervals of no more than twelve (12) inches. Application of the termicide shall be made through drill holes no more than eighteen (18) inches above the lowest of the soil or slab surfaces contiguous to the opposite side of the vertical wall. In the case of uncapped hollow parts, the termicide may be applied through the top opening, provided the termicide is released no higher than eighteen (18) inches above the top of the footing.

8. Providing ventilation in soil exposed crawl space at the rate of one standard ventilator (8"x16") per fifteen (15) linear feet, or portion thereof, of foundation wall. Where structural or other conditions dictate, the required ventilators may be placed in only three sides. When an approved vapor barrier has been applied to a minimum of 70 percent of the ground surface in freestanding residential structures of two (2) units or less, only one standard ventilator shall be required in each side of the structure, and if structural or other conditions dictate, the required number of ventilators may be placed in only three sides. Provided, when any limited or restricted crawl space extends from the primary crawl space, creating air stagnation, one standard ventilator (8"x16") shall be installed for each fifteen (15) linear feet, or portion thereof, of foundation wall in such space, not considering the linear feet where such limited or restricted area joins the primary crawl space. When several apartments comprise a single building and each apartment has its own crawl space separated by walls, the total number of ventilators (8"x16") required shall be calculated at the rate of one (1) per fifteen (15) linear feet, or portion thereof, of the outside exposed foundation walls. In such situations, the number of ventilators shall be placed as required in each of the outside foundation walls, with not less than one ventilator in each outside wall. Likewise, similar provisions shall be allowed in multiple condominium units separated by a partition wall or by a firewall.

9. Treatment of the entire inside perimeter walls of all earth filled porches beneath concrete slabs contiguous to the structure with an approved termicide at the rate of four (4) gallons per ten (10) linear feet by one of the following:

(i) Making access openings, by removing a six (6) inch band of soil along the entire inside perimeter walls and applying the termicide in the trench.

(ii) Drilling from the top of the entire perimeter of the slab at intervals of no more than twelve (12) inches and no more than twelve (12) inches from the perimeter wall and applying the termicide.

(iii) Drilling, rodding, and applying the approved termicide from the inside of the foundation at no more than twelve (12) inch intervals along the entire inside perimeter and as close as possible to the lower edge of the slab.

(iv) Drilling, rodding, and applying the approved termicide from the sides of the earth fill along the entire perimeter provided no horizontal rodding distance shall exceed twenty (20) feet.

10. Treatment of all grade level slabs contiguous to the structure with an
approved termiticide at the rate of four (4) gallons per ten (10) linear feet by drilling and applying along the entire distance where slab joins any part of structure at intervals of no more than twelve (12) inches and no more than twelve (12) inches from the structure wall.

11. Treatment of all structures with concrete slabs at or above grade level with an approved termiticide at the rate of four (4) gallons per ten (10) linear feet by one of the following:

(i) Treating from the inside by drilling through from the top of the slab and applying the approved termiticide at intervals of no more than twelve (12) inches and no more than twelve (12) inches from the outside edge of slab along the entire perimeter and at all other points of potential termite entry through the slab. After such application all holes shall be securely sealed to prevent any upward movement of the termiticide.

(ii) Treating from the outside by rodding and applying termiticide along and under the entire perimeter of the slab by inserting the rod as close as possible to the lower edge of the slab.

12. Treatment of monolithic slabs by trenching and application of the approved termiticide to the soil along the entire perimeter of the slab at the rate of four (4) gallons per ten (10) linear feet and to any openings through the slab.

13. The Commission, at its discretion, may approve any request of an alternate application technique when such application technique will result in an efficacious use of the termiticide to meet the intent of this Chapter. Such approval may be suspended, cancelled or modified at any time by the Commission.

(b) For pesticide products allowing a defined soil treatment consistent with individual product registered label directions:

1. Removal of all cellulosic material from underneath the building and removal of any other debris which would interfere with inspection or treatment in such area.

2. Removal of all wooden contacts between buildings and outside soil other than those wooden supports which have been treated with preservatives to a minimum preservative retention designed for ground contact. The top of all supports for untreated wooden members shall be no closer than six (6) inches to the soil. In no case shall the minimum clearance between untreated wood and soil be less than six (6) inches. This requirement shall apply only to those situations where wood is exposed and by design is not separated from the outside soil line by anything other than air space. Such clearance shall not apply to sill plates or other wooden members of a structure which may be physically closer to the earth than the required clearance but are by design enclosed by and insulated from the earth by brick, stucco or other construction material.

3. Removal of all wooden contacts between buildings and inside crawl space soil, other than those wooden supports which have been treated with preservatives to a minimum preservative retention designed for ground contact. In no case shall the minimum clearance between wood and soil in a crawl space be less than eighteen (18) inches.

5. Application of approved termiticide.

(i) Approved termiticides shall be those registered by the United States Environmental Protection Agency (EPA) and/or the Georgia Department of Agriculture. Termite applications may be made to a school structure only if children or students are not expected to be present in the school structure for a minimum of three (3) hours after application. If the products label directions specify a longer reentry interval then the longer reentry interval shall apply. In addition to the requirements of Rules 620-3-.02(1)(f) and 620-3-.02(1)(l) all pesticide use records and pesticide use statements for schools shall include the start and completion times, noting AM or PM, for all pesticide applications.

(ii) Trenching of soil along the outside foundation walls to a minimum depth of six (6) inches, but not lower than the bottom of the footing in contact with the soil. Rodding may be performed from the bottom of the trench to lower depths as required.

(iii) Treatment of all grade level slabs and earth filled porches beneath concrete slabs that are contiguous to the structure with an approved termiticide by drilling and applying along the entire distance where slab joins any part of structure at intervals of no more than twelve (12) inches and no more than twelve (12) inches from the structure wall.

(iv) Measures must be taken to prevent the back siphoning of pesticides and the contamination of public water supplies during dilution and filling operations. Do not apply pesticide while precipitation is occurring in any area where the application would be impacted by the precipitation.

(v) Precautions must be taken to prevent the contamination of wells or cisterns, in or close to the structure being treated.

6. Providing ventilation in soil exposed crawl space at the rate of one standard ventilator (8"x16") per fifteen (15) linear feet, or portion thereof, of foundation wall. Where structural or other conditions dictate, the required ventilators may be placed in only three sides. When an approved vapor barrier has been applied to a minimum of 70 percent of the ground surface in freestanding residential structures of two (2) units or less, only one standard ventilator shall be required in each side of the structure, and if structural or other conditions dictate, the required number of ventilators may be placed in only three sides. Provided, when any limited or restricted crawl space extends from the primary crawl space, creating air stagnation, one standard ventilator (8"x16") shall be installed for each fifteen (15) linear feet or portion thereof, of foundation wall in such space, not considering the linear feet where such limited or restricted area joins the primary crawl space. When several apartments comprise a single building and each apartment has its own crawl space separated by walls, the total number of ventilators (8"x16") required shall be calculated at the rate of one (1) per fifteen (15) linear feet, or portion thereof, of the outside exposed foundation walls. In such situations, the number of ventilators shall be placed as required in each of the outside foundation walls, with not less than one ventilator in each outside wall. Likewise, similar provisions shall be allowed in multiple condominium units separated by a partition wall or by a firewall.

(c) For pesticide products, other than baits designed for the control of termites, applied for purposes other than as a soil termiticide application and when applied consistent with individual product registered label directions:

1. Removal of all cellulosic material from underneath the building and removal of any other debris which would interfere with inspection or treatment in such area.

2. Removal of all wooden contacts between buildings and outside soil other than
those wooden supports which have been treated with preservatives to a minimum
preservative retention designed for ground contact. The top of all supports for
untreated wooden members shall be no closer than six (6) inches to the soil. In no
case shall the minimum clearance between untreated wood and soil be less than six
(6) inches. This requirement shall apply only to those situations where wood is
exposed and by design is not separated from the outside soil line by anything other
than air space. Such clearance shall not apply to sill plates or other wooden
members of a structure which may be physically closer to the earth than the
required clearance but are by design enclosed by and insulated from the earth by
brick, stucco or other construction material.

3. Removal of all wooden contacts between buildings and inside crawl space soil,
other than those wooden supports which have been treated with preservatives to a
minimum preservative retention designed for ground contact. In no case shall the
minimum clearance between wood and soil in a crawl space be less than eighteen (18)

4. Removal of visible accessible termite tunnels unless specified on the product
label.

5. Application of approved termicide, taking all precautions necessary to
prevent the contamination of wells or cisterns, in or close to the structure being
treated. Unless prohibited by the product’s label directions, all applications of
liquid pesticide applied to the surface of non-decorative or non-finished wood
and/or sheathing shall include a sufficient amount of a dye or marker to readily
indicate the areas that have been treated. Termicide applications may be made to
a school structure only if children or students are not expected to be present in
the school structure for a minimum of three (3) hours after application. If the
products label directions specify a longer reentry interval then the longer reentry
interval shall apply. In addition to the requirements of Rules 620-3-.02(1)(f) and
620-3-.02(1)(l) all pesticide use records and pesticide use statements for schools
shall include the start and completion times, noting AM or PM, for all pesticide
applications.

6. Providing ventilation in soil exposed crawl space at the rate of one standard
ventilator (8"x16") per fifteen (15) linear feet, or portion thereof, of foundation
wall. Where structural or other conditions dictate, the required ventilators may be
placed in only three sides. When an approved vapor barrier has been applied to a
minimum of 70 percent of the ground surface in freestanding residential structures
of two (2) units or less, only one standard ventilator shall be required in each
side of the structure, and if structural or other conditions dictate, the required
number of ventilators may be placed in only three sides. Provided, when any limited
or restricted crawl space extends from the primary crawl space, creating air
stagnation, one standard ventilator (8"x16") shall be installed for each fifteen
(15) linear feet or portion thereof, of foundation wall in such space, not
considering the linear feet where such limited or restricted area joins the primary
crawl space. When several apartments comprise a single building and each apartment
has its own crawl space separated by walls, the total number of ventilators
(8"x16") required shall be calculated at the rate of one (1) per fifteen (15)
linear feet, or portion thereof, of the outside exposed foundation walls. In such
situations, the number of ventilators shall be placed as required in each of the
outside foundation walls, with not less than one ventilator in each outside wall.
Likewise, similar provisions shall be allowed in multiple condominium units
separated by a partition wall or by a firewall.

(d) For pesticide bait products applied for the purpose of controlling termites:

1. Removal of all cellulosic material from underneath the building and removal of
any other debris which would interfere with inspection or treatment in such area.

2. Removal of all wooden contacts between buildings and outside soil, other than
those wooden supports which have been treated with preservatives to a minimum

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preservative retention designed for ground contact. The top of all supports for
untreated wooden members shall be no closer than six (6) inches to the soil. In no
case shall the minimum clearance between untreated wood and soil be less than six
(6) inches. This requirement shall apply only to those situations where wood is
exposed and by design is not separated from the outside soil line by anything other
than air space. Such clearance shall not apply to sill plates or other wooden
members of a structure which may be physically closer to the earth than the
required clearance but are by design enclosed by and insulated from the earth by
brick, stucco or other construction material.

3. Removal of all wooden contacts between buildings and inside crawl space soil,
other than those wooden supports which have been treated with preservatives to a
minimum preservative retention designed for ground contact. In no case shall the
minimum clearance between wood and soil in a crawl space be less than eighteen (18)

4. Removal of visible accessible termite tunnels unless specified on the product
label.

5. All termite baits and baiting systems shall be monitored, consistent with the
products label and labeling directions, for a minimum period of one year at no
additional cost to the property owner when installed for pre-construction
treatments or for treatments to control an infestation found during the coverage
period of an Official Georgia Wood Infestation Inspection Report.

6. Providing ventilation in soil exposed crawl space at the rate of one standard
ventilator (8"x16") per fifteen (15) linear feet, or portion thereof, of foundation
wall. Where structural or other conditions dictate, the required ventilators may be
placed in only three sides. When an approved vapor barrier has been applied to a
minimum of 70 percent of the ground surface in freestanding residential structures
of two (2) units or less, only one standard ventilator shall be required in each
side of the structure, and if structural or other conditions dictate, the required
number of ventilators may be placed in only three sides. Provided, when any limited
or restricted crawl space extends from the primary crawl space, creating air
stagnation, one standard ventilator (8"x16") shall be installed for each fifteen
(15) linear feet or portion thereof, of foundation wall in such space, not
considering the linear feet where such limited or restricted area joins the primary
crawl space. When several apartments comprise a single building and each apartment
has its own crawl space separated by walls, the total number of ventilators
(8"x16") required shall be calculated at the rate of one (1) per fifteen (15)
linear feet, or portion thereof, of the outside exposed foundation walls. In such
situations, the number of ventilators shall be placed as required in each of the
outside foundation walls, with not less than one ventilator in each outside wall.
Likewise, similar provisions shall be allowed in multiple condominium units
separated by a partition wall or by a firewall.

7. Application, inspection or monitoring of tamper resistant termicide bait
systems or termicide bait products in tamper resistant containers may be made to
any school structure or outdoor school grounds anytime students are not present
within twenty (20) feet. If the products label directions specify a reentry interval then the reentry interval shall apply. In addition to the requirements of
Rules 620-3-.02(1)(f) and 620-3-.02(1)(l), all pesticide use records and pesticide
use statements or termicide bait or system monitoring records for schools shall
include the start and completion times, noting AM or PM, for all pesticide
applications.
(2) Minimum adequate subterranean termite control treatments for pre-construction treatments shall include the following:

(a) For pesticide products applied as a soil termiticide application consistent with registered label and labeling directions:

1. Removal of all cellulosic material from underneath the building and removal of any other debris which would interfere with inspection or treatment in such area.

2. Removal of all wooden contacts between buildings and outside soil, other than those wooden supports which are known to have been treated with preservatives to a minimum preservative retention designed for ground contact. The top of all supports for untreated wooden members shall be no closer than six (6) inches to the soil. In no case shall the minimum clearance between untreated wood and soil be less than six (6) inches. This requirement shall apply only to those situations where wood is exposed and by design is not separated from the outside soil line by anything other than air space. Such clearance shall not apply to sill plates or other wooden members of a structure which may be physically closer to the earth than the required clearance but are by design enclosed by and insulated from the earth by brick, stucco or other construction material.

3. Removal of all wooden contacts between buildings and inside crawl space soil, other than those wooden supports which have been treated with preservatives to a minimum preservative retention designed for ground contact. In no case shall the minimum clearance between wood and soil in a crawl space be less than eighteen (18) inches.

4. Providing ventilation in soil exposed crawl space at the rate of one standard ventilator (8"x16") per fifteen (15) linear feet, or portion thereof, of foundation wall. Where structural or other conditions dictate, the required ventilators may be placed in only three sides. When an approved vapor barrier has been applied to a minimum of 70 percent of the ground surface in freestanding residential structures of two (2) units or less, only one standard ventilator shall be required in each side of the structure, and if structural or other conditions dictate, the required number of ventilators may be placed in only three sides. Provided, when any limited or restricted crawl space extends from the primary crawl space, creating air stagnation, one standard ventilator (8"x16") shall be installed for each fifteen (15) linear feet or portion thereof, of foundation wall in such space, not considering the linear feet where such limited or restricted area joins the primary crawl space. When several apartments comprise a single building and each apartment has its own crawl space separated by walls, the total number of ventilators (8"x16") required shall be calculated at the rate of one (1) per fifteen (15) linear feet, or portion thereof, of the outside exposed foundation walls. In such situations, the number of ventilators shall be placed as required in each of the outside foundation walls, with not less than one ventilator in each outside wall. Likewise, similar provisions shall be allowed in multiple condominium units separated by a partition wall or by a firewall.

5. Application of approved termiticide.

(i) Approved termiticides shall be those registered by the United States Environmental Protection Agency (EPA) and/or the Georgia Department of Agriculture. Under no circumstances shall the concentration applied be lower than the minimum nor greater than the maximum concentration specified on the product label for the termiticide used as a soil termiticide application. For each application a separate graph of the structure showing the specific areas treated, including any utility areas, shall be prepared. Such graph shall indicate the linear footage of the structure, total square footage of the structure and the volume applied to each area.
(ii) Rate of application shall be four (4) gallons per ten (10) linear feet per foot of depth from the soil surface to the lesser of either the top of footings or a depth of four (4) feet applied to the trenches and backfill. Soil into which pipes extend from the structure, soil under expansion joints, and soil in any other critical point of potential termite entry must also be treated with an approved termicide at the above application rate. In all treatments, the final termicide application must be completed within ninety (90) days after the earlier of: (1) the granting of a local "certificate of occupancy" or other like certification that the structure is approved for occupancy; (2) the actual occupancy of the structure by owner, tenant, or otherwise; (3) the closing of a permanent loan on the structure; or (4) the completion of backfilling by the building contractor or owner.

(iii) Rate of application shall be two (2) gallons per ten (10) linear feet to all tile, brick, concrete block or other type cavity walls, chimneys, hollow pillars or other similar structure parts.

(iv) Rate of application to the fill under residential slab structures not exceeding two (2) units shall be at the minimum rate of one (1) gallon per ten (10) square feet.

(v) Measures must be taken to prevent the back siphoning of pesticides and the contamination of public water supplies during dilution and filling operations. Do not apply pesticide while precipitation is occurring in any area where the application would be impacted by the precipitation.

(vi) Precautions must be taken to prevent the contamination of wells or cisterns in or close to the structure being treated.

(b) For pesticide products or devices applied for the purpose of controlling termites other than as a soil termicide application:

1. Removal of all cellulosic material from underneath the building and removal of any other debris which would interfere with inspection or treatment in such area.

2. Removal of all wooden contacts between buildings and outside soil, other than those wooden supports which have been treated with preservatives to a minimum preservative retention rate designed for ground contact. The top of all supports for untreated wooden members shall be no closer than six (6) inches to the soil. In no case shall the minimum clearance between untreated wood and soil be less than six (6) inches. This requirement shall apply only to those situations where wood is exposed and by design is not separated from the outside soil line by anything other than air space. Such clearance shall not apply to sill plates or other wooden members of a structure which may be physically closer to the earth than the required clearance but are by design enclosed by and insulated from the earth by brick, stucco or other construction material.

3. Removal of all wooden contacts between buildings and inside soil, other than those wooden supports which have been treated with preservatives to a minimum preservative retention designed for ground contact. In no case shall the minimum clearance between wood and soil in a crawl space be less than eighteen (18) inches.
(i) All certified operators shall be responsible for giving appropriate written or oral instructions to all persons working under their direct supervision relating to selection and use of appropriate pesticides, including proper formulation, dilution, dosages, and use precautions. Every employee shall take all reasonable measures to insure that pesticides are applied in such a manner to avoid accidental injury or poisoning of humans and domestic animals, including, but not limited to, the removal and proper disposal of any spilled pesticide, and the proper disposal of unused pesticides and pesticide containers. All service vehicles shall contain a spill control kit that shall include an adequate amount of absorptive material to absorb the largest potential spill that is likely to occur from the use of that vehicle.

(j) No uncertified person may lawfully apply, under any circumstances, any restricted use pesticide or any State restricted pesticide use when the labeling for such pesticide or pesticide use or other restriction imposed by the Commissioner requires application only by a certified operator.

(k) All applications of pesticides other than pesticide products which are applied in enclosed stations in compliance with registered product label and labeling directions, by a Licensee to outdoor areas when associated with inside structural applications and extending more than ten (10) feet from the structure shall be subject to the following requirements:

1. At the time of application, the Licensee shall be responsible for posting a sign at the primary point(s) of entry to the treated area(s).

2. Sign specifications shall include:

(i) The sign shall be at least 4" x 5" in size and made of sturdy, weather resistant material.

(ii) The printing shall be in contrasting colors to the background of the sign.

(iii) The bottom edge of the sign shall be eight (8) to twelve (12) inches above the ground.

(iv) The wording and format must include but need not be limited to the following:
(1) Upon completion of every application of pesticides for structural pest control and upon the installation or modification thereof of any other termite control system in a structure, the Licensee shall be responsible for leaving at the residence or other structure, or in case of a multi-unit residence or structure, with the owner, manager or custodian of the property, a statement bearing the following information:

1. Address of property treated.

2. Name and telephone number of company.

3. Name of applicator.

4. Specific area(s) treated, including the complete brand name of the pesticide product or system as it appears on the label, amount and concentration of pesticide or other material applied and method of application.

5. Target pest(s) for which applied.

6. Application date.

7. Any post-application precautions which must be followed.
4. Providing ventilation in soil exposed crawl space at the rate of one standard ventilator (8"x16") per fifteen (15) linear feet, or portion thereof, of foundation wall. Where structural or other conditions dictate, the required ventilators may be placed in only three sides. When an approved vapor barrier has been applied to a minimum of 70 percent of the ground surface in freestanding residential structures of two (2) units or less, only one standard ventilator shall be required in each side of the structure, and if structural or other conditions dictate, the required number of ventilators may be placed in only three sides. Provided, when any limited or restricted crawl space extends from the primary crawl space, creating air stagnation, one standard ventilator (8"x16") shall be installed for each fifteen (15) linear feet or portion thereof, of foundation wall in such space, not considering the linear feet where such limited or restricted area joins the primary crawl space. When several apartments comprise a single building and each apartment has its own crawl space separated by walls, the total number of ventilators (8"x16") required shall be calculated at the rate of one (1) per fifteen (15) linear feet, or portion thereof, of the outside exposed foundation walls. In such situations, the number of ventilators shall be placed as required in each of the outside foundation walls, with not less than one ventilator in each outside wall. Likewise, similar provisions shall be allowed in multiple condominium units separated by a partition wall or by a firewall.


6. Application of the approved termicide or device consistent with all product label directions. Unless prohibited by the product's label directions, all applications of liquid pesticide applied to the surface of non-decorative or non-finished wood and/or sheathing shall include a sufficient amount of a dye or marker to readily indicate the areas that have been treated.

(3) Minimum adequate treatment for control or prevention of wood boring beetles, including powder post beetles, wood borers and old house borers, shall include the application of a pesticide registered by EPA and/or the Georgia Department of Agriculture, in strict accordance with the product's registered directions for use. Pesticide applications may be made to a school structure only if children or students are not expected to be present in the school structure for a minimum of three (3) hours after application. If the products label directions specify a longer reentry interval then the longer reentry interval shall apply. In addition to the requirements of Rules 620-3-.02(1)(f) and 620-3-.02(1)(l) all pesticide use records and pesticide use statements for schools shall include the start and completion times, noting AM or PM, for all pesticide applications.

(a) When infestation is located in a crawl space treatment shall include:

(i) Installation of a polyethylene or other water impervious vapor barrier to at least seventy (70) percent of the exposed soil surface in the enclosed space.

(ii) Installation of at least one standard ventilator (8"x16") in each structure side of freestanding residential structures of two (2) units or less. For all other structures one standard ventilator shall be required for each fifteen (15) linear feet or fraction thereof of foundation wall, provided: that in any case where structural or other conditions dictate, the required ventilators may be placed in only three (3) sides. Unusual structural conditions shall be subject to ventilator placement as specified in paragraph 620-6-.04(1)(a)(7).

(4) Minimum adequate treatment for control or prevention of wood destroying fungi shall include the following:

(a) Installation of a polyethylene or other water impervious vapor barrier to a
minimum of seventy (70) percent of the exposed soil surface in the enclosed space.

(b) Installation of at least one standard ventilator (8"x16") in each structure side of freestanding residential structures of two (2) units or less. For all other structures one standard ventilator shall be required for each fifteen (15) linear feet or fraction thereof of foundation wall, provided: that in any case where structural or other conditions dictate, the required ventilators may be placed in only three (3) sides. Unusual structural conditions shall be subject to ventilator placement as specified in paragraph 620-6-.04(1)(a)(7)

(c) Pesticide applications may be made to a school structure only if children or students are not expected to be present in the school structure for a minimum of three (3) hours after application. If the products label directions specify a longer reentry interval then the longer reentry interval shall apply. In addition to the requirements of Rules 620-3-.02(1)(f) and 620-3-.02(1)(1) all pesticide use records and pesticide use statements for schools shall include the start and completion times, noting AM or PM, for all pesticide applications.

(5) Minimum adequate treatment for control of dry wood termites shall include the application of an approved pesticide in strict accordance with the product's registered directions for use, or other such methods or techniques which, to the satisfaction of the Commission, have been demonstrated to be effective in controlling this pest. Pesticide applications may be made to a school structure only if children or students are not expected to be present in the school structure for a minimum of three (3) hours after application. If the products label directions specify a longer reentry interval then the longer reentry interval shall apply. In addition to the requirements of Rules 620-3-.02(1)(f) and 620-3-.02(1)(1) all pesticide use records and pesticide use statements for schools shall include the start and completion times, noting AM or PM, for all pesticide applications.

620-6-.05 Inspection.

(1) The enforcement agency may inspect any property or structure treated or being treated for the control of wood destroying organisms and may collect samples of any treated material including soil to determine if treatment conforms to the Minimum Adequate Subterranean Termite Control as specified in this Chapter. Samples shall be taken as follows and analyzed by methods approved by the Commissioner:

(a) A single unit of use of the pesticide as purchased or a representative sample of the pesticide shall be taken from the original container in which it was purchased.

(b) A minimum of four (4) ounces of the diluted solution or emulsion shall be taken from the tank or sprayer in which the diluted pesticide is stored or from which it is being applied.

(c) A composite sample shall be taken for assay from any soil required to be treated for the control of termites under the provisions of this Chapter to determine if treatment conforms to the minimum requirements, as follows:

   1. A subsample or core shall be taken from each approximately ten (10) linear feet of treated soil or fraction thereof, up to a maximum of thirty (30) cores, along the inside and outside of the foundation wall, along the perimeter of the slab, or from the treated areas around pillars, chimneys and the like. In cases where treated area exceeds 300 linear feet, the thirty (30) cores shall be equally spaced throughout the treated area.
CHAPTER 620-7
HOUSEHOLD PEST CONTROL

620-7-.02 General Requirements. Amended.

(1) Only those pesticides registered with the Environmental Protection Agency and/or the Georgia Department of Agriculture shall be permitted for use in Household Pest Control.

(2) All pesticides shall be used consistent with all directions, instructions and precautions on their labeling.

(3) A Household Pest Control contract shall be issued on all household pest control jobs in accordance with requirements of the Fair Business Practices Act of 1975, and the rules of the Federal Trade Commission, 16 C.F.R. 429, including disclosure by the licensee of the three (3) day right of cancellation. The terms of any contract extension beyond the original terms shall be indicated on the contract.

620-7-.03 Treatment of Schools

(1) All pesticide applications shall be made in a manner that minimizes the exposure of children or students to the pesticide.

(2) Pesticide application may be made to a room only if children or students are not expected to be present in the room for a minimum of three (3) hours after application. If the products label directions specify a longer reentry interval then the longer reentry interval shall apply except as specified in Rule 620-7-.03(3).

(3) Insecticide baits and rodenticide baits in tamper-resistant containers or bait stations as well as botanical insecticides, insect growth regulators and insecticidal soaps may be applied at anytime children or students are not present in a room. No reentry interval is required except if specified by the products label directions. These products may be applied to any open area or multi-purpose room if the area within ten (10) feet of the location is secured and no children or students are present within the secured area during the time of application.

(4) Pesticide applications may be made to outdoor school grounds if children or students are not expected to be present within twenty (20) feet of the application site at the time of application except as specified in Rule 620-7-.03(5). These areas must be clearly marked to discourage entry, and secured by a fence or other similar barrier stating the reentry interval. If the application site is not secured by a fence or other similar barrier, pesticide applications may be made to an outdoor school grounds only if children or students are not expected to be in the area for a minimum of three (3) hours after application. If the products label directions specify a longer reentry interval then the longer reentry interval shall apply except as specified in Rule 620-7-.03(3). Such areas shall be clearly marked to discourage entry. All signs required by this section to discourage entry shall be consistent with the requirements of Rule 620-3-.02(1)(k)2.

(5) Insecticide baits and rodenticide baits in tamper resistant containers or bait stations as well as botanical insecticides, insect growth regulators and insecticidal soaps may be applied to outdoor school grounds anytime children or students are not present in the area. No reentry interval is required except if specified by the products label directions.

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(6) All pesticide use dilutions must be prepared outside child or student occupied areas of buildings.

(7) All contracts for pest control service and all services provided must be consistent with any published pest management policy of that school system, college, university or licensed child daycare facility.

(8) In addition to the requirements of Rules 620-3-.02(1)(f) and 620-3-.02(1)(l) all pesticide use records and pesticide use statements for schools shall include the start and completion times, noting AM or PM, for all pesticide applications.
Sec. 2.09. "Day care center" means any child care facility which regularly provides day care for less than 24 hours per day for (1) more than 8 children in a family home, or (2) more than 3 children in a facility other than a family home, including senior citizen buildings. The term does not include (a) programs operated by (i) public or private elementary school systems or secondary level school units or institutions of higher learning that serve children who shall have attained the age of 3 years or (ii) private entities on the grounds of public or private elementary or secondary schools and that serve children who have attained the age of 3 years, except that this exception applies only to the facility and not to the private entities' personnel operating the program; (b) programs or that portion of the program which serves children who shall have attained the age of 3 years and which are recognized by the State Board of Education; (c) educational program or programs serving children who shall have attained the age of 3 years and which are operated by a school which is registered with the State Board of Education and which is recognized or accredited by a recognized national or multistate educational organization or association which regularly recognizes or accredits schools; (d) programs which exclusively serve or that portion of the program which serves handicapped children who shall have attained the age of 3 years but are less than 21 years of age and which are registered and approved as meeting standards of the State Board of Education and applicable fire marshal standards; (e) facilities operated in connection with a shopping center or service, religious services, or other similar facility, where transient children are cared for temporarily while parents or custodians of the children are occupied on the premises and readily available; (f) any type of day care center that is conducted on federal government premises; (g) special activities programs, including athletics, crafts instruction and similar activities conducted on an organized and periodic basis by civic, charitable and governmental
organizations; (h) part day child care facilities, as defined in Section 2.10 of this Act; or (i) programs or that portion of the program which (1) serves children who shall have attained the age of 3 years, (2) is operated by churches or religious institutions as described in Section 501 (c) (3) of the federal Internal Revenue Code, (3) receives no governmental aid, (4) is operated as a component of a religious, nonprofit elementary school, (5) operates primarily to provide religious education, and (6) meets appropriate State or local health and fire safety standards.

For purposes of (a), (b), (c), (d) and (i) of this Section, "children who shall have attained the age of 3 years" shall mean children who are 3 years of age, but less than 4 years of age, at the time of enrollment in the program.
(Source: P.A. 92-659, eff. 7-16-02.)

(225 ILCS 10/5.6)

Sec. 5.6. Pesticide and lawn care product application at day care centers.
(a) Licensed day care centers shall abide by the requirements of Sections 10.2 and 10.3 of the Structural Pest Control Act.
(b) Notification required pursuant to Section 10.3 of the Structural Pest Control Act may not be given more than 30 days before the application of the pesticide.
(c) Each licensed day care center, subject to the requirements of Section 10.3 of the Structural Pest Control Act, must ensure that pesticides will not be applied when children are present at the center. Toys and other items mouthed or handled by the children must be removed from the area before pesticides are applied. Children must not return to the treated area within 2 hours after a pesticide application or as specified on the pesticide label, whichever time is greater.
(d) The owners and operators of licensed day care centers must ensure that lawn care products will not be applied to day care center grounds when children are present at the center or on its grounds. For the purpose of this Section, "lawn care product" has the same meaning as that term is defined in the Lawn Care Products Application and Notice Act.
(Source: P.A. 96-424, eff. 8-13-09.)
Sec. 1. Short title. This Act may be cited as the Lawn Care Products Application and Notice Act.
(Source: P.A. 86-358.)

Sec. 2. Definitions.
For purposes of this Act:
"Application" means the spreading of lawn care products on a lawn.
"Applicator for hire" means any person who makes an application of lawn care products to a lawn or lawns for compensation, including applications made by an employee to lawns owned, occupied or managed by his employer and includes those licensed by the Department as licensed commercial applicators, commercial not-for-hire applicators, licensed public applicators, certified applicators and licensed operators and those otherwise subject to the licensure provisions of the Illinois Pesticide Act, as now or hereafter amended.
"Buffer" means an area adjacent to a body of water that is left untreated with any fertilizer.
"Day care center" means any facility that qualifies as a "day care center" under the Child Care Act of 1969.
"Department" means the Illinois Department of Agriculture.
"Department of Public Health" means the Illinois Department of Public Health.
"Facility" means a building or structure and appurtenances thereto used by an applicator for hire for storage and handling of pesticides or the storage or maintenance of pesticide application equipment or vehicles.
"Fertilizer" means any substance containing nitrogen, phosphorus or potassium or other recognized plant nutrient or compound, which is used for its plant nutrient content.
"Golf course" means an area designated for the play or practice of the game of golf, including surrounding grounds, trees, ornamental beds and the like.
"Golf course superintendent" means any person entrusted with and employed for the care and maintenance of a golf course.
"Impervious surface" means any structure, surface, or improvement
that reduces or prevents absorption of stormwater into land, and includes pavement, porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements.

"Lawn" means land area covered with turf kept closely mown or land area covered with turf and trees or shrubs. The term does not include (1) land area used for research for agricultural production or for the commercial production of turf, (2) land area situated within a public or private right-of-way, or (3) land area which is devoted to the production of any agricultural commodity, including, but not limited to plants and plant parts, livestock and poultry and livestock or poultry products, seeds, sod, shrubs and other products of agricultural origin raised for sale or for human or livestock consumption.

"Lawn care products" means fertilizers or pesticides applied or intended for application to lawns.

"Lawn repair products" means seeds, including seeding soils, that contain or are coated with or encased in fertilizer material.

"Person" means any individual, partnership, association, corporation or State governmental agency, school district, unit of local government and any agency thereof.

"Pesticide" means any substance or mixture of substances defined as a pesticide under the Illinois Pesticide Act, as now or hereafter amended.

"Plant protectants" means any substance or material used to protect plants from infestation of insects, fungi, weeds and rodents, or any other substance that would benefit the overall health of plants.

"Soil test" means a chemical and mechanical analysis of soil nutrient values and pH level as it relates to the soil and development of a lawn.

"Spreader" means any commercially available fertilizing device used to evenly distribute fertilizer material.

"Turf" means the upper stratum of soils bound by grass and plant roots into a thick mat.

"0% phosphate fertilizer" means a fertilizer that contains no more than 0.67% available phosphoric acid (P₂O₅).

(Source: P.A. 96-424, eff. 8-13-09; 96-1005, eff. 7-6-10.)
(415 ILCS 65/4) (from Ch. 5, par. 854)
Sec. 4. Applicator certification and training requirements. Applicators for hire must be certified and licensed by the Department under the Illinois Pesticide Act, as now or hereafter amended, before they can apply lawn care products to lawns.
(Source: P.A. 86-358.)

(415 ILCS 65/6) (from Ch. 5, par. 856)
Sec. 6. This Act shall be administered and enforced by the Department. The Department may promulgate rules and regulations as necessary for the enforcement of this Act. The Department of Public Health must inform school boards and the owners and operators of day care centers about the provisions of this Act that are applicable to school districts and day care centers, and it must inform school boards about the requirements contained in Sections 10-20.49 and 34-18.40 of the School Code. The Department of Public Health must recommend that day care centers and schools use a pesticide-free turf care program to maintain their turf. The Department of Public Health must also report violations of this Act of which it becomes aware to the Department for enforcement.
(Source: P.A. 96-424, eff. 8-13-09; 96-1000, eff. 7-2-10.)

(415 ILCS 65/7) (from Ch. 5, par. 857)
Sec. 7. When an administrative hearing is held by the Department, the hearing officer, upon determination of any violation of this Act or rule or regulation, shall either refer the violation to the States Attorney's office in the county where the alleged violation occurred for prosecution or levy the following administrative monetary penalties:
(a) a penalty of $250 for a first violation;
(b) a penalty of $500 for a second violation; and
(c) a penalty of $1,000 for a third or subsequent violation.
The penalty levied shall be collected by the Department, and all penalties collected by the Department under this Act shall be deposited into the Pesticide Control Fund. Any penalty not paid within 60 days of notice from the Department shall be submitted to the Attorney General's office for collection.
Upon prosecution by a State's Attorney, a violation of this Act or rules shall be a petty offense subject to a fine of $250 for a first offense, a fine of $500 for a second offense and a fine of $1,000 for a third or subsequent offense.
(Source: P.A. 96-1005, eff. 7-6-10.)

(225 ILCS 235/1) (from Ch. 111 1/2, par. 2201)

(Section scheduled to be repealed on December 31, 2019)


Sec. 1. Short title). This Act shall be known and may be cited as the "Structural Pest Control Act".
(Source: P.A. 82-725; reenacted by P.A. 95-786, eff. 8-7-08.)

(225 ILCS 235/3) (from Ch. 111 1/2, par. 2203)
(Section scheduled to be repealed on December 31, 2019)
Sec. 3. Definitions. As used in this Act, unless the context otherwise requires, the terms specified in Sections 3.01 through 3.27 have the meanings ascribed to them in those Sections.
(Source: P.A. 93-381, eff. 7-1-04; reenacted by P.A. 95-786, eff. 8-7-08.)

(225 ILCS 235/3.01) (from Ch. 111 1/2, par. 2203.01)
(Section scheduled to be repealed on December 31, 2019)
Sec. 3.01. "Department" means the Department of Public Health.
(Source: P.A. 82-725; reenacted by P.A. 95-786, eff. 8-7-08.)

(225 ILCS 235/3.02) (from Ch. 111 1/2, par. 2203.02)
(Section scheduled to be repealed on December 31, 2019)
Sec. 3.02. "Director" means the Director of Public Health.
(Source: P.A. 82-725; reenacted by P.A. 95-786, eff. 8-7-08.)

(225 ILCS 235/3.03) (from Ch. 111 1/2, par. 2203.03)
(Section scheduled to be repealed on December 31, 2019)
Sec. 3.03. "Person" means any individual, group of individuals, association, trust, partnership, corporation, person doing business under an assumed name, the State of Illinois, or department thereof, any other state-owned and operated institution, public school, licensed day care center, or any other entity.
(Source: P.A. 82-725; reenacted by P.A. 95-786, eff. 8-7-08; 96-1362, eff. 7-28-10.)

(225 ILCS 235/3.04) (from Ch. 111 1/2, par. 2203.04)
(Section scheduled to be repealed on December 31, 2019)
Sec. 3.04. "Commercial Structural Pest Control Business Location" means any location at or from which any person advertises or contracts to perform structural pest control services for hire or where a person is engaged or employed by that business to perform the services, store materials, keep records, or perform other pertinent activities, for the purpose of operating a structural pest control business at that business location, but does not include locations which
exist solely for the purpose of accepting telephone calls and messages on behalf of the licensee.
(Source: P.A. 83-825; reenacted by P.A. 95-786, eff. 8-7-08.)

(225 ILCS 235/3.05) (from Ch. 111 1/2, par. 2203.05)
(Section scheduled to be repealed on December 31, 2019)
Sec. 3.05. "Licensee" means a person licensed in accordance with this Act.
(Source: P.A. 82-725; reenacted by P.A. 95-786, eff. 8-7-08.)

(225 ILCS 235/3.06) (from Ch. 111 1/2, par. 2203.06)
(Section scheduled to be repealed on December 31, 2019)
Sec. 3.06. "Certified Technician" means an individual who has met the qualifications set forth under Section 5 of this Act.
(Source: P.A. 82-725; reenacted by P.A. 95-786, eff. 8-7-08.)

(225 ILCS 235/3.07) (from Ch. 111 1/2, par. 2203.07)
(Section scheduled to be repealed on December 31, 2019)
Sec. 3.07. "Pests" include arthropods (insects, spiders, mites, ticks and related pests), wood infesting organisms, rats, mice, nuisance birds and any other obnoxious or undesirable animals in, on or under structures, but does not include bacteria or other micro-organisms on or in living man or other living animals.
(Source: P.A. 84-362; reenacted by P.A. 95-786, eff. 8-7-08.)
(225 ILCS 235/3.08) (from Ch. 111 1/2, par. 2203.08)
(Section scheduled to be repealed on December 31, 2019)
Sec. 3.08. "Structure" means any edifice, building or other
constructed entity including the contents therein, any patio
or terrace connected thereto and the land on which it is
situated, and including any portion of land within the given
proprietorship which might constitute a potential harborage
for pests which could affect the edifice or building or its
contents, any portion of land upon which work has begun for
the erection of an edifice, any vehicle used as a common
carrier, any dock, wharf, railroad siding or refuse area.
(Source: P.A. 85-227; reenacted by P.A. 95-786, eff.
8-7-08.)

(225 ILCS 235/3.09) (from Ch. 111 1/2, par. 2203.09)
(Section scheduled to be repealed on December 31, 2019)
Sec. 3.09. "Structural Pest Control" means and includes the
use of any device or the application of any substance to
prevent, repel, mitigate, curb, control, or eradicate any
structural pest in, on, under, or around a structure, or within
a part of, or materials used in building, a structure; the use
of any pesticide, including insecticides, fungicides and other
wood treatment products, attractants, repellents,
rodenticides, fumigants, or mechanical devices for
preventing, controlling, eradicating, identifying, mitigating,
diminishing, or curbing insects, vermin, rats, mice, or other
pests in, on, under, or around a structure, or within a part of,
or materials used in building, a structure; vault fumigation
and fumigation of box cars, trucks, ships, airplanes, docks,
warehouses, and common carriers or soliciting to perform
any of the foregoing functions. Notwithstanding any other
law, an applicator who is licensed or certified under the
Illinois Pesticide Act may not engage in structural pest
control as defined in this Act unless the applicator is also
licensed and certified under this Act.
(Source: P.A. 85-227; reenacted by P.A. 95-786, eff. 8-7-08; 96-1362, eff. 7-28-10.)

(225 ILCS 235/3.11) (from Ch. 111 1/2, par. 2203.11)
(Section scheduled to be repealed on December 31, 2019)
Sec. 3.11. "Commercial Structural Pest Control Business" means any business in the course of which any person performs, advertises, or contracts to perform structural pest control services on property under the ownership or control of another.
(Source: P.A. 82-725; reenacted by P.A. 95-786, eff. 8-7-08; 96-1362, eff. 7-28-10.)

(225 ILCS 235/3.12) (from Ch. 111 1/2, par. 2203.12)
(Section scheduled to be repealed on December 31, 2019)
Sec. 3.12. "Non-commercial Structural Pest Control" means structural pest control performed by a person who is not, and is not employed by, a commercial structural pest control business.
(Source: P.A. 82-725; reenacted by P.A. 95-786, eff. 8-7-08.)

(225 ILCS 235/3.13) (from Ch. 111 1/2, par. 2203.13)
(Section scheduled to be repealed on December 31, 2019)
Sec. 3.13. "Non-commercial Structural Pest Control Location" means any location from which a person, who is not engaged in commercial structural pest control, performs structural pest control activities which are confined to structures directly associated with the activity, business, product or service of such person.
(Source: P.A. 82-725; reenacted by P.A. 95-786, eff.
(225 ILCS 235/3.14) (from Ch. 111 1/2, par. 2203.14)
(Section scheduled to be repealed on December 31, 2019)
Sec. 3.14. "Restricted Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, the use of which has been categorized as restricted under subparagraph (C) of paragraph (l) of subsection (d) of Section 3 of the Federal Insecticide, Fungicide, Rodenticide Act as amended or under the Illinois Pesticide Act.
(Source: P.A. 85-177; reenacted by P.A. 95-786, eff. 8-7-08.)

(225 ILCS 235/3.15) (from Ch. 111 1/2, par. 2203.15)
(Section scheduled to be repealed on December 31, 2019)
Sec. 3.15. "Registrant" means a person registered in accordance with the provisions of this Act.
(Source: P.A. 82-725; reenacted by P.A. 95-786, eff. 8-7-08.)

(225 ILCS 235/3.16) (from Ch. 111 1/2, par. 2203.16)
(Section scheduled to be repealed on December 31, 2019)
Sec. 3.16. "Supervision" means the direction and management by certified personnel of the activities of non-certified personnel in use and storage of general use or restricted pesticides.
(Source: P.A. 83-1452; reenacted by P.A. 95-786, eff. 8-7-08.)
(225 ILCS 235/3.17) (from Ch. 111 1/2, par. 2203.17) (Section scheduled to be repealed on December 31, 2019)
Sec. 3.17. "Sub-category" means a specific area of pest control in which a pest control technician may be separately certified as specified by this Act or by rule promulgated thereunder.
(Source: P.A. 82-725; reenacted by P.A. 95-786, eff. 8-7-08.)

(225 ILCS 235/3.18) (from Ch. 111 1/2, par. 2203.18) (Section scheduled to be repealed on December 31, 2019)
Sec. 3.18. "Planned Use Inspection" means an inspection of a certified or non-certified technician to observe the procedures for preparation, application and disposal of pesticides to ensure that they are performed in accordance with this Act, the "Illinois Pesticide Act", as amended, the "Environmental Protection Act", as amended, the rules and regulations of the Illinois Pollution Control Board, and other applicable State law.
(Source: P.A. 85-177; reenacted by P.A. 95-786, eff. 8-7-08.)

(225 ILCS 235/3.19) (from Ch. 111 1/2, par. 2203.19) (Section scheduled to be repealed on December 31, 2019)
Sec. 3.19. "Label" means the written, printed or graphic matter on or attached to the pesticide or device or any of its containers or wrappings.
(Source: P.A. 83-825; reenacted by P.A. 95-786, eff. 8-7-08.)

(225 ILCS 235/3.20) (from Ch. 111 1/2, par. 2203.20) (Section scheduled to be repealed on December 31, 2019)
Sec. 3.20. "Labeling" means the label and all other written, printed or graphic matters: (a) on the pesticide or device or any of its containers or wrappings, (b) accompanying the pesticide or device or referring to it in any other media used to disseminate information to the public, (c) to which reference is made to the pesticide or device except when references are made to current official publications of the U. S. Environmental Protection Agency, Departments of Agriculture, Health and Human Services or other federal Government institutions, the State experiment station or colleges of agriculture or other similar state institutions authorized to conduct research in the field of pesticides. (Source: P.A. 83-825; reenacted by P.A. 95-786, eff. 8-7-08.)

(225 ILCS 235/3.21) (from Ch. 111 1/2, par. 2203.21)
(Section scheduled to be repealed on December 31, 2019)
Sec. 3.21. "FIFRA" means the "Federal Insecticide, Fungicide and Rodenticide Act".
(Source: P.A. 83-825; reenacted by P.A. 95-786, eff. 8-7-08.)

(225 ILCS 235/3.22) (from Ch. 111 1/2, par. 2203.22)
(Section scheduled to be repealed on December 31, 2019)
Sec. 3.22. "General Use Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest, as defined in Section 3.07 of this Act, the use of which has been categorized as general under subparagraph (B) of paragraph (i) of subsection (d) of Section 3 of FIFRA.
(Source: P.A. 83-1452; reenacted by P.A. 95-786, eff. 8-7-08.)
(225 ILCS 235/3.23) (from Ch. 111 1/2, par. 2203.23)
(Section scheduled to be repealed on December 31, 2019)
Sec. 3.23. "USEPA" means the United States Environmental
Protection Agency.
(Source: P.A. 83-825; reenacted by P.A. 95-786, eff.
8-7-08.)

(225 ILCS 235/3.24) (from Ch. 111 1/2, par. 2203.24)
(Section scheduled to be repealed on December 31, 2019)
Sec. 3.24. "Device" means any instrument or contrivance,
other than a firearm or equipment for application of
pesticides when sold separately from pesticides, which is
intended for trapping, repelling, destroying, or mitigating any
pest, other than bacteria, virus, or other microorganisms on
or living in man or other living animals.
(Source: P.A. 83-825; reenacted by P.A. 95-786, eff.
8-7-08.)

(225 ILCS 235/3.25) (from Ch. 111 1/2, par. 2203.25)
(Section scheduled to be repealed on December 31, 2019)
Sec. 3.25. "Integrated pest management" is defined as a
pest management system that includes the following
elements:
(a) identifying pests and their natural enemies;
(b) establishing an ongoing monitoring and recordkeeping
system for regular sampling and assessment of pest and
natural enemy populations;
(c) determining the pest population levels that can be
tolerated based on aesthetic, economic, and health
concerns, and setting action thresholds where pest
populations or environmental conditions warrant remedial
action;
(d) the prevention of pest problems through improved sanitation, management of waste, addition of physical barriers, and the modification of habitats that attract or harbor pests;
(e) reliance to the greatest extent possible on nontoxic, biological, cultural or mechanical pest management methods, or on the use of natural control agents;
(f) when necessary, the use of chemical pesticides, with preference for products that are the least harmful to human health and the environment; and
(g) recordkeeping and reporting of pest populations, surveillance techniques, and remedial actions taken.
(Source: P.A. 87-1106; reenacted by P.A. 95-786, eff. 8-7-08.)

(225 ILCS 235/3.26)
(Section scheduled to be repealed on December 31, 2019)
Sec. 3.26. "School" means any structure used as a public school in this State.
(Source: P.A. 91-525, eff. 8-1-00; reenacted by P.A. 95-786, eff. 8-7-08.)

(225 ILCS 235/3.27)
(Section scheduled to be repealed on December 31, 2019)
Sec. 3.27. "Day care center" means any structure used as a licensed day care center in this State.
(Source: P.A. 93-381, eff. 7-1-04; reenacted by P.A. 95-786, eff. 8-7-08.)

225 ILCS 235/10.2) (from Ch. 111 1/2, par. 2210.2)
(Section scheduled to be repealed on December 31, 2019)
Sec. 10.2. Integrated pest management guidelines; notification; training of designated persons; request for copies.

(a) The Department shall prepare guidelines for an integrated pest management program for structural pest control practices at school buildings and other school facilities and day care centers. Such guidelines shall be made available to schools, day care centers and the public upon request.

(b) When economically feasible, each school and day care center is required to develop and implement an integrated pest management program that incorporates the guidelines developed by the Department. Each school and day care center must notify the Department, within one year after the effective date of this amendatory Act of the 95th General Assembly and every 5 years thereafter, on forms provided by the Department that the school or day care center has developed and is implementing an integrated pest management program. In implementing an integrated pest management program, a school or day care center must assign a designated person to assume responsibility for the oversight of pest management practices in that school or day care center and for recordkeeping requirements.

(b-1) If adopting an integrated pest management program is not economically feasible because such adoption would result in an increase in the pest control costs of the school or day care center, the school or day care center must provide, within one year after the effective date of this amendatory Act of the 95th General Assembly and every 5 years thereafter, written notification to the Department, on forms provided by the Department, that the development and implementation of an integrated pest management program is not economically feasible. The notification must include projected pest control costs for the term of the pest control program and projected costs for implementing an integrated pest management program for that same time period.

(b-2) Each school or day care center that provides written notification to the Department that the adoption of an integrated pest management program is not economically
feasible pursuant to subsection (b-1) of this Section must have its designated person attend a training course on integrated pest management within one year after the effective date of this amendatory Act of the 95th General Assembly, and every 5 years thereafter until an integrated pest management program is developed and implemented in the school or day care center. The training course shall be approved by the Department in accordance with the minimum standards established by the Department under this Act.

(b-3) Each school and day care center shall ensure that all parents, guardians, and employees are notified at least once each school year that the notification requirements established by this Section have been met. The school and day care center shall keep copies of all notifications required by this Section and any written integrated pest management program plan developed in accordance with this Section and make these copies available for public inspection at the school or day care center.

(c) The Structural Pest Control Advisory Council shall assist the Department in developing the guidelines for integrated pest management programs. In developing the guidelines, the Council shall consult with individuals knowledgeable in the area of integrated pest management.

(d) The Department, with the assistance of the Cooperative Extension Service and other relevant agencies, may prepare a training program for school or day care center pest control specialists.

(e) The Department may request copies of a school's or day care center's integrated pest management program plan and notification required by this Act and offer assistance and training to schools and day care centers on integrated pest management programs.

(f) The requirements of this Section are subject to appropriation to the Department for the implementation of integrated pest management programs.

(Source: P.A. 95-58, eff. 8-10-07; reenacted by P.A. 95-786, eff. 8-7-08.)
(225 ILCS 235/10.3)
(Section scheduled to be repealed on December 31, 2019)
Sec. 10.3. Notification. School districts and day care centers
must maintain a registry of parents and guardians of
students and employees who have registered to receive
written or telephonic notification prior to application of
pesticides to school property or day care centers or provide
written or telephonic notification to all parents and guardians
of students before such pesticide application. Written
notification may be included in newsletters, bulletins,
calendars, or other correspondence currently published by
the school district or day care center. The written or
telephonic notification must be given at least 2 business
days before application of the pesticide application and
should identify the intended date of the application of the
pesticide and the name and telephone contact number for
the school or day care center personnel responsible for the
pesticide application program. Prior notice shall not be
required if there is an imminent threat to health or property.
If such a situation arises, the appropriate school or day care
center personnel must sign a statement describing the
circumstances that gave rise to the health threat and ensure
that written or telephonic notice is provided as soon as
practicable. For purposes of this Section, pesticides subject
to notification requirements shall not include (i) an
antimicrobial agent, such as disinfectant, sanitizer, or
deodorizer, or (ii) insecticide baits and rodenticide baits.
(Source: P.A. 93-381, eff. 7-1-04; reenacted by P.A. 95-786,
eff. 8-7-08; 96-1362, eff. 7-28-10.)
Final Rule
LSA Document #10-336(F)

DIGEST

Adds 357 IAC 1-16 to establish requirements for those who apply pesticides at schools, to establish restrictions on the use and storage of pesticides at schools, to establish a record keeping requirement for pesticides applied at schools, and to establish a parent, guardian, and staff registry and notification requirement for pesticides applied at schools. Effective 30 days after filing with the Publisher.

357 IAC 1-16

SECTION 1. 357 IAC 1-16 IS ADDED TO READ AS FOLLOWS:

Rule 16. Pesticide Use at Schools

357 IAC 1-16-1 Purpose

Authority: IC 15-16-5
Affected: IC 15-16-5

Sec. 1. The purpose of this rule is to minimize the potential for pesticide exposure to students at schools by ensuring the following:
(1) Pesticides are used only by:
   (A) a certified applicator; or
   (B) an individual operating under the direct supervision of the certified applicator.
(2) Pesticides are not used when students are in the pesticide application area.
(3) Pesticides are stored in locked storage areas.
(4) Except for immediate health threat situations, school corporations provide advance notice of pesticide applications to school parents, guardians, and staff on a notification registry.
(5) School corporations keep records of pesticide applications.
(6) Pesticides with lowest hazards to children are used whenever practical and effective.

(Indiana Pesticide Review Board; 357 IAC 1-16-1; filed Sep 24, 2010, 1:44 p.m.: 201001020-IR-357100336FRA)

357 IAC 1-16-2 Applicability

Authority: IC 15-16-5
Affected: IC 15-16-5

Sec. 2. This rule applies to all:
(1) pesticides, as defined in section 3(3) of this rule; and
(2) schools administered or maintained by a school corporation, as defined in section 3(7) of this rule.

(Indiana Pesticide Review Board; 357 IAC 1-16-2; filed Sep 24, 2010, 1:44 p.m.: 201001020-IR-357100336FRA)

357 IAC 1-16-3 Definitions

Authority: IC 15-16-5
Affected: IC 20-18-2; IC 20-21; IC 20-22; IC 20-32-8-2

Sec. 3. The following definitions apply throughout this rule:
(1) "Commercial applicator license" means the license issued annually by the state chemist to an individual who has met the requirements established in IC 15-16-5-52, including the following:
   (A) A licensed applicator for hire, as defined in IC 15-16-5-16.
(B) A licensed applicator not for hire, as defined in IC 15-16-5-17.
(C) A licensed public applicator, as defined in IC 15-16-5-20.

(2) "Direct supervision" means one (1) of the following:
(A) The supervision and oversight procedures for noncertified applicators, as required in 355 IAC 4-2.
(B) The supervising certified applicator is:
   (i) present at the pesticide application site; and
   (ii) operating under conditions that permit direct voice contact with the noncertified applicator.
(C) The supervising certified applicator:
   (i) has previously examined the pesticide application site while accompanied by the noncertified applicator;
   (ii) has provided the noncertified applicator with written instructions covering site-specific precautions to prevent injury to persons or the environment at the pesticide application site; and
   (iii) is operating under conditions that permit direct voice contact with the noncertified applicator.

(3) "Pesticide" means both restricted use and nonrestricted use pesticides, as defined in IC 15-16-5-25.
For purposes of this rule, the term does not include the following nonrestricted use pesticides:
(A) Bactericides.
(B) Disinfectants.
(C) Gel or paste bait insecticides.
(D) Germicides.
(E) Manufactured enclosed insecticides.
(F) Personal insect repellents when self-applied.
(G) Sanitizing agents.
(H) Swimming pool chemicals.
(I) Water purifying chemicals.

(4) "Pesticide application site" means the target treatment area on school property where the pesticide is intentionally applied.

(5) "Pesticide notification registry" means the registry created and maintained by a school corporation listing the names and contact information of parents and guardians of children at the school and school staff who have requested to be notified of the details of pesticide applications at the school.

(6) "School" means the physical buildings and grounds of an institution for the instruction of students, including the following:
(A) A preschool.
(B) An elementary school as defined in IC 20-18-2-4.
(C) A high school as defined in IC 20-18-2-7.

(7) "School corporation" means any of the following:
(A) A school corporation as defined in IC 20-16-2-16.
(B) A nonpublic school as defined in IC 20-18-2-12.
(C) The Indiana School for the Blind and Visually Impaired established under IC 20-21.
(D) The Indiana School for the Deaf established under IC 20-22. For purposes of this rule, the term does not include any of the following:
   (i) Sunday schools and vacation Bible schools, and any other program of a religious entity except those that are accredited by the Indiana Department of Education.
   (ii) Daycare centers.
   (iii) Home schools.
   (iv) Any private religious school except those that are accredited by the Indiana Department of Education.

(8) "State chemist" means the Indiana state chemist or his or her authorized agent.

(9) "Student", as defined in IC 20-32-8-2, means any individual who is enrolled in a school corporation.

(10) "Use", as defined in IC 15-16-5-36, means an act of handling, releasing, or exposing individuals or the environment to a pesticide. The term includes the following:
(A) Application or supervision of an application of a pesticide, including mixing or loading the pesticide.
(B) Storage of pesticides and pesticide containers.
(C) Transportation of pesticides and pesticide containers.
(D) Disposal of pesticides and pesticide containers.

(Indiana Pesticide Review Board; 357 IAC 1-16-3; filed Sep 24, 2010, 1:44 p.m.: 2010021020-IR-357100336FRA)
Sec. 4. (a) Except as provided in section 5 of this rule, an individual may not use or supervise the use of a pesticide at a school without having obtained a commercial applicator license from the state chemist.

(b) Completing the certification procedures described in 355 IAC 4-1 shall be a qualifying requirement for a commercial applicator license.

(c) A commercial applicator license shall be issued in one (1) or more of the categories described in 355 IAC 4-1-3.

(d) The license category in subsection (c) must be relevant to the use of the pesticide at the school by the applicator.

(Indiana Pesticide Review Board; 357 IAC 1-16-4; filed Sep 24, 2010, 1:44 p.m.: 20101020-IR-357100336FRA)

357 IAC 1-16-5 Direct supervision of noncertified applicators

Authority: IC 15-16-5-44; IC 15-16-5-51
Affected: IC 15-16-5

Sec. 5. An individual who has not obtained a commercial applicator license may use a pesticide at a school if the individual is working under the direct supervision of a licensed commercial applicator affiliated with the:

(1) school corporation; or
(2) pesticide business hired to apply pesticides at that school.

(Indiana Pesticide Review Board; 357 IAC 1-16-5; filed Sep 24, 2010, 1:44 p.m.: 20101020-IR-357100336FRA)

357 IAC 1-16-6 Pesticide use restrictions

Authority: IC 15-16-5-44; IC 15-16-5-51
Affected: IC 15-16-4-38; IC 15-16-5

Sec. 6. (a) Except as provided in subsection (b), a pesticide must not be applied at a school during normal instructional hours when school is in session.

(b) A pesticide may be applied at a school during periods specified in subsection (a) if applied to:
(1) control an observed pest that poses an immediate health threat situation to the students present;
or
(2) an area outside of and not immediately adjacent to student-occupied buildings.

(c) Except as provided in subsection (d), the school corporation must not allow students to enter a pesticide treatment area after an application until the longer of the following time periods has elapsed:
(1) The minimum reentry time specified on the pesticide label.
(2) Four (4) hours.

(d) A rodenticide (IC 15-16-4-38) bait may be applied in areas inaccessible to students without regard to subsection (c).

(Indiana Pesticide Review Board; 357 IAC 1-16-6; filed Sep 24, 2010, 1:44 p.m.: 20101020-IR-357100336FRA)

357 IAC 1-16-7 Pesticide storage restrictions
Sec. 7. Pesticides stored at schools must be in:
    (1) the original pesticide container or a clearly labeled service container, as described in 357 IAC 1-14-3;
    (2) a locked area or cabinet clearly marked as pesticide storage; and
    (3) an area separated by a solid wall from areas where:
        (A) food is stored;
        (B) food is served; or
        (C) students have access.

(Indiana Pesticide Review Board; 357 IAC 1-16-7; filed Sep 24, 2010, 1:44 p.m.: 20101020-IR-357100336FRA)

357 IAC 1-16-8 Pesticide notification
Authority: IC 15-16-5-44; IC 15-16-5-51
Affected: IC 15-16-5

Sec. 8. (a) A school corporation must invite parents, guardians, and staff to be added to a pesticide notification registry:
    (1) at the start of each school year; or
    (2) during the school year when a student:
        (A) enrolls in; or
        (B) transfers into;
    the school.

(b) An individual may request to be added to the registry at any time during the school year.

(c) Except as provided in subsection (f), a school corporation must, by whatever means the school corporation determines to be appropriate, provide individuals on the registry with pesticide notice.

(d) The pesticide notice must include the following:
    (1) The name or address of the school.
    (2) The licensed commercial applicator responsible for the application including the following:
        (A) Name.
        (B) License number.
        (C) Telephone number.
        (D) Designee for information about the pesticide application if different than the applicator.
    (3) The anticipated date and time of the application.
    (4) The principal target pest.
    (5) A description of the application area.
    (6) The pesticide or pesticides to be applied including the following:
        (A) The name of the manufacturer.
        (B) The United States Environmental Protection Agency registration number.
        (C) The brand name.
    (7) If forty-eight (48) hours advance notice is not provided, an explanation why it was not provided.

(e) The pesticide notice must be provided at least forty-eight (48) hours in advance of a pesticide application at the school.

(f) A pesticide notice is not required for a pesticide application:
    (1) made more than forty-eight (48) hours before a scheduled school day; or
    (2) described in section 6(b) of this rule.

(Indiana Pesticide Review Board; 357 IAC 1-16-8; filed Sep 24, 2010, 1:44 p.m.: 20101020-IR-357100336FRA)
Sec. 9. (a) Except as provided in subsection (b), a school corporation must keep and maintain records of all pesticide applications made at the school.

(b) A licensed for-hire applicator hired by the school corporation to apply pesticides may by written agreement keep and maintain the application records for the school corporation.

(c) The pesticide application records must include the following:
   (1) The name or address of the school.
   (2) The licensed commercial applicator responsible for the application including the following:
      (A) Name.
      (B) License number.
      (C) The actual applicator if different than the individual named in clause (A).
   (3) The date and time of the application.
   (4) The principal target pest.
   (5) A description of the application area.
   (6) The pesticide or pesticides applied including the following:
      (A) The name of the manufacturer.
      (B) The United States Environmental Protection Agency registration number.
      (C) The brand name.
   (7) The amount used, expressed as either:
      (A) concentrate, giving the total quantity of formulation applied, in pounds, gallons, etc.; or
      (B) diluted mixture (ready to use), giving the total amount applied and active ingredient concentration (percentage).

(d) Written, printed, or electronic information that includes all of the items in subsection (c) and used to create the records must be maintained from the date of application until the collective written record required is generated.

(e) The records to be maintained under this section must be:
   (1) recorded by the thirtieth day from the date of application; and
   (2) kept and maintained for a period of two (2) years from the date of application.

(f) All required records and information must, upon written or oral request, be made available by the school corporation for inspection and copying.

(Indiana Pesticide Review Board; 357 IAC 1-16-9; filed Sep 24, 2010, 1:44 p.m.: 20101020-IR-357100336FRA)
357 IAC 1-3-5  Creation and retention of distribution records
Authority:  IC 15-16-4-50
Affected:  IC 15-16-4

Sec. 5. (a) Records of distributions of restricted use pesticides that include all of the items in subsection (c) shall be maintained by restricted use pesticide dealers and accessible from the business location of the dealer for a period of two (2) years.
(b) All written and electronic documentation relating to the distribution of restricted use pesticides must be retained by the restricted use pesticide dealer until the distribution is recorded as specified in subsection (a).
(c) The records to be maintained under this section shall include the following:
   (1) Name, certificate number of the certified user for whom the purchase is being made, and the expiration date of that certificate.
   (2) Date of distribution.
   (3) EPA registration number and brand name of the product.
   (4) Amount of product distributed.
   (5) Signature of person ordering or taking delivery of the product.

Rule 4.  List of Restricted Use Pesticides

357 IAC 1-4-1  List of restricted use pesticides (Repealed)

Sec. 1.  (Repealed by Indiana Pesticide Review Board; filed Nov 20, 1986, 3:47 pm: 10 IR 865)

357 IAC 1-4-2  List of restricted use pesticide products (Repealed)

Sec. 2.  (Repealed by Indiana Pesticide Review Board; filed Apr 20, 1990, 4:40 p.m.: 13 IR 1704)

357 IAC 1-4-3  Restricted use pesticide products (Expired)

Sec. 3.  (Expired under IC 4-22-2.5, effective January 1, 2008.)

Rule 5.  Outdoor Lawn Pesticide Applications; Notification and Posting

357 IAC 1-5-1  Definitions
Authority:  IC 15-16-5-44
Affected:  IC 15-16-5

Sec. 1. (a) As used in this rule, "commercial application for hire" means the intentional application of pesticides for hire by any means to a lawn or any part thereof by or under the direct supervision of a licensed applicator for hire or by a registered technician.
(b) As used in this rule, "golf course" means an area designated and used primarily for the play or practice of the game of golf, including, for example, surrounding grounds, trees, and ornamental beds.
(c) As used in this rule, "lawn" means land area covered with turf kept closely mown or land area covered with turf and trees and shrubs. The term does not include the following:
(1) Land area used for research for agricultural or commercial production of turf.
(2) Land area situated exclusively within a public or private right-of-way.
(3) Land area devoted to the production of any agricultural commodity.
(4) Land area devoted to use as a golf course.

(5) Land area situated within three (3) feet of the foundation of a structure when a pesticide is applied to the area as a preventative or control measure for structural pests.

(d) As used in this rule, "lawn marker" means a sign that is placed in, or adjacent to, a lawn to serve as notification that a pesticide has been applied to that lawn.

(e) As used in this rule, "structural pest" means a pest that commonly invades or attacks man's dwellings or structures. The term includes, but is not limited to, the following:

(1) Termites.
(2) Fleas.
(3) Cockroaches.
(4) Ants.
(5) Beetles.
(6) Crickets.
(7) Spiders.
(8) Sowbugs.
(9) Pillbugs.
(10) Centipedes.
(11) Millipedes.

(f) As used in this rule, "turf" means the surface layer of soils created by growing plants (usually grasses) and their matted roots. (Indiana Pesticide Review Board; 357 IAC 1-5-1; filed Apr 20, 1990, 4:35 p.m.: 13 IR 1701; filed Jun 9, 2006, 9:58 a.m.: 23 IR 2705; readopted filed Oct 29, 2001, 4:41 p.m.: 25 IR 936; readopted filed Sep 20, 2007, 1:47 p.m.: 20071010-IR-357070485RFA)

357 IAC 1-5-2 Posting

Authority: IC 15-16-5-44
Affected: IC 15-16-5

Sec. 2. (a) At the time of each pesticide application identified by section 1(a) of this rule, the licensed applicator for hire, or an employee of the licensed business, shall place a lawn marker at a conspicuous point of access to the lawn.

(b) The lawn marker shall consist of a sign that:

(1) shall be at least four (4) inches by five (5) inches in size;
(2) shall be constructed of sturdy, weather resistant material;
(3) shall have a background, lettering, and symbols in contrasting colors;
(4) on the prominent side, shall read "LAWN CARE APPLICATION KEEP OFF THE GRASS" in letters of not less than three-eighths (%) of an inch high;
(5) may display a symbol depicting the message required in subdivision (4);
(6) may display the company name and logo or other group or association affiliation; and
(7) shall be affixed to a sturdy nonmetallic support extending the bottom of the lawn marker six (6) to eighteen (18) inches above the turf.

(c) The lawn marker may be removed no sooner than the day following the pesticide application. (Indiana Pesticide Review Board; 357 IAC 1-5-2; filed Apr 20, 1990, 4:35 p.m.: 13 IR 1702; errata, 13 IR 1861; filed Jun 9, 2000, 9:58 a.m.: 23 IR 2706; readopted filed Oct 29, 2001, 4:41 p.m.: 25 IR 936; readopted filed Sep 20, 2007, 1:47 p.m.: 20071010-IR-357070485RFA)

357 IAC 1-5-3 Customer notification

Authority: IC 15-16-5-44
Affected: IC 15-16-5

Sec. 3. (a) At the time of each pesticide application identified by section 1(a) of this rule, the licensed applicator for hire or an employee of the licensed business shall provide the customer with a written statement containing the following information:

(1) Business name and telephone number of the licensed business.
(2) Signature and license or registration number of the licensed applicator for hire or registered technician who made the
Rule 6.  Civil Penalty Assessment Schedule; Pesticide Registration

357 IAC 1-6-1  Definitions

Authority:  IC 15-16-4-50; IC 15-16-4-69
Affected:  IC 15-16-4; IC 15-16-4-42

Sec. 1. The following definitions apply throughout this rule:
(1) "Adulterated" means a product as described in IC 15-3-3.5-2(2) [IC 15-3 was repealed by P.L.2-2008, SECTION 83, effective July 1, 2008. See IC 15-16-4-3.].
(2) "Board" means the Indiana pesticide review board created by IC 15-3-3.5-12. "IC 15-3 was repealed by P.L.2-2008, SECTION 83, effective July 1, 2008. See IC 15-16-4-42.
(3) "Bulk pesticide" means a pesticide as described in IC 15-3-3.5-2(32) [IC 15-3 was repealed by P.L.2-2008, SECTION 83, effective July 1, 2008. See IC 15-16-4-7.].
(4) "Distribute" means to distribute a product, as described in IC 15-3-3.5-2(8) [IC 15-3 was repealed by P.L.2-2008, SECTION 83, effective July 1, 2008. See IC 15-16-4-11.].
(5) "Labelling" means all products labels and written, printed, or graphic material as described in IC 15-3-3.5-2(18) [IC 15-3 was repealed by P.L.2-2008, SECTION 83, effective July 1, 2008. See IC 15-16-4-24.].
(6) "Legal citation" means the Indiana Code (IC) or the Indiana Administrative Code (IAC) section or subsection cited on the schedule to describe the relevant portion of a pesticide law or rule that has been violated.
(7) "Misbranded" means a product as described in IC 15-3-3.5-2(19) [IC 15-3 was repealed by P.L.2-2008, SECTION 83, effective July 1, 2008. See IC 15-16-4-25.].

(8) "Per day" means the method to be utilized for determining the civil penalty to be assessed for a violation that is of a continuing nature but may be the result of one (1) distinguishable act or failure to act. The violation number shall remain the same when assessing civil penalties for multiple counts of violation on a per day basis.
(9) "Per incident" means the method to be utilized for determining the violation number for a violation that is usually not of a continuing nature and is the result of a separate and distinguishable act or failure to act. Violations involving separate and distinguishable acts may be assigned accumulating violation numbers.
(10) "Per product" means the method to be utilized for determining the violation number for a violation that may involve more than one (1) different product. Violations involving multiple products will be assigned accumulating violation numbers.
(11) "Person" has the meaning set forth in IC 15-3-3.5-2(22) [IC 15-3 was repealed by P.L.2-2008, SECTION 83, effective
of Harrison, Mills, Lee, Muscatine and that part of Pottawattamie county west of Range 41 West of the 5th P.M. to become effective upon filing.

21—45.28(206) Emergency single purchase/single use of restricted pesticide. The department shall issue a temporary certificate to private applicators for a single purchase/single use of restricted pesticides in situations declared to be an emergency by the department, upon receipt of the following completed and signed affidavit.

21—45.28(206) EMERGENCY USE OF A RESTRICTED USE PESTICIDE BY A PRIVATE APPLICATOR

The Label which I have read, indicates:
Brand name of pesticide: __________________________
Federal Registration Number: _______________________
Name of Active Ingredient(s): ______________________
Percentage of Active Ingredient(s): __________________
If the pesticide product is to be mixed with a carrier, show the amount of pesticide product per gallon of tank mix:
Application rate per acre: _________________________
Name pest to be controlled: _________________________
At what stage of development is the pest most easily controlled:
State degree of hazard (signal word): __________________
Describe safety equipment required: __________________
What is the recommended antidote for this product: ________________
List environmental precaution shown on label: ________________
Length of time until re-entry, if given: ________________
Preharvest interval days required: ________________
Describe method of container disposal: ________________
I wish to make application of this pesticide on (date) ___________________
and I hereby swear under penalty of perjury that I understand the above label information and warnings.

(name of private applicator)

This rule is intended to implement Iowa Code sections 206.4 and 206.5.

21—45.29(206) Application of general use pesticide by nonlicensed commercial applicator. A person may apply a general use pesticide without satisfying the licensing requirements of Iowa Code chapter 206, upon presenting evidence to the secretary of applying the pesticide under the direct supervision of a licensed commercial applicator or a public applicator.

21—45.30(206) Restricted use pesticides classified. Pesticide products containing active ingredients classified as restricted use are limited to use by or under the direct supervision of a certified applicator. The pesticide use classification as promulgated by the United States Environmental Protection Agency in 40 CFR, Section 162.31, revised as of July 1, 1983, is hereby adopted in its entirety by this reference.

This rule is intended to implement Iowa Code section 206.20.

21—45.31(206) Application of pesticides toxic to bees.

45.31(1) Owners of apiaries, in order to protect their bees from pesticide applications, shall register the location of their apiaries with the state apiarist. Registration shall be on forms provided by the department. The registration expires December 31 each year and may be renewed the following year.
be responsible for all pesticide use recommendations made by their employees which are contrary to label instructions.

This rule is intended to implement Iowa Code sections 206.2, 206.4, 206.5, 206.6, 206.7 and 206.31.

21—45.50(206) Notification requirements for urban pesticide applications. All commercial or public applicators who apply pesticides within urban areas in municipalities shall post or affix notification signs at the start of the application and for at least 24 hours following the application or longer if required by the reentry directions on the pesticide label(s). The requirements of this rule shall not apply to the application of pesticides within a structure or within six feet of the outside perimeter of a structure and to pesticide applications made by the homeowner or tenant to their property.

For purposes of enforcement of this rule the term “municipality” shall include any city or developed residential area in the state. The term “urban” shall mean any area within or belonging to a city or developed residential area.

45.50(1) Residential lawns.
   a. Notification signs shall project at least 12 inches above the top of the grass line or 18 inches to the top of the signs.
   b. The notification sign shall be posted on a lawn or yard between two feet and five feet from the sidewalk or street. Residences that have unfenced or open backyards shall be posted within two feet to five feet from the back lot line.
   c. When landscaping or other obstructions prohibit compliance with the minimum distances specified, the notification signs shall be posted in a manner that is reasonably within the intent of this subrule.

45.50(2) Golf courses. Signs including posters or placards shall be posted in a conspicuous manner near the first tee of each nine-hole course. The sign shall be constructed of a weather-resistant material and be a minimum size of 8½ inches by 11 inches. The lettering shall not be less than ½ inch. The sign shall read “Pesticides are periodically applied to the golf course. If desired, you may contact your golf course superintendent or person in charge for further information.” The sign shall be displayed prior to the application of any pesticide on the golf course and left in place for at least 24 hours following any pesticide application. Where pesticide labeling requires specific notification or reentry restrictions, the applicator shall comply with the label instructions.

45.50(3) Parks, playgrounds and athletic fields. For parks, athletic fields, playgrounds or other similar recreational property, the notification signs shall be posted immediately adjacent to areas within the property where pesticides have been applied and at or near the entrances to the property where pesticides have been applied. The notification signs shall be placed in a conspicuous manner to provide a reasonable notification to the public.

45.50(4) Public rights-of-way.
   a. Notice of the application of pesticides to public rights-of-way of highways, roads, streets, alleys, sidewalks and recreational trails within the corporate limits of municipalities shall be posted in a manner that provides reasonable notice to the occupants of properties immediately adjacent to the area being treated. A minimum of two signs shall be posted to denote the beginning and the end of the area being treated. Within developed residential zones, at least one sign shall be posted at the beginning and one at the end of each block. Signs shall be placed in a manner to be readable from the adjacent property.
   b. Public rights-of-way bordered by a chain link fence, noise wall or other structures or enclosures that bar pedestrian access shall be exempt from the posting requirement.
   c. The licensed pesticide applicator performing the application shall make pesticide application schedules and other community right-to-know information available to the public upon request at the applicator’s place of business during regular business hours.
   d. The notification signs used for posting public rights-of-way shall consist of a weather-resistant poster or placard measuring at least 10 inches by 12 inches with lettering measuring a minimum of 1 inch. Notification signs shall project at least 2 feet above the top of the grass line or 3 feet to the top of the signs. The words “This area chemically treated. Keep off” shall be used for posting public rights-of-way.
45.50(5) Public pest control programs. Pesticides applied for or by any municipality for the control or abatement of pests related to public health programs such as mosquitoes or other pest control programs shall be exempt from posting requirements provided that the intended dates, time and locations are announced to the public in a conspicuous manner at least 24 hours prior to the application. The announcement shall be made on a major radio station, TV station, newspaper or any other means of mass communication that would normally reach the residents of that city or developed residential area.

45.50(6) Notification signs.

a. The notification signs shall be of a material that is rain-resistant for at least a 24-hour period and shall not be removed by the applicator for at least 24 hours from the time pesticides are applied or longer if required by the label of the pesticide applied. Each property owner, tenant, agent or person in charge of the property shall be provided with instructions that the notification sign is required to remain in place for a minimum of 24 hours following the pesticide application. When the labeling of the pesticide(s) applied requires a reentry restriction more than 24 hours, the sign shall be left in place for the specified period restricting reentry. After the required posting period has elapsed, all notification signs should be removed by either a representative of the business, organization, entity or person making said application or the owner, agent, person in charge of the property, or their representative, to which the pesticide was applied.

b. As a minimum, unless otherwise specified, the following information shall be printed on the notification sign in contrasting colors and block letters:

1. The name and telephone number of the business, organization, entity or person applying the pesticide; and

2. The words: "This area chemically treated. Keep off. Do not remove sign for twenty-four hours." As an alternative, a universally accepted symbol and text approved by the secretary that is recognized as having the same meaning or intent as specified in this paragraph may be used. When the labeling of the pesticide(s) applied requires a longer reentry restriction it shall be so stated on the notification sign.

The lettering for notification signs used for posting residential, commercial or public lawns or gardens or other similar areas shall measure at least three-eighths inch. The lettering for notification signs used for right-of-way areas required to be posted shall measure at least one inch.

c. The notification sign used for posting residential, commercial or public lawns or gardens or other similar areas shall consist of a sign or placard measuring at least four inches by five inches with letters measuring a minimum of three-eighths inch.

d. The label and other information normally associated with the use of the pesticide(s) being applied to any urban area that is required to be posted shall be provided to any individual upon request.

e. A commercial or public applicator who applies a pesticide with labeling that requires further maintenance after application shall provide the homeowner or agent in charge of property with a copy of the complete label of the pesticide(s) applied if requested and instructions on proper maintenance procedures.

f. Officials of the municipalities affected by this rule shall cooperate with the department in enforcing the requirements of this rule and shall report any infractions to the department.

45.50(7) Prenotification registry. In lieu of the requirement for public notification as specified in subrule 45.50(3), a municipality may maintain a registry of persons requesting to receive notification prior to pesticide applications and provide notification to those individuals at least 24 hours prior to a pesticide application made adjacent to their property.

a. A municipality may also choose to make arrangements with those persons upon request to refrain from applying pesticides to adjacent properties in lieu of prenotification.

b. The registry shall be updated annually and contain at least the name, address, and telephone number where occupant may be reached during normal business hours. The registry shall be made available upon request to licensed commercial and public pesticide applicators.
45.50(8) Prior notification of pesticide application to lawns, parks, playgrounds and athletic fields located in urban areas.

a. An occupant of a property adjoining property where pesticides are applied by a commercial or public applicator may receive prior notification of a pesticide application by personally contacting the applicator in writing in a timely manner and providing the following information:

(1) Name and address of occupant.

(2) A telephone number of a location where occupant may be contacted during normal business hours and evening hours.

(3) Address of each property that adjoins occupant’s property.

b. The applicator receiving a written request for prior notification shall provide notice at least the calendar day before a scheduled application to property adjoining the occupant’s property. The notice may be made in writing, in person or by telephone and shall disclose the date and approximate time of day for the scheduled application. If the notice to the occupant is in a form other than writing the applicator shall document that notice was given and maintain a record of that notice at its place of business.

c. When an applicator is not successful in contacting an occupant of an adjoining property as provided in paragraph “b” of this subrule, the applicator shall, at least the calendar day before a scheduled application, leave a written notice at the residence of the person requesting prior notification indicating the date and approximate time of day for the scheduled application.

d. A request for prior notification shall expire on December 31 of each year, or the date when the occupant no longer occupies the property, whichever is earlier.

45.50(9) Prior notification of pesticide application to golf courses.

a. An occupant of a property adjoining a golf course may receive prior notice of an application by contacting the golf course superintendent or other responsible person in a timely manner and providing the following information:

(1) Name and address of occupant.

(2) Telephone number of a location where the occupant may be contacted during normal business hours and evening hours.

b. A golf course representative receiving a request for prior notification shall provide notice at least the day before the scheduled application. The notice may be made in writing, in person or by telephone and shall disclose the date and approximate time of day for the scheduled application.

c. When a golf course representative is not successful in contacting an occupant of an adjoining property the day before a scheduled application, the representative shall leave a written notice at the residence of the person requesting prior notification which shall disclose the date and approximate time of day for the scheduled application.

d. A request for prior notification shall expire on December 31 of each year, or the date when the occupant no longer occupies the property, whichever is earlier.

This rule is intended to implement Iowa Code section 206.19 and 1995 Iowa Acts, Senate File 256.

21—45.51(206) Restrictions on the distribution and use of pesticides containing the active ingredient atrazine or any combination of active ingredients including atrazine.

45.51(1) Atrazine is the common name for the pesticide chemical 2-chloro-4-ethylanino-6-isopropylamino-1,3,5 triazine.

45.51(2) All pesticides containing the active ingredient atrazine or any combination of active ingredients including atrazine distributed for sale or use in Iowa shall be classified as restricted use pesticides. All pesticides containing the active ingredient atrazine shall be restricted for retail sale to and use by certified pesticide applicators only.

45.51(3) A pesticide dealer selling a pesticide containing the active ingredient atrazine shall file an annual report listing the full trade name of the pesticide product, EPA registration number and total volume in gallons or pounds of product sold. This report shall be included with the annual report required under rule 21—45.47(206), Iowa Administrative Code.

45.51(4) Atrazine use limitations.
217B.300 Definitions -- Notification and information requirements -- Records.

(1) The following definitions apply to this section:
   (a) "Application" means the spreading of lawn chemicals in liquid or dry form on a lawn;
   (b) "Applicator for hire" means any person who makes an application of lawn chemicals to a lawn for compensation, including applications made by an employee to lawns owned, occupied or managed by his employer;
   (c) "Customer" means a person who makes a contract, either written or verbal, with an applicator for hire to apply a pesticide to a lawn;
   (d) "Lawn" means land area covered with turf kept closely mown, except land areas used for agricultural production, commercial production of turf, or land situated within three (3) feet of the foundation of a structure when a pesticide is applied to this area as a preventive or control measure for structural pests;
   (e) "Lawn chemicals" means fertilizers, pesticides, or defoliants applied or intended for application to lawns;
   (f) "Structural pest" means a pest which commonly invades or attacks dwellings or structures; and
   (g) "Turf" means the upper stratum of soils bound by grass and plant roots into a thick mat.

(2) The following notification requirements shall be met:
   (a) An applicator for hire shall provide a customer at the time of entering into a contract, with written information concerning lawn chemicals, application procedures, and other general guidelines about the safe use of lawn chemicals;
   (b) Immediately following application of lawn chemicals to a lawn, the applicator shall place a lawn marker at a prominent location in the lawn;
   (c) The lawn marker shall consist of, at a minimum, a four (4) inch by five (5) inch white sign attached to the upper portion of a dowel or other supporting device of not less than twelve (12) inches in length;
   (d) Lettering on the lawn marker shall be in a contrasting color and shall read on one side "LAWN CARE APPLICATION - PLEASE STAY OFF GRASS UNTIL DRY" in letters easily readable and not less than three-eighths (3/8) inches in height. The lawn marker may also display a symbol depicting the required message and the name, logo, and service mark of the applicator;
   (e) The lawn marker shall be removed and discarded by the property owner or resident, or other person authorized by the property owner or resident, the day following application;
   (f) For applications to residential properties of three (3) families or less, the applicator shall place one (1) lawn marker per property; and
   (g) For applications to properties other than residential property of three (3) families or less, the applicator shall place lawn markers at primary points of entry to the property to provide notice that lawn chemicals have been applied to the lawn.
(3) At the time of application of lawn chemicals to a lawn, an applicator for hire shall provide the following information to the customer, either homeowner or landlord, for each lawn chemical used, and shall record and maintain at the business address the following information relating to the application of each lawn chemical:

(a) The brand name or common name of the pesticide applied;
(b) The pesticide type;
(c) The fertilizer rate and analysis;
(d) The reason for use;
(e) The concentration of end use product applied to the lawn, the rate of application, and the total gallons of end use product applied to the lawn;
(f) Any special instruction appearing on the label of the lawn chemical product applicable to the customer's use of the lawn following application and any other precautionary or hazard information appearing on the label as applicable to the end use concentration;
(g) The name and the state applicator license or certificate number of the individual actually making the application;
(h) Customer name, address, and date of application; and
(i) Total area of lawn treated.

(4) Any customer of an applicator for hire, or a neighbor whose residence is adjoining to a customer of an applicator for hire, may request prior notification twenty-four (24) to forty-eight (48) hours in advance of an application by contacting the applicator for hire and providing his name, address, and telephone number. In this event, the applicator for hire shall provide notification in writing, in person, or by telephone, of the date and approximate time of application. If an applicator for hire is unable to provide prior notification to a customer or neighbor because of the absence or inaccessibility of the individual, the applicator shall leave a written notice at the residence.

Effective: July 14, 2000

(b) Any equipment or device which produces a fog, smoke, or mist.

Section 11. Structural Pest Control and Fumigation Licenses.
(1) A person holding a general pest and wood-destroying organism or fumigation license may continue to do business in those categories of pest control for which the person is licensed under KRS 217B.515(1)(b). A general pest and wood-destroying organism or fumigation certification shall not be a manager’s or applicator’s license and shall not entitle the holder to engage in business in all the categories that a manager or applicator may engage.

(2) Commercial structural pest control or fumigation licenses shall be renewed by June 30 of each year and shall be subject to all the terms and conditions of other licenses issued under this administrative regulation. These licenses may be modified, suspended, or revoked for the same reasons, and using the same procedures, that a manager’s or applicator’s license may be modified, suspended, or revoked. These license holders shall meet the application standards and obey the requirements for contracting, recordkeeping, and reporting, established by KRS 217B.150 and by 302 KAR 29:020.

(3) A person holding a general pest and wood-destroying organism or fumigation license shall be, by reason of KRS 217B.180(3), certified to purchase or use restricted-use pesticides. This shall not relieve them from obtaining certification under the federal law as contained in the Federal Insecticides, Fungicide, and Rodenticide Act of 1972, as amended, 7 U.S.C. 11. The certification of persons certified under KRS 217B.180(3) may be modified, suspended, or revoked pursuant to 302 KAR 29:020. To maintain certification, persons certified pursuant to KRS 217B.180(3) shall meet the requirements of 302 KAR 29:060.

Section 12. Pesticide Application in Schools.
Each school district shall implement an integrated pest management program with a primary goal of controlling dangerous and destructive pests with the judicious use of pesticides. An integrated pest management program shall include the items specified in this section:

(1) Advance notification of pesticide use.

(a) If a pesticide is to be applied in or around a school, an advance notification of pesticide use shall be given or sent by the school at least twenty-four (24) hours prior to the pesticide application to all staff members, health professionals assigned to provide services at the school and parents or guardians of students enrolled in the school as determined by the contact information maintained on file. Notice shall not be required if:

1. A pesticide is to be applied at a time the school is not in session under the calendar set by the school board; and
2. Persons other than the applicators and the minimum number of school staff necessary to allow the applications are not scheduled to be in the building during the application and for at least twenty-four (24) hours after the application.

(b) A master copy of the notification shall be maintained by the school in a file marked IPM for twenty-four months after the notice is issued and shall be subject to inspection upon request by Division of Environmental Services
(2) The notification shall include the following:

(a) The date of possible pesticide application;
(b) A description of the general location of the pesticide application;
(c) description of pests treated, the brand name of the pesticides applied, including the list of active ingredients, and the pesticide application method; and
(d) A telephone number that parents and staff can use to contact the school for more information.

(3) If special circumstances arise that prevent advance notice from being provide as required, such as the emergency application of pesticides to control organisms that pose an immediate health threat, the school shall provide the notice as soon as possible. The notice shall explain the reasons why advance notice was not provided and shall also include the information required in subsection 2(a) to (d) of this section.

(4) The certified applicator shall only be responsible to furnish to the school the information needed by the school to comply with subsections (2)(a) to (c) of this section:

(a) At least thirty-six (36) hours prior to the application of the pesticide, if the school notification is provided as required by subsection (1)(a) of this section; or
(b) As early as possible, if the school notification is provided as required by subsection (3) of this section;

(5) Qualifications for pesticide applicators. Persons who apply pesticides in schools shall be certified under Category 7(a), General Pest and Wood-destroying Organisms, and Category 7(b), Integrated Pest Management, to apply pesticides. Applicators currently holding a Category 7(a) certification on the effective date of this administrative regulation shall receive their Category 7(b) certification without additional examination.

(6) Exemptions. This administrative regulation shall not apply to application of the following types of pesticides:

(a) Germicides, disinfectants, bactericides, sanitizing agents, water purifiers, and swimming pool chemicals used in normal cleaning activities;
(b) Personal insect repellents;
(c) Human or animal ectoparasite control products administered by qualified health professionals or veterinarians; and
(d) Manufactured paste or gel bait insecticides placed in areas where humans or pets do not have reasonable access to the bait; or
(e) Paraffin-based rodent control products placed in industry identified tamper-resistant bait stations.

Section 13. Qualifications for Pesticide Application for Health Care Centers.

Pesticide applicators who apply pesticides in health care centers shall be certified in 7(a), General Pest and Wood-destroying Organisms, and 7(b), Integrated Pest Management, to apply pesticides. Applicators currently holding a Category 7(a) certification on the effective date of this administrative regulation shall receive their Category 7(b) certification without additional examination.
(1) The following material is incorporated by reference:
   (a) “Commercial Structural Pest Control Examination Application”, 2002;
   (b) “Monthly Report of Wood-Destroying Organism Treatments” form, 11/99; and
   (c) “Structural Pest Control Renewal Form”, December 2006.

(2) This material may be inspected, copied, or obtained, subject to applicable
    copyright law, at the Kentucky Department of Agriculture, Division of
    Environmental Services, 107 Corporate Drive, Frankfort, Kentucky 40601,
    Monday through Friday, 8 a.m. to 4:30 p.m. (28 Ky.R. 749; Am. 1378; eff. 12-19-
    2001; 33 Ky.R. 889; 1607; 1794; eff. 2-2-07.) [“Pesticide Regulation” is now
    the KDA Division of Environmental Services, located at 107 Corporate
    Drive, Frankfort, KY 40601.]

RELATES TO: KRS Chapter 217B, 7 U.S.C. 136
STATUTORY AUTHORITY: KRS 217B.050, 217B.060
NECESSITY, FUNCTION, AND CONFORMITY: KRS 217B.050 requires the Department
of Agriculture to promulgate administrative regulations to implement the provisions of
KRS Chapter 217B. KRS 217B.060 authorizes the department to establish classifications of
pesticide licenses. This administrative regulation establishes a system of certification for
persons required to be licensed or certified under KRS Chapter 217B.

Section 1. Types of Certification.
(1) Category 7. Industrial, institutional, structural, and health-related pest control.
    This category shall cover all persons using or supervising the use of pesticides
    for structural pests only, in, on, or around food-handling establishments, human
    dwellings, educational facilities, health care centers, industrial establishments,
    including warehouses and grain elevators and any other structures and adjacent
    areas, public or private; and for the protection of stored, processed, or
    manufactured products. Industrial, institutional, structural, and health-related
    pest control certification shall be divided into the following subcategories:
    (a) Structural pest control certification shall cover the use of pesticides in
        the control of general pests and wood-destroying organisms by all means
        other than fumigation. Persons certified under this section shall be exempt
        from the certification requirements of 302 KAR Chapters 27 and 28 if using
        or supervising the use of pesticides for the control of structural-invading
        pests in areas adjacent to or outside any structure being treated by the
        person pursuant to the provisions of 302 KAR Chapter 29.
    (b) Integrated pest management certification shall cover an
        environmentally-sound approach to pest management in schools and
        health care facilities with the goal of the judicious use of pesticides.
    (c) Structural fumigation certification shall cover the use of pesticides in
        the form of poisonous gases.

(2) Category 8. Public health pest control. This category shall include state,
    federal, or other governmental employees using or supervising the use of pesticides
    in management and control of pests in public health programs.

(3) Category 12. Pesticide sales agent. This category shall include any individual
    who sells or distributes restricted use pesticides or any individual who sells and
    makes recommendations for the use and application of pesticides to the final user.
Category 12 certification as a pesticide sales agent under this administrative regulation shall meet the requirements of Category 12 certification under 302 KAR Chapters 27 and 28. Persons taking orders or explaining service programs without naming or making recommendations for pesticide use shall be excluded from certification if the person selling or distributing pesticides is licensed as a pesticide sales agent.

Section 2. General Requirements.
To obtain certification, a person shall take and pass, with a minimum score of seventy (70) percent, a certification examination in the category or categories in which certification is requested. Competency in the use and handling of pesticides shall be determined and based upon standards established in this administrative regulation and KRS 217B.530. The examination and testing shall include the general standards applicable to all categories and the additional standards specifically identified for each category or subcategory in which a person desires to be certified. A person shall pay an initial certification examination fee of twenty-five (25) dollars. For persons testing in multiple categories, there shall be an additional examination fee of ten (10) dollars for each additional category. Examination fees shall be charged each time a person takes a certification examination and shall be charged regardless of the passing or failing of the examination. Upon successfully passing an examination, a person shall have ninety (90) days from the date of testing to submit a completed "Structural Pest Control License Form" specifying the category or categories in which a license is requested. After ninety (90) days have expired, a person shall retake the exam before activation of a license may occur.

Section 3. General Standards of Competency.
Testing shall be based on examples of problems and situations appropriate to the particular category or subcategory of the requested certification and may include the following areas of competency:

(1) Label and labeling comprehension:
   (a) An understanding of instructions, warnings, terms, symbols, and other information commonly appearing on pesticide labeling;
   (b) Classification of the product, general or restricted; and
   (c) Necessity for use consistent with the labeling.

(2) Safety factors, including:
   (a) Pesticide toxicity, hazard to man, and common exposure routes;
   (b) Common types and causes of pesticide accidents;
   (c) Precautions necessary to guard against injury to applicator and other individuals in or near treated areas;
   (d) Symptoms of pesticide poisoning;
   (e) First aid and other procedures to be followed if a pesticide accident occurs;
   (f) Proper identification, storage, transport, handling, mixing procedures, and disposal methods for pesticides and used pesticide containers, including precautions to be taken to prevent children from having access to pesticide containers; and
   (g) The proper selection and use of personal protective equipment for the handling and application of pesticides;

(3) The potential environmental consequences of the use and misuse of pesticides
as may be influenced by factors such as:
(a) Weather and other climatic conditions;
(b) Types of terrain, soil, or other substrata;
(c) Presence of fish, wildlife, and other nontarget organisms; and
(d) Drainage patterns;
(4) Pest identification, including consideration of the following factors:
   (a) Common features of pest organisms and characteristics of damage
       necessary to facilitate pest recognition; and
   (b) Pest maturation and development as it may relate to the problem of
       identification and control.
(5) Pesticides, including consideration of the following factors:
   (a) Types of pesticides;
   (b) Types of pesticide formulations;
   (c) Compatibility, synergism, persistence, and animal and plant toxicity of the
       formulation;
   (d) Hazards and residues associated with use;
   (e) Factors which influence effectiveness or lead to such problems as
       resistance to pesticides; and
   (f) Dilution procedures.
(6) Equipment, including consideration of the following factors:
   (a) Types of pesticide application equipment and advantages and limitations
       of each; and
   (b) Uses, maintenance, and calibration of equipment.
(7) Application techniques; factors including:
   (a) Methods used to apply various formulations of pesticides, solutions, and
       gases together with a knowledge of which technique or application to use
       in a given situation;
   (b) Relationship of discharge and placement of pesticides to proper use,
       unnecessary use, and misuse; and
   (c) Prevention of drift and pesticide loss into the environment.
(8) Laws and regulations. Knowledge of pertinent aspects of the Federal
    Environmental Pesticides Control Act, 7 USC 136, and KRS Chapter 217B.

Section 4. Specific Standards of Competency.
In addition to meeting the requirements of Sections 2 and 3 of this administrative
regulation, persons requesting certification for a specific category shall
demonstrate competence relating to that category as follows:
(1) Category 7. Industrial, institutional, structural, and health-related pest control.
This category shall be subdivided as follows:
(a) Structural pest control certification. Persons requesting certification in
   this subcategory shall demonstrate practical knowledge of a wide variety
   of pests including general pests and wood-destroying organisms. This
   practical knowledge shall include their life cycles, types of formulations
   appropriate for their control, minimum standards of application, and
   methods of application that avoid contamination of habitat and exposure
   of people and pets. Since human exposure, including babies, pregnant
women, and elderly people, is frequently a potential problem, applicants
shall demonstrate practical knowledge of the specific factors which may
lead to a hazardous condition. Because school and health-related pest
control may involve outdoor applications, persons shall also demonstrate
practical knowledge of environmental conditions.

(b) Integrated pest management. Persons requesting certification in this
subcategory shall demonstrate a practical knowledge of an integrated pest
management program to determine if and when a treatment is needed.
Components of an integrated pest management program may include
education, proper waste management, structural repair, maintenance, biological
and mechanical control techniques, and pesticide application. A prerequisite
for integrated pest management certification shall be 7(a) certification.

(c) Structural fumigation certification. Persons requesting certification in this
subcategory shall demonstrate a practical knowledge of those pests for
which treatment by fumigation is an appropriate control technique. This
practical knowledge shall include their life cycles, fumigants appropriate
for their control, and alternative control techniques. Because of the
potential dangers inherent in the use of fumigant gases, the applicant shall
demonstrate knowledge of the dangers involved and the safety
precautions established by these administrative regulations and by good
operating practice.

(2) Category 8. Public health. Persons requesting public health certification shall
demonstrate practical knowledge of vector-disease transmission as it relates
to and influences pesticide application programs. A wide variety of pests are
involved and they shall be known and recognized; and appropriate life cycles
and habitats shall be understood as a basis for control strategy. These
applicants shall have practical knowledge of a great variety of environments
ranging from streams to those conditions found in buildings. They shall also
have practical knowledge of the importance and employment of such
nonchemical control methods such as sanitation, waste disposal and drainage.

(3) Category 12. Pesticide sales agent. Persons desiring certification in this
category shall demonstrate practical knowledge of pesticide labels and label
comprehension including environmental hazards, rates of application, proper
application techniques, storage, shipping, handling, worker protection safety
issues, and the different types of pesticides.

Section 5. License Examination. Structural.
The examinations administered by the department pursuant to KRS 217B.530 and
this administrative regulation for licensees to do business as structural pest control
applicators, structural pest control managers, structural fumigation applicators, and
structural fumigation managers shall contain all the requirements for certification to
apply pesticides under this administrative regulation. If a person obtains a license
to do business in one (1) or more of the above categories, that person shall be
certified to purchase, use, or apply pesticides in the appropriate subcategory of
industrial, institutional, structural, or health-related pest control.

Section 6. Certification Maintenance.
To maintain certification, each person certified under this administrative regulation
shall in any three (3) year period, attend at least twelve (12) continuing education
PART VIII. SCHOOL PESTICIDE SAFETY

§3381. Policy; purpose

The legislature finds that the exposure of school children to pesticides poses known and, as of yet, unknown risks to their health and well-being. Providing controls on the application of these pesticides will help to ensure the safety and well-being of children in the state.

§3382. Definitions

As used in this Part, the following terms shall have the following meanings ascribed to them:

1) "Pest" means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism in living humans or other living animals, which the commissioner declares to be a pest, other than mosquitos.

2) "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest and any substance or combination of substances intended for use as a plant regulator, defoliant, desiccant, or any substance the commissioner of agriculture and forestry or his duly authorized representative acting at his direction determines to be a pesticide.

3) "School" means any public or private day or residential school that provides elementary or secondary education.

4) "Least toxic method" means an integral part of an integrated pest management plan and is a combination of common sense practices that use current, comprehensive information on the life cycles of pests and their interactions with the environment, in combination with available pest control methods used to manage pest damage by the most economical means with the least possible hazard to people, property, and the environment.

§3383. Record of pesticides used to control pests

A. Each school shall keep a written record of restricted use pesticides used to control pests. After the application of a restricted use pesticide, an entry shall be made in the record which lists:

1. The name of the pesticide applied.
2. The quantity of pesticide applied.
3. The pest which the pesticide is intended to control.
4. The date, time, and location on the school grounds where the pesticide was applied.
5. The name of the person or persons who applied the pesticide.

B. The records required by Subsection A of this Section shall be kept in the business office of each school and made available for public inspection by any person during regular school hours.

§3384. Requirement that eight hours precede the exposure of children to restricted use pesticides
A restricted use pesticide shall be applied to a school building or on school grounds only during periods in which students are not expected to be present for normal academic instruction or organized extracurricular activity for at least eight hours after the application.
§3385. Least toxic method of pest control encouraged

Schools are encouraged to use the least toxic method of pest control. The least toxic method of pest control may include pest control methods other than the application of pesticides. Acts 1993, No. 729, §1.
§3386. Application of pesticides by certified commercial applicator

A. No person shall apply or supervise the application of any herbicide, rodenticide, insecticide, or restricted use pesticide, on a non-fee basis for grass and weed control, and rodent and general pest control in, on, or around structures or grounds of schools that provide education to kindergarten through twelfth grade classes, unless that person is a certified commercial applicator or is under the supervision of a certified commercial applicator as provided in R.S. 3:3242 and the rules and regulations adopted thereunder. Such certified commercial applicator shall be trained in integrated pest management that includes but is not limited to pest prevention, least toxic methods of pest control, and applying pesticides judiciously. Training material shall include but not be limited to the guidelines in the EPA publication "Pest Control in the School Environment: Adopting Integrated Pest Management".

B. Pesticide applications for wood destroying insects shall be applied by a structural pest control operator licensed under the provisions of R.S. 3:3368.

§3387. Employment of certified commercial applicators by school systems
   A. School systems having ten or more schools shall employ at least two certified commercial applicators.
   B. School systems having less than ten schools shall employ at least one certified commercial applicator.

§3388. Annual integrated pest management plan
A. The governing authority of each school, including but not limited to superintendents, headmasters, school boards, boards of directors, chief executive officers, or principals, shall prepare and submit, for each school under its authority, an annual integrated pest management plan that applies integrated pest management strategies of pest prevention methods and strongly recommends the least toxic methods of control for grass and weed control, and rodent and general pest control in, on, or around school structures and grounds.
B. The annual integrated pest management plan shall include but shall not be limited to the following:
(1) The school name, mailing address, physical address, telephone number, and contact person.
(2) If a company or specific applicator enters into a contract to apply any herbicide, rodenticide, insecticide, or restricted use pesticide, the name and number of the owner/operator license or place of business permit and the certification number of the commercial applicator or licensee.
(3) The name and certification number of the certified commercial applicator for the school system.
(4) The brand name and EPA registration number of all pesticides to be used.
(5) The proposed location and dates for noncertified applicator training.
(6) A list of the following for each pesticide to be used:
   (a) The pest to be controlled.
   (b) The type of application to be used.
   (c) The location of the application.
   (d) Whether it is a restricted use pesticide or a general use pesticide.
C. The annual integrated pest management plan shall be submitted in writing to the director of pesticide and environmental programs for the Department of Agriculture and Forestry, on or before August first of each year and shall cover from August first of that year through July thirty-first of the following year.
D. The annual integrated pest management plan shall, upon request, be available for review by the commissioner and the general public in the business office of each school during regular school hours.
E. Any deviation from the submitted annual integrated pest management plan shall be delivered in writing to the director of pesticide and environmental programs no later than twenty-four hours prior to any pesticide application.
F. The annual integrated pest management plan shall not take the place of the recordkeeping requirements of R.S. 3:3243(G) and 3383.
G. Records of inspections, identification, monitoring, evaluations, and pesticide applications shall be maintained by the schools and submitted with the annual integrated pest management plan to the department annually on a form prescribed by the department.
§3389. Hypersensitive student registry; notification

Each school shall maintain a hypersensitive student registry listing the names of students whose parents have submitted a written statement to the school which shall include but not be limited to the student's name and address, parent's or guardian's signature, name, and address, and a written medical verification by a licensed physician which includes the physician's signature, name, and address.

Chapter 27: STANDARDS FOR PESTICIDE APPLICATIONS AND PUBLIC NOTIFICATION IN SCHOOLS

SUMMARY: These regulations establish procedures and standards for applying pesticides in school buildings and on school grounds. This chapter also sets forth the requirements for notifying school staff, students, visitors, parents and guardians about pending pesticide applications.

Section 1. Definitions

A. Integrated Pest Management. For the purposes of this regulation, Integrated Pest Management (IPM) means the selection, integration and implementation of pest damage prevention and control based on predicted socioeconomic and ecological consequences, including:

(1) understanding the system in which the pest exists,

(2) establishing dynamic economic or aesthetic injury thresholds and determining whether the organism or organism complex warrants control,

(3) monitoring pests and natural enemies,

(4) when needed, selecting the appropriate system of cultural, mechanical, genetic, including resistant cultivars, biological or chemical prevention techniques or controls for desired suppression, and

(5) systematically evaluating the pest management approaches utilized.

B. School. For the purposes of this regulation, School means any public, private or tribally funded:

(1) elementary school,

(2) secondary school,

(3) kindergarten or

(4) nursery school that is part of an elementary or secondary school.

C. School Building. For the purposes of this regulation, School Building means any structure used or occupied by students or staff of any school.
D. **School Grounds.** For the purposes of this regulation, School Grounds means:

(1) land associated with a school building including playgrounds, athletic fields and agricultural fields used by students or staff of a school, and

(2) any other outdoor area used by students or staff including property owned by a municipality or a private entity that is regularly utilized for school activities.

E. **Integrated Pest Management Coordinator.** An employee of the school system or school who is knowledgeable about integrated pest management and is designated by each school to implement the school pest management policy.

Section 2. **Requirements for All Schools**

A. All public and private schools in the State of Maine shall adopt and implement a written policy for the application of Integrated Pest Management techniques in school buildings and on school grounds.

B. Each school shall appoint an IPM Coordinator who shall act as the lead person in implementing the school's Integrated Pest Management policy. The IPM Coordinator shall be responsible for coordinating pest monitoring and pesticide applications, and making sure all notice requirements as set forth in this chapter are met. In addition, the IPM Coordinator shall maintain and make available to parents, guardians and staff upon request:

(1) the school’s IPM Policy,

(2) a copy of this rule (CMR 01-026 Chapter 27),

(3) records of all pesticide applications as required under CMR 01-026 Chapter 50 – Record Keeping and Reporting Requirements,

(4) copies of labels and material data safety sheets for all products applied, and

(5) when pesticides not exempt under Section 3 are applied, records of the IPM steps taken as described in Section 5.B. of this chapter.

C. Each school shall provide an annual notice to parents or guardians and school employees. This notice must be provided within two weeks of the start of the school year regardless of whether there are plans to have pesticides applied in the coming year.

Section 3. **Exemptions**

A. The following pesticide uses are exempt from the requirements of Section 4 and 5 of this Chapter:

(1) application of ready-to-use general use pesticides by hand or with non-powered equipment to control or repel stinging or biting insects when there is an urgent
need to mitigate or eliminate a pest that threatens the health or safety of a student, staff member or visitor,

(2) application of general use antimicrobial products by hand or with non-powered equipment to interior or exterior surfaces and furnishings during the course of routine cleaning procedures, and

(3) application of paints, stains or wood preservatives that are classified as general use pesticides.

B. The following pesticide uses are exempt from the requirements of Section 4 of this Chapter:

(1) pesticides injected into cracks, crevices or wall voids,

(2) bait blocks, gels, pastes, granular and pelletized materials placed in areas inaccessible to students,

(3) indoor application of a pesticide with no re-entry or restricted entry interval specified on its label but entry to the treated area is restricted for at least 24 hours.

C. When the Maine Center for Disease Control has identified arbovirus positive animals (including mosquitoes and ticks) in the area, powered applications for mosquito control are exempt from Section 4 and 5(B). Applicators should post the treated area as soon as practical, in a manner consistent with Section 4 C(3)(a).

Section 4. Notification

A. Within two weeks of the start of every school year, notice shall be given by all schools to all school staff and parents or guardians of students advising them that a school integrated pest management policy exists and where it may be reviewed, that pesticides may periodically be applied in school buildings and on school grounds and that applications will be noticed in accordance with Sections 4(B-D) hereof. This notice shall also state that records of prior pesticide applications and labels and material safety data sheets for the pesticides used and a copy of the Standards for Pesticide Applications and Public Notification in Schools regulation (CMR 01-026 Chapter 27) are available for review.

B. Notices given as required by Section 4C shall state, as a minimum: (a) the trade name and EPA Registration number of the pesticide to be applied; (b) the approximate date and time of the application; (c) the location of the application; (d) the reasons for the application; and (e) the name and phone number of the person to whom further inquiry regarding the application may be made. These notices must be sent to school staff and parents or guardians of students at least five days prior to the planned application.

C. During the school year when classes are regularly scheduled, schools shall provide notice of pesticide applications in accordance with either Section 4C(1) or 4C(2) and with Section 4C(3). When classes are not regularly scheduled, notice shall be accomplished by posting of signs as described in Section 4C(3) of this rule.
(1) Notice may be given to school staff and parents or guardians of students using a school whenever pesticide applications not exempted by Section 3 are performed inside a school building or on the school grounds, or

(2) The school may establish a notification registry whereby persons wishing notification of each application performed inside a school building or on school grounds may make a written request to be put on the registry list to receive notice whenever pesticide applications not exempted by Section 3 are performed.

(3) In addition to the notice provisions above, whenever pesticide applications not exempted by Section 3 are performed in a school building or on school grounds, a sign shall be posted at each point of access to the treated area and in a common area of the school at least two working days prior to the application and for at least forty-eight hours following the application. Posting of the notification signs as required by this Chapter satisfies the posting requirements of Chapter 28 of the Board’s regulations.

a. The signs shall be:

i. at least 8.5 inches wide by 11 inches tall for indoor applications,

ii. at least 5 inches wide by 4 inches tall for outdoor applications,

iii. made of rigid, weather resistant material that will last at least ninety-six (96) hours when placed outdoors, and

iv. light colored (white, beige, yellow or pink) with dark, bold letters (black, blue, red or green).

b. The signs for indoor applications must bear:

i. the word CAUTION in 72 point type,

ii. the words PESTICIDE APPLICATION NOTICE in 30 point type or larger,

iii. any reentry precautions from the pesticide labeling in at least 12 point type,

iv. the trade name and EPA Registration number(s) of the pesticide(s) to be applied in at least 12 point type,

v. the approximate date and time of the application in at least 12 point type,

vi. the location of the application in at least 12 point type,

vii. the reason(s) for the application in at least 12 point type, and
viii. the name and phone number in at least 12 point type of the person to whom further inquiry may be made regarding the application.

c. The signs for outdoor applications must bear:

i. the word CAUTION in 72 point type,

ii. the words PESTICIDE APPLICATION in 30 point type or larger,

iii. the Board designated symbol (see appendix A),

iv. any reentry precautions from the pesticide labeling in at least 12 point type,

v. the trade name and EPA Registration number(s) of the pesticide(s) to be applied in at least 12 point type,

vi. the approximate date and time of the application in at least 12 point type,

vii. the location of the application in at least 12 point type,

viii. the reason(s) for the application in at least 12 point type, and

ix. the name and phone number of the person to whom further inquiry regarding the application may be made in at least 12 point type.

Section 5. Integrated Pest Management Techniques

A. All pest management activities should be conducted using appropriate elements of integrated pest management as described in the latest Cooperative Extension or Department of Agriculture training manuals for pest management in and/or on school property. In all cases, the application should be conducted in a manner to minimize human risk to the maximum extent practicable using currently available technology.

B. Prior to any pesticide application the following steps must be taken and recorded:

1. monitor for pest presence or conditions conducive to a pest outbreak,

2. identify the pest specifically,

3. determine that the pest population exceeds acceptable safety, economic or aesthetic threshold levels, and

4. utilize non-pesticide control measures that have been demonstrated to be practicable, effective and affordable.
C. When a pesticide application is deemed necessary, the applicator must comply with all the requirements of Chapter 31 – Certification and Licensing Provisions/Commercial Applicator. The applicator must also take into account the toxicity of recommended products and choose lowest risk products based on efficacy, the potential for exposure, the signal word on the pesticide label, the material safety data sheet, other toxicology data and any other label language indicating special problems such as toxicity to wildlife or likelihood of contaminating surface or ground water.

D. Indoor pesticide use must be limited to placement of baits and wall void or crack and crevice and pool and spa disinfectant treatments unless the pest threatens the health and safety of persons in the buildings as determined by the school’s integrated pest management coordinator.

E. Pesticide applications must not be conducted when people are in the same room to be treated except that applicators may set out bait blocks, pastes or gels when only informed staff members are present. When space, spot, surface or fumigation applications are conducted the ventilation and air conditioning systems in the area must be shut off or the entire building must be evacuated. Applications should be planned to occur on weekends or vacations to allow maximum time for sprays to dry and vapors to dissipate.

F. Outdoor applications should be scheduled so as to allow the maximum time for sprays to dry and vapors to dissipate and shall not occur when unprotected persons are in the target area or in such proximity as to likely result in unconsenting exposure to pesticides. Applications must also be conducted in accordance with all other applicable Board regulations designed for minimizing pesticide drift and posting of treated sites. Spot treatments should be considered in lieu of broadcast applications.

G. The Integrated Pest Management Coordinator must maintain records of pest monitoring as well as the same pesticide application information required in Section 1.A. of Chapter 50 – Record Keeping & Reporting Requirements for a period of two years following all pesticide applications performed along with the labels and material safety data sheets for all products used in or on school property.


EFFECTIVE DATE:

AMENDED:
July 5, 2005 – filing 2005-266
March 4, 2007 – Section 3(C), filing 2007-67
Appendix A

Board Designated Symbol for Posting Outdoor Pesticide Applications to School Grounds
§ 5-208.1. Integrated pest management systems in schools and school grounds

(a) Definitions. --

(1) In this section the following words have the meanings indicated.

(2) "Contact person" means an individual knowledgeable about integrated pest management and designated by a county board to act under subsection (e) of this section.

(3) "County board" has the meaning stated in § 1-101 of the Education Article.

(4) "Crack and crevice treatment" means the application of small amounts of a pesticide in a building into openings such as those commonly found at expansion joints, between levels of construction, and between equipment and floors.

(5) "Emergency" means a sudden need to mitigate or eliminate a pest which threatens the health or safety of a student or staff member.

(6) "Integrated pest management" means a managed pest control program in which methods are integrated and used to keep pests from causing economic, health related, or aesthetic injury through the utilization of site or pest inspections, pest population monitoring, evaluating the need for control, and the use of one or more pest control methods including sanitation, structural repair, nonchemical methods, and, when nontoxic options are unreasonable or have been exhausted, pesticides in order to:

(i) Minimize the use of pesticides; and

(ii) Minimize the risk to human health and the environment associated with pesticide applications.

(7) "Pesticide" does not include:

(i) An antimicrobial agent, such as a disinfectant, sanitizer, or deodorizer, used for cleaning purposes; or

(ii) Any bait station.
(8) "School" means a public school in the public elementary and secondary system of the State.

(9) (i) "Space spraying" means application of a pesticide by discharge into the air throughout an area.

(ii) "Space spraying" does not include crack and crevice treatment.

(10) (i) "Staff member" means an employee of a school system.

(ii) "Staff member" includes administrators, teachers, and other support personnel.

(iii) "Staff member" does not include:

1. A registered employee or applicator certified by the Department; or
2. A person assisting in the application of a pesticide.

(11) "Universal notification" means written notice by a school to all parents, guardians, and staff members.

(b) Applicability. -- This section applies to pesticide application in a school building or on school grounds.

(c) Uniform standards and criteria; deadline. --

(1) The Department shall develop uniform standards and criteria for implementing integrated pest management systems in schools.

(2) The Department shall develop uniform standards and criteria for implementing integrated pest management for school grounds by March 15, 2001.

(d) System; approval; deadline. --

(1) A county board shall develop and implement in its schools an integrated pest management system approved by the Secretary.

(2) On or before the beginning of the 2001 school year, a county board shall develop and implement an integrated pest management system for school grounds approved by the Secretary.

(e) Contact person. --

(1) A county board shall designate a contact person.

(2) The contact person shall:

(i) Act as a contact for inquiries about the integrated pest management system; and

(ii) Maintain material safety data sheets and labels for all pesticides which may be used in the school district of the county board.

(f) Notice of system. --

(1) At the beginning of each school year, a school shall include notice of the school's integrated pest management system in the school calendar or other universal notification.
(2) The notice shall include:

(i) A statement that explains the school's integrated pest management system and lists any pesticide or bait station that may be used in a school building or on school grounds as part of the integrated pest management system;

(ii) The name, address, and telephone number of the contact person;

(iii) A statement that the contact person maintains the product label or material safety data sheet of each pesticide or bait station that may be used by the school in buildings and on school grounds, that the label or data sheet is available for review by a parent, guardian, staff member, or student attending the school, and that the contact person is available to parents, guardians, and staff members for information and comment; and

(iv) Instructions for including a parent, guardian, or staff member on a pesticide notification list under subsection (g) of this section.

(g) School pesticide notification list. --

(1) At the start of each school year, a school shall develop a pesticide notification list containing each staff member, and parent or guardian of a student attending the school, who requests in writing prior notification of a pesticide application made in the school building or on school grounds during the school year.

(2) The school shall keep the pesticide notification list current and shall add additional names on written request by a staff member, or by the parent or guardian of a student attending the school.

(3) The school shall make the pesticide notification list available to the Department on request.

(h) New staff members or adults. -- After the start of each school year, a school shall provide the written information required under subsection (f)(2) of this section to a newly employed staff member or the parent or guardian of a student newly enrolled during the school year.

(i) Notification prior to application. --

(1) Except as provided in paragraph (3) of this subsection, at least 24 hours before a pesticide is applied in a school building or on school grounds, the school shall provide to each parent, guardian, and staff member on the pesticide notification list the:

   (i) Common name of the pesticide;

   (ii) Location of the application;

   (iii) Planned date and time of application; and

   (iv) United States Environmental Protection Agency warning that pregnant women should reduce or eliminate exposure to all pesticides.

(2) The school may provide prior notification, required under paragraph (1) of this subsection, by:

   (i) Written notice sent home with the student or provided to the staff member;

   (ii) Telephone call;
(iii) Direct contact; or

(iv) Written notice mailed at least 3 days prior to the application.

(3) In the case of a pesticide application at an elementary school, at least 24 hours before the pesticide is applied in a school building or on school grounds, the school shall provide to each parent or guardian, and staff member:

(i) The common name of the pesticide;

(ii) The location of the application;

(iii) The planned date and time of application;

(iv) The following language:

"The office of pesticide programs of the United States Environmental Protection Agency has stated:

"Where possible, persons who potentially are more sensitive, such as pregnant women and infants (less than two years old), should avoid any unnecessary pesticide exposure."; and

(v) A brief description of potential adverse effects based upon the material safety data sheet of the pesticides to be applied.

(4) Each school system shall develop an appropriate means of in-school notification to students and staff members before a pesticide is applied in a school building or on school grounds of a middle school or high school.

(5) (i) For application on school grounds, the notice of planned date and time of application required under this subsection may specify that weather conditions or other extenuating circumstances may cause the actual date of application to be postponed to a later date or dates.

(ii) If the actual date of application is more than 14 days later than the planned date provided in the notice, notice of the application required under this subsection shall be reissued.

(j) Space spraying in school buildings. --

(1) Subject to subsection (k) of this section, a school that intends to use space spraying in a school building shall provide written notice at least 1 week beforehand by universal notification.

(2) The notice shall be on a separate paper sheet at least 8 1/2 inches by 11 inches in size and shall contain:

(i) A common name of the pesticide to be used;

(ii) A location of the space spraying;

(iii) A planned date and time of space spraying;

(iv) The following language:

"The office of pesticide programs of the United States Environmental Protection Agency has stated:
"Where possible, persons who potentially are more sensitive, such as pregnant women and infants (less than two years old), should avoid any unnecessary pesticide exposure."

(v) If the pesticide is not addressed in the notice sent at the beginning of the school year, a brief description of the pesticide to be applied;

(vi) A brief description of potential adverse effects based upon the material safety data sheet of the pesticides to be applied; and

(vii) The name and telephone number of the county designated contact person.

(k) Emergency pest control. --

(1) A pesticide may be applied in a school building or on school grounds without prior notification only if an emergency pest situation exists.

(2) Except as provided in paragraph (5) of this subsection, within 24 hours after an emergency pesticide application in a school building or on school grounds, or on the next school day, the school shall notify each parent, guardian, and staff member on the pesticide notification list that a pesticide was applied for emergency pest control.

(3) The notification required under paragraph (2) of this subsection shall include the:

(i) Common name of the pesticide applied;

(ii) Approximate location of the application;

(iii) Date of application; and

(iv) Reason for the emergency application.

(4) Notification under this subsection may be made by:

(i) Telephone call;

(ii) Direct contact; or

(iii) Written notice sent home with the student or provided to the staff member.

(5) In the case of an emergency pesticide application at an elementary school, within 24 hours after an emergency pesticide application in a school building or on school grounds, or on the next school day, the school shall provide to each parent, guardian, and staff member:

(i) The common name of the pesticide;

(ii) The location of the application;

(iii) The date and time of application;

(iv) The following language:

"The office of pesticide programs of the United States Environmental Protection Agency has stated:

"Where possible, persons who potentially are more sensitive, such as pregnant women and infants (less than two years old), should avoid any unnecessary pesticide exposure."; and

https://web.lexisnexis.com/research/retrieve?m=cd6f124f737e84271e94d0e8f167371&
(v) A brief description of potential adverse effects based upon the material safety data sheet of the pesticides applied.

(l) In-school notification prior to bait station use. -- Each school system shall develop appropriate means of in-school notification before a bait station is used in a school building. The means may include a sign posted on the door of the room in which the bait station is placed.

Title 15 DEPARTMENT OF AGRICULTURE

Subtitle 05 PESTICIDE USE CONTROL

Chapter 02 Integrated Pest Management and Notification of Pesticide Use in a Public School Building or on School Grounds

Authority: Agriculture Article, §§5-204 and 5-208.1, Annotated Code of Maryland
.01 Scope of Regulations.

This chapter sets forth the procedure for a county board of education to:

A. Develop and implement in its schools and on school grounds an integrated pest management system; and

B. Notify a parent or guardian of a student attending a public school, a student, or a school staff member before a pesticide is applied in a school building or on school grounds during the school year.
.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Bait" means an insecticide or rodenticide mixed with a food material that attracts a pest.

(2) "Bait station" means a container enclosing an insecticide or rodenticide bait.

(3) "Contact person" means an individual:

(a) Knowledgeable about integrated pest management; and

(b) Designated by a county board to act as a contact for inquiries about the integrated pest management system.

(4) "Crack and crevice treatment" means the application of small amounts of a pesticide in a building into openings such as those commonly found:

(a) At expansion joints;

(b) Between levels of construction; and

(c) Between equipment and floors.

(5) "Department" means the Maryland Department of Agriculture or its designee.

(6) "Emergency" means a sudden need to mitigate or eliminate a pest which threatens the health or safety of a student or staff member.

(7) "Integrated pest management" means a managed pest control program in which methods are integrated and used to keep pests from causing economic, health-related, or aesthetic injury through the utilization of site or pest inspections, pest population monitoring, evaluating the need for control, and the use of one or more pest control methods, including sanitation, structural repair, nonchemical methods, and, when nontoxic options are unreasonable or have been exhausted, pesticides, in order to:

(a) Minimize the use of pesticides; and

(b) Minimize the risk to human health and the environment associated with pesticide applications.

(8) "Pesticide" means a substance or mixture of substances intended for:

(i) Preventing, destroying, repelling, or mitigating a pest;

(ii) Use as a plant regulator, defoliant, or desiccant; or

(iii) Use as a spray adjuvant, such as a wetting agent or adhesive.
(b) "Pesticide" does not include:

(i) An antimicrobial agent, such as a disinfectant, sanitizer, or deodorizer, used for cleaning purposes; or

(ii) A bait station.

(9) "School" means a public school in the public elementary and secondary system of the State.

(10) "School year" means that period during the year defined by each county board of education when public schools are regularly open for students.

(11) Space Spraying.

(a) "Space spraying" means an application of pesticide by discharge into the air throughout an entire room or area by a fogger or aerosol device.

(b) "Space spraying" does not include crack and crevice treatment.

(12) Staff Member.

(a) "Staff member" means an employee of a school system.

(b) "Staff member" includes an administrator, teacher, or other support personnel.

(c) "Staff member" does not include:

(i) A registered employee or pest control applicator certified by the Department; or

(ii) An individual assisting in the application of a pesticide.

(13) "Universal notification" means written notice by a school to all parents, guardians, and staff members.
.03 Integrated Pest Management System.

A. County Board of Education Requirements.

(1) Each county board of education shall:

(a) Develop and implement for its schools an integrated pest management system approved by the Department; and

(b) File a written integrated pest management plan with the Department for approval.

(2) When any change is made to the integrated pest management system, the county board of education shall submit the revised integrated pest management plan to the Department for approval before the initiation of the new plan.

B. The integrated pest management system of a county board of education shall meet the following minimum requirements:

(1) Have an integrated pest management policy;

(2) Have a policy on pest management roles and responsibilities of decision makers, including the name, address, and telephone number of the contact person;

(3) Have procedures for conducting the pest control program, including pest management objectives;

(4) Have procedures for regular inspection and monitoring activities to determine the presence and distribution of pests;

(5) Have standards to determine the:

(a) Severity of pest infestation; and

(b) Need for corrective action;

(6) Require each school:

(a) To make records documenting:

(i) Pest sightings;

(ii) Pest control procedures; and

(iii) Any communications to students and staff members regarding integrated pest management or pesticide use; and

(b) To maintain these records for 2 years and make these records immediately available, on request, to the Department.

(7) Have pest management strategies, including sanitation, structural repair, physical, cultural, and biological control, nonchemical methods and pesticide application, when non tox
.04 Information for Parent, Guardian, or Staff Member.

A. School Notice Requirement

(1) At the beginning of each school year, each school shall include notice of the school's integrated pest management system in the school calendar or other universal notification.

(2) The notice required in §A(1) of this regulation shall include the following information:

(a) A statement that explains the school's integrated pest management system;

(b) A list of the common name of any pesticide or bait station that may be used in a school building or on school grounds;

(c) The name, address, and telephone number of the contact person;

(d) A statement that the contact person maintains the product label and material safety data sheet of each pesticide or bait station used in a school building or on school grounds;

(e) A statement that the:

(i) Product label or material safety data sheet is available for review by a parent, guardian, staff member, or student attending the school; and

(ii) Contact person is available for information or comment; and

(f) Instructions for including a parent, guardian, or staff member on a pesticide notification list provided for in §B of this regulation.

(3) After the beginning of a school year, a school shall provide the written information required by this regulation to a:

(a) Parent or guardian of a newly enrolled student; and

(b) Newly employed staff member.

(4) The written notice shall be approved by the Department before distribution.

B. Pesticide Notification List.

(1) At the beginning of each school year, each middle school or high school shall develop a pesticide notification list of each staff member and of each parent or guardian of a student attending the school who requests in writing prior notification of a pesticide application made during the school year in the school building or on school grounds.

(2) The school shall:

(a) Keep the pesticide notification list current; and

(b) Add names upon written request by a:

(i) Parent or guardian of a student attending the school; or

(ii) Staff member.

(3) The school shall make the pesticide notification list available to the Department, upon request.
.05 Notification of a Pesticide Application in an Elementary School Building or on School Grounds.

A. During the school year, each school that enrolls elementary school students shall notify each parent or guardian of a student attending the school and each staff member:

(1) At least 24 hours before a pesticide is applied in a school building or on school grounds; and

(2) For emergency pest control:

(a) Within 24 hours after a pesticide is applied, or

(b) On the next school day, as provided in Regulation .09 of this chapter.

B. The following information shall be provided in the notification required by §A of this regulation:

(1) Common name of the pesticide applied;

(2) Location of the application;

(3) Date and time of the application;

(4) The following language: "The Office of Pesticide Programs of the United States Environmental Protection Agency has stated: 'Where possible, persons who potentially are more sensitive, such as pregnant women and infants (less than 2 years old), should avoid any unnecessary pesticide exposure';"

(5) A brief description, approved by the Department, of potential adverse effects, based upon the material safety data sheet of the pesticide applied; and

(6) Reason for the emergency application, if applicable.

C. The school shall provide notification by a written notice sent home with each student or provided to each staff member.

D. For application on school grounds, the notice of the planned date and time of application may specify that weather conditions or other extenuating circumstances may cause the actual date of application to be postponed to a later date or dates.

E. If the actual date of application is more than 14 days later than the planned date provided in the notice, notice of the application required under this regulation shall be reissued.
.06 Notification of a Pesticide Application in a Middle School Building or High School Building or on School Grounds.

A. During the school year, each middle school or high school shall notify each parent or guardian and staff member on the pesticide notification list, as provided in Regulation .04B of this chapter:

1. At least 24 hours before a pesticide is applied in a school building or on school grounds; and

2. For emergency pest control:

   (a) Within 24 hours after a pesticide is applied, or

   (b) On the next school day, as provided in Regulation .09 of this chapter.

B. The following information shall be provided in the notification required by §A of this regulation:

1. Common name of the pesticide applied;

2. Location of the application;

3. Date and time of the application;

4. The following language: "The Office of Pesticide Programs of the United States Environmental Protection Agency has stated: 'Where possible, persons who potentially are more sensitive, such as pregnant women and infants (less than 2 years old), should avoid any unnecessary pesticide exposure';"

5. A brief description, approved by the Department, of potential adverse effects based upon the material safety data sheet of the pesticide applied; and

6. Reason for the emergency application, if applicable.

C. The school may provide prior notification by:

1. A written notice sent home with the student or provided to the staff member;

2. A telephone call;

3. Direct contact, or

4. A written notice mailed at least 3 days before the application.

D. For application on school grounds, the notice of the planned date and time of application may specify that weather conditions or other extenuating circumstances may cause the actual date of application to be postponed to a later date or dates.

E. If the actual date of application is more than 14 days later than the planned date provided in the notice, notice of the application required under this regulation shall be reissued.
.07 Notification of Space Spraying.

A. Except as provided by Regulation .09 of this chapter, each school that intends to use space spraying in a school building shall provide written notice to each parent or guardian and staff member at least 1 week before the application.

B. The written notice shall be sent home with each student or provided to each staff member.

C. The notice shall:

   (1) Be on a separate paper sheet at least 8-1/2 by 11 inches in size; and

   (2) Contain:

       (a) Common name of pesticide to be used;

       (b) Location of space spraying;

       (c) Planned date and time of space spraying;

       (d) The following language: "The Office of Pesticide Programs of the United States Environmental Protection Agency has stated: 'Where possible, persons who potentially are more sensitive, such as pregnant women and infants (less than 2 years old), should avoid any unnecessary pesticide exposure'";

       (e) A brief description, approved by the Department, of the pesticide to be applied, if the pesticide is not addressed in the notice as provided by Regulation .04 of this chapter;

       (f) A brief description of potential adverse effects based upon the material safety data sheet of the pesticide to be applied; and

       (g) The name and telephone number of the contact person.
.08 In-School Notification.

A. Pesticide Application in a School Building.

(1) Each school system shall develop an appropriate means of in-school notification to students and staff before a pesticide is applied in a middle school building or high school building.

(2) The in-school notification shall include a sign or notice posted:

(a) At the room or area of the pesticide application; and

(b) Either:

(i) At the primary entrance to the school, or

(ii) In a central school location accessible to parents, guardians, students, and staff.

(3) In-school notification to students and staff may also include:

(a) Oral announcements; or

(b) Written notices.

(4) The notice or sign shall include the following information:

(a) "Caution—Pesticide Application";

(b) Common name of the pesticide applied;

(c) Location of the application;

(d) Date of the application; and

(e) Contact person for additional information, including information on potential adverse effects.

(5) The notice or sign shall remain posted for at least 48 hours after a pesticide is applied.

B. Bait Station.

(1) Each school system shall provide in-school notification to students and staff before a bait station is used in any school.

(2) The in-school notification shall include a sign or notice posted on the door of the room or primary entrance to the area in which the bait station is placed.

(3) The notice or sign shall include the following information:

(a) "Caution—Pesticide Application";

(b) Common name of the pesticide applied;
(c) Date the bait station was placed in the room or area; and

(d) Contact person for additional information, including information on potential adverse effects.

(4) The notice or sign shall remain posted until the bait station is removed.

C. Pesticide Application on School Grounds.

(1) Each school system shall develop an appropriate means of in-school notification to students and staff before a pesticide is applied on the school grounds of a middle school or high school.

(2) The in-school notification shall include a sign or notice posted:

(a) At the primary entrance to the school; or

(b) In a central location accessible to parents, guardians, students, and staff.

(3) In-school notification to students and staff may also include:

(a) Oral announcements; or

(b) Written notices.

(4) The notice or sign required under §C(2) of this regulation shall:

(a) Include the following information:

(i) "Caution—Pesticide Application";

(ii) Common name of the pesticide applied;

(iii) Location of the application;

(iv) Date of the application; and

(v) Contact person for additional information, including information on potential adverse effects; and

(b) Remain posted for at least 48 hours after a pesticide is applied.
.09 Emergency Pest Control.

A. A pesticide may be applied in a school building or on school grounds without prior notification only if an emergency pest situation exists.

B. Within 24 hours after an emergency pesticide application, or on the next school day, the school shall notify:

(1) The parent or guardian of each student and each staff member at an elementary school according to Regulation .05 of this chapter; or

(2) Each parent or guardian and staff member on the pesticide notification list provided by Regulation .04B of this chapter, for a middle school or high school according to Regulation .06 of this chapter.
.10 Pesticide Application in a Public School Building or on School Grounds.

A. A licensee, permittee, or certificate holder may not apply a pesticide in a school building or on school grounds until notification is provided in accordance with Regulation .05, .06, .07, or .08 of this chapter, unless provided in accordance with Regulation .09 of this chapter.

B. A person who applies a pesticide in a school building or on school grounds shall be a:

(1) Certified applicator; or

(2) Registered employee working under the supervision of a certified applicator.

C. A licensee, permittee, or certificate holder shall provide the school with a record of each pesticide application at the time of the pesticide application.
.11 Posting of Sign on School Grounds.

A licensee or permittee applying a pesticide to a school ground shall post, at the time of application, a sign which conforms to the requirements of COMAR 15.05.01.15B—G.
Administrative History

Effective date:

Regulations .01—.10 adopted as an emergency provision effective February 11, 1999 (26:5 Md. R. 388); adopted permanently effective May 3, 1999 (26:9 Md. R. 730)

Regulation .01—.06 and .08—.10 amended as an emergency provision effective April 28, 2000 (27:10 Md. R. 963); amended permanently effective July 24, 2000 (27:14 Md. R. 1343)

Regulation .01 amended as an emergency provision effective January 15, 2002 (29:3 Md. R. 214); amended permanently effective April 15, 2002 (29:7 Md. R. 622)

Regulation .02B amended effective December 11, 2003 (30:24 Md. R. 1745)

Regulation .03 amended as an emergency provision effective January 15, 2002 (29:3 Md. R. 214); amended permanently effective April 15, 2002 (29:7 Md. R. 622)

Regulation .03B amended effective January 24, 2011 (38:2 Md. R. 85)

Regulation .11 adopted as an emergency provision effective April 28, 2000 (27:10 Md. R. 963); adopted permanently effective July 24, 2000 (27:14 Md. R. 1343)
PART I ADMINISTRATION OF THE GOVERNMENT  
(Chapters 1 through 182)  

TITLE XIX AGRICULTURE AND CONSERVATION  

CHAPTER 132B MASSACHUSETTS PESTICIDE CONTROL ACT  

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Section 15 - Departmental personnel, agents and inspectors; powers; evidence; confidential information

Section 16 - Children and Families Protection Fund
Section 1. This chapter shall be known and may be cited as the Massachusetts Pesticide Control Act.

The purpose of this chapter is to conform the laws of the commonwealth to the Federal Insecticide, Fungicide, and Rodenticide Act, Public Law 92-516, as amended, and the regulations promulgated thereunder and to establish a regulatory process in the commonwealth. The exclusive authority in regulating the labeling, distribution, sale, storage, transportation, use and application, and disposal of pesticides in the commonwealth shall be determined by this chapter.
PART I ADMINISTRATION OF THE GOVERNMENT
(Chapters 1 through 182)

TITLE XIX AGRICULTURE AND CONSERVATION

CHAPTER 132B MASSACHUSETTS PESTICIDE CONTROL ACT

Section 2 Definitions

Section 2. Unless the context clearly requires otherwise, when used in this chapter, the following words and phrases shall have the following meanings:—

"Active ingredient", in the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient which prevents, destroys, repels, or mitigates any pest; in the case of a plant regulator, an ingredient which through physiological action accelerates or retards the rate of growth or rate of maturation or otherwise alters the behavior of ornamental or crop plants or the products thereof; in the case of a defoliant, an ingredient which causes the leaves or foliage to drop from a plant; and, in the case of a desiccant, an ingredient which artificially accelerates the drying of plant tissue.

"Administrator", the Administrator of the United States Environmental Protection Agency.

"Adulterated", when used with reference to a pesticide, any pesticide the strength or purity of which falls below the professed standard of purity as expressed on its labeling under which it is sold; a pesticide for which any substance has been substituted wholly or in part; or a pesticide from which any valuable constituent has been wholly or in part abstracted.

"Advisory council", a council established by regulations adopted by the department for the purposes set forth in section five.

"Agency", any executive office, department, division, agency, board, branch, bureau or commission of the commonwealth.

"Agricultural commodity", a plant, or part thereof, or animal or animal product produced by a person primarily for sale, consumption, propagation, or other use by man or animals.

"Animal", all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish and shellfish.

"Anti-microbial pesticide", a pesticide that is used for the control of microbial pests, including, but not limited to, viruses, bacteria, algae and protozoa, and is intended to disinfect, sanitize, reduce or mitigate growth or development of microbial organisms. Anti-microbial pesticide shall not include any fungicide or pesticide used on plants, turf or other vegetation or for ornamental uses.

"Certified applicator", an individual who is certified under the provisions of section ten as authorized to use or supervise the use of any pesticide which is classified by the department as being for restricted use.

"Private applicator", a certified applicator who uses or supervises the use of any pesticide which is classified by the department as being for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or his employer or if applied without compensation other than trading of personal services between producers of agricultural commodities on the land of another person.

"Commercial applicator", a certified applicator, whether or not he is a private applicator with respect to some users, who uses or supervises the use of any pesticide which is classified by the department as being for restricted use for any purpose or on any land other than as provided in the preceding paragraph.
"Licensed applicator", an individual who is licensed under the provisions of section ten as authorized to be present while pesticides classified by the department as being for restricted use are being applied under the direct supervision of a certified applicator, or to use or to be present to supervise the use or land of another for hire any pesticide classified by the department as being for general use.

"Beneficial insects", insects which, during their life cycle, are effective pollinators of plants, are parasites or predators of pests, or are otherwise beneficial.

"Board", the pesticide board, established by section three.

"Commissioner", the commissioner of food and agriculture.

"Child care center", any public or private facility operated on a regular basis whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center or preschool, or known under any other name, which receives children not of common parentage who are not more than six years of age, or who are not more than 21 years of age if such children have special needs, for nonresidential custody and care during part or all of the day separate from their parents. Child care center shall not include: any part of a public school system; any part of a private, organized educational system, unless the services of such system are primarily limited to kindergarten, nursery or related preschool services; periodic religious instruction classes conducted by a religious institution; a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services; a family child care home; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation.

"Defoliant", a substance or mixture of substances intended to cause the leaves or foliage to drop from a plant, with or without causing abscission.

"Department", the department of food and agriculture.

"Desiccant", a substance or mixture of substances intended to artificially accelerate the drying of plant tissue.

"Device", an instrument or contrivance, other than a firearm, intended to hold or dispense a pesticide and used in conjunction with a pesticide, the purpose of which is to trap, destroy, repel, or mitigate any pest or any other form of plant or animal life, other than man and other than bacteria, virus, or other micro-organism on or in living man or other living animals, but not including equipment used for the application of pesticides when sold separately therefrom.

"Director", the pesticides program director established by section four.

"Distribution" or "Distribute", to offer for sale, hold for sale, sell, barter, ship, deliver for shipment, or receive.

"Environment", includes water, air, land, and all plants and man and other living animals therein, and the interrelationships which exist among these.

"Federally registered pesticide", a pesticide which is registered pursuant to FIFRA.

"FIFRA", the Federal Insecticide, Fungicide, and Rodenticide Act, Public Law 92-516, as amended.

"Fungi" or "Fungus", non-chlorophyll-bearing thallophytes of a lower order than mosses and liver-worts, as, for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living man or other living animals, and except those in or on processed food, beverages, or pharmaceuticals.

"Imminent hazard", a situation in which the continued use of a pesticide would result in unreasonable adverse effects on the environment.
"inert ingredient", an ingredient which is not active.

"Insect", a small invertebrate animal generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six-legged, usually winged forms, as for example, moths, beetles, bugs, bees, flies, and their immature stages, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, millipedes, and wood lice.

"Integrated pest management", a comprehensive strategy of pest control whose major objective is to achieve desired levels of pest control in an environmentally responsible manner by combining multiple pest control measures to reduce the need for reliance on chemical pesticides; more specifically, a combination of pest controls which addresses conditions that support pests and may include, but is not limited to, the use of monitoring techniques to determine immediate and ongoing need for pest control, increased sanitation, physical barrier methods, the use of natural pest enemies and a judicious use of lowest risk pesticides when necessary.

"Label", the written, printed, or graphic matter, on or attached to, the pesticide or device or any of its containers or wrappers.

"Labeling", all labels and all other written, printed or graphic matter accompanying the pesticide or device at any time, or to which reference is made on the label or in literature accompanying the pesticide or device, but shall not include publications of the United States Environmental Protection Agency, the United States Department of Agriculture, or Interior, or Health, Education and Welfare, state experiment stations, state agricultural colleges, and other similar federal or state institutions or agencies authorized by law to conduct research or disseminate information in the field of pesticides, except as otherwise provided by regulation of the department.

"Land", land and water areas, including airspace, and structures, buildings, contrivances, and machinery appurtenant thereto or situated thereon, fixed or mobile.

"Licensed pesticide dealer", a person who distributes pesticides classified by the department as being for restricted use or pesticides whose uses or distribution are further restricted by regulations adopted by the department, with the approval of the board.

"Misbranded", (a) in the case of a pesticide or device, if the labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular; (b) in the case of a pesticide or device, if it is an imitation of, or is offered for sale under the name of, another pesticide or device; (c) in the case of a pesticide or device, if any word, statement, or other information required by or under authority of FIFRA or this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs, or graphic matter in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; (d) in the case of a pesticide, if it is contained in a package or other container or wrapping which does not conform to standards established pursuant to FIFRA or this chapter; (e) in the case of a pesticide, if it does not contain a label bearing the registration number assigned under FIFRA to each establishment in which it was produced; (f) in the case of a pesticide, if the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any requirements imposed under FIFRA or this chapter, is adequate to protect health and the environment; (g) in the case of a pesticide, if its label does not contain a warning or caution statement which may be necessary and if complied with, together with any requirements imposed under FIFRA or this chapter, is adequate to protect health and the environment; (h) in the case of a pesticide, if its label does not bear an ingredient statement on that part of the immediate container, and on the outside container or wrapper of the retail package, if there be one, through which the ingredient statement on the immediate container cannot be clearly read, which is presented or displayed under customary conditions or purchase, except that a pesticide is not misbranded if the administrator has permitted the ingredient statement to be placed on another part of the container pursuant to FIFRA; (i) in the case of a pesticide, if its labeling does not contain a statement of the use classification under which it is registered; (j) in the case of a pesticide, if there is not affixed to its container, and to the outside container or wrapper of the retail package, if there be one, through which the required information on the immediate container cannot be clearly read, a label bearing the name and address of the producer, registrant, or person for whom the pesticide is produced; the name, brand, or trademark under which the pesticide is distributed; the net weight or measure of the content, as required by the administrator; and the registration number assigned to the pesticide by said administrator pursuant to FIFRA; (k) in
the case of a pesticide containing any substance or substances in quantities highly toxic to man, unless the label shall bear,
in addition to any other matter required by FIFRA or this chapter the skull and crossbones; the word "POISON" prominently
in red on a background of distinctly contrasting color; and a statement of practical treatment, first aid or otherwise, in case or
poisoning by the pesticide; and (f) in the case of a pesticide, if its container does not bear a label, as required by the
department pursuant to this chapter.

"Nematode", invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms
with elongated, fusiform, or sac-like bodies covered with cuticle, and inhabiting soil, water, plants or plant parts. Nematodes
may also be referred to as nemas or eel-worms.

"Person", an individual, association, partnership, corporation, company, business organization, trust, estate, the
commonwealth or its political subdivisions, administrative agencies, public or quasi-public corporation or body, or any other
legal entity or its legal representative, agent or assign, or a group of persons.

"Pest", an insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus,
bacterium, or other micro-organism, except viruses, bacteria or other micro-organisms on or in living man or other living
animal, which is declared to be a pest by the administrator or by the department with the approval of the board.

"Pesticide", a substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and
any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; provided that the term
"Pesticide" shall not include any article that is a "new animal drug" within the meaning of section 201 (w) of the Federal Food,
Drug and Cosmetic Act (21 U.S.C. s 321 (w)), or that has been determined by the Secretary of the United States Department
of Health, Education and Welfare not to be a new animal drug by a regulation establishing conditions of use for the article, or
that is an animal feed within the meaning of section 201 (x) of such act (21 U.S.C. s 321 (x)).

"Plant regulator", a substance or mixture of substances intended, through physiological action, to accelerate or retard the
rate of growth or rate of maturation, or to otherwise alter the behavior of plants or the produce thereof, but shall not include
substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and
soil amendments. Also, the term "plant regulator" shall not include any nutrient mixtures or soil amendments commonly
known as vitamin-hormone horticultural products, intended for improvement, maintenance, survival, health, and propagation
of plants, and as are not for pest destruction and are nontoxic, nonpoisonous in the undiluted package concentration.

"Produce", to manufacture, prepare, compound, propagate, process or repackage any pesticide or device.

"Producer", a person who manufactures, prepares, compounds, propagates, processes or repackages any pesticide or
device.

"Protect health and the environment" or "protection of health and environment", protection against any unreasonable adverse
effects on the environment.

"Registrait", a person who has registered any pesticide pursuant to the provisions of this chapter.

"School", any public or private school for preschool, elementary, middle or high school students.

"School administration", a school committee, private school board of directors, or other body of school supervisory officers.

"School age child care program", any public or private program or facility operated on a regular basis which provides
supervised group care for children not of common parentage who are enrolled in kindergarten and are of sufficient age to
enter first grade the following year, or an other child who is not more than 14 years of age, or not more than 21 years of age
if such child has special needs. Such a program may operate before and after school and may also operate during school
vacation and holidays. A school age child care program shall not include: any part of a public school system; any part of a
private, organized educational system, unless the services of such system are primarily limited to a school age day care
program; periodic religious instruction classes conducted by a religious institution; a facility operated by a religious
organization where children are cared for during short periods of time while persons responsible for such children are
attending religious services; a family day care home; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation.

"Standard written notification", includes the following information: the approximate dates on which the spraying, release, deposit or application of a pesticide shall commence and conclude; the specific location of the anticipated application; the product name and type of each pesticide to be used; a department-approved fact sheet and United States Environmental Protection Agency registration number for each pesticide; a description of the purpose of the pesticide application; and a department-approved statement describing ways to minimize exposure, and precautions to be taken, especially for sensitive individuals such as children, the elderly, pregnant women and those with health problems.

"Under the direct supervision of a certified applicator", unless otherwise prescribed by its labeling, a pesticide shall be considered to be applied under the direct supervision of a certified applicator if it is applied by a competent person acting under the instructions and control of a certified applicator who is available if and when needed, and who is responsible for the pesticide applications made by that person, even though such certified applicator is not physically present at the time and place the pesticide is applied.

"Unreasonable adverse effects on the environment", an unreasonable risk to man or the environment, taking into account the economic, social and environmental cost and benefits of the use of any pesticide.

"Weed", a plant which grows where not wanted.

"Wildlife", vertebrate animals, excluding man, that are wild by nature, including fish, birds, mammals, reptiles and amphibians.
PART I ADMINISTRATION OF THE GOVERNMENT
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TITLE XIX AGRICULTURE AND CONSERVATION

CHAPTER 132B MASSACHUSETTS PESTICIDE CONTROL ACT

Section 6C Pesticide use at schools, child care centers or school age child care programs; standard written notification

Section 6C. (a) Pesticides shall not be sprayed, released, deposited or applied indoors while children are on the property of a school, child care center or school age child care program, except for those pesticides listed in section 6F.

(b) Pesticides shall not be sprayed, released, deposited or applied on the outdoor property of a school, child care center or school age child care program while children are located in, on, or adjacent to the area of the pesticide application.

(c) (1) Whenever pesticides are to be sprayed, released, deposited or applied outdoors at a school, child care center or school age child care program, the school administration, child care center operator or school age child care program operator shall ensure that employees, pupils or supervised children and their parents or guardians receive standard written notification, as defined in section 2, at least two working days before pesticides are sprayed, released, deposited or applied, provided that such spraying, release, deposit or application of pesticides shall not commence prior to the approximate dates set forth on the standard written notification, and shall not conclude more than 72 hours after such approximate dates.

(2) Such notification policy shall apply at all times except during periods when classes are not scheduled for at least five consecutive days after the spraying, release, deposit or application or when child care or school age child care facilities are not scheduled to be open for at least five consecutive days after the spraying, release, deposit or application.

(3) Information to be included in the standard written notification shall be provided to the school administration, child care center operator, or school age child care program operator by the certified commercial applicator, certified private applicator, or licensed applicator, or the contractor, employers or employees responsible for carrying out the pesticide spraying, release, deposit or application. Larval mosquito control applications using pesticides classified as category four pesticides by the United States Environmental Protection Agency, as applied by mosquito control projects under chapter 252, are exempt from the notification requirements of this section. This section shall not apply to any use of an anti-microbial pesticide as defined in section 2.
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TITLE XIX  AGRICULTURE AND CONSERVATION

CHAPTER 132B  MASSACHUSETTS PESTICIDE CONTROL ACT

Section 6C  Pesticide use at schools, child care centers or school age child care programs; standard written notification

Section 6C. (a) Pesticides shall not be sprayed, released, deposited or applied indoors while children are on the property of a school, child care center or school age child care program, except for those pesticides listed in section 6F.

(b) Pesticides shall not be sprayed, released, deposited or applied on the outdoor property of a school, child care center or school age child care program while children are located in, on, or adjacent to the area of the pesticide application.

(c) (1) Whenever pesticides are to be sprayed, released, deposited or applied outdoors at a school, child care center or school age child care program, the school administration, child care center operator or school age child care program operator shall ensure that employees, pupils or supervised children and their parents or guardians receive standard written notification, as defined in section 2, at least two working days before pesticides are sprayed, released, deposited or applied, provided that such spraying, release, deposit or application of pesticides shall not commence prior to the approximate dates set forth on the standard written notification, and shall not conclude more than 72 hours after such approximate dates.

(2) Such notification policy shall apply at all times except during periods when classes are not scheduled for at least five consecutive days after the spraying, release, deposit or application or when child care or school age child care facilities are not scheduled to be open for at least five consecutive days after the spraying, release, deposit or application.

(3) Information to be included in the standard written notification shall be provided to the school administration, child care center operator, or school age child care program operator by the certified commercial applicator, certified private applicator, or licensed applicator, or the contractor, employers or employees responsible for carrying out the pesticide spraying, release, deposit or application. Larval mosquito control applications using pesticides classified as category four pesticides by the United States Environmental Protection Agency, as applied by mosquito control projects under chapter 252, are exempt from the notification requirements of this section. This section shall not apply to any use of an anti-microbial pesticide as defined in section 2.
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Section 6D Posting of standard written notification of pesticide use at schools, child care centers and school age child care programs

Section 6D. Each school administration, child care center operator, or school age child care program operator shall ensure that standard written notification is posted in a common area of its facility at least two working days before the outdoor spraying, release, deposit or application of a pesticide and for at least 72 hours following the spraying, release, deposit or application. Treated areas will be posted with clear and conspicuous warning signs along the perimeter in accordance with regulations to be promulgated by the department governing indoor and outdoor spraying, release, deposit or application of pesticides at schools, child care centers and school age child care programs. Larval mosquito control applications using pesticides classified as category four pesticides by the United States Environmental Protection Agency, as applied by mosquito control projects under chapter 252, are exempt from the notification requirements of this section. This section shall not apply to any use of an anti-microbial pesticide as defined in section 2.
Section 6E. (a) On or before November 1, 2001, each school, child care center and school age child care program in the commonwealth shall adopt and implement, in accordance with any regulations promulgated by the department pursuant to this chapter, an integrated pest management plan. The plan shall cover both indoor and outdoor areas. The department shall produce a generic integrated pest management plan that may be adopted by any school, child care center or school age child care program. One copy of the plan adopted by the school, child care center or school age child care program shall be filed with the department, and at least one additional copy shall be kept on site and made available to the public upon request pursuant to section 10 of chapter 66. Every agency of the commonwealth shall develop and implement integrated pest management plans and procedures for all buildings and grounds owned or managed by the commonwealth.

(b) No person shall spray, release, deposit or apply or supervise the spraying, release, deposit or application of any pesticide in, on, or around structures or grounds of a school, child care center or school age child care program unless that person is a certified commercial applicator, certified private applicator, licensed applicator, or is under the supervision of a certified commercial applicator, certified private applicator or licensed applicator.
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TITLE XIX AGRICULTURE AND CONSERVATION

CHAPTER 132B MASSACHUSETTS PESTICIDE CONTROL ACT

Section 6F Pesticide products eligible for use indoors at schools, child care centers and school age
child care programs

Section 6F. Beginning November 1, 2001, pesticide products eligible for use indoors on the facility grounds of any school,
child care center or school age child care program shall be limited to the following:

(a) Anti-microbial pesticides;

(b) Rodenticides placed in tamper resistant bait stations or placed in areas inaccessible to children and the general public;

(c) Ready-to-use dust, powder or gel formulations of insecticide applied in areas inaccessible to children and the general
public;

(d) Insecticidal baits placed in tamper resistant bait stations or in areas inaccessible to children and the general public;

(e) Termiticides used only in the presence of an active termite infestation and when non-chemical pesticide alternatives have
been determined to be ineffective; and

(f) Pesticides classified by the United States Environmental Protection Agency as exempt materials under 40 CFR 152.25.
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Section 6G Pesticide products eligible for outdoor use at schools, child care centers and school age child care programs

Section 6G. Beginning November 1, 2001, pesticide products eligible for use on the outdoor grounds of any school, child care center or school age child care program shall be limited to the following:

(a) pesticides used in accordance with the facility’s integrated pest management plan filed with the department and maintained on site;

(b) pesticides other than those classified as known, likely or probable human carcinogens by the United States Environmental Protection Agency, or equivalently categorized by the department, except as provided for in section 6H;

(c) pesticide products that do not contain inert ingredients categorized as “List 1: Inerts of Toxicological Concern” or any equivalent categorization by the United States Environmental Protection Agency; and

(d) pesticides that are applied for reasons other than purely aesthetic purposes, except that any municipality, city or town may allow the use of pesticide products for purely aesthetic purposes on the outdoor grounds of any school, child care center or school age child care program.
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Section 6H  Emergency situations at schools, child care centers and school age child care programs; single-use waivers for pesticides

Section 6H. (a) If a school official or an operator of a child care center or school age child care program determines that a human health emergency warrants the use of a pesticide not otherwise allowed under this chapter, or warrants its use sooner than two days after providing the required standard written notification, such official or operator may apply for a single-use waiver from the appropriate municipal board of health or agent or director of public health or the department.

(b) The department or appropriate municipal board of health or agent or director of public health shall determine if such a waiver is warranted based on the following criteria:

(1) whether the pest situation poses an immediate threat to human health; and

(2) whether no viable alternatives to the use of chemical pesticides exist.

As a condition of approval, the appropriate municipal board of health or agent or director of public health or the department shall require a commitment from the school official or operator of a child care center or school age child care program that the underlying causes of the pest outbreak will be identified and addressed in order to prevent future outbreaks.

(c) In such an emergency situation, the school official or operator of a child care center or school age child care program shall ensure that conspicuous warning signs are posted near the site of the spraying, release, deposit or application prior to, and for at least 72 hours after the spraying, release, deposit or application. Treated areas will be posted with clear and conspicuous warning signs along the perimeter in accordance with regulations to be promulgated by the department governing indoor and outdoor spraying, release, deposit or application of pesticides at schools, day care centers and school age child care programs. In such an emergency situation, the school official or operator of a child care center or school age child care program shall also ensure that standard written notification is provided to employees, pupils or supervised children and their parents or guardians immediately prior to or, if necessary, immediately following the emergency spraying, release, deposit or application. A record of the emergency event, including the identification of the cause and the actions taken to address it, shall be maintained as a part of the records required under section 61%. 
Section 61. A written or electronic record of any and all chemical pesticide spraying, release, deposit or application made at a school, child care center or school age child care program in the commonwealth shall be maintained on site for a period of not less than five years, and shall be made available to the public upon request pursuant to section 10 of chapter 66.
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Section 6J Pesticide use as part of supervised training programs at vocational, technical and agricultural schools

Section 6J. Notwithstanding any other provisions of this chapter, sections 6C to 6I, inclusive, shall not apply to the spraying, release, deposit or application of any pesticide made as a part of a supervised training program at any of the state-aided and approved vocational-technical or agricultural schools in the commonwealth.
13.07: continued

(g) At least 24 hours prior to any application of microencapsulated methyl parathion, applicators will notify all apiary owners listed on the Department Apiary list whose hives are within five miles of the site of application. Applicators shall also check with known agricultural establishments within a five mile radius of the application site to determine if pollinator hives are on-site, and shall provide at least 24 hours' prior notification of application to any of these establishments that are determined to have pollinator hives on-site.

(2) All persons are prohibited from applying pesticides, which bear a warning statement on the label concerning bees, to fruit trees, alfalfa, clover, or trefoil grown as field-crops while in bloom without making reasonable inquiry as to the presence of apiaries on the premises or within a 2.5 mile radius of the application site. If apiaries are found to occur within 2.5 miles of the application site, the applicator shall provide 24 hours' pre-notification to owners of the apiaries. Reasonable inquiry shall consist of obtaining a current Apiary list from the Department and checking with known agricultural establishments within a 2.5-mile radius of the application site to determine if pollinator hives are on-site.

13.08: Commercial Application of Pesticides to Indoor Settings

(1) General Requirements.

(a) Applicators of pesticides to indoor settings shall take all practical steps necessary to avoid applications with people present in a room or area to be treated. Individuals occupying a room or area to be treated at the time of application shall be informed of the procedure.

(b) Applications of disinfectants, algacides, antimicrobials, paints, stains, wood preservatives, insecticidal baits placed in tamper-resistant bait stations or in generally inaccessible locations, and applications to wall or floor voids are exempt from 333 CMR 13.08.

(c) Rodenticides placed in generally accessible areas of indoor settings must be placed in tamper-resistant bait stations and must be secured in place so as to prevent lifting and/or removal of these bait stations.

(d) The applicator or his/her employer must notify the Contracting Entity of all post-application label requirements pertinent to the application.

(e) The applicator or his/her employer shall provide pre-notification to any person upon request between seven days and 48 hours prior to any application of pesticides to areas which the individuals occupy or have access. Pre-notification shall be made in writing and contain the following information:

1. Name and phone number of the company making the application;
2. Proposed date of application;
3. Locations to be treated; and
4. Names, EPA Registration Numbers, and active ingredients for the pesticide products that may be used.

(f) Rodenticide bait stations shall carry a label which indicates the following:

1. Name and phone number of the company making the application;
2. Date of the application;
3. Name and EPA Registration Number of the pesticide product; and
4. Active ingredients in product.

(g) Upon completion of each application, the applicator or his/her employer shall provide the Contracting Entity, and, upon request, the building residents and occupants, with the following information:

1. Name and phone number of the pest control company;
2. Name and license number of applicator;
3. Target pests;
4. Names and EPA Registration Numbers of the pesticide products applied; and
5. Date and approximate time of application.

(2) Residential Buildings where the Contracting Entity Resides in the Unit to be Treated. In addition to the requirements of 333 CMR 13.08(1), whenever the Contracting Entity resides in the unit to be treated with pesticides, the applicator or his/her employer shall provide the Contracting Entity with a Department-approved Consumer Information Bulletin prior to entering into an agreement for pesticide application.
13.08: continued

(3) Residential Buildings where the Contracting Entity Does Not Reside in the Unit to be Treated. In addition to the requirements of 333 CMR 13.08(1), the following shall apply whenever a pesticide application is made to a unit in which the Contracting Entity does not reside:

(a) Upon entering into an agreement for pesticide application, the applicator or his/her employer shall provide the Contracting Entity with a Department-approved Information Bulletin for Building Managers and Landlords.
(b) The applicator or his/her employer shall pre-notify all occupants of residential units between seven days and 48 hours prior to any application of pesticides to areas which residents occupy or have access. Pre-notification shall be made in writing and shall contain the following information:
   1. Name and phone number of the company making the application;
   2. Proposed date and time of application;
   3. Locations to be treated;
   4. Product names, EPA Registration Numbers, and active ingredients for the pesticide products that may be used;
   5. Purpose of application;
   6. Preparation procedures required by the pesticide label to protect items such as food, utensils, and pets; and
(c) Prior to commencing each application, the applicator shall post a notice, approved by the Department, on all of the entrances of areas to be treated to which residents or others may have access. The applicator must leave these notices posted after the application. Entrances to units of individuals do not require posting.
   Contracting Entities who do not wish to have notices posted must sign a Department-approved form stating that they do not want notices posted. Such signed forms shall be maintained by the applicator or his/her employer for a period of three years and shall be made available to the Department upon request.

(4) Notification and Disclosure Requirements Applicable to Pesticide Applications Made in Non-residential Public Buildings. In addition to the requirements of 333 CMR 13.08(1) the following shall apply whenever a pesticide application is made in a non-residential public building:

(a) Prior to entering into an agreement, the applicator or his/her employer shall provide the Contracting Entity with a Department-approved Information Bulletin for Building Managers and Landlords.
(b) Prior to commencing each application, the applicator shall post a notice, approved by the Department, on all of the entrances to the treated room or area to be treated. The applicator must leave these notices posted after the application.
   Contracting entities who do not wish to have notices posted must sign a Department-approved form stating that they do not want notices posted. Such signed forms shall be maintained by the applicator or his/her employer for a period of three years and shall be made available to the Department upon request.
(c) The applicator or his/her employer shall provide the following information on previously conducted applications to any individual upon reasonable request:
   1. All locations treated, including locations of rodenticide bait stations;
   2. The date and time of application; and
   3. The names of products used, EPA Registration Numbers, product active ingredients, and a copy of the label for each product used.
(d) Upon the request of any person, the applicator or his/her employer shall pre-notify that person between seven days and 48 hours prior to any application of pesticides. Pre-notification shall be made in writing and contain the following information:
   1. Name and phone number of the company making the application;
   2. Proposed date and time of application;
   3. Locations to be treated;
   4. Product name, EPA Registration Numbers, and active ingredients for the pesticide products that may be used; and
   5. Purpose of application.
13.08: continued

(5) Waiver of Pre-notification for Emergency Applications.
(a) Pre-notification may be waived for pesticide applications made to indoor settings when there is an immediate threat to public health or safety.
(b) Use of this pre-notification waiver may be made only under the following conditions:
1. Each waiver may be used for only one pesticide application;
2. The rationale for the need for the waiver must be documented in writing by the applicator or his/her employer;
3. The applicator or his/her employer must keep a written record of the waived pesticide application, along with the written rationale for the need for the waiver, for at least three years;
4. The written record of the waived pesticide application, along with the written rationale for the need for the waiver, must be made available to any individual upon a reasonable request;
5. A written record of the waived pesticide application, along with the written rationale for the need for the waiver, must be submitted to the Department within 24 hours after the pesticide application; and
6. A written record of the waived pesticide application, along with the written rationale for the need for the waiver, must be provided to all individuals who have requested pre-notification within 48 hours after application.

13.09: Foliar Applications of Pesticides to Trees in Residential Settings

Prior to entering into an agreement or renewing an existing agreement which entails foliar application to trees on or bordering residential properties, the applicator or his/her employer shall provide to the Contracting Entity a written statement approved by the Department. The statement shall include information on the applicable Department pesticide regulations, techniques that will be used to minimize human exposure, drift precautions that will be taken, and a recommendation that notification be provided to abutters who might be impacted by the application.

13.10: Suppression and Control of Public Nuisance Pests

(1) With the exception of Agricultural Applications, all plans to apply pesticides for the control of Public Nuisance Pests shall be subject to the following provisions:

(a) No later than March 1st of each year, the Local Superintendent shall forward to the District Supervisor descriptions of all planned aerial and ground Control Programs to be conducted within the municipality for the control and suppression of Public Nuisance Pests between the last day of March of that year and the first day of April of the following year. Such descriptions shall be provided by the Local Superintendent on a standard form provided by the Bureau of Forest Fire Control and Forestry.
(b) The District Supervisor in consultation with the Local Superintendent shall review all ground Control Programs to determine if a program constitutes Wide Area Application and requires public notice under 333 CMR 13.10(2)(a).
(c) In the event that a ground Control Program is determined to constitute a Wide Area Application, the District Supervisor shall notify the Local Superintendent, who shall notify the Contracting Entity that public notification is required in accordance with 333 CMR 13.10(2)(a). When the Contracting Entity is a county, state or federal agency, the District Supervisor shall communicate the public notification requirement directly to the Contracting Entity.

(2) Notification of Wide Area Applications. With the exception of Agricultural Applications, no Wide Area Application of pesticides shall be made for control of Public Nuisance Pests unless the following notification provisions are met:

(a) The Applicant must publish a notice of the application in a newspaper of general circulation in the municipality where the application is to take place. The notice must be posted no more than ten days, and no less than two days, prior to the proposed application, and may include alternative dates to be used in the event of improper conditions, provided that no application is made more than ten days after or less than two days after the notice has been published. Notice shall include all of the following information:
13.10: continued

1. Purpose of application;
2. Method of application;
3. Area of application;
4. Location where the public may review maps delineating the area of application;
5. Name and EPA Registration Number of the pesticide product to be applied;
6. Approximate time of application;
7. Phone number of a contact person from whom additional information can be obtained; and
8. Locations where marking materials for areas of exclusion will be distributed.

(b) No later than ten days prior to the anticipated date of the application, such notice shall be forwarded to the Local Superintendent who shall post the notice in the city/town hall of the municipality where the application is to be made, and other locations as he or she deems appropriate. The local superintendent shall also forward this notice to the Board of Health, Chief Elected Official, as well as to the Pesticide Bureau within the Department, prior to the application.

(3) Exclusion for Application. Land may be designated for exclusion from applications made for the control of Public Nuisance Pests in accordance with the requirements of 333 CMR 13.03.

(4) Aerial Applications that are Wide Area. In the case of an aerial Control Program which has been determined by the District Supervisor to constitute a Wide Area Application, such application must be made in accordance with the requirements of 333 CMR 13.04.

13.11: Special Requirements for School, Day Care and Child Care Program Property

As of November 1, 2000, all pesticide applications on the indoor and outdoor property of schools, day care centers and school age child care programs shall comply with the applicable requirements of St. 2000, c. 85: An Act Protecting Children and Families from Harmful Pesticides, to be inserted in M.G.L. c. 132B, §§ 2 and 6C through 6l.

REGULATORY AUTHORITY

333 CMR 13.00: M.G.L. c. 132B, §§ 5, 6A and 10 and St. 2000, c. 85.
333 CMR 14.00: PROTECTION OF CHILDREN AND FAMILIES FROM HARMFUL PESTICIDES

Section

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14.01: Purpose

The purpose of 333 CMR 14.00 is to promote the implementation of Integrated Pest Management (IPM) Techniques and to establish those standards, requirements and procedures necessary to minimize the risk of unreasonable adverse effects on human health and the environment regarding the use of pesticides within a school, daycare center or school age child care program facility.

14.02: Definitions

For the purposes of 333 CMR 14.00, the definitions set forth in M.G.L. c. 132 B, § 2 and 333 CMR 2.00, 333 CMR 10.00, and 333 CMR 13.00 apply, unless otherwise provided.

Daycare Center: Any public or private facility operated on a regular basis whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center or preschool, or known under any other name which receives children not of common parentage who are not more than six years of age, or who are not more than 21 years of age if such children have special needs, for non-residential custody and care during part of all of the day separate from their parents. Daycare center shall not include: Any part of a public school system; any part of a private, organized education system, unless the services of such system are primarily limited to kindergarten, nursery or related preschool services; periodic religious instruction classes conducted by a religious institution; a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services; a family daycare home; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation.

Emergency Waiver: Notwithstanding the provisions of 333 CMR 14.10, a written single use exemption from the following provisions:

(a) That Standard Written Notification shall be provided to employees, pupils, or supervised children and their parents or guardians at least two working days before pesticides are to be sprayed, released, deposited or applied outdoors at a school, daycare center or school age child care program; or
(b) That only those pesticides allowed for use in schools, daycare centers or school age child care programs under M.G.L. c. 132B are permitted for use.

Integrated Pest Management (IPM): A comprehensive strategy of pest control whose major objective is to achieve desired levels of pest control in an environmentally responsible manner by combining multiple pest control measures to reduce the need for reliance on chemical pesticides; more specifically, a combination of pest controls which addresses conditions that support pests and may include, but not be limited to, the use of monitoring techniques to determine immediate and ongoing need for pest control, increased sanitation, physical barrier methods, the use of natural pest enemies and a judicious use of lowest risk pesticides when necessary.
14.02: continued

**Integrated Pest Management Committee:** The individuals or persons who share interests or concerns related to pest control activities and whose purpose is to develop a school IPM Policy and help make pest management decisions for the school, daycare center and school age child care program. Whereas, the IPM Committee of a small daycare center may be composed of the IPM Coordinator alone, the IPM Committee for a large school, daycare center and school age child care program may include representation across the wide array of respective services and activities. It is recommended that any indoor and outdoor pest management, landscaping, or turf management contractors hired by the school be included on the IPM Committee.

**Integrated Pest Management Coordinator:** The individual within the school, daycare center and school age child care program who, with the authority and support of the school administration or management, is generally in charge of pest control activities for the school, daycare center, and school age child care program. This individual ensures that the IPM plan is carried out and coordinates and communicates with parties involved with custodial service, building maintenance, food service, outside vending, pest control, grounds maintenance; and other parties including students, parents, and teachers.

**Integrated Pest Management Policy:** The written statements that describe the overall pest management philosophy and environmental health goals for the school, daycare center and school age child care program. Such statements shall describe how the school, daycare center and school age child care program will address existing pest control practices, improve environmental health conditions, and reduce the amount of pesticides used by the school for the purpose of protecting children and others within the school, daycare center and school age child care program.

**Integrated Pest Management (IPM) Plan:** A written pest management plan that covers both indoor and outdoor areas and that is implemented and adopted by each school, daycare center and school age child care program. One copy of the plan adopted by the school, daycare center or school age child care program shall be filed with the Department, and at least one additional copy shall be kept on site and made available to the public upon request pursuant to M.G.L. c. 66, § 10.

**Indoor Pesticide Application:** An indoor pesticide application is one where the applicator is standing inside of the facility making a pesticide application or one where the applicator is standing outside of the facility and making the pesticide application towards the interior of the building.

**School:** Unless the context otherwise requires, the term "School" shall mean any public or private kindergarten through 12th grade, school age child care program and daycare center.

**School Daycare Center and School Age Child Care Program Property:** The indoor and outdoor areas, lands or other real properties of a school, daycare center and school age child care program shall include the following:

(a) The area on which there is a school, daycare center or school age child care program buildings;

(b) The area on which there is a school, daycare center or school age child care program managed athletic field; and

(c) The area which that has been delineated for school, daycare center or school age child care program activities through an agreement with the school, daycare center or school age child care program and local government.
School Age Child Care Program: Any public or private program or facility operated on a regular basis which provides supervised group care for children not of common parentage who are enrolled in kindergarten and are of sufficient age to enter first grade the following year, or an older child who is no more than 14 years of age, or not more than 21 years of age if such child has special needs. Such a program may operate before and after school and may also operate during school, vacation and holidays. A school age child care program shall not include: Any part of a public school system; daycare center or school age child care program system; any part of a private, organized educational system, unless the services of such system are primarily limited to a school age daycare program; periodic religious instruction classes conducted by a religious institution; a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services; a family daycare home; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation.

Standard Written Notification: A written notice that includes the following information relative to an application of pesticides on the outdoor property of a school, daycare center and school age child care program property:

(a) A description of the purpose of the pesticide application;
(b) The approximate dates on which the spraying, release, deposit or application of a pesticide shall commence and conclude;
(c) The specific location of the anticipated application;
(d) The name, type, and U.S. EPA Registration Number for every pesticide product to be used;
(e) A Department-approved fact sheet; and
(f) A written statement approved by the Department describing any precautions to be taken and ways to minimize pesticide exposure, especially for sensitive individuals such as children, the elderly, pregnant women and those with health problems.

Exemptions

(1) Pesticides classified by the United States Environmental Protection Agency as exempt materials under 40 CFR Part 152.25 in the Federal Insecticide Fungicide Rodenticide Act are exempt from all of 333 CMR 14.00.

(2) Child care facilities licensed by the Massachusetts Office of Early Education and Child Care with the designation of Family Child Care Services, Family Child Care Plus Services, or Large Family Child Care Services shall be exempt from the provisions of 333 CMR 14.00.

(3) State-aided and approved vocational-technical or agricultural school claiming exemption from the Act as per M.G.L. c. 132B, § 6J shall be exempt only if the pesticide application is a documented function of a training program. Such State-aided and approved vocational-technical or agricultural school shall maintain records demonstrating the pesticide application is a function of a supervised training curriculum.

(4) Mosquito control larvicides that are classified as category IV pesticides by the United States Environmental Protection Agency, as applied by mosquito control projects and districts under M.G.L. c. 252 or other state law, are exempt from the Standard Written Notification requirements.

(5) Standard Written Notification is not required when classes or activities are not taking place at the school, property for five or more consecutive days after the application takes place, provided that the pest management professional or his/her employer obtain a written statement from the school operator stating so. This statement shall be included in the pesticide application record for that application and in the school Integrated Pest Management (IPM) Plan.

General Provisions

(1) No person shall use a pesticide on the indoor or outdoor property of a school unless an Integrated Pest Management (IPM) Plan has been written and maintained in accord with 333 CMR 14.05 through 14.06 was submitted to the Department.
14.04: continued

(2) No person shall use a pesticide unless licensed or certified by the Department.

(3) Pesticides shall not be applied to School property unless presence of a pest is documented or there is biological evidence of the presence of a pest.

(4) Pesticides permitted for use on the indoor property of a School are limited to the following:
   (a) Anti-microbial pesticides.
   (b) Rodenticides placed in tamper resistant bait stations or placed in areas inaccessible to children and the general public.
   (c) Ready to use dust, powder or gel formulations of insecticide applied in areas inaccessible to children and the general public.
   (d) Insecticidal baits placed in tamper resistant bait stations or in areas inaccessible to children and the general public.
   (e) Termiticides used only in the presence of an active termite infestation and when non-chemical pesticide alternatives have been determined to be ineffective.

(5) Pesticides permitted for use on the outdoor property of a School are limited to the following:
   (a) Pesticides used in accordance with the facilities outdoor Integrated Pest Management Plan.
   (b) Pesticides other than those classified as known, likely or probable human carcinogens by the United States Protection Agency, or equivalently categorized by the Department.
   (c) Pesticide products that do not contain inert ingredients categorized as List 1: Inerts of Toxicological Concern or any equivalent categorization by the United States Environmental Protection Agency.

(6) Standard Written Notification for rodenticide and insecticide baits shall be issued as the following:
   (a) The Standard Written Notification shall be issued for the first application, informing the employees, pupils or supervised children and their parents or guardians that a rodenticide or insecticide application program has begun.
   (b) In the event that a rodenticide or insecticide program is a continuing year round program, the notice shall be sent annually on the anniversary of the commencement of the program.

14.05: Written Components of the Integrated Pest Management (IPM) Plan

Every IPM plan shall contain an indoor and outdoor component. These components shall be submitted to the Department and shall include the following information:
   (a) Name, address, and telephone number of School.
   (b) Name and contact information of the School IPM Coordinator.
   (c) Name and contact information of the School IPM Committee.
   (d) Description of the School IPM Policy.
   (e) Identification of the School pest problem(s) and a description of the conditions contributing to or causing the problem.
   (f) Description of the communication and training program for School staff regarding IPM.
   (g) A list of pesticides to be used which shall include:
      1. Product Name;
      2. EPA Registration Number; and
      3. Common Name of Active Ingredient(s).
   (h) List of non-pesticide control techniques and preventive methods to be used.
   (i) Location in the School where the IPM plans and records are maintained and available for viewing.
   (j) Statement identifying the proposed IPM plan annual review date.

14.06: Maintenance of the Integrated Pest Management (IPM) Plan

A hard copy of the IPM plan shall be maintained on site at the School. In addition to the requirements of 333 CMR 14.05, the following shall be maintained with a hard copy of the IPM plan:
14.06: continued

(a) Labels of the pesticide products that may be used or are being used at the School. Product labels shall be reviewed by the School annually to ensure that such products are permitted for use as outlined in 333 CMR 14.04(4) through (5).
(b) Copies of all pesticide application records.
(c) A pest sighting log sheet or book shall be maintained indicating the presence of a pest problem or the expected presence of a pest problem.
(d) IPM Plans shall be updated and resubmitted when changes occur. Plans shall be reviewed on an annual basis and changes noted within the plan.
(e) Material Safety Data Sheets shall be made available to any person upon reasonable request and such Material Safety Data Sheet shall be provided in a format acceptable to the person making the request.

14.07: Required Components of Standard Written Notification

Every standard written Notification shall include the following three Department approved forms and documents:
(a) The Department approved Pesticide Standard Written Notification Form;
(b) The Department approved Consumer Information Bulletin for Schools, Daycare Centers and School Age Child Care Programs; and
(c) The Department approved chemical specific fact sheet(s).

14.08: Requirements of Schools, Daycare Centers or School Age Child Care Programs

(1) Every school shall develop an IPM Plan in accord with 333 CMR 14.05 and 14.06. The plan shall be submitted to the Department and maintained on site.

(2) Every school shall maintain the plan and retain the plan at each site for five years. Schools shall make the plan available to any person upon a reasonable request.

(3) If a school administrator determines that a human health emergency warrants the use of a pesticide not otherwise allowed under this chapter, or warrants its use sooner than two days after providing the required Standard Written Notification, such official may apply for a single-use Emergency Waiver as per 333 CMR 14.10.

(4) No pesticides shall be applied for purely aesthetic purposes on the outdoor grounds of any school unless a determination is made in writing on an annual basis from an authorized official within the municipality, city, town or the Department approved equivalent. The approval shall include at least the following information:
(a) Date of approval;
(b) Reason for application; and
(c) Name of official and title.

(5) Standard Written Notification shall be issued to parents and employees no less than two working days and no more than seven working days prior to any pesticide application made to outdoor school property or to the inside of a school for a termite treatment.
(a) Standard Written Notification shall be issued for every outside pesticide application.
(b) In the case of a situation where the pesticide application cannot be made on the proposed date, the application may take place during the following 72 hours without issuing a new Standard Written Notification.

(6) Standard Written Notification shall be issued to parents and employees using one of the following methods:
(a) Email providing all the components of Standard Written Notification as defined and provided that the school has a permission letter from the parents and employees from the current school year, stating that they would like to be notified via email.
(b) Website which provides all the components of Standard Written Notification as defined and provided that the school used a notification system, such as but not limited to Reverse 911 or Connect Ed, phone call or one page letter to initially notify that a pesticide application will take place and that directs them to the website or an alternative place to receive the complete notification.
14.08: continued

(c) Hard copy, providing all the components of Standard Written Notification as defined.

(7) If a school administrator is aware of any scheduled use of outside property by youth groups, he or she shall inform the organizers of any such group regarding the proposed pesticide application.

(8) If a pesticide application is to take place outdoors while students are present for school sponsored activities, the School shall take effective measures to keep students off the treated area(s) for at least eight hours.

14.09: Requirements of Pesticide Applicators

(1) Prior to making any pesticide applications to the property of a school, the pesticide applicator shall check the IPM plan of the School to ensure that any pesticide application made, shall be consistent with the provisions of the plan.

(2) The pesticide applicator shall not apply a pesticide to the outdoor property of a school while students are present unless students are at least 150 feet away from the application area;

(3) The pesticide applicator shall determine if a school is located in a building or on a property to which he or she intends to apply pesticides.

(4) Prior to making a pesticide application for purely aesthetic purposes on the outdoor grounds of a school, the pesticide applicator or his/her employer shall obtain a copy of the written consent form from the School as indicated in 333 CMR 14.08(4).

(5) Prior to making an outdoor pesticide application the pesticide applicator or his/her employer shall furnish the Standard Written Notification to the School administration in a timely manner, so as to allow the School administration time to issue the Standard Written Notification in accordance with 333 CMR 14.08(5).

(6) Prior to making a pesticide application the pesticide applicator or his/her employer shall obtain a copy of the complete signed and dated Standard Written Notification that was sent by the School administration.

(7) Prior to commencing each outdoor application, the pesticide applicator shall post signs approved by the Department. Said signs must be posted at conspicuous points of access to the treated property.

14.10: Emergency Waiver

(1) The Department, municipal board of health, or the Director of Public Health shall determine if an Emergency Waiver is warranted based on the following criteria:
   (a) That the pest situation poses an immediate threat to human health; and
   (b) That there is no viable alternative to the use of a pesticide.

(2) As a condition of approval, the municipal board of health, Director of Public Health or the Department shall require a commitment from the School administrator that the underlying causes of the pest outbreak will be identified and addressed in the IPM plan.

(3) In such an emergency situation, the School administrator shall ensure the following:
   (a) The Department approved Emergency Waiver form is completed and signed by either the municipal board of health or Director of Public Health or the Department.
   (b) That Department approved signs are posted at the site of the spraying, release, deposit or application prior to, and for at least 72 hours after the spraying, release, deposit or application.
   (c) That Standard Written Notification is provided to employees, pupils or supervised children and their parents or guardians immediately prior to or, if necessary, immediately following the emergency spraying, release, deposit or application.
14.10: continued

(d) That the Department approved emergency waiver form and records of the emergency event that identify the underlying causes of the pest outbreak and the actions taken to address it, shall be maintained as a part of the records for five years pursuant to 333 CMR 14.08(2).

14.11: Enforcement

1. Upon any violation of 333 CMR 14.00 the Department may assess a civil administrative penalty of up to $1,000 against any person or school administration who violates these requirements. Prior to assessment of the penalty, the Department shall provide written notice and an opportunity to correct the violation within 90 days of the issuance of the notice of violation. This penalty shall be assessed in addition to any other civil penalty otherwise provided for by law. Notice of assessment of a penalty pursuant to 333 CMR 14.11 shall be made by service in hand, or by certified mail, return receipt requested, and shall include the following information:
   (a) The amount of the administrative penalty;
   (b) The date the penalty shall be due;
   (c) A statement of the violator's right to an adjudicatory hearing pursuant to M.G.L. c. 30A regarding the assessment;
   (d) A statement of actions the person may take in order to avoid the assessment of the penalty or to avoid waiving the right to a hearing relative to the penalty; and
   (e) A statement of the manner of the acceptable form of payment if an election to waive a hearing is made.

REGULATORY AUTHORITY

333 CMR 14.00: M.G.L. c. 132B, §§ 2, 5A, 6B through 6J, 7A, 14A, and 16.
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