§ 23-25-37 Pesticide applications and notification of pesticide applications at schools. – (a) The department of environmental management and the department of health shall develop regulations as follows: (1) to restrict the use of hazardous pesticides in schools, pre-schools and child care centers in Rhode Island; (2) for the promotion and implementation of integrated pest management (IPM) as defined in § 23-25-2-2; (3) to cover situations where an emergency application of pesticide must be conducted to eliminate an immediate threat to human health, and establish reporting requirements for these emergency applications.

(b) On and after July 1, 2001, no person other than a licensed or certified commercial applicator as defined in § 23-25-4, shall apply pesticide within any building or on the grounds of any school. 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 the emergency application does not involve a restricted use or state limited use pesticide. For purposes of this section, "emergency" means a sudden need to mitigate or eliminate a pest which threatens the health or safety of a student or staff member.

(c) On and after July 1, 2002, at the beginning of each school year, each local school authority 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 committee's policy on pesticide application on school property and a description of any pesticide applications made at the school during the previous school year.

(2) The statement and description shall be provided to the parents or guardians of any child who transfers to a school during the school year. The statement shall: (i) indicate that the staff, parents, or guardians may register for prior notice of pesticide applications at the school; and (ii) 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.

(d) On and after July 1, 2002, 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 the notice. Prior to providing for any application of pesticide within any building or on the grounds of any school, the local school authority shall provide for the distribution 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 (24) hours prior to the application. Notice shall be given by any means practicable to school staff who have registered for the notice. Notice under this subsection shall include: (1) the common or trade name and the name of the active ingredient; (2) the EPA registration number as listed on the pesticide label; (3) the target pest; (4) the exact location of the application on the school property; (5) the date of the application; and (6) the name of the school administrator, or a designee, who may be contacted for further information.
(e) On and after July 1, 2003, 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. No child shall enter an area where the application has been made until it is safe to do so according to the provisions on the pesticide label. This section shall not apply to the use of germicides, disinfectants, sanitizers, deodorizers, antimicrobial agents, insecticidal gels, non-volatile insect or rodent bait in a tamper resistant container, insect repellants or the application of a pesticide classified by the United States Environmental Protection Agency as an exempt material under 40 CFR 152.25.

(f) On and after July 1, 2002, a local school authority 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.

(g) On and after July 1, 2002, notice of any pesticide application at a school shall be given, by any means practicable, to the parents or guardians of any child enrolled at the school and to the staff of the school not later than one week after the application. The notice shall include: (1) the common or trade name and the name of the active ingredient; (2) the EPA registration number as listed on the pesticide label; (3) the target pest; (4) the exact location of the application on the school property; (5) the date of the application; and (6) the name of the school administrator, or a designee, who may be contacted for further information. A copy of the record of each pesticide application at a school shall be maintained at the school for a period of five (5) years.

(h) Not later than July 1, 2002, the department of environmental management and the department of health shall jointly establish a task force which shall specifically address methods to promote public education and professional training about pesticides, their potential health effects and IPM least toxic alternatives, and for evaluation and analysis of current pest control practices at school and child care facilities.

History of Section.
§ 23-25-38 Pesticide applications and notification of pesticide applications at pre-schools and child care centers. — (a) On and after July 1, 2003, no application of pesticide may be made by any person other than a certified or licensed commercial applicator as defined in § 23-25-4 in any building or on the grounds of any pre-school, child day care center, group family day care home or family day care home, during regular business hours. No child enrolled at such center or home may enter an area where pesticides have been applied until it is safe to do so according to the provisions on the pesticide label. For purposes of this section, emergency shall mean a sudden need to mitigate or eliminate a pest which threatens the health or safety of a student or staff member. This section shall not apply to the use of germicides, disinfectants, sanitizers, deodorizers, antimicrobial agents, insecticidal gels, non-volatile insect or rodent bait in a tamper resistant container, insect repellants, insecticidal disks, or the application of a pesticide classified by the United States Environmental Protection Agency as an exempt material under 40 CFR part 152.25.

(b) On and after July 1, 2002, notice of any pesticide application at any such center or home shall be given, by any means practicable, to the parents or guardians of any child enrolled at the center or home not later than twenty-four (24) hours before the application. The notice shall include: (1) the common or trade name and the name of the active ingredient; (2) the EPA registration number as listed on the pesticide label; (3) the target pest; (4) the exact location of the application on the property; (5) the date of the application; and (6) the name of the pre-school or child care center owner/operator or their designee.

History of Section.
(P.L. 2001, ch. 293, § 1; P.L. 2002, ch. 418, § 1.)
§ 23-25-39 Report on lawn care pesticide use. – (a) The department of environmental management shall report to the governor, the speaker of the house and the president of the senate on or before November 1, 2007, with regard to:

(1) Health risks, especially in children, associated with lawn care pesticides, as such risks have been established in the literature, based on the best available scientific information and health data studies;

(2) Currently recognized best practices for the use and/or control of lawn care pesticides at schools and child daycare facilities;

(3) How other jurisdictions have managed lawn care pesticides used at school facilities, including school facilities that have two (2) or more of the following functions at the same location, child daycare facilities, preschools, elementary and secondary schools;

(4) What Rhode Island schools are currently doing to manage, decrease or eliminate the use of lawn care pesticides on school grounds and to implement alternative methods of pest management in lawn care;

(5) A recommended lawn care pesticide use and control program for public and private child daycare centers, preschools and elementary schools located in Rhode Island; and

(6) The enforcement activities required to implement the lawn care use and control program and the fiscal impact this program may have on state agencies and school departments.

(b) The department of environmental management shall establish a working group, including, but not limited to: the department of health, the department of elementary and secondary education and the association of school committees, to assist with the report required in subsection (a). The department of health and the department of elementary and secondary education are hereby authorized and directed to cooperate with the department of environmental management in the preparation of the report required by this section.

History of Section.
(P.L. 2007, ch. 421, § 1.)
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DIVISION OF AGRICULTURE
PESTICIDES SECTION

RULES AND REGULATIONS RELATING TO PESTICIDES

October 19, 2006

AUTHORITY: These rules and regulations are adopted pursuant to Chapters 42-35 and 23-25 of the Rhode Island General Laws, 1956, as amended. These rules and regulations were originally promulgated in 1979 and amended March 10, 1987.
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RULES AND REGULATIONS RELATING TO PESTICIDES

RULE 1. PURPOSE

The purpose of these rules and regulations is to ensure the enforcement and administration of the Rhode Island Pesticide Control Act and its amendments, the protection of public health and to avoid degradation of the environment of the State. The regulations as herein set forth include, but are not limited to, providing for the collection, examination, and reporting of samples of pesticides or devices; the safe use, handling, transportation, storage, display, distribution, and disposal of pesticides and their containers; provide for labeling requirements of all pesticides; prescribe methods to be used in the application of pesticides; and establish standards of minimum competence levels for applicators of pesticides.

RULE 2. AUTHORITY


B.) Pursuant to the above cited provisions of the Rhode Island General Laws of 1956, as amended, the Department of Environmental Management’s Division of Agriculture & Resource Marketing its Chief and designated agents shall be responsible for carrying out the provisions of these rules and regulations.

RULE 3. APPLICABILITY

The terms and provisions of these Rules and Regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals, and policies.

RULE 4. DEFINITIONS

For the purpose of these regulations, the following terms shall have the following meanings:

(A) Director - means the Director of the Department of Environmental Management as defined in Chapter 23-25-4 entitled Pesticide Control Act of 1976 of the State of Rhode Island General Laws of 1956, as amended.

(C) **Community Water Supply** - means any public water supply, which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round individuals.

(D) **Conspicuous Points of Access** - the usual and customary entrance(s) where people are likely to enter a treated area and observe posted signs pursuant to Rule 24.

(E) **Department** – means the Rhode Island Department of Environmental Management.

(F) **School Emergency** – an urgent need to mitigate or eliminate a pest that threatens the health or safety of a student or staff member at a school.

(G) **Immediate Farm Family Member** – includes only the spouse, children, stepchildren, foster children, parents, stepparents, foster parents, brothers and sisters.

(H) **Original Container** – means the package the pesticide or device was placed in by the manufacturer for distribution, sale, consumption, use or storage. The term does not include any shipping or bulk container used for transporting or delivering the pesticide unless it is the only such package.

(I) **Public Health** – means the optimal well being of the general public both individually and collectively as communities of the human race.

(J) **Public Water Supply** – means a system for the provision of the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves at least twenty-five (25) individuals daily at least sixty (60) days of the year.


(L) **School** – The term means a public or private elementary or secondary school having kindergarten or any of grades one (1) through twelve (12). The term school includes any school building and any area outside of a school (including a lawn, playfield, sports field) that is used, managed or owned by the school or school district for school related activities.

(M) **Service Container** – means any container, other than the original container of a registered pesticide provided by the registrant, or pesticide application equipment,
which contains the original material that is utilized to hold, store, or transport a pesticide concentrate or a pesticide use-dilution preparation.

(N) **Use of a pesticide** – Any act of handling or release of a pesticide or the exposure of public health or the environment to a pesticide, but excluding normal handling associated with pesticide distribution, through acts including but not limited to:

a. Application of a pesticide including mixing or loading of equipment and any required supervisory action in or near the area of application.

b. Storage actions for pesticides and pesticide containers.

c. Disposal actions for pesticides and pesticide containers.

d. Recommendation of a pesticide application; and/or

e. Other activities as defined by the **Federal Worker Protection Standard 40 CFR Part 156**.

**RULE 5. “RESTRICTED USE” AND “STATE LIMITED USE” PESTICIDES**

(A.) “Restricted Use” Pesticides – Any pesticide which is classified as “restricted use” by the administrator of EPA under 7 USC 136a Sec. 3(d)(1), or as a “state-limited use” pesticide under the Rhode Island Pesticide Control Act Chapter 23-25-9. A listing of such “restricted use” pesticides shall be maintained with the Division of Agriculture.

(B.) “State Limited Use” Pesticides – In accordance with Chapter 23-25-9 of the Rhode Island Pest Control Act, the pesticides contained herein are classified as "state limited use". As such, the following restrictions and/or conditions of use shall apply:

(1) Effective January 31, 1987, all uses, distribution and sale of pesticide products containing Chlordane have been canceled and banned:

   (a) Products containing Chlordane shall not be distributed or used in the State of Rhode Island

   (b) Products containing Chlordane shall not be distributed or offered for sale by any person, dealer, store, or company in the State of Rhode Island.

(2) The registration of products containing Alar (diaminozide) shall be subject to the requirements “state limited use” effective May 15, 1986.
(H) No person under eighteen (18) years of age shall be eligible for licensing as a dealer, nor shall they be engaged in the sale and distribution of "restricted use" or "state limited use" pesticides.

(I) Licensed Dealers shall cooperate with the Department requests to inspect pesticide related records, to inspect business premises and to conduct pesticide related sampling.

(J) The Director may deny licensing or may suspend, revoke or otherwise modify a license once issued for reasons including the following:

(1) That the applicant made a false or misleading statement in the application for licensing.

(2) That the applicant or license holder has violated any provision of the Rhode Island Pest Control Act, any applicable Federal Statues, or regulations promulgated thereunder.

RULE 19. GENERAL RULES

(A) Pesticide Anti-Siphon. All pest control equipment using pesticides and drawing water from the surface waters of the State or from potable water supplies shall have an effective anti-siphon device approved by the Director to prevent back flow.

(B) No pesticide shall be applied to public water supplies or their tributaries except by legally established water supply entities or their agents as authorized by the Director. Pesticide applications to lands near or adjacent to public water supplies shall be made in such a manner that no pesticides drift or flow into such water supplies.

(C) No pesticide application may be made within 400 feet of gravel packed wells used for public water supply or within 250 feet of other wells so used, unless materials and methods to be employed have been approved by the Director.

(D) No restricted use or "state limited use" pesticide shall be applied to woodland areas exceeding 25 acres without the prior approval of the Director.

(E) Pesticide applications to areas adjacent to crops or pasturage shall be such that contamination of crops or pasturage does not occur.

(F) Pesticide application for agricultural purposes shall be such that contamination to adjacent lands does not occur.
(G) Pesticide applications to any surface waters of the State for the control of aquatic nuisances or for any other reason shall not be made unless such applications have been approved by the Director.

(H) No application of pesticides by means of aircraft shall be made within the State without prior approval of the Director or his designated representative.

(I) No application of pesticides shall be made by mechanically powered equipment at such times as the wind velocity will cause a hazardous chemical to drift beyond the target area.

(J) Pesticide containers shall not be used for any purpose, other than the storage of pesticides, unless such purpose has been approved by the Director and the containers have been properly cleaned.

(K) Pesticide dealers displaying “restricted use” or “state limited use” pesticides, shall display such pesticides in an area separate from general use pesticides.

(L) Pesticide dealers displaying “restricted use” or “state limited use” pesticides, shall post a sign bearing the statement “for sale to certified applicators only”, at the display in a prominent position. The statement shall be imprinted letters at least one inch high.

(M) No pesticide may be distributed if part or all of the label is missing, unreadable, or otherwise damaged beyond recognition.

(N) No pesticide may be distributed in containers which are unsafe due to corrosion, leakage, spillage, or other damage.

(O) No person(s) under the age of eighteen (18) years of age shall apply “restricted use” or “state limited use” pesticides as a private or commercial applicator. Except that; farms that can demonstrate and provide written documentation of a hardship situation acceptable to the Department will allow an immediate family member between the ages of sixteen (16) and eighteen (18) years to obtain a private certification as long as the member has attended the required pesticide applicator training; passes the required examinations and satisfies the private certification licensing requirements.

(P) No person under the age of eighteen (18) shall apply general use pesticides as a commercial or private applicator except:

1. Farm employees sixteen (16) years of age or older may apply general use pesticides only under the direct supervision of a private applicator.
2. Immediate farm family members sixteen (16) years or older may apply general use pesticides only on their parents farm without the supervision of a private applicator.

(Q) No person other than a licensed or certified commercial applicator shall apply pesticide within any building or on the grounds of any school, and no pesticide shall be applied in any building or on the grounds of any school during regular school hours or during planned activities at any school. This subsection shall not apply to the use of germicides, disinfectants, sanitizers, deodorizers, antimicrobial agents, insecticidal gels, non-volatile insect or rodent bait in a tamper resistant container, insect repellants, the application of a pesticide classified by the United States Environmental Protection Agency as an exempt material under 40 CFR part 152.25, a pesticide application by public health officials during a state public health emergency or the emergency application of a pesticide to eliminate an immediate threat to human health, where it is impractical to obtain the services of a licensed or certified applicator; provided the application does not involve a restricted use or state limited use pesticide.

(R) No person shall apply “restricted use” pesticides or “state limited use” pesticides in or around school property of grades preschool through twelve (12) at any time (without prior written approval from the school administration and Department of Environmental Management.)

This subsection is not applicable to pesticide applications by public health officials during a state public health emergency. In addition this subsection shall not apply to emergency situations where children’s health and well being are at risk, such as stinging insects, poisonous plants or other known life or health threatening pests.

(S) No person shall make an application of Tributyltin antifouling paint unless applied:

1. by a commercial applicator certified in category 5B.
2. within a commercial boatyard; and
3. to vessels which exceed twenty-five meters (82.02 feet) in length or which have aluminum hulls.

(T) No person shall use or otherwise possess any pesticide in any rodent control bait box unless:

1. The bait box is secured against tampering when placed in areas accessible to pets or persons under eighteen (18) years of age; and
2. The bait box has attached to it or contained therein a readable label with the following information about the pesticide contained therein:
(1) No general-use pesticide shall be applied by non-certified or un-licensed applicators for hire without the direct supervision of a certified or licensed commercial applicator. No restricted use pesticide shall be applied by an un-licensed or non-certified applicator without the direct supervision of a certified private or commercial applicator. Direct supervision means the on-site supervision of any pesticide application by an appropriately certified or licensed applicator who is responsible for such application and is capable of dealing with emergency situations which might occur, pursuant to the provisions of these regulations.

(2) In situations where labeling requires, the actual physical presence of a certified applicator shall be required when application is made by a non-certified applicator.

(3) In situations in which sub-surface application of the following classes of termiticides are made, the actual physical presence of an applicator certified in Category 7(b) is required when application or any part thereof is made by any applicator not certified in Category 7(b):

- Clycldienes...including but not limited to chlordane, aldrin, dieldrin, and heptachlor.
- Organo-Phosphates...including but not limited to chlorpyrifos.
- Synthetic Pyrethoids

RULE 23. TURF MANAGEMENT AND LAWN CARE

(A) Definitions – Unless defined in Rule 4 or the context clearly indicates otherwise, the following terms shall have the following meanings as they are applied to turf management and lawn care:

(1) **Homeowner** shall mean the owner or occupant of a private single family residence or the manager of a multi-unit dwelling.

(2) **Applicator** shall mean the individual or company providing lawn care services.

(3) **Immediate Service Call** shall include: 1) customer complaints, 2) lawn threatening pests – but shall not include regularly scheduled treatments.

(4) **End Use Product** shall mean the pesticide(s) as applied and shall not mean the concentrate.
(5) **Public Recreation Facilities** shall include golf courses, playgrounds, athletic facilities, school grounds, and parks.

(B) After entering into or renewing an agreement to apply pesticides to control lawn or turf pests and prior to the initial application of such pesticides, the applicator shall provide the homeowner with a written list of those pesticides which may be used. Such list shall include common and most likely trade name of each pesticide and any post-application safety, environment or health instructions specified on the label for the end use product. In addition to said list the applicator must inform the homeowner, in writing, that they may request a copy of the label, and/or the material safety data sheet, and/or the EPA Fact Sheet, if available, on any pesticide which may be used. The Director may require the inclusion of any additional health, safety or environmental instructions generated by the EPA, Department of Environmental Management or Department of Health.

(C) Any contiguous neighbor to a property under an agreement in (B) above may request the applicator to provide notice 48 hours in advance of each application. If notice by telephone, or mail or in person, cannot be given 48 hours before the application of pesticides the applicator shall leave written notice at that house following the application. Such advance notice shall not be required for immediate service calls. In those cases, written notification following the application shall be left at the requesting neighbor's house.

(D) Upon completion of each application, the applicator shall leave written notice at the property treated containing the following information:

1. the product name of the pesticide(s) that were applied to the property and EPA registration Number.
2. a telephone number of the applicator or applicators company.
3. the telephone number of the Department of Environmental Management.
4. the name of the person(s) certified or licensed by the Department as well as person(s) applying the pesticide if under the direct supervision of a certified or licensed commercial applicator who participated in the planning and execution of the application.
5. the applicators certification and/or license number.

(E) At the time of each application, the applicator shall post signs, as prescribed in (F) below, in conspicuous points of access to the property and shall instruct the customer as to their appropriate removal. Conspicuous points of access shall include but not be limited to, unobstructed abutting yard, walkways, paths, etc.
(F) Prior to commencing each application of a pesticide, the manager of a public recreation facility shall post a notice in the place most likely to inform those who make use of the facility. Such notice shall remain in place for 48 hours after completion of the application. The notice shall list "that pesticides were applied," the date of chemical application, contact person and phone number and the areas treated.

(G) Signs posted by Commercial Companies shall be no less than 20 square inches (4" X 5") and shall be printed with the following information on waterproof stock in dark letters on a white field:

Lawn Chemicals Applied (in letters at least ½” high)
Applicator or Company Name
Phone Number of Applicator or Company
Date of Chemical Application
Keep Posted for 48 Hours, or as specified by the label, if more than 48 hours
(no smaller than ¼” letters)

(H) Each applicator shall make any written material required in this rule readily available to the Department upon request.

RULE 24. PESTICIDE AND PESTICIDE RESIDUE STORAGE AND DISPLAY REQUIREMENTS

The following rules apply to the storage and the display for retail sale and use by private and commercial applicators of "general use" and "restricted use" pesticides.

(A) Storage

(1) When not on display for sale, or in use, all pesticides must be securely stored with access limited to authorized personnel/individuals only.

(2) Pesticide storage areas must be identified with appropriate pesticide storage warning signs.

(3) Pesticides shall be stored in cool, dry, well ventilated and well-lit rooms or building insulated to prevent freezing or overheating as well as protection from direct rainfall and flooding. The area shall be locked to prevent entry by children or unauthorized persons. The storage area shall have lighting so that labels can be easily read and any leaks quickly detected.

(4) Pesticide storage areas shall be constructed of rigid materials, shall have no bottom drains or openings, be impervious to seepage through or leakage to the surrounding environment so as to prevent contamination to groundwater or
(d) The wood moisture-content readings obtained in the substructure, as well as any decay damage, active wood-destroying decay fungi, or excessive moisture conditions in visible and accessible areas below the level of the first main floor. Decay damage must be reported as such.

(e) The specific location and approximate extent of all damages, active infestations, previous infestations, and excessive moisture conditions. These items may be reported as “widespread,” “throughout the substructure,” or in similar terms only if their extent and occurrence justifies such broad language.

(f) All damage must be reported whether or not it requires or may require repair or further inspection by another professional. Damage remaining in areas that have previously been repaired must also be reported.

6) The Wood Infestation Report is not a warranty against future infestation, nor does it place any obligation for the correction of reported damage or infestation upon the applicator or business issuing the report.

7) In determining whether an infestation of insects or decay fungi is active in a structure the inspector must use the criteria set forth in Sections I and J, above. Inspectors must fully explain on the reverse of the form the basis for their determination of whether an infestation of insects or decay fungi is or is not active in the structure.

L. Any person performing any of the activities listed below on the property of another must be licensed in the category indicated by the Department or must work under the direct supervision of one so licensed.

1) Any person performing a structural pest control activity as defined in Section 27-1070 D of these Regulations. Persons performing structural pest control activities in or adjacent to property rented, leased, or otherwise occupied by unrelated persons (in schools, apartment or condominium complexes, hospitals, and similar situations) are not exempt from these requirements.

2) Any person performing a public health pest control activity as defined in Section 27-1070 J of these Regulations.

3) Any person performing a turf and ornamental pest control activity as defined in Section 27-1070 K of these Regulations.

4) Any person performing an aquatic pest control activity as defined in Section 27-1070 L of these Regulations.

M. No main business office where records are kept or branch office must engage in structural pest control activities in the State without first obtaining a Pest Control Business License from the Department.

1) A Business License will be issued only when the location has appointed a Designated Certified Applicator in charge (DCA). The DCA must be licensed by the Department in Category 7A and permanently assigned to that specific location on a full time basis while
38-21-14. Definition of terms. Terms used in this chapter mean:

(1) "Animals," all vertebrate and invertebrate species, including man;

(2) "Bulk pesticide," any volume of a pesticide which is transported or held in an immediate reusable container. This does not include pesticides which are in the custody of the ultimate user and are fully prepared for use by the user;

(3) "Bulk pesticide storage facility," any area, location, tract of land, building, structure, or premises constructed in accordance with rules promulgated by the secretary for the storage of bulk pesticides;

(4) "Certified applicator," any individual who is certified under this chapter to use any pesticide;

(5) "Commercial applicator," any certified applicator who uses any pesticide on any property other than as a private applicator;

(6) "Defoliant," any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission;

(7) "Desiccant," any substance or mixture of substances intended for artificially accelerating the drying of plant tissue;

(8) "Device," any instrument or contrivance, other than a firearm, which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life, other than man and other than bacteria, virus, or other microorganism on or in living man or other living animals, but not including equipment used for the application of pesticides when sold separately therefrom;

(9) "Environment," includes water, air, land, and all plants and animals living therein, and the interrelationships which exist among these;

(10) "Equipment," any type of ground, water, or aerial equipment or contrivance using motorized, mechanical, or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating, or stored on or in such land, but does not include any pressurized hand-sized household apparatus used contrivance of which the person who is applying the pesticide is the source of power or energy in making the pesticide application;

(11) "Fungus," any nonchlorophyll-bearing thallophyte, except those on or in processed food, beverages, or pharmaceuticals or those on or in living animals;

(12) "Insect," any of the numerous small invertebrate animals belonging to the class insecta or to other allied classes of arthropods;

(13) "Labeling," any label and other written, printed, or graphic matter:

(a) On the pesticide or device or any of its containers or wrappers;

(b) Accompanying the pesticide or device at any time; or

(c) To which reference is made on the label or in literature accompanying the pesticide or device, except accurate, nonmisleading reference to current official publications of any government institution or official agency of the United States or of this or any other state, authorized by law to conduct research in the field of pesticides;

(14) "Land," all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances, and machinery, appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation;

(15) "Licensed applicator," any certified applicator who is licensed under this chapter and who owns, manages, or is employed by a pesticide application business which is engaged in the business of applying pesticides upon the lands of another or applies pesticides while in the performance of his duties as a government employee;

(16) "Licensed pesticide dealer," any person who is licensed under this chapter and who distributes restricted-use pesticides or pesticides whose uses or distribution are restricted by regulation;

(17) "Nematode," any invertebrate animal of the phylum nemathelminthes or nematoda;
38-21-17. Applicator's license required to apply pesticides--Annual fee--Exemption--Penalty for violation. No person may engage in the business of applying pesticides to the lands of another, advertise as being in the business of applying pesticides to the lands of another at any time, apply pesticides while in the performance of duties as a governmental employee or otherwise act as a commercial applicator without an applicator's license issued by the secretary of agriculture, unless exempted under the provisions of this chapter. The secretary shall require a fee of twenty-five dollars for each applicator license issued. The secretary of agriculture shall issue an applicator license to governmental employees without a license fee. The fee exempt license is valid only when the applicator is applying pesticides in the course of employment for the governmental entity. Any person who violates this section is subject to a civil penalty not to exceed five thousand dollars per violation.

62-21-124. Pesticides in buildings used for food preparation and service, lodging, educational purposes or commerical food processing.

(a) Whether or not engaged in the business of applying pesticides, a person may not apply a pesticide within any of the following buildings, except under the direct supervision of a person licensed to apply pesticides in accordance with this chapter:

(1) Any building used for the preparation or serving of food;

(2) Any building used for the temporary or permanent lodging of others;

(3) Any building used primarily for educational purposes, except those buildings used primarily for religious instruction or for providing education to no more than ten (10) persons; or

(4) Any commercial food processing facility.

(b) Subsection (a) does not apply to the application of pesticides by an individual in the individual's dwelling nor to the application of pesticides by the owner of a multi-unit dwelling in which the owner resides and that contains no more than three (3) additional units used for the temporary or permanent lodging of others.

Sec. 1951.001. SHORT TITLE. This chapter may be cited as the Texas Structural Pest Control Act.
Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1951.002. DEFINITIONS. In this chapter:

(1) "Apartment building" means a building that contains at least two dwelling units that are rented primarily for nontransient permanent dwelling purposes, with rental paid by intervals of one week or longer.

(2) Repealed by Acts 2007, 80th Leg., R.S., Ch. 890, Sec. 1.79(1), eff. September 1, 2007.

(3) "Certified applicator" means a certified commercial applicator or a certified noncommercial applicator.

(4) "Certified commercial applicator" means a person who holds a certified commercial applicator's license.

(5) "Certified noncommercial applicator" means a person who holds a certified noncommercial applicator's license.

(5-a) "Commissioner" means the commissioner of agriculture.

(5-b) "Committee" means the structural pest control advisory committee.

(6) "Day-care center" has the meaning assigned by Section 42.002, Human Resources Code.

(6-a) "Department" means the Department of Agriculture.

(7) "Device" means an instrument or contrivance that is designed for trapping, destroying, repelling, or mitigating the effects of a pest or another form of plant or animal life, other than human beings or bacteria, viruses, or other microorganisms that live on or in human beings or animals. The term does not
include:

(A) a firearm; or

(B) equipment used for the application of pesticides that is sold separately from a device.

(8) "Hospital" has the meaning assigned by Section 241.003, Health and Safety Code.

(9) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(10) "Nursing home" means an institution as that term is defined by Section 242.002, Health and Safety Code.

(11) "Person" means an individual, firm, partnership, corporation, association, or other organization, any combination of those persons, or any type of business entity.

(12) "Restricted-use pesticide" means a pesticide classified for restricted or limited use by the administrator of the United States Environmental Protection Agency.

(13) "School" means a:

(A) public primary or secondary school; or

(B) private or parochial primary or secondary school that is accredited by an accreditation body that is a member of the Texas Private School Accreditation Commission.

(14) "State-limited-use pesticide" means a pesticide classified for restricted or limited use by the commissioner.

(15) "Structural pest control business license" means a license issued under Section 1951.301.

(16) "Technician" means a person who holds a license under this chapter and who, under direct supervision of a certified noncommercial applicator or, as an employee of a holder of a structural pest control business license, performs supervised pesticide applications, maintains or uses structural pest control devices, makes sales presentations, or identifies pest infestation or damage. The term does not include a person whose duties are solely clerical or are otherwise completely disassociated with pest control.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890, Sec. 1.01, eff.
Sec. 1951.0021. STRUCTURAL PEST CONTROL SERVICE. The Structural Pest Control Service is a service of the department responsible for the regulation and licensing of persons engaged in the business of structural pest control. The service is established to provide exceptional customer service to the public and the industry, enhance the educational and professional standards of license holders, and ensure the health, safety, and welfare of the public.

Added by Acts 2007, 80th Leg., R.S., Ch. 890, Sec. 1.02, eff. September 1, 2007.

Sec. 1951.003. BUSINESS OF STRUCTURAL PEST CONTROL. (a) In this chapter, a person is engaged in the "business of structural pest control" if the person performs any of the following services for compensation, including services performed as a part of the person's employment:

(1) identifying infestations or making inspections for the purpose of identifying or attempting to identify infestations of:

(A) arthropods, including insects, spiders, mites, ticks, and related pests, wood-infesting organisms, rodents, weeds, nuisance birds, and any other obnoxious or undesirable animals that may infest households, railroad cars, ships, docks, trucks, airplanes, or other structures or their contents; or

(B) pests or diseases of trees, shrubs, or other plantings in a park or adjacent to a residence, business establishment, industrial plant, institutional building, or street;

(2) making oral or written inspection reports, recommendations, estimates, or bids with respect to an infestation
SUBCHAPTER B. EXEMPTIONS

Sec. 1951.051. INDIVIDUAL PERFORMING PEST CONTROL WORK ON OWN OR EMPLOYER'S PREMISES. (a) An individual who does not hold a license under this chapter may use insecticides, pesticides, rodenticides, fumigants, or allied chemicals or substances or mechanical devices designed to prevent, control, or eliminate pest infestations unless:

(1) that use is prohibited by state law or rule;
(2) that use is prohibited by rule of the United States Environmental Protection Agency; or
(3) the substance used is labeled as a restricted-use pesticide or a state-limited-use pesticide.

(b) An individual may act under Subsection (a) only on premises:

(1) owned by the individual;
(2) in which the individual owns a partnership or joint venture interest; or
(3) of a person who employs the individual primarily to perform services other than pest control.

(c) Subsection (b)(3) does not apply to:

(1) an apartment building;
(2) a day-care center;
(3) a hospital;
(4) a nursing home;
(5) a hotel, motel, or lodge;
(6) a warehouse;
(7) a food-processing establishment;
(8) a facility owned by the state or a political subdivision of the state, except as provided by Section 1951.303(b)(1); or
(9) a school.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1951.052. PERSON PERFORMING PEST CONTROL WORK ON
PERSON'S DWELLING. (a) Except as provided by Sections 1951.212 and 1951.457(c), this chapter does not apply to a person who performs pest control work on property that the person owns or leases as the person's dwelling.

(b) A person described by Subsection (a) is not considered to be engaged in the business of structural pest control.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1951.053. PERSON PERFORMING PEST CONTROL WORK OTHERWISE REGULATED BY DEPARTMENT. (a) Except as provided by Sections 1951.212 and 1951.457(c), this chapter does not apply to:

1. a person who performs pest control work on growing plants, trees, shrubs, grass, or other horticultural plants if the person holds a commercial or noncommercial applicator license from the department and issued under Chapter 76, Agriculture Code, that covers the pest control work; or

2. a person who performs pest control work on growing plants, trees, shrubs, grass, or other horticultural plants or rights-of-way if the person:

   A. is employed by a political subdivision or a cemetery;

   B. is engaged in pest control work or vegetation management for the political subdivision or cemetery;

   C. holds a commercial or noncommercial applicator license from the department and issued under Chapter 76, Agriculture Code, that covers pest control work or is under the direct supervision of a person who holds a commercial or noncommercial applicator license from the department and issued under Chapter 76, Agriculture Code, that covers pest control work; and

   D. complies with annual continuing education required by the department.

(b) A person described by Subsection (a) is not considered to be engaged in the business of structural pest control.

(c) Neither this section nor any other law shall prohibit a political subdivision from reducing the number of hours of training or other requirements for an employee conducting larval mosquito...
control on property owned or controlled by the political subdivision using biological pesticides approved for general use by the Department of State Health Services, provided the employee is given instructions adequate to ensure the safe and effective use of such pesticides.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 884, Sec. 2, eff. June 20, 2003. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890, Sec. 1.03, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 506, Sec. 7.05, eff. September 1, 2009.

Sec. 1951.054. PERSON PERFORMING PEST CONTROL WORK ON AGRICULTURAL LAND. (a) Except as provided by Sections 1951.212 and 1951.457(c), this chapter does not apply to a person or the person's employee who is engaged in the business of agriculture or aerial application or custom application of pesticides to agricultural lands.

(b) A person described by Subsection (a) is not considered to be engaged in the business of structural pest control.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1951.055. PERSON USING PEST CONTROL CHEMICALS FOR HOUSEHOLD USE. (a) Except as provided by Sections 1951.212 and 1951.457(c), this chapter does not apply to a person who uses pest control chemicals that are for household use and are available for purchase in retail food stores, such as aerosol bombs and spray cans, if the insecticide is used in accordance with the label directions on the insecticide or with department rules or guidelines or as provided by Section 1951.303 and is:

(1) used by the owner of a building or the owner's employee or agent in an area occupied by the owner in a residential building; or

(2) used in a place that is vacant, unused, and unoccupied.
September 1, 2007.

Sec. 1951.211. CONSULTATION WITH INTEGRATED PEST MANAGEMENT TECHNIQUES EXPERT. The department may contract with an institution of higher education for the services of an expert in integrated pest management to consult with the department, department staff, license holders, and the public regarding integrated pest management techniques.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890, Sec. 1.25, eff. September 1, 2007.

Sec. 1951.212. INTEGRATED PEST MANAGEMENT PROGRAMS FOR SCHOOL DISTRICTS. (a) The department shall establish standards for an integrated pest management program for the use of pesticides, herbicides, and other chemical agents to control pests, rodents, insects, and weeds at the school buildings and other facilities of school districts.

(b) The department shall use the structural pest control advisory committee to assist the department in developing the standards for the integrated pest management program. In developing the standards, the advisory committee shall consult with a person knowledgeable in the area of integrated pest management in schools.

(c) The department shall include in standards adopted under this section a requirement to use the least toxic methods available to control pests, rodents, insects, and weeds.

(d) The department by rule shall establish categories of pesticides that a school district is allowed to apply. For each category, the department shall specify:

(1) the minimum distance a school district must maintain between an area where pesticides are being applied and an area where students are present at the time of application;

(2) the minimum amount of time a school district is required to wait before allowing students to enter an indoor or outdoor area in a school building or on school grounds for normal
academic instruction or organized extracurricular activities after pesticides have been applied;

(3) the requirements for posting notice of the indoor and outdoor use of pesticides;

(4) the requirements for obtaining approval before applying the pesticide; and

(5) the requirements for maintaining records of the application of pesticides.

(e) Each school district shall:

(1) adopt an integrated pest management program that incorporates the standards established by the department under this section;

(2) designate an integrated pest management coordinator for the district; and

(3) report to the department not later than the 90th day after the date the district designates or replaces an integrated pest management coordinator the name, address, telephone number, and e-mail address of the district's current coordinator.

(f) Each person who is designated as the integrated pest management coordinator for a school district shall successfully complete six hours of continuing education in integrated pest management every three years.

(g) The department shall inspect each school district at least once every five years for compliance with this section and may conduct additional inspections based on a schedule of risk-based inspections using the following criteria:

(1) whether there has been a prior violation by the school district;

(2) the inspection history of the school district;

(3) any history of complaints involving the school district; and

(4) any other factor determined by the department by rule.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890, Sec. 1.26, eff.
Acts 2009, 81st Leg., R.S., Ch. 506, Sec. 7.10, eff. September 1, 2009.

SUBCHAPTER F. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES

Sec. 1951.251. PUBLIC INTEREST INFORMATION. (a) The department, with the advice of the committee, shall prepare information of public interest describing the functions of the department under this chapter and the procedures by which complaints are filed with and resolved by the department under this chapter.

(b) The department shall make the information available to the public and appropriate state agencies.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890, Sec. 1.27, eff. September 1, 2007.

Sec. 1951.252. COMPLAINTS. (a) The department by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the department for the purpose of directing complaints to the department under this chapter. The department may provide for that notice:

(1) on each license form, application, or written contract for services of a person regulated under this chapter;

(2) on a sign prominently displayed in the place of business of each person regulated under this chapter; or

(3) in a bill for services provided by a person regulated under this chapter.

(b) The department shall keep an information file about each complaint filed with the department under this chapter that the department has authority to resolve.

(c) If a written complaint is filed with the department under this chapter that the department has authority to resolve, the department, at least quarterly and until final disposition of
Texas Administrative Code

TITLE 4  AGRICULTURE
PART 1  TEXAS DEPARTMENT OF AGRICULTURE
CHAPTER 7  PESTICIDES
SUBCHAPTER H  STRUCTURAL PEST CONTROL SERVICE
DIVISION 3  COMPLIANCE AND ENFORCEMENT
RULE §7.150  Integrated Pest Management Program for School Districts

(a) Responsibility of School Districts to Adopt an IPM Program. Each school district shall establish, implement, and maintain an Integrated Pest Management (IPM) program. An IPM program is a regular set of procedures for preventing and managing pest problems using an integrated pest management strategy, as defined in §7.114 of this title (relating to Definition of Terms). The school district is responsible for the IPM Coordinator(s) compliance with these regulations.

(1) The IPM program shall contain these essential elements:

(A) a school board approved IPM policy, stating the school district's commitment to follow integrated pest management guidelines in all pest control activities that take place on school district property. The IPM policy statement shall include:

(i) a definition of IPM consistent with this section;

(ii) a reference to Texas laws and rules governing pesticide use and IPM in public schools;

(iii) information about who can apply pesticides on school district property; and

(iv) information about designating, registering, and required training for the school district's IPM coordinator. The Superintendent and IPM Coordinator will maintain a copy of the policy.

(B) a monitoring program to determine when pests are present and when pest problems are severe enough to justify corrective action;

(C) the preferential use of lower risk pesticides and the use of non-chemical management strategies to control pests, rodents, insects and weeds;

(D) a system for keeping records of facility inspection reports, pest-related work orders, pest control service reports, pesticide applications, and pesticide complaints;

(E) a plan for educating and informing school district employees about their roles in the IPM program; and

(F) written guidelines that identify thresholds for when pest control actions are justified.

(2) Each school district superintendent shall appoint an IPM Coordinator(s) to implement the school district's IPM program. Not later than 90 days after the superintendent designates or replaces an IPM Coordinator(s), the school district must report to the department the newly appointed coordinator's name, address, telephone number, e-mail address and the effective date of the appointment. A school
district that appoints more than one IPM Coordinator shall designate a Responsible IPM Coordinator who will have overall responsibility for the IPM program and provides oversight of subordinate IPM Coordinators regarding IPM program decisions.

(3) Each school district that engages in pest control activities must employ or contract with a licensed applicator, who may, if an employee, also serve as the IPM Coordinator(s).

(4) Each school district shall prior to or by the first week of school attendance, ensure that a procedure is in place to provide prior notification of pesticide applications in accordance with this chapter. Individuals who request in writing to be notified of pesticide applications may be notified by telephonic, written or electronic methods.

(b) Responsibilities of the IPM Coordinator(s). The IPM Coordinator(s) shall be responsible for implementation of the school district IPM Program and district compliance with these rules. In addition, the IPM Coordinator(s) shall:

(1) successfully complete a department-approved IPM Coordinator training course within six months of appointment;

(2) obtain at least six hours of department-approved IPM continuing education units at least every three years, beginning the effective date of this rule or the date of designation, whichever is later. No approved course may be repeated for credit within the same three year period;

(3) oversee and be responsible for:

   (A) coordination of pest management personnel, ensuring that all school employees who perform pest control, including those employees authorized to perform incidental use applications, have the necessary training, are equipped with the appropriate personal protective equipment, and have the necessary licenses for their pest management responsibilities;

   (B) ensuring that all IPM program records, including incidental use training records (as provided for under §7.155), facility inspection reports, pest-related work orders, pest control service reports, pesticide applications, and pesticide complaints are maintained for a period of two years and are made available to a department inspector upon request;

   (C) conducting periodic facility inspections on campus buildings and grounds;

   (D) working with district administrators to ensure that all pest control proposal specifications for outside contractors are compatible with IPM principles, and that contractors work under the guidelines of the school district's IPM policy;

   (E) ensuring that all pesticides used on school district property are in compliance with the school district's IPM program and that current pesticide labels and Material Safety Data Sheets (MSDS) are available for interested individuals upon request;

   (F) overseeing and implementing that portion of the plan that ensures that school district administrators and relevant school district personnel are provided opportunities to be informed and educated about their roles in the IPM program, reporting, and notification procedures;

   (G) pesticide applications, including the approval of emergency applications at buildings and on
school district grounds, are conducted in accordance with these rules;

(H) maintaining a current copy of the school district's IPM policy and making available to a department inspector upon request.

c) Responsibilities of Certified Applicators and Licensed Technicians. The commercial or noncommercial certified applicator or licensed technician shall:

(1) apply only EPA labeled pesticides, appropriate for the target pest, except as provided in these rules;

(2) provide the structural pest management needs of the school district by following the school district's IPM program and these regulations;

(3) obtain written approval from the IPM Coordinator(s) for the use of pesticides in accordance with these rules;

(4) handle and forward to the IPM Coordinator(s) records of IPM activities, any complaints relating to pest problems, and pesticide use;

(5) ensure that pesticide use records are forwarded to the IPM Coordinator within two (2) business days or in a time frame as agreed to by the IPM Coordinator;

(6) consult with the IPM Coordinator(s) concerning the use of control measures in buildings and grounds; and

(7) ensure that all pest control activities are consistent with the school district's IPM program and IPM policy.

d) Pesticide Use In School Districts. All pesticides used by school districts must be registered with the United States Environmental Protection Agency (EPA) and the Texas Department of Agriculture, with the exception of those pesticides that have been exempted from registration by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), Section 25(b). All pesticides used by school districts must also bear a label as required by FIFRA and Chapter 76 of the Texas Agriculture Code. Pesticide use must also meet the following requirements.

(1) Pest control signs shall be posted at least 48 hours prior to a pesticide application inside school district buildings as provided for under §7.148 of this title (relating to Responsibilities of Unlicensed Persons for Posting and Notification).

(2) For outdoor applications made on school district grounds, a pest control sign shall be displayed at the time of application and will remain posted until the specified reentry interval has been met in accordance with these rules.

(3) Pesticides used on school district property shall be mixed outside of student occupied areas of building and grounds.

(4) The use of non-pesticide control measures, non-pesticide monitoring tools and mechanical devices, such as glue boards and traps as permitted in accordance with these rules, are exempt from posting requirements.
(5) Pesticide applications shall not be made to outdoor school grounds if such an application will expose students to physical drift of pesticide spray particles. Reasonable preventative measures shall be taken to avoid the potential of drift to occur.

(6) School districts are allowed to apply the following pesticides to control pests, rodents, insects and weeds at school buildings, grounds or other facilities in accordance with the approval for use and restrictions listed for each category:

(A) Green Category Pesticides.

(i) Definition: A pesticide will be designated as a Green Category pesticide if it meets the following criteria:

(I) all active ingredients belonging to EPA toxicity categories III and IV;

(II) it contains a CAUTION signal word on the product label, unless no signal word is required to appear on the product label as determined by EPA; and

(III) it consists of the active ingredient boric acid; disodium octoborate tetrahydrate or related boron compounds; silica gel; diatomaceous earth; or belongs to the class of pesticides that are insect growth regulators; microbe-based insecticides; botanical insecticides containing no more than 5% synergist (and does not include synthetic pyrethroids); biological (living) control agents; pesticidal soaps; natural or synthetic horticultural oils; or insect and rodent baits in tamper-resistant containers, or for crack-and-crevice use only;

(ii) Approval for Use: Green Category pesticides do not require prior written approval. These pesticides may be applied at the licensee's discretion under the guidelines of the school district IPM program.

(iii) Restrictions:

(I) Green Category pesticides may be applied indoors if students are not present and are not expected to be present in the room or treated area at the time of application. Reentry into the treated area is permitted as soon as the application is complete, the pesticide spray has dried, or the reentry interval specified on the pesticide label has expired, whichever interval is longer.

(II) Green Category pesticides may be applied outdoors if students are not present within ten (10) feet of the application site at the time of treatment. Students are allowed reentry into the treated area as soon as the application is complete, the pesticide spray has dried or the reentry interval specified on the pesticide label has expired, whichever interval is longer.

(B) Yellow Category Pesticides.

(i) Definition: A pesticide will be designated as a Yellow Category pesticide if it meets the following criteria:

(I) all active ingredients belonging to EPA toxicity categories III and IV;

(II) it contains a CAUTION signal word on the product label, unless no signal word is required to appear on the product label as determined by EPA; and
(III) it does not meet the criteria to be designated as a Green Category pesticide under subparagraph (A)(i) of this paragraph.

(ii) Approval for Use: Yellow Category pesticides require written approval from the certified applicator prior to their use. Yellow Category pesticide approvals shall have a duration of no longer than six (6) months or six (6) applications per site, whichever occurs first.

(iii) Restrictions:

(I) Yellow Category pesticides may be applied indoors if students are not present or not expected to be present in the room or treated area within the next four (4) hours following the application, or until the reentry interval specified on the pesticide label has expired, whichever interval is longer.

(II) Yellow Category pesticides may be applied outdoors if students are not present or not expected to be present within ten (10) feet of application site and the area is secured and reentry is in accordance with these rules for no less than four (4) hours, or until the reentry interval specified on the pesticide label has expired, whichever interval is longer.

(III) The treated area must be clearly posted at all entry points or secured using a locking device, a fence or other practical barrier such as commercially available barrier caution tape or periodically monitored to keep students out of the treated area until the allowed reentry time.

(C) Red Category Pesticides.

(i) Definition: A pesticide will be designated as a Red Category Pesticide if it meets the following criteria:

(I) all active ingredients belonging to EPA toxicity category I or II;

(II) it contains a WARNING or DANGER signal word on the product label; and

(III) it contains an active ingredient that has been designated as a restricted use pesticide, a state-limited-use pesticide or a regulated herbicide; and it does not meet the criteria to be designated as a Green Category pesticide under subparagraph (A)(i) of this paragraph, or a Yellow Category pesticide under subparagraph (B)(i) of this paragraph.

(ii) Approval for Use: Prior to the application, licensees must provide written justification to the IPM Coordinator for the use of the red category pesticide and must obtain signed approval for the application from the IPM Coordinator. Red Category pesticide approvals shall have a duration of no longer than three (3) months or three (3) applications per site, whichever occurs first.

(iii) Restrictions.

Cont'd...
(I) Red Category pesticides may be applied indoors if students are not present and are not expected to be present in the room or treated area within eight (8) hours following the application, or until the reentry interval specified on the pesticide label has expired, whichever interval is longer.

(II) Red Category pesticides may be applied outdoors if students are not present within twenty five (25) feet of the application site, the area is secured in accordance with these rules, and reentry by students is prohibited for no less than eight (8) hours, or until the reentry interval specified on the pesticide label has expired, whichever interval is longer.

(III) The treated area must be clearly posted at all entry points or secured using a locking device, a fence or other practical barrier such as commercially available barrier caution tape or periodically monitored to keep students out of the treated area until the allowed reentry time.

Source Note: The provisions of this §7.150 adopted to be effective July 7, 2009, 34 TexReg 4506
(a) The Incidental Use For Schools Fact Sheet must contain the following text: "This fact sheet must be distributed to all employees of school districts who apply general use Green Category pesticides (or Yellow Category pesticides specific to ant, bee and wasp applications) and are not licensed by the Texas Department of Agriculture. The fact sheet, instruction and training must be provided upon initial employment by the school district's IPM Coordinator, and thereafter must be available as needed. These general use Green Category pesticides include insecticides only and involve applications made both inside and outside of structures. Incidental Use is not intended for long term or extensive pest control measures, rather emergency situations where safety of students or workers is at risk and there is insufficient time to contact a licensed applicator. Where long term pest control is required, a trained, licensed person is to make the applications. Examples of Incidental Use situations are treating fire ants in a transformer box or treatments for bees or wasps as a non-routine application to protect children or personnel. Incidental Use is defined as site-specific and incidental to the employee's primary duties. If it is part of the employee's primary duty to make applications of pesticides, that employee is required by law to obtain a Texas Department of Agriculture license, depending on the location and type of application. In all cases of incidental use, the employee should use the least hazardous, effective method of controlling pests. All applications to schools or school grounds must be in compliance with school district IPM policies. If chemicals are utilized, they must be applied in strict accordance with manufacturer labels of products being used. Applications made inconsistent with the department law and regulations, or applications made inconsistent with the label requirements of the product may result in an enforcement action being taken against the individual and/or the certified applicator or technician responsible. Incidental pesticide use in schools is regulated by the Texas Department of Agriculture. If you have any questions or comments, contact the Texas Department of Agriculture, phone number 1-866-918-4481 or P.O. Box 12847, Austin, Texas 78711-2847."

(b) The Incidental Use For Schools Fact Sheet must be provided during pesticide instruction and training by the IPM Coordinator to each employee of the school district whose primary duty is not pest control, and whose work may include tasks subject to the exception. The IPM Coordinator must keep records of all the training conducted annually.

(c) Primary duty is defined as a job duty that is part of a written job description or is a regularly assigned task of the employee.

(d) Pest control use records must be kept by IPM Coordinator(s) for all incidental pesticide use applications including reason for application and justification for emergency for two (2) years.

(e) Incidental pesticide use in school districts is limited to insecticides that are Green and Yellow Category pesticides.

Source Note: The provisions of this §7.155 adopted to be effective September 1, 1998, 23 TexReg
(a) Owners or managers of residential rental properties with five (5) or more units must either:

(1) post a pest control sign at least 48 hours before the planned treatment in an area of common access to residents; or

(2) distribute the consumer information sheet to each unit planned to be treated and each unit adjacent to those planned to be treated at least 48 hours before the planned time of treatment. Adjacent means having a common wall, ceiling, or floor. Area of common access means a common area that an individual is likely to check on a regular basis, such as building entranceway, mailboxes, laundry rooms, beverage machines, building bulletin boards, etc.

(b) Employers, building managers, IPM Coordinators and chief administrators of workplaces, hospitals, nursing homes, hotels, motels, lodges, warehouses, food-processing establishments, school or educational institutions, and day-care centers must post a pest control sign in an area of common access at least 48 hours prior to each planned treatment and provide a Consumer Information Sheet to any individual working or residing in the building at the request of that individual. Area of common access means a common area that an individual is likely to observe on a regular basis, such as building entranceway, mailboxes, laundry rooms, beverage machines, building bulletin boards, etc. This requirement does not apply to new construction on school campuses where students have not yet been introduced.

(c) Chief administrators or the IPM Coordinator of schools or educational institutions and day-care centers must notify the parents or guardians of children attending the facility in writing that pesticides are periodically applied indoors and outdoors, and that information on the times and types of applications and prior notification is available upon request. Such notification must be made at the time of the child's registration. Telephonic, written or electronic notification of planned applications will meet the notification requirements.

(d) The 48 hour pre-notification requirements of subsections (a) and (b) of this section may be waived if an emergency exists and the customer and certified applicator sign a statement attesting to the fact that an emergency exists that requires immediate treatment. The statement must be kept on file with the pest control use records at the business license location. Certified noncommercial applicators may attest to an emergency by signing a statement attesting to the emergency and must keep the statement on file with the pest control use records. An emergency is defined as an imminent hazard to health or property or an imminent infestation and emergency treatment is limited to the localized area of the emergency.

(e) A person may not be considered in violation of this section if a pest control sign is removed by an unauthorized person or if the space to be treated is vacant, unused and unoccupied at the time of...
treatment.

Source Note: The provisions of this §7.148 adopted to be effective February 1, 1992, 17 TexReg 47; amended to be effective June 5, 1992, 17 TexReg 3783; amended to be effective July 8, 1997, 22 TexReg 6097; amended to be effective September 1, 2000, 25 TexReg 5631; amended to be effective May 5, 2005, 30 TexReg 2516; transferred effective September 1, 2007, as published in the Texas Register August 17, 2007, 32 TexReg 5189; amended to be effective December 11, 2008, 33 TexReg 9982.
(a) For an indoor treatment at a private residence that is not a rental property the certified applicator or technician must give the consumer information sheet to the owner of the residence before each treatment begins, or, if the owner is not available at the time treatment begins, leave the sheet in a conspicuous place in the residence.

(b) For indoor treatment at a residential rental property with less than five (5) rental units, the certified applicator or technician must leave the consumer information sheet in the residence at the time of each treatment.

(c) For an indoor treatment at a residential rental property with five (5) or more rental units, the certified applicator or technician must supply the consumer information sheet to the owner or manager of the complex. The certified applicator or technician must also supply the owner or manager with a pest control sign. The owner or manager or an employee or agent of the owner or manager, other than the certified applicator or technician, must notify residents who live in direct or adjacent areas of the treatment by:

1. posting the sign in an area of common access of residents at least 48 hours before each planned treatment; or

2. distributing the information sheet at least 48 hours before each planned treatment by leaving the sheet on the front door of each unit or in a conspicuous place inside each unit.

(d) For an indoor treatment at a workplace, the certified applicator or technician must supply the consumer information sheet and a pest control sign to the employer or the building manager. The employer or the building manager or an employee or agent of the owner or manager, other than the certified applicator or technician, must notify individuals at the workplace of the date of the planned treatment by:

1. posting the sign in an area of common access that the employees are most likely to see at least 48 hours before each planned treatment; and

2. providing the consumer information sheet to any individual working in the building on request of the individual if the request is made during normal business hours.

(e) For an indoor treatment at a building that is a hospital, nursing home, hotel, motel, lodge, warehouse, food-processing establishment, school or educational institution, or a day-care center, the certified applicator or technician must supply the consumer information sheet and a pest control sign to the chief administrator, IPM Coordinator or building manager. The chief administrator, IPM Coordinator or building manager must notify the individuals who work or reside in the building of the
treatment by:

(1) posting the sign in an area of common access that the individuals are likely to check at least 48 hours before each planned treatment; and

(2) providing the information sheet to any individual working or residing in the building on request of the individual.

(f) Personnel at a school or educational institution or a day-care center are required to inform the parents, guardians, or managing conservators of the children attending the school or day-care center, at the time the child is registered, that:

(1) the school, institution, or center periodically applies pesticides indoors and outdoors; and

(2) prior notice and information on the application of the pesticides is available from the school, institution, or center at the written request of the parents, guardians, or managing conservators. Telephonic, written or electronic notification will meet this requirement.

(g) For the purpose of this section, if the primary purpose of a perimeter treatment of a premises is to augment or supplement an indoor treatment, or is performed in lieu of an indoor treatment for a particular pest or pests by preventing the entry or re-entry of pests into the interior of the premises, then the perimeter treatment shall be considered an indoor treatment.

(h) The department's Consumer Information Sheet must be used. Copies of the Consumer Information Sheet are available from the department in English and Spanish and are available on the Structural Pest Control Service website at: http://www.tda.state.tx.us/spcs/, or by contacting the Texas Department of Agriculture at P.O. Box 12847, Austin, TX 78711-2847, Phone (866) 918-4481. The department's Consumer Information Sheet may be copied and used in accordance with this section.

(i) The pre-notification requirements of subsections (c), (d) and (e) of this section are waived if the customer and certified applicator sign a statement attesting to the fact that an emergency exists which requires immediate treatment. If such an emergency exists, the Consumer Information Sheet must be provided by the licensee at the time of treatment. The statement must be kept on file with the pest control use records. If the customer is not available to sign a statement at the time of treatment, that shall be recorded in the use records along with the customer's name and telephone number. An emergency is defined as an imminent hazard to health or property or an imminent infestation. An emergency treatment is limited to the localized area of the emergency.

(j) Licensees holding the lawn and ornamental or weed categories may use text provided by the department in place of that required in subsection (h) of this section. This text is available on the Structural Pest Control Service website at: http://www.tda.state.tx.us/spcs, or by contacting the Texas Department of Agriculture at P.O. Box 12847, Austin, TX 78711-2847, Phone (866) 918-4481.

(k) Any consumer may waive receipt of the Consumer Information Sheet for multiple treatments by signing or initialing below the following statement: "I have received one copy of the Consumer Information Sheet for all treatments to be provided as a part of this pest control service agreement. I may receive additional copies at any time upon request to the service provider, and will receive any updates to the Consumer Information Sheet which may occur." A licensee must keep a copy of this statement in the pest control use records for each customer covered by the agreement.
amended to be effective October 10, 1995, 20 TexReg 7828; amended to be effective October 24, 1996, 21 TexReg 10179; amended to be effective July 8, 1997, 22 TexReg 6097; amended to be effective September 1, 2000, 25 TexReg 5631; amended to be effective June 5, 2003, 28 TexReg 4279; amended to be effective May 5, 2005, 30 TexReg 2516; amended to be effective September 17, 2006, 31 TexReg 7351; transferred effective September 1, 2007, as published in the Texas Register August 17, 2007, 32 TexReg 5189; amended to be effective December 11, 2008, 33TexReg 9982
(a) A pest control sign must be provided by the licensee to the owner or manager at least 48 hours prior to a planned indoor treatment at a residential rental property with five or more rental units.

(b) A pest control sign must be provided by the licensee to the employer or building manager at least 48 hours prior to a planned indoor treatment at a workplace. A workplace is defined as any nonresidence structure with three or more full-time paid employees which is treated by a licensed business or a certified noncommercial applicator.

(c) A pest control sign must be provided by the licensee to the chief administrator, IPM Coordinator or building manager at least 48 hours prior to a planned indoor treatment at a hospital, nursing home, hotel, motel, lodge, warehouse, food-processing establishment, school or educational institution, or day-care center. This requirement does not apply for new construction on school campuses where students have not yet been introduced.

(d) An indoor treatment includes a perimeter treatment if the primary purpose of the treatment is to treat the interior of the structure.

(e) A person may not be considered in violation of this section if the space to be treated is vacant, unused and unoccupied at the time of treatment, or if extenuating circumstances require an emergency treatment.

(f) Each pest control sign must be at least 8 1/2 inches by 11 inches in size and contain the required information with the first line in a minimum of 24-point type (one-fourth inch) and all remaining lines in a minimum of 12-point type (one-eighth inch). The addition of advertising and logos to the sign is permissible to the extent that such advertising does not interfere with the purpose of public notification of a pest control treatment. A standard sign in Spanish is available from the department upon request. The sign shall appear in a format approved by the department. The text and format of the sign is available on the Structural Pest Control Service website at: http://www.tda.state.tx.us/spcs/, or by contacting the Texas Department of Agriculture at P.O. Box 12847, Austin, TX 78711-2847, Phone (866) 918-4481.

(g) In the space marked "For more information call or contact," the telephone number where information on the pesticide(s) used may be obtained must be listed, such as the apartment manager, building manager, IPM Coordinator or pest control operator.

(h) In the space marked "phone number of hotline for pesticide information," the following wording must be used: National Pesticide Information Center 1-800-858-7378.

(i) If a workplace has its own pesticide information center, the workplace center telephone number may be used.
The Vermont Legislative Bill Tracking System

Current Status of a Specific Bill or Resolution
1999-2000 Legislative Session

Bill Number:  H.0192
Bill Title:  TOXIC MATERIALS AND INDOOR AIR QUALITY IN VERMONT PUBLIC SCHOOL

Detail Reports and Bill Text

Status:

Currently:  Enacted Law
1st Sponsor:  Alfano, Elaine

HOUSE STATUS:  PASSED BOTH HOUSES
Status Date:  05/05/2000

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SENATE STATUS:  PASSED/CONC W/PROP
Status Date:  05/03/2000

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House and Senate Agreement:  05/05/2000
Sent to Governor:  05/11/2000

Governor's Action:  Signed
Date:  05/17/2000

Act No:  0125
Effective Date:

Request No:  99-0694
Drafter:  OLSON

PRA Number:

Detail Reports:

Amendments and Committee Reports
Rollcall Votes
Conference Committees
Sponsor List

Bill Text:

http://www.leg.state.vt.us/database/status/summary.cfm

5/26/2000
H.192

AN ACT RELATING TO TOXIC MATERIALS AND INDOOR AIR QUALITY IN VERMONT PUBLIC SCHOOLS

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. LEGISLATIVE FINDINGS, PURPOSE AND GOALS

(a) The General Assembly finds that:

(1) There is significant evidence that hazardous chemical exposure and poor indoor air quality can negatively affect human health and productivity.

(2) Problems related to hazardous chemical exposure ranging from complaints of minor illness to death are documented in medical, institutional and governmental studies.

(3) Children are particularly susceptible to adverse health effects from hazardous chemical exposure and poor indoor air quality, as their bodies are undergoing rapid growth and development, their immune systems are not fully functional and they are likely to be in contact with materials not encountered by adults.

(4) A school environment, in which hazardous exposures are reduced and an adequate supply of fresh or filtered air is provided reduces viruses and allergens, increases the likelihood that school students and staff will be more alert and productive and may reduce risk of litigation.

(5) Problems involving potentially hazardous chemical exposure and poor indoor air quality are associated with increased use of manufactured construction materials, energy conservation measures which have sealed school buildings more tightly, inadequate air exchange which fails to eliminate pollutants from inside school buildings, and moisture problems that cause biological growth inside school buildings.

(6) Information on least-toxic and nontoxic materials, nonchemical pest control methods and appropriate maintenance practices and standards is widely available through governmental agencies, nonprofit organizations and professional societies, but is not readily accessible through a single information source.

(b) It is the purpose of this act to direct the department of health, in consultation with other state agencies, to compile and make available to all Vermont schools, information about materials and practices commonly used in school operation and construction that may compromise indoor air quality or negatively impact human health. It is also the purpose of this act to encourage schools, with assistance from the department of health, to develop programs that will enable them to identify and eliminate potentially hazardous materials, isolate those hazardous materials that cannot be eliminated, and adequately ventilate school buildings to exhaust any pollutants and contaminants.

(c) It is the goal of this act that at least 50 percent of Vermont schools qualify for an environmental health certification by January 2005.

Sec. 2. COMMISSIONERS OF HEALTH AND OF BUILDINGS AND


5/26/2000
GENERAL SERVICES; SCHOOL ENVIRONMENTAL HEALTH

WEBSITE

(a) The commissioners of health and of buildings and general services shall jointly create and jointly update as necessary an electronic school environmental health clearinghouse site on the health department's website, including diagnostic checklists and searchable databases. This website shall include:

(1) Information on materials and practices in common use in school operations and construction that may compromise indoor air quality or negatively impact human health;

(2) Information on potential health problems associated with these materials, with specific reference to children's vulnerability;

(3) Information on integrated pest management and alternatives to chemical pest control;

(4) Information on methods to reduce or eliminate exposure to potentially hazardous substances in schools, including the following:

(A) a list of preventive management options, such as ventilation, equipment upkeep, design strategies, and performance standards;

(B) a list of nontoxic or least-toxic office and classroom supplies, maintenance and cleaning chemicals, building equipment, and materials and furnishings; and

(C) a list of environmental health criteria that schools may use as a decision-making tool when determining what materials to purchase or use in school construction or operations;

(5) The model school environmental health policy and management plan developed pursuant to Sec. 3 of this act.

(b) The commissioners of health and of buildings and general services, education and health, with help from the secretary of the agency of natural resources when appropriate, shall:

(1) Review the information on the school environmental health information clearinghouse at least twice yearly, and update it whenever significant developments occur.

(2) At the request of school officials, assist school environmental health coordinators to identify potential sources of environmental pollution in the school, and make recommendations on how to alleviate any problems.

(3) Annually, organize school environmental health training workshop for school environmental health coordinators and school administrators, and an annual training for school maintenance and custodial staff. The department shall issue certificates of training to participants who successfully complete the workshops.

(4) Publicize the availability of information through the school environmental health clearinghouse.

(5) Provide information and referrals to members of school communities who contact the school environmental health clearinghouse with hazardous exposure and indoor air concerns.
(6) Assist elementary and secondary schools in Vermont to establish comprehensive school environmental health programs, which have all or most of the elements of the model policy developed pursuant to Sec. 3 of this act, to address indoor air and hazardous exposure issues.

(7) Report annually to the house and senate committees on education on the extent of indoor air and hazardous exposure problems in Vermont schools and on the percentage of Vermont schools that have established a school environmental health program or qualified for environmental health certification.

(c) Any information provided shall be based on peer-reviewed published scientific material.

Sec. 3. COMMISSIONERS OF BUILDINGS AND GENERAL SERVICES,
EDUCATION AND HEALTH; SCHOOL ENVIRONMENTAL
HEALTH POLICY AND MANAGEMENT PLAN;
ENVIRONMENTAL HEALTH CERTIFICATE

(a) The commissioners of buildings and general services, education and health shall work with the secretary of the agency of natural resources, as necessary, to carry out the provisions of this section.

(b) On or before July 1, 2001, the commissioners shall develop and distribute to each Vermont school, a model school environmental health policy to be implemented under the direction of the building administrator or his or her designee, and which shall include, at a minimum, the following components:

(1) The formation of a school environmental health committee which may be an existing safety or maintenance committee, consisting of a cross-section of the school community.

(2) An annual school environmental health audit of the school building and grounds which shall be reported to the commissioner of health.

(3) The compilation of a recommended maintenance schedule and checklist for the school, summarizing when and how maintenance of heating and ventilation systems should occur.

(4) The establishment of a school environmental health management plan consistent with the model policy and plan.

(c) The commissioner of education shall distribute to all Vermont public schools on or before July 1, 2001, a model school environmental health management plan which:

(1) includes mechanisms to resolve hazardous chemical exposure and indoor air quality problems as they occur;

(2) provides suggestions for communicating school environmental health status to building occupants and parents;

(3) implements an integrated pest management and control program to minimize the risk of exposure in the school building and on school grounds;

(4) provides for physical isolation of those toxic materials that cannot be eliminated from the school.
building or grounds; and

(5) includes policies for emergency response, and incorporates methods to evaluate plan effectiveness.

d) The commissioners shall appoint and convene an advisory panel to consist of representatives of superintendents, school boards, teachers, principals, parents, school nurses, school environmental health advocates, Vermont Public Interest Research Group, Associated General Contractors of Vermont, Vermont Chapter of the American Society of Heating, Refrigeration and Air Conditioning Engineers, and others to offer advice on the implementation of this act.

e) The commissioners shall establish an environmental health certificate to be awarded to schools which have demonstrated exemplary progress in addressing indoor air quality and hazardous exposure issues beyond adoption of the model policy and plan described in this section. Criteria for determining such progress shall include but not be limited to:

(1) nontoxic or least-toxic purchasing policies and practices for all school supplies;

(2) minimization of pesticide risk and exposure in school buildings and on school grounds; and

(3) completion of a school environmental health workshop, sponsored or approved by the department of health, by one or more members of the school administration and one or more members of the maintenance staff.

Sec. 3a. BUILDING AND CONSTRUCTION MATERIALS

This act does not authorize any prohibition on the use by schools of any materials, processes or products.

Sec. 4. APPROPRIATION

(a) One new limited service position - school environmental health specialist - is authorized in the Department of Health.

(b) The commissioner of health shall seek federal and other funds available to help implement the provisions of this act.

Sec. 5. EFFECTIVE DATE

(a) Sec. 2(b) of this act shall be effective on July 1, 2001.

(b) The remainder of this act shall take effect on July 1, 2000.
c. All requests for application of pesticides for bird or animal control on open land shall be reviewed by the Vermont Fish and Wildlife Department and Vermont Department of Health and notification of all limited-area requests for application of pesticides shall be submitted to the aforesaid departments if approved by the Commissioner.

d. Control operations may also be subject to guidelines or directives which are established by the Vermont Commissioner of the Fish and Wildlife Department, Vermont Commissioner of Health, the U.S. Fish and Wildlife Service and the Vermont Commissioner of Labor and Industry.

e. Permits are not required for the use of animal or bird repellents.

8. Notification and Posting of turf-grass and landscape pesticide application:

a. No outdoor application by certified commercial or non-commercial applicators of pesticides to turf-grass or landscape plants shall be made on residential, single or multi-family or public non-residential properties, such as athletic fields without the following provisions having been met.

(1) At the time the service is being requested, the customer shall be provided with written information regarding the identification of the pesticides (common or trade name, EPA Registration number) and the rates being proposed for use. In addition, the customer shall be informed, in writing, of the availability of labels and Material Safety Data Sheets for these pesticides and any existing EPA Fact Sheets for the active ingredients contained within.

(2) At the beginning of each application, the applicator shall post a sign(s) prescribed below, at conspicuous points of access to the treated area(s). The applicator shall leave such sign(s) posted with instructions to remove 24 hours after application. This shall mean that if a property has more than one entrance or point of access then the corresponding number of signs shall be posted. The specifications of the sign shall be as follows:

(a) Shall be at least 4 x 5 inches, of sturdy, weather resistant material

(b) Shall be with contrasting colors using the indicated point type size

(c) Shall contain no additional words or symbols on the front panel; however, the back panel may include any additional information such as emergency number or company name

(d) Shall be posted at least 12" above the ground

(e) Shall contain the date and time of application on the back of the sign

CAUTION
Pesticide Application
KEEP OFF UNTIL DRY
CUSTOMER: Please remove after 24 Hours.

(3) Immediately upon completion of each application, the applicator or their employer shall leave at the residence or with the property manager a written statement containing the following information:

(a) Name, address and telephone number of the company or non-commercial facility providing service

(b) Pesticide applicator's name and certification number

(c) Common or trade name, EPA Reg. #, amount used and pest(s) treated for each pesticide applied

(d) Post-application label safety precautions, if applicable

(e) Application date, time and location

(f) Instructions that signs should remain posted for at least 24 hours

(4) Upon request, by either customer or adjoining landowner, a copy of the pesticide label, Material Safety Data Sheet or available EPA Fact Sheet shall be provided by the applicator or their employer.

(5) Upon request, the applicator or their employer shall provide the customer with prior notification of the timing of each pesticide application.

NOTE: Golf courses shall be regulated by Section IV 8b. of this regulation. Outdoor commercial or noncommercial pesticide application to turf-grass or landscape plants made on private non-residential properties shall comply with either Section IV 8a. or Section IV 8c. of the regulations.

b. Pesticide applications made by certified commercial or noncommercial applicators on golf course turf-grass or landscape plants shall require the posting of a written notice on the clubhouse bulletin board or the first tee by the course superintendent or their designee.

(1) The written notice shall contain information as specified under Section IV 8a. (3)(a-f) and include the specific location and number of each fairway, green, tee and driving area, etc., where pesticide is applied. The Commissioner reserves the right to approve the use of alternate wording to fulfill the written notice requirement on a case by case basis. Alternate wording must be submitted to the Commissioner, in writing and approved prior to its use.

(2) The notice shall be posted prior to application and remain on the bulletin board or the first tee for at least 24 hours after application.

(3) Upon request, a label, Material Safety Data Sheet or EPA Pesticide Fact Sheet for the specific pesticide(s) used shall be made available to any golfer using the facility or course employee for their review.

c. Outdoor commercial or noncommercial pesticide application to turf-grass or landscape plants made on fenced, private non-residential properties shall require the posting of a written
notice(s) in visitor reception area(s) and main employee entrance(s) by the grounds superintendent or their equivalent. All other private non-residential properties without fencing shall comply with Section IV 8.a.

(1) The written notice shall contain information as specified under Section IV 8a. 
(3)(a-f) and the specific location where each pesticide is applied.

(2) The notice shall be posted prior to application and remain in place for at least 24 hours after application.

(3) Upon request, a label, Material Safety Data Sheet or EPA Pesticide Fact Sheet for the specific pesticide(s) used shall be made available to any visitor or facility employee for review.

d. This regulation does not cover the injection of pesticides directly into plant material and does not apply to rights-of-way or utility applications.

e. This regulation does not apply to private pesticide applicators or certified private pesticide applicators.

9. Golf Course Permits:

a. No person shall use a pesticide(s) on a golf course without first obtaining a permit from the Commissioner as provided in Section IV 9. except as described in Section IV 9.b. The permit process shall begin as follows:

(1) Existing golf courses shall submit to the Commissioner their name, address, location and information identifying surface water, private water sources of abutting landowners, public water sources, private or public source protection areas and environmentally sensitive areas present on the golf course. The amount and type of pesticide used on the golf course over the last three (3) years is also required. A form will be provided by the Commissioner for the submission of this information.

(2) The Commissioner shall determine a schedule staggered over the next five (5) years when each golf course existing on the effective date hereof shall file an application for a permit and shall notify each course in writing, certified mail, return receipt requested. The scheduling of golf courses will be prioritized on the basis of risk and will require those golf courses with the highest risk potential to submit first.

b. An existing golf course may continue to use pesticides until either it fails to file an application for a permit on the date scheduled by the Commissioner or a permit is denied.

c. An application for a permit shall be on a form provided by the Commissioner and conform to the provisions of Section IV 9 h. and be signed by an officer of the golf course and the golf course superintendent completing the form, who shall agree to the conditions to be set forth by the Commissioner in the permit. Applications for a renewal permit shall be filed with the Commissioner three (3) months prior to the expiration of the existing permit. An application for renewal shall detail any proposed changes to the existing pesticide management plan of the golf course.

http://www.vermontagriculture.com/ARMES/VTregs91.htm

11/7/2011
CHAPTER 440

An Act to amend the Code of Virginia by adding a section numbered 22.1-132.2, relating to pesticide management.

Approved March 27, 2009

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 22.1-132.2 as follows:

   § 22.1-132.2. Integrated pest management on school property.
   The Department of Education shall make information available to school boards on integrated pest management programs that appropriately address the application of chemical pesticides and other pest control measures on school property. For purposes of this section, "integrated pest management" shall mean a managed pest control and suppression program that uses various integrated methods to keep pests from causing economic, health-related, or aesthetic injury and minimizes the use of pesticides and the risk to human health and the environment associated with pesticide applications. Methods may include the utilization of site or pest inspections, pest population monitoring, evaluation of control requirements, and the use of one or more pest control methods including sanitation, structural repair, nonchemical methods, and pesticides when nontoxic options produce unsatisfactory results or are impractical. Each school shall maintain documentation of any pesticide application that includes the target pest, the formulation applied, and the specific location of the application. The guidelines and programs adopted pursuant to this section shall permit the immediate application of pesticides or other effective control measures to eradicate pest infestations that pose an acute danger to students and staff.

2. That the Virginia Cooperative Extension, in cooperation with the Pesticide Control Board, shall develop guidelines for integrated pest management no later than July 1, 2010.
§ 3.2-3931. Agencies or persons exempt or partially exempt.

A. All state agencies, municipal corporations, or other governmental agencies shall be exempt from any certification fees prescribed by this article, but remain subject to the provisions of this article and regulations adopted hereunder concerning the application of pesticides.

B. Individuals, employees, or representatives of such governmental agencies shall be certified as commercial applicators or registered technicians for the use of pesticides covered by the applicant's certification. The certification shall be valid only when applying or supervising application of pesticides used by such governmental agencies.

C. The following persons shall be exempt from the provisions of this article: (i) persons conducting laboratory research involving restricted use pesticides; (ii) doctors of medicine or doctors of veterinary medicine applying pesticides as drugs or medication, or to control pests in corpses during the normal course of their practice; (iii) providers of janitorial, cleaning, or sanitizing services if the providers use no pesticides other than nonrestricted use sanitizers, disinfectants, and germicides; (iv) persons who apply paints containing pesticides, provided that the pesticides in the paints are not restricted use pesticides; (v) classes of persons specified by regulation who can use or supervise the use of pesticides with minimal risk to the public health and safety by virtue of their experience and knowledge regarding the safe use of pesticides; and (vi) classes of persons specified by regulation whose use or supervision of the use of pesticides can be accomplished with minimal risk to the public health and safety by virtue of the nature of the pesticides used or method of application of the pesticides.

D. A painter who applies restricted-use marine antifoulant paint only under the direct, on-site supervision of a commercial applicator is not required to be a commercial applicator or a registered technician, provided that one commercial applicator may not provide on-site supervision for more than eight paint applicators.

E. Neither the provisions of this chapter nor regulations adopted hereunder shall require the certification of any person who uses or supervises the use of any pesticide that is not a restricted use pesticide only on property owned or leased by his employer as part of his job duties. This exemption shall not apply to any person who: (i) uses or supervises the use of any pesticide on any area open to the general public at educational institutions, health care facilities, day-care facilities, or convalescent facilities; (ii) uses or supervises the use of any pesticide within any area where open food is stored, processed, or sold; (iii) uses or supervises the use of any pesticide on any recreational land over five acres in size; and (iv) is otherwise specifically required by this article to be certified as a commercial applicator.

(1975, c. 377, § 3.1-249.5; 1989, c. 575, § 3.1-249.53; 1993, c. 773; 1995, c. 103; 2008, c. 860.)
17.21.190. If an inspection is conducted, the person requesting the inspection shall:

(i) Be promptly notified in writing of the department’s decision concerning the assessment of any penalty pursuant to the inspection; and

(ii) Be entitled, on request, to have his or her name protected from disclosure in any communication with persons outside the department and in any record published, released, or made available pursuant to this chapter: PROVIDED, That in any appeal proceeding the identity of the aggrieved person who requests the inspection shall be disclosed to the alleged violator of the act upon request of the alleged violator;

(b) Shall be notified promptly, on written application to the director, of any penalty or other action taken by the department pursuant to an investigation of the violation under this chapter; and

(c) May request, within ten days from the service of a final order fixing a penalty for the violation, that the director reconsider the entire matter if it is alleged that the penalty is inappropriate. If the person is aggrieved by a decision of the director on reconsideration, the person may request an adjudicative proceeding under chapter 34.05 RCW. However, the procedures for a brief adjudicative proceeding may not be used unless agreed to by the person requesting the adjudicative proceeding. During the adjudicative proceeding under (c) of this subsection, the presiding officer shall consider the interests of the person requesting the adjudicative proceeding.

(2) Nothing in this chapter shall preclude any person aggrieved by a violation of this chapter from bringing suit in a court of competent jurisdiction for damages arising from the violation.

[1989 c 380 § 63.]

17.21.350
Report to legislature.

By February 1st of each year the department shall report to the appropriate committees of the house of representatives and the senate on the activities of the department under this chapter. The report shall include, at a minimum: (1) A review of the department’s pesticide incident investigation and enforcement activities, with the number of cases investigated and the number and amount of civil penalties assessed; and (2) a summary of the pesticide residue food monitoring program with information on the food samples tested and results of the tests, a listing of the pesticides for which testing is done, and other pertinent information.

[1997 c 242 § 19; 1989 c 380 § 64.]

17.21.400
Landscape or right-of-way applications — Notice.

(1)(a) A certified applicator making a landscape application shall display the name and telephone number of the applicator or the applicator’s employer on any power application apparatus. The applicator shall also carry the material safety data sheet for each pesticide being applied.

(b) A certified applicator making a right-of-way application shall display the name and telephone number of the applicator or the applicator’s employer and the words “VEGETATION MANAGEMENT APPLICATION” on any power application apparatus. The applicator shall also carry the material safety data sheet for each pesticide being applied.

(2) If a certified applicator receives a written request for information on a landscape or right-of-way spray application, the applicator shall provide the requestor with the name or names of each pesticide applied and (a) a copy of the material safety data sheet for each pesticide; or (b) a pesticide fact sheet for each pesticide as developed or approved by the department.

(3) The director shall adopt rules establishing the size and lettering requirements of the apparatus display signs required under this section.

[1994 c 283 § 32; 1992 c 176 § 2.]
17.21.410
Landscape applications — Marking of property, posting requirements.

(1) A certified applicator making a landscape application to:

(a) Residential property shall at the time of the application place a marker at the usual point of entry to the property. If the application is made to an isolated spot that is not a substantial portion of the property, the applicator shall only be required to place a marker at the application site. If the application is in a fenced or otherwise isolated backyard, no marker is required.

(b) Commercial properties such as apartments or shopping centers shall at the time of application place a marker in a conspicuous location at or near each site being treated.

(c) A golf course shall at the time of the application place a marker at the first tee and tenth tee or post the information in a conspicuous location such as on a central message board.

(d) A school, nursery school, or licensed day care shall at the time of the application place a marker at each primary point of entry to the school grounds. A school employee making an application to a school facility shall comply with the posting requirements in RCW 17.21.415.

(2) An individual making a landscape application to a school grounds, nursery school, or licensed day care, and not otherwise covered by subsection (1) of this section, shall at the time of the application place a marker at each primary point of entry to the school grounds.

(3) The marker shall be a minimum of four inches by five inches. It shall have the words: "THIS LANDSCAPE HAS BEEN TREATED BY" as the headline and "FOR MORE INFORMATION PLEASE CALL" as the footer. Larger size requirements for markers may be established in rule for specific applications. The company name and service mark shall be included between the headline and the footer on a marker placed by a commercial applicator. The applicator's telephone number where information can be obtained about the application shall be included in the footer of the marker. Markers shall be printed in colors contrasting to the background.

(4) The property owner or tenant shall remove the marker according to the schedule established in rule. A certified applicator or individual who complies with this section is not liable for the removal of markers by unauthorized persons or removal outside the designated removal time.

(5) A certified applicator or individual who complies with this section cannot be held liable for personal property damage or bodily injury resulting from markers that are placed as required.

[2001 c 333 § 2; 1994 c 283 § 33; 1992 c 176 § 5.]

Notes:

Effective date — 2001 c 333: See note following RCW 17.21.020.

17.21.415

(1) As used in this section, "school" means a license day care center or a public kindergarten or a public elementary or secondary school.

(2) A school shall provide written notification, upon request, to parents or guardians of students and employees describing the school's pest control policies and methods, including the posting and notification requirements of this section.

(3) A school shall establish a notification system that, as a minimum, notifies interested parents or guardians of students and employees at least forty-eight hours before a pesticide application to a school facility. The notification system shall include posting of the notification in a prominent place in the main office of the school.

(4) All notifications to parents, guardians, and employees shall include the heading "Notice: Pesticide Application" and, at a minimum, shall state:

(a) The product name of the pesticide to be applied;
(b) The intended date and time of application;

(c) The location to which the pesticide is to be applied;

(d) The pest to be controlled; and

(e) The name and phone number of a contact person at the school.

(5) A school facility application must be made within forty-eight hours following the intended date and time stated in the notification or the notification process shall be repeated.

(6) A school shall, at the time of application, post notification signs for all pesticide applications made to school facilities unless the application is otherwise required to be posted by a certified applicator under the provisions of RCW 17.21.410(1)(d).

(a) Notification signs for applications made to school grounds by school employees shall be placed at the location of the application and at each primary point of entry to the school grounds. The signs shall be a minimum of four inches by five inches and shall include the words: "THIS LANDSCAPE HAS BEEN RECENTLY SPRAYED OR TREATED WITH PESTICIDES BY YOUR SCHOOL" as the headline and "FOR MORE INFORMATION PLEASE CALL" as the footer. The footer shall provide the name and telephone number of a contact person at the school.

(b) Notification signs for applications made to school facilities other than school grounds shall be posted at the location of the application. The signs shall be a minimum of eight and one-half by eleven inches and shall include the heading "Notice: Pesticide Application" and, at a minimum, shall state:

(i) The product name of the pesticide applied;

(ii) The date and time of application;

(iii) The location to which the pesticide was applied;

(iv) The pest to be controlled; and

(v) The name and phone number of a contact person at the school.

(c) Notification signs shall be printed in colors contrasting to the background.

(d) Notification signs shall remain in place for at least twenty-four hours from the time the application is completed. In the event the pesticide label requires a restricted entry interval greater than twenty-four hours, the notification sign shall remain in place consistent with the restricted entry interval time as required by the label.

(7) A school facility application does not include the application of antimicrobial pesticides or the placement of insect or rodent baits that are not accessible to children.

(8) The prenotification requirements of this section do not apply if the school facility application is made when the school is not occupied by students for at least two consecutive days after the application.

(9) The prenotification requirements of this section do not apply to any emergency school facility application for control of any pest that poses an immediate human health or safety threat, such as an application to control stinging insects. When an emergency school facility application is made, notification consistent with the school's notification system shall occur as soon as possible after the application. The notification shall include information consistent with subsection (6)(b) of this section.

(10) A school shall make the records of all pesticide applications to school facilities required under this chapter, including an annual summary of the records, readily accessible to interested persons.

(11) A school is not liable for the removal of signs by unauthorized persons. A school that complies with this section may not be held liable for personal property damage or bodily injury resulting from signs that are placed as required.

[2009 c 556 § 16; 2001 c 333 § 3.]

Notes:

Effective date -- 2001 c 333: See note following RCW 17.21.020.
17.21.420  
Pesticide-sensitive individuals — List procedure.

(1) The department shall develop a list of pesticide-sensitive individuals. The list shall include any person with a documented pesticide sensitivity who submits information to the department on an application form developed by the department indicating the person’s pesticide sensitivity.

(2) An applicant for inclusion on the pesticide-sensitive list may apply to the department at any time and shall provide the department, on the department's form, the name, street address, and telephone number of the applicant and of each property owner with property abutting the applicant's principal place of residence. The pesticide sensitivity of an individual shall be certified by a physician who holds a valid license to practice medicine in this state. The lands listed on an application for inclusion on the pesticide-sensitive list shall constitute the pesticide notification area for that applicant. For highway or road rights-of-way, a property abutting shall mean that portion of the property within one-half mile of the principal place of residence.

(3) A person whose name has been included on the pesticide-sensitive list shall notify the department of a need to update the list as soon as possible after: (a) A change of address or telephone number; (b) a change in ownership of property abutting a pesticide-sensitive individual; (c) a change in the applicant's condition; or (d) the sensitivity is deemed to no longer exist.

(4) The pesticide-sensitive list shall expire on December 31 of each year. The department shall distribute application forms for the new list at a reasonable time prior to the expiration of the current list, including mailing an application form to each person on the current list at the address given by the person in his or her most recent application. Persons desiring to be placed on or remain on the list shall submit a new application each year.

(5) The department shall distribute the list by January 1 and June 15 of each year to all certified applicators likely to make landscape applications. The list shall provide multiple methods of accessing the information so that certified applicators making landscape applications or right-of-way applications are able to easily determine what properties and individuals require notification for a specific application. An updated list shall be distributed whenever deemed necessary by the department. Certified applicators may request a list of newly registered individuals that have been added to the list since the last distribution. Registered individuals shall receive verification that their name has been placed on the list.

[1994 c 283 § 34; 1992 c 176 § 3.]

17.21.430  
Pesticide-sensitive individuals — Notification.

(1) A certified applicator making a landscape application or a right-of-way application to the pesticide notification area, as defined in RCW

17.21.420(2), of a person on the pesticide-sensitive list shall notify the listed pesticide-sensitive individual of the application. Notification shall be made at least two hours prior to the scheduled application, or in the case of an immediate service call, the applicator shall provide notification at the time of the application.

(2) Notification under this section shall be made in writing, in person, or by telephone, and shall disclose the date and approximate time of the application. In the event a certified applicator is unable to provide prior notification because of the absence or inaccessibility of the individual, the applicator shall leave a written notice at the residence of the individual listed on the pesticide-sensitive list at the time of the application. If a person on the pesticide-sensitive list lives in a multifamily dwelling such as an apartment or condominium, the applicator shall notify the person on the list or shall advise the manager or other property owner's representative to notify the person on the list of the application.

[1992 c 176 § 4.]

17.21.440  
Agricultural workers and handlers of agricultural pesticides — Coordination of regulation and enforcement with department of labor and industries.

(1) As used in this section, "federal worker protection standard" or "federal standard" means the worker protection standard for agricultural workers and handlers of agricultural pesticides adopted by the United States environmental protection agency in 40 C.F.R., part 170 as it exists on June 6, 1996.

(2)(a) No rule adopted under this chapter may impose requirements that make compliance with the federal worker protection standard impossible.
(49) "Wildlife" means all living things that are neither human, domesticated nor, as defined in this article, pests, including, but not limited to, mammals, birds and aquatic life.

§19-16A-4. Powers and duties of the commissioner.

The commissioner of agriculture has the power and duty to carry out the provisions of this article and is authorized to:

(a) Delegate to employees of the Department of Agriculture the authority vested in the commissioner by virtue of the provisions of this article;

(b) Cooperate, receive grants in aid and enter into agreements with any other agency of the state, the United States Department of Agriculture, United States Environmental Protection Agency or any other federal agency or any other state or agency thereof for the purpose of carrying out the provisions of this article;

(c) Contract for research projects;

(d) Require that pesticides used in this state are adequately tested and are safe for use under local conditions;

(e) Require that individuals who sell, store, dispose or apply pesticides are adequately trained and observe appropriate safety practices;

(f) Promulgate rules pursuant to chapter twenty-nine-a [§§ 29-A-1-1 et seq.] of this code, including, but not limited to, the following:

   (1) Licensing of businesses that sell, store, recommend for use, mix or apply pesticides;

   (2) Registration of pesticides for manufacture, distribution, sale, storage or use in this state;

   (3) Requiring reporting and recordkeeping related to licensing and registration;

   (4) Establishing training, testing and standards for certification of commercial application, public application, registered technician and private applicator;

   (5) Revoking, suspending or denying licenses, registration and certification or certificate or permits;
(6) Creating advisory committees made up of both pesticide industry representatives and consumers as considered necessary to implement this article;

(7) Establishing a fee structure for licenses, registration and certificate to defray the costs of implementing this article;

(8) Classifying or subclassifying certificate or certificates to be issued under this article. The classification may include, but not be limited to, agricultural, forest, ornamental, aquatic, right-of-way, industrial, institutional, structural or health-related pest control;

(9) Restricting or prohibiting the sale or use and disposal of any pesticide, pesticide container or residue which is extremely hazardous;

(10) Coordinating and supporting pesticide monitoring programs;

(11) Developing a program for registration of persons with health sensitivity to pesticide drift;

(12) Establishing guidelines and requirements, as deemed necessary, for licenses, certificate holders and permittees for the identification of pests and their methods of inspection of property to determine the presence of pests;

(13) Establishing procedures for reporting spills, accidents or incidents; and

(14) Such other rules necessary or convenient to carry out the purpose of this article;

(g) Design and conduct an appropriate educational program on the use of pesticides and the necessity for care when applying the same; and

(h) Only after consultation with the state board of education, division of human services for child welfare, representatives from the environmental community, and representatives of school and daycare employees, by the first day of July, one thousand nine hundred ninety-five, promulgate emergency rules, pursuant to article three, chapter twenty-nine-a of this code, establishing an integrated pest management program. The emergency and legislative rules for the program established in this subsection shall include, but are not limited to, the following:

(1) The use of least hazardous materials;
(2) That pesticides shall only be applied when monitoring indicates that pest infestations are present;

(3) That students and school and daycare employees, except school, board of education or daycare employees that are certified applicators, shall not be present during application and provide for appropriate reentry times, except that pesticides may be applied to a localized area of infestation when students or school and daycare employees are present if the infestation causes an imminent threat of bodily harm;

(4) A definition of pesticides; and

(5) A system for prior notification to parents and school and daycare employees.

§19-16A-5. Registration of pesticides; fees; confidentiality of trade secrets.

(a) Every pesticide which is manufactured, distributed, sold or offered for sale, used or offered for use within this State, or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be registered in the office of the commissioner, and such registration shall be renewed annually. The commissioner may register and permit the sale and use of any pesticide which has been registered under the provisions of 7 U.S.C. § §136 et seq., as the same is in effect on the effective date of this article; Provided, That such pesticides are subject to registration fees and all other provisions of this article.

(b) Products which have the same formula, and are manufactured by the same person, the labeling of which contain the same claims and which have designation identifying the products as the same pesticide may be registered as a single pesticide without an additional fee.

(c) Within the discretion of the commissioner or his or her authorized representative, a change in labeling or formulas of a pesticide may be made within the current period of registration, without requiring a new registration of the product. The period of registration shall be for one year, commencing on the first day of January and ending on the thirty-first day of December of each year.

(d) The registrant shall file with the commissioner a statement including:

(1) The name and address of the registrant and the name and address of the person whose name will appear on the label, if other than the registrant;

(2) The name of the pesticide;

(3) A complete copy of the labeling accompanying the pesticide and a statement

1.1. Scope. -- This legislative rule establishes procedures to provide for integrated pest management programs in schools, child care centers and family child care facilities.


1.3. Filing Date. -- April 8, 2010.

1.4. Effective Date -- July 1, 2010.


2.1. “Broadcast” means the application of pesticides over an area such as a lawn, field, room, crawl space, or other such surface. The term does not include crack and crevice or spot applications made to selected plants, insects, soil, or surfaces.

2.2. “Child care” means a child care center or a family child care facility.

2.3. “Child care center” means a completed structure used for the care of thirteen or more children on a non-residential basis.

2.4. “Crack and crevice treatment” means the application of small amounts of insecticides into openings commonly found at expansion joints, between different elements of construction, and between equipment and floors or walls.

2.5. “Family child care facility” means a completed structure used to provide non-residential child care for seven to twelve children.

2.6. “Least hazardous materials” means the use of pest control practices and methods, including the use of chemicals in a manner to cause the least practical exposure to the occupants of a structure. The “least hazardous materials” takes into account the method of application, toxicity of the product and the exposure to the occupants to the practice or methods employed to control pests, such as the use of a non-volatile material formulation and/or application method as opposed to a broadcast application that creates potential for exposure.

2.7. “Material safety data sheet” means a fact sheet that is designed for distribution to chemical manufacturing plant workers and refers to the toxicity of the concentrate of a pesticide product. In the case of ready-to-use products, “material safety data sheets” may be the same as “consumer information sheets.”

2.8. “Pesticide” means, for the purposes of this rule, the use of insecticides and herbicides that are applied into or around a building and the adjacent grounds used by a school, child care center or family child care facility.
2.9. "Re-entry period" means the time that must elapse from the completion of a pesticide application until students or school and child care employees may enter the building to conduct scheduled activities.

2.10. "School" means a completed structure used for public or private education, grades kindergarten through twelfth grade.

2.11. "School grounds" means the area outside of the school buildings controlled, managed, or owned by the school or school district, including lawns, playgrounds, sports fields, and any other property or facility controlled, managed, or owned by a school.

2.12. "Space treatment" means the application of a pesticide that is intended to discharge the pesticide into the air throughout an entire room or area.

2.13. "Spot treatment" means the application of a pesticide to a limited area where pests are likely to occur, such as floors, walls, bases or the underside of equipment, turf or ground. A "spot" shall not be more than 2 square feet and shall not be more than 20 percent of a surface area.


3.1. Integrated Pest Management is a system of controlling pests in which pests are identified, action thresholds are considered, all possible control options are evaluated and selected controls are implemented. Control options, which include biological, chemical, cultural, manual, and mechanical methods, are used to prevent or remedy unacceptable pest activity or damage. Choice of control options is based on effectiveness, environmental impact, site characteristics, worker/public health and safety, and economics. The goal of an integrated pest management system is to manage pests and the environment to balance benefits of control, costs, public health and environmental quality. Integrated pest management takes into account site-specific factors and takes advantage of all pest management options.

3.2. Schools, child care centers and family child care facilities or contracted pesticide application businesses covered by this rule shall not apply pesticides unless monitoring as specified in Section 6 of this rule indicates pests are present.


4.1. All schools covered by this rule shall develop and maintain an integrated pest management program. The best management practices contained in "Integrated Pest Management in Schools and Other Public Institutions, Best Management Practices," published by the West Virginia Department of Agriculture may be used in the development of the program.

4.2. At a minimum, the integrated pest management program for a school shall contain:

4.2.a. a policy statement;

4.2.b. pest management objectives;

4.2.c. education of the building occupants in integrated pest management practices;

4.2.d. inspection activities;

4.2.e. monitoring activities;

4.2.f. an evaluation of the integrated pest management strategies in practice; and
4.2.g. action thresholds for common pests.

4.3. At the inception of the integrated pest management program, the school or the contracted pesticide application business should make a survey of the facility and record the structural maintenance, cultural or sanitation practices that need correcting in order to insure the success of an integrated pest management program. This record shall be updated prior to the beginning of each school year with a follow-up inspection within six months, with the items to be corrected noted on the record.

4.4. Pest management objectives and pest threshold levels will vary for each school facility and the occupants of the facility. In order to provide a cross representation of input to the integrated pest management program from the school's occupants and the school community, the Local School Improvement Council as created by W.Va. Code §18-5A-2 may comment on the school's integrated pest management plan.

4.5. Schools covered by this rule shall file completed integrated pest management plans with the Commissioner for compliance review. When any changes are made to the program, they shall submit the revised integrated pest management plan to the Commissioner prior to the initiation of the new plan.

4.6. Schools or contracted pest control operators shall maintain an Integrated Pest Management file in the main office in each school facility. The Integrated Pest Management file shall contain at a minimum the following items or documents:

4.6.a. the adopted integrated pest management plan;

4.6.b. sanitation and maintenance surveys;

4.6.c. monitoring diagrams of the facility;

4.6.d. pest surveillance data sheets;

4.6.e. notification of Level 3 or Level 4 treatment as specified in subsection 8.1 of this rule.

4.6.f. treatment records of the facility, including a floorplan indicating treatment locations;

4.6.g. labels of pesticide products used at the facility; and

4.6.h. material safety data sheets.

4.7. If a school contracts with a pesticide application business for any pesticide applications or monitoring, the business then assumes responsibility for the documents required to be in the Integrated Pest Management file.

4.8. Upon request, schools or contracted pesticide application businesses covered by this rule shall provide copies of pesticide labels and material safety data sheets to employees of the school facility or to parents or legal guardians of the school's students.

4.9. Areas of schools, including but not limited to greenhouses, nursery plots or agricultural field plantings, used for vocational agricultural plots or research are exempt from the requirements of this rule.

§61-12J-5. Integrated Pest Management Programs for Child Care Centers and Family Child Care Facilities.
5.1. All child care centers and family child care facilities covered by this rule shall develop and maintain an integrated pest management program. The best management practices contained in "Integrated Pest Management in Schools and Other Public Institutions, Best Management Practices," published by the West Virginia Department of Agriculture may be used in the development of the program.

5.2. At a minimum, the integrated pest management program for a child care center or family child care facility shall contain:

5.2.a. a policy statement;
5.2.b. pest management objectives;
5.2.c. education of the building occupants in integrated pest management practices;
5.2.d. inspection activities;
5.2.e. monitoring activities;
5.2.f. an evaluation of the integrated pest management strategies in practice; and
5.2.g. action thresholds for common pests.

5.3. At the inception of the integrated pest management program, the child care should make a survey of the facility and record the structural maintenance, cultural or sanitation practices that need correcting in order to insure the success of an integrated pest management program. This record should be updated periodically with the items to be corrected noted on the record.

5.4. All child care centers or family child care facilities covered by this rule shall file completed integrated pest management plans with the Commissioner for compliance inspection. When any changes are made to the program, they shall submit the revised integrated pest management plan to the Commissioner prior to the initiation of the new plan.

5.5. Child care center or family child care facility operators or contracted pesticide application businesses shall maintain an Integrated Pest Management file in a central location at each center or facility in operation. The Integrated Pest Management file shall contain at a minimum the following items or documents:

5.5.a. the approved integrated pest management plan;
5.5.b. sanitation and maintenance surveys;
5.5.c. monitoring diagrams for the child care center or family child care facility;
5.5.d. pest surveillance data sheets;
5.5.e. notification of Level 3 or Level 4 treatment as specified in subsection 8.1 of this rule;
5.5.f. treatment records for the child care center or family child care facility, including diagrams of treatment locations;
5.5.g. labels of pesticide products used at the child care center or family child care facility; and
5.5.h. copies of material safety data sheets for the products used at the child care center or family child care facility.

5.6. If a child care center or facility contracts with a pesticide application business for any pesticide applications or monitoring, the business then assumes responsibility for the documents required to be in the Integrated Pest Management file.

5.7. Child care centers and family child care facilities covered by this rule shall provide copies of pesticide labels and consumer information sheets when available or material safety data sheets in the absence of consumer information sheets to a child’s parents or legal guardians upon request.


6.1. Monitoring Program.

6.1.a. Each school, child care center or family child care facility shall have a monitoring program. The monitoring program shall include inspecting areas of the facility for pest evidence, entry points, food, water and harborage sites, and estimating pest population levels. Each school, child care center or family child care facility shall evaluate the information gained through monitoring to determine whether the action threshold has been exceeded and what can be done in the way of prevention.

6.1.b. Each school, child care center or family child care facility shall conduct a monitoring program in suspect areas of their facility on an ongoing basis. Sticky traps designed for cockroaches and other crawling insects shall be placed along wall/floor junctions, on vertical surfaces, behind appliances, in closets, cabinets and shelves, and in other areas where insects have been seen.

6.1.c. Components of the monitoring program shall include:

6.1.c.1. A floorplan of the school, child care center or family child care facility showing the number and accurate location of each trap;

6.1.c.2. Periodic inspection of each trap at no greater than monthly intervals year round with the following information recorded on a Pest Surveillance Data Sheet:

   6.1.c.2.A. The trap number and its location;
   6.1.c.2.B. The date checked;
   6.1.c.2.C. The trap’s condition (either OK or replaced);
   6.1.c.2.D. The numbers and kinds of insects, arthropods, rodents or other pests trapped;
   6.1.c.2.E. Pest damage or other evidence of pests such as feces, cast skins, or rub marks;
   6.1.c.2.F. Any need for pest management; and
   6.1.c.2.G. The name of the person performing the monitoring activity;

6.1.c.3. Removal and disposal of the trap after catch numbers are recorded and identification is confirmed, to prevent counting specimens more than one time and to prevent their use as food by other insects or rodents; and

6.1.c.4. Replacement of the traps when the adhesive is no longer tacky.
6.2. When monitoring indicates the level of pest infestation meets or exceeds the threshold levels established for the school, child care center or family child care facility and pest type, the progressive levels of pest control techniques and chemical applications as outlined in Section 7 of this rule shall be followed in controlling the pest population. If monitoring indicates that pest populations do not meet or exceed threshold levels, no pesticides shall be applied.


7.1. In an integrated pest management program, persons responsible for pest management shall evaluate all possible control options. Control options range from non-chemical methods to least hazardous pesticides to pesticides with a higher degree of risk to human health. In keeping with the legislative mandate for integrated pest management, the licensed pesticide applicator shall, after monitoring for pest infestations, proceed in controlling pests using the least hazardous method that is both practical and effective as outlined in this section.

7.1.a. Level 1 -- Non-chemical Control Methods.

7.1.a.1. Pest-preventive measures should be incorporated into existing structures. These preventive measures reduce the need for pesticide applications, and include sanitation, such structural repairs as sealing cracks, and such physical and mechanical controls as screens, traps, and air doors. A school, child care center or family child care facility shall consult the West Virginia Department of Agriculture's best management practices document “Integrated Pest Management in Schools and Other Public Institutions, Best Management Practices” for integrated pest management strategies for specific sites. Every facility will experience slightly different combinations of pests.


7.1.b.1. If non-chemical pest management methods alone are ineffective or impractical, it may be necessary for a school, child care center or family child care facility to incorporate a pesticide into the integrated pest management program. Although all pesticides are inherently toxic, there are a number of pesticide materials that are determined to be of low impact to occupants because of their organic or biological nature, low toxicity, relative non-volatility, and/or low or non-existent exposure to the occupants due to the manner in which they are applied as baits, gels or dusts into cracks and crevices or wall voids.

7.1.b.2. The least hazardous pesticides are those with a Caution signal word (EPA toxicity categories III and IV) including dusts -- pyrethrin and pyrethroid, boric acid, disodium octaborate tetrahydrate, silica gel, and diatomaceous earth; insecticidal soaps; insect growth regulators; biological control agents -- fungi, bacteria, nematodes; or materials formulated as baits in tamper-resistant containers or for crack and crevice or void placement only.

7.1.b.3. There is no re-entry interval for these products due to their level of safety.

7.1.c. Level 3 -- Crack and Crevice and Spot Treatments.

7.1.c.1. Schools, child care centers or family child care facilities shall apply products with an EPA Caution signal word but not listed under Level 2 as crack and crevice or spot treatments.

7.1.c.2. Products applied by these methods provide for reduced, minimal use of liquid materials that may present some, but limited volatility of the pesticide applied. Exposure to occupants is minimal.
7.1.c.3. The re-entry interval for which students and employees shall remain out of the treated area of the facility after the conclusion of treatment is four hours or the time period specified on the pesticide label as registered by the United States Environmental Protection Agency, which ever is greater.

7.1.d. Level 4 -- Broadcast Applications and Space Treatments.

7.1.d.1. Products with a Caution signal word applied by broadcast application or as a space treatment or products with a Warning or Danger signal word applied by any application method.

7.1.d.2. Products applied by these methods create the greatest opportunities for exposure at the time of application due to drift or volatility. However products applied as fogging agents are usually of low mammalian toxicity and pose little exposure after label re-entry times specified by the United States Environmental Protection Agency.

7.1.d.3. The re-entry interval for which students and employees are to remain out of the treated area of the facility after the conclusion of treatment is eight hours or the period specified on the label of the pesticide product as registered by the United States Environmental Protection Agency, which ever is greater, except when the air in the treated area can be purged by the heating, cooling and ventilation system, the period of reentry shall be 4 hours or the period specified on the label of the pesticide product as registered by the United States Environmental Protection Agency, which ever is greater.


8.1. If a licensed pesticide application business is contracted to make a Level 3 or Level 4 pesticide application, the licensee shall provide notification to the school or child care administrator 48 hours in advance of the application.

8.2. Employees of Schools, Child Care Centers or Family Child Care Facilities.

8.2.a. All schools, child care centers or family child care facilities shall notify their employees through routine announcement or individual notice at least 24 hours in advance of all applications of pesticides in levels 3 and 4 as detailed in Section 7 of this rule, including applications made after school hours, on a weekend or during a holiday break.

8.3. Parents or Legal Guardians of Students of Schools.

8.3.a. At the beginning of each school year, or at the time a student is enrolled into the school, school administrators shall notify the parents or legal guardians of the right to be informed of the application of level 3 or 4 pesticides as detailed in Section 7 of this rule.

8.3.b. The notification to the parents or legal guardians shall contain a registration form, whereby the parent or legal guardian can request to be notified by the school administrator of the application of level 3 or 4 pesticides.

8.3.c. The administrator of the school shall provide notification to the parent or legal guardian requesting notification at least 24 hours in advance of all applications of level 3 or 4 pesticides, including applications made after school hours, over a weekend or during a holiday break.

8.3. Parents or Legal Guardians of Children in Child Care Centers or Family Child Care Facilities.
8.3.a. At the time a child care center or family child care facility operator signs a contract or other agreement for the care of a child, the operator shall notify the parent or legal guardian of the right to be informed of the application of a level 3 or 4 pesticide as detailed in Section 7 of this rule.

8.3.b. The child care center or family child care facility operator shall post and make available to the parent or legal guardian, notification of all applications of level 3 or 4 pesticides at least 24 hours in advance of any pesticide application, including applications made after hours, over a weekend or during a holiday break. The notification shall be placed at the register where the parent or legal guardian signs the child into and out of the child care center or family child care facility.


9.1. Level 3 and Level 4 pesticide applications shall not be made in the presence of students, children in child care centers or children in family child care facilities or employees of schools, child care centers or family child care facilities, except for school, child care center or family child care facility employees who are certified pesticide applicators. Pesticides may be applied to a localized area of infestation when students, children or school, child care center or family child care facility employees are present if the infestation causes an imminent threat of bodily harm.

9.2. All pest control methods or practices shall be conducted in conformance to the Use of the Least Hazardous Materials as outlined in Section 7 of this rule.

9.3. All pesticide applications made to schools, child care centers or family child care facilities shall be applied in accordance with the integrated pest management plan filed with the Commissioner.

9.4. All pesticide applications shall only be made by certified commercial pesticide applicators or certified public applicators or registered technicians under the supervision of a certified pesticide applicator as outlined in West Virginia Department of Agriculture Certified Pesticide Applicator Rules, 61CSR12A.

9.5. The commissioner shall require all certified pesticide applicators applying pesticides or supervising the application of pesticides, or persons providing services as a consultant to complete a specialized training program in urban integrated pest management.

9.5.a. Any specialized urban integrated pest management programs not offered by the commissioner must be approved by the commissioner.

9.5.b. Pesticide applicators certified in the General Pest Control sub-category as detailed in 61CSR12A Certified Pesticide Applicator Rules who complete the specialized training program in urban integrated pest management prior to September 1, 1996 shall be determined to be certified in Urban Integrated Pest Management.

9.5.c. After September 1, 1996, the commissioner shall require all certified pesticide applicators applying pesticides or supervising the application of pesticides in a school, child care center or family child care facility, or persons providing services as a consultant to schools, child care centers and family child care facilities to be examined and certified in the sub categories of General Pest Control and Urban Integrated Pest Management as outlined in 61CSR12A Certified Pesticide Applicator Rules.

§61-12J-10. Record Keeping.
10.1. Schools, child care centers and family child care facilities covered by this rule shall keep for a period of two years all documents required to be in the Integrated Pest Management Files as detailed in Subsection 4.6 and Subsection 5.5, respectively, of this rule.

10.2. The records required for the Integrated Pest Management of schools, and child care centers and family child care facilities shall be made available upon request to the commissioner to verify the maintenance of the integrated pest management program.

10.3. Pesticide application records as required in Subdivision 4.6.f. and Subdivision 5.5.f. of this rule shall contain all of the information required in Section 7 West Virginia Department of Agriculture Rule, Licensing of Pesticide Businesses, 61CSR12B.


11.1. The commissioner shall make available to all schools, child care centers and family child care facilities a copy of the integrated pest management materials titled “Integrated Pest Management in School and other Public Institutions, Best Management Practices” and “Integrated Pest Management in Schools and Other Public Institutions, A Guide for Commercial Applicators”.

11.2. All pesticide applications made to schools, child care centers and family child care facilities shall be made in accordance with this rule and the integrated pest management programs on file with the commissioner after September 1, 1996.
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(b) Every registrant or other person whose name and address appears on the label of any pesticide as the manufacturer, packer, distributor or dealer, shall, to the extent that the registrant or other person is able to furnish to the department, on request, when found by the department to be necessary to prevent or control an imminent hazard to the public, a listing of all sales locations or warehouse locations maintained by the registrant or other person in this state for the sale or distribution of products registered by the registrant or other person or bearing the registrant's or other person's name and address as such manufacturer, packer, distributor or dealer; the name and address of all distributors or dealers selling or distributing such products in this state; and the name and address of all outside sales representatives employed by the registrant or other person in this state for the sale or distribution of such products.

(c) In addition to other enforcement procedures, the department may issue a special order under s. 93.18 prohibiting the use, application, storage, distribution or sale of pesticides in violation of ss. 94.67 to 94.71 or rules issued under ss. 94.67 to 94.71. A special order may be issued under this paragraph to prevent or control pesticide contamination of groundwater under ss. 160.23 and 160.25. Special orders may be issued on a summary basis, without prior complaint, notice, hearing or process, where necessary to protect public health or the environment. A summary special order is subject to a subsequent right of hearing before the department, if requested within 10 days after the date on which the order is served. Any party affected by the order may request a preliminary or informal hearing pending the scheduling and conduct of a full hearing. Hearings, if requested, shall be conducted as expeditiously as possible after receipt of a request for a hearing. Enforcement of the order shall not be stayed pending action on the hearing.


94.715 Pest management for schools. (1) DEFINITIONS. In this section:

(a) "Pesticide" has the meaning given in s. 94.67 (25), except that "pesticide" does not include a germicide, sanitizer, or disinfectant.

(2) REQUIREMENTS FOR SCHOOL BOARDS. A school board shall do all of the following:

(dm) Authorize pesticide application in a school or on school grounds to be conducted only by persons who are certified in the applicable pesticide use categories under s. 94.705.

(g) Post notice of each pesticide application in a school or on school grounds at the time of the application and for at least 72 hours following the application.

History: 2001 s. 16.

94.72 Commercial feed. (1) DEFINITIONS. (a) "Brand name" means any word, name, symbol or device, or any combination thereof identifying the commercial feed of a manufacturer or distributor and distinguishing it from that of others.

(b) "Commercial feed" means all products or materials used or distributed for use as a feed or an ingredient in the mixing or manufacturing of feed for animals or birds, except the following:

1. Unmixed whole seeds or grains; as defined by United States grain standards.

2. The unmixed meals made directly from and consisting of the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kafr, milo and other seeds or grains. Such unmixed meals shall not be sold in violation of sub. (3).

3. Whole hays, straws, cottonseed hulls, stover and slage, when unmixed with other materials.

2009–10 Wis. Stats. database updated and current through 2011 Wis. Act 44 and August 31, 2011. Statutory changes effective on or prior to 9–1–11 are printed as if currently in effect. Statutory changes effective after 9–1–11 are designated by NOTES. See Are The Statutes on this Website Official?
(f) "Restricted entry interval" has the meaning given in s. ATCP 29.01 (35).

(2) INFORMATION TO CUSTOMER. A person hired by a customer to make a residential application shall provide that customer with all of the following:

(a) A written notice offering to provide pre-application information under par. (b). The person shall make the offer before making the first residential application for the customer, and shall repeat the offer at least annually if there is a continuing contract for more than one year.

Note: See Appendix A for an example of a written offer of information under par. (a). Nothing in this section authorizes a commercial applicator to make a residential application which the customer has not affirmatively authorized.

(b) The following pre-application information, in writing, if requested by the customer:

1. The brand name, product name or common chemical name of each pesticide that may be applied.

2. A copy of the pesticide label for each pesticide that may be applied.

3. The date on which the pesticide application will be made. The date may be communicated orally, rather than in writing, if the requestor agrees to oral notification.

4. The name, business address and telephone number of a person who can provide further information about the pesticide application.

(c) The information required under s. ATCP 29.22. This information shall be provided within the time period specified under s. ATCP 29.22.

(3) NOTICE TO RESIDENTS. (a) A person making a residential application shall provide the following information in writing to residents at the time of the application:

1. The name and address of the person making the application, and a telephone number at which residents can obtain further information about the application.

Note: The name and address under subd. 1. may be the name and address of the business entity making the residential application.

2. The first and last name of each individual making the application and, if the application is one for which the individual must be licensed under s. ATCP 29.25, the individual’s license number.

3. The brand name, product name or common chemical name of the pesticide applied.

4. The concentration and total quantity of each pesticide applied, or the amount of pesticide product applied per unit area and the total area treated.

5. Any pertinent post-application precautions stated on the pesticide label. If the pesticide label prescribes a restricted entry interval, the person making the residential application shall also post a warning sign under s. ATCP 29.52 at each entrance to each treated area.

6. The month, day, year and approximate starting and ending time of the pesticide application.

7. Notice that a copy of the pesticide label is available upon request. The person making the residential application shall provide a copy of the pesticide label to each resident who requests a copy, but may first require the requestor to pay reasonable copying and postage costs if the requestor is not the customer contracted for the application.

(b) A person making a residential application in any dwelling unit shall leave the information under par. (a) with an adult resident of that dwelling unit, or shall prominently post the information at the entrance to that dwelling unit.

(c) A person making a residential application to any common area within a residential structure shall provide the information under par. (a) by posting clearly legible notices in common entryways or other conspicuous locations so that all residents are likely to see the notices.

Note: A person making a residential application must comply with sub. (3) regardless of whether the application is a contract application. For example, a landlord making a residential application to the landlord’s own rental units must post information to tenants residing in those units.

(4) RESTRICTED ENTRY INTERVAL; WARNING SIGNS. If a person makes a residential application of a pesticide whose label prescribes a restricted entry interval, that person shall post a warning sign at each entrance to the treated area. Each warning sign shall be at least 8 1/2 inches by 11 inches. The form and content of each warning sign shall be identical to that shown in Appendix D. The person making the residential application shall post the warning sign before the application begins, and shall not remove it until the restricted entry interval expires.

Note: A person making a residential application must comply with sub. (4) regardless of whether the application is a contract application. For example, a landlord making a residential application to the landlord’s own rental units must post warning signs under sub. (d) if the pesticide label prescribes a restricted entry interval. See also s. ATCP 29.52 (3) which provides that landlords and contract applicators are individually and jointly responsible for posting warning signs.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; correction in (1)(e) made under s. 13.95 (2m) (b) 7., Stats., Register, March, 1999, No. 519.

ATCP 29.56 Landscape applications. (1) DEFINITIONS. In this section:

(a) “Division” means the agricultural resource management division of the department.

(b) “Cemetery grounds manager” means the person responsible for on-site management of cemetery grounds.

(c) “Golf course superintendent” means the person responsible for on-site management of a golf course.

(d) “Landscape” means turf, ornamental and mulched areas, and areas being prepared for those purposes, that are located in or around residential premises, public or commercial facilities, parks, workplaces, care facilities, recreational areas and public lands. “Landscape” does not include utility or transportation rights-of-way areas, greenhouses, nurseries, or areas used for agricultural production, forest production or commercial turf production.

(e) “Landscape application” means the application of a pesticide to a landscape. “Landscape application” does not include any of the following:

1. Pesticide applications for any of the purposes identified in s. ATCP 29.31 (4) or (14).

2. A perimeter barrier application made on or within 10 feet of a building or structure to prevent or discourage pests from entering that building or structure.

3. Mosquito control applications made by a governmental entity for public health purposes.

4. Pesticide applications made by the department or its agent pursuant to s. 94.01 or 94.02, Stats., or ch. ATCP 21.

(f) “Landscape pesticide” means a pesticide that is labeled for use on a landscape.

(g) “Ornamental” has the meaning given in s. ATCP 29.01 (25).

(h) “Restricted entry interval” has the meaning given in s. ATCP 29.01 (35).

(i) “Treated landscape” means that portion of a landscape to which a pesticide is applied.

(2) INFORMATION TO CUSTOMER. A person hired by a customer to make a landscape application shall provide that customer with all of the following in writing:

(a) An offer to provide pre-application information under par. (b).

(b) The person shall make the offer before making the first landscape application for the customer, and shall repeat the offer at least annually if there is a continuing contract for more than one year.

Note: See Appendix A for an example of a written notice under par. (a). Nothing in this section authorizes a commercial applicator to make a landscape application which the customer has not affirmatively authorized.

(b) The following pre-application information, if requested:
1. The brand name, product name or common chemical name of each pesticide that may be applied.

2. A copy of the pesticide label for each pesticide that may be applied.

3. The date on which the landscape application will be made. The person making the application may communicate the application date orally, rather than in writing, if the requester agrees to oral notification.

4. The name, business address and telephone number of a person who can provide further information about the pesticide application.

(c) The information required under s. ATCP 29.22. The person making the application shall provide this information to the customer when the application is completed.

(3) WARNING SIGNS POSTED. (a) Except as provided under par. (c), a person shall post warning signs at a landscape application site before making a landscape application at that site. Warning signs shall comply with subs. (4) and (5).

(b) No person may remove a warning sign posted under par. (a) until sunset of the day following the landscape application, or until sunset of the day on which the restricted entry interval on the pesticide label expires, whichever is later. This paragraph does not require a person to remove warning signs.

(c) Paragraph (a) does not apply to any of the following:

1. An individual making a landscape application to residential premises occupied only by that individual's household.

2. Golf course applications that are exempt under sub. (9).

3. Cemetery applications that are exempt under sub. (10).

(4) WARNING SIGNS; FORM AND CONTENTS. Each warning sign under sub. (3) shall comply with all of the following:

(a) It shall be at least 4 inches by 5 inches, and shall be attached to a stable supporting device.

(b) It shall contain the information shown in Appendix B. The information shall be professionally printed with red lettering on a white background, according to the format shown in Appendix B, except that sign removal dates may be entered by hand. A warning sign may contain supplementary information beyond that shown in Appendix B if the information is consistent with and does not detract from that shown in Appendix B.

(c) It shall be constructed and posted so that it remains clearly legible for at least 72 hours after it is posted, despite reasonably foreseeable adverse weather conditions.

(5) WARNING SIGNS; WHERE POSTED. At least one of the warning signs required under sub. (3) shall be clearly visible from each point at which there is significant potential for human access to the treated area.

Note: For example, warning signs should be posted so as to be clearly visible from potential access points including roads, sidewalks, driveways, doorways, alleys and adjacent yards unless a fence, wall, hedge or similar feature effectively prevents human access to the treated area from that direction.

(6) INFORMATION PROVIDED UPON REQUEST. (a) A person making a landscape application shall offer the following information to any person who requests information about that landscape application:

1. The complete name and address of the person making the landscape application.

Note: This may be the name and address of the business entity that makes the application.

2. The brand name, product name or common chemical name of each pesticide applied, and the EPA registration number of that pesticide.

3. The concentration and total quantity of each pesticide applied, or the amount of each pesticide product applied per unit area and the total area treated.

4. The date and approximate time of application.

5. All post-application precautions stated on the pesticide label.

6. A copy of the pesticide label for each pesticide applied.

(b) If a requester asks for any of the information under par. (a), the person making the landscape application shall promptly provide that information to the requester. The information may be provided orally or in writing except that a copy of the pesticide label, if requested, shall be provided in writing. The person making the landscape application may require the requester to pay reasonable copying and postage costs before providing a copy of a pesticide label if the requester is not the customer who contracted for the application.

(7) REGISTRY OF INDIVIDUALS REQUESTING ADVANCE NOTICE OF LANDSCAPE APPLICATIONS. (a) The department shall compile an annual registry of individuals requesting advance notice of landscape applications to parcels of land identified in the registry. An annual registry takes effect on March 15 of each year, and expires on March 14 of the following year.

Note: The department will distribute registries by March 1.

(b) An individual who registers under par. (c) may request advance notice of landscape applications, other than applications for which that individual has contracted. In any parcels on the block where that individual resides or on any blocks immediately adjacent to that block.

Note: If a landlord contracts for landscape applications to a rental property, tenants on that property may register to receive advance notice of those applications.

(c) An individual shall register with the department by February 1 of each year to be included in the registry that takes effect on March 15 of that year. An individual shall register on a form provided by the department. The registration form shall include all of the following information which shall be included in the registry under par. (a):

1. The individual's complete name, street address, and mailing address if different from street address.

2. A telephone number where the individual may be contacted.

3. The street address of each parcel under par. (b) for which the individual requests advance notice of landscape applications.

4. Other information which the department reasonably requires to administer this section.

Note: Individuals may obtain registration forms and submit registrations to the following address: Department of Agriculture, Trade and Consumer Protection, Division of Agricultural Resource Management, Landscape Application Registry, P.O. Box 8991, Madison, Wisconsin 53708-8991. Individuals may also obtain registration forms by calling the department at (608) 224-4616. A registration completed with the filing deadline under par. (c) if the registration form is postmarked or delivered to the department by February 1. The department may accept registrations filed after February 1 for inclusion in the March 15 registry, but is not required to do so.

(d) The department shall provide a free copy of the annual registry under par. (a) to all of the following:

1. Each license holder under s. ATCP 29.20 that employs individuals licensed and certified under ss. ATCP 29.25 and 29.26 to make landscape applications. If a person is licensed under s. ATCP 29.20 by March 1, the department shall provide that person with a free copy of the registry by March 1.

2. Each individual, licensed and certified under ss. ATCP 29.25 and 29.26 to make landscape applications, who requests a copy of the registry.

Note: The department may compile supplementary registries for distribution after March 1.

(8) ADVANCE NOTICE TO REGISTERED INDIVIDUALS. (a) Before making any landscape application, a person required to be licensed under s. ATCP 29.20 shall give at least 12 hours advance notice to every individual who is currently registered to receive notice of that application under sub. (7).

Note: An applicator may voluntarily give notice to an individual who is included in a supplementary registry, but is not required to do so unless the individual has registered the same parcel in the primary registry under sub. (7).

(b) A person may give advance notice under par. (a) by telephone, or may mail or deliver notice to the requester's address as listed in the registry. Notice, if given by mail, shall be postmarked at least 2 business days before the person makes the landscape application. A notice shall include all of the following:
(A) □ Applying a pesticide at any dosage, concentration or frequency less than that specified on the labeling;

(B) □ Applying a pesticide against any target pest not specified on the labeling if the application is to the crop, animal or site specified on the labeling;

(C) □ Employing any method of application not prohibited by the labeling; or

(D) □ Mixing a pesticide or pesticides with a fertilizer when the mixture is not prohibited by the labeling.

(v) □ To falsify any records required by the director by regulation;

(vi) □ To falsify any application, examination or affidavit for certification or license;

(vii) □ Other than certified applicators or persons working under their direct supervision to use restricted use pesticides;

(viii) □ To use restricted use pesticides inconsistent with the applicator category of certification.

(b) □ If the director finds that the violation occurred despite the exercise of due care or did not cause significant harm to another person, to health or to the environment, he shall issue a warning in lieu of prosecution.

35-7-375. □ Required notification of pesticide application on or within school buildings.

(a) □ Any commercial applicator licensed under W.S. 35-7-359 or any other person shall provide notification required by this section of the application of any pesticide as defined under W.S. 35-7-354(d) which is applied on or within any building or other real property used by a school district primarily for the education of students, including any property used by the district for student activities or playgrounds. Notice under this subsection shall be provided to the district not less than seventy-two (72) hours prior to application and the district shall further notify students, teachers and staff. All notices distributed under this subsection shall be marked with a distribution date and include information indicating date of application, location of application or treatment area, pest to be controlled, name and type of pesticide to be applied and a contact for additional information. All notices distributed under this subsection shall be retained by the school or school district for two (2) years.
(b) In addition to notice required under subsection (a) of this section, the licensed commercial applicator or other school employee applying pesticides shall post signs on the school building or property stating the date of application, the location of the application or treatment area, the name and type of the pesticide to be applied and a contact for additional information. Upon request, the licensed commercial applicator or other school employee shall provide information on how to obtain additional information on the pesticide. Not less than twelve (12) hours before application of pesticides within school buildings, signs shall be posted at main entrances to school buildings and at the entrances to the specific application area within buildings. If pesticide application is made outdoors to any area adjacent to a school building or on property used by the district for student activities or playgrounds, signs shall be posted immediately adjacent to the treated area and at the entrance to the district property. The signs shall remain posted for seventy-two (72) hours.

(c) Anti-microbial pesticides defined under W.S. 35-7-354(d), such as disinfectants and sanitizers used by school employees for cleaning purposes and insect or rodent bait stations of the type available for home use are exempted from the notification and posting requirements specified in subsections (a) and (b) of this section.