

# REGULATION

## A. Definitions

1. "Commissioner" means the Commissioner of Environmental Protection.
2. "Department" means the Department of Environmental Protection.
3. "Integrated Pest Management Coordinator" or "coordinator" means an individual who is knowledgeable about integrated pest management systems and has been designated by the Board, as the Integrated Pest Management Coordinator (IPMC) pursuant to the New Jersey School Integrated Pest Management Act. The IPMC is authorized to perform the statutory IPM responsibilities of the Board of Education.
4. "Low Impact Pesticide" means any pesticide or pesticidal active ingredient alone, or in combination with inert ingredients, that the United States Environmental Protection Agency has determined is not of a character necessary to be regulated pursuant to the "Federal Insecticide, Fungicide, and Rodenticide Act," 7 U.S.C. s.136 et seq. and that has been exempted from the registration and reporting requirements adopted pursuant to that act; any gel; paste; bait; antimicrobial agent such as a disinfectant used as a cleaning product; boric acid; disodium octoborate tetrahydrate; silica gels; diatomaceous earth; microbe-based insecticides such as bacillus thuringiensis; botanical insecticides, not including synthetic pyrethroids, without toxic synergists; and biological, living control agents.
5. "Pesticide" means any substance or mixture of substances labeled, designed, intended for or capable of use in preventing, destroying, repelling, sterilizing or mitigating any insects, rodents, nematodes, predatory animals, fungi, weeds and other forms of plant or animal life or viruses, except viruses on or in living man or other animals. "Pesticide" shall also include any substance or mixture of substances labeled, designed or intended for use as a defoliant, desiccant or plant regulator.
6. "Plan" means the school district's goals regarding the management of pests and the use of pesticides on all school property. The plan shall be developed in accordance with the requirements of N.J.S.A. 13:1f-19 through 33.
7. "School" means any public or private school as defined in N.J.S.A. 18A:1-1.
8. "School Integrated Pest Management Policy" means a managed pest control policy that eliminates or mitigates economic, health, and aesthetic damage caused by pests in schools; that delivers effective pest management, reduces the volume of pesticides used to minimize the potential hazards posed by pesticides to human health and the environment in schools; that uses integrated methods, site or pest inspections, pest population monitoring, an evaluation of the need for pest control, and one or more pest control methods, including sanitation, structural repair, mechanical and biological controls, other non-chemical methods, and when non-chemical options are ineffective or unreasonable, allows the use of a pesticide, with a preference toward first considering the use of a low impact pesticide for schools.

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9. "School pest emergency" means an urgent need to mitigate or eliminate a pest that threatens the health or safety of a student or staff member.
10. "School property" means any area inside and outside of the school buildings controlled, managed, or owned by the school district.
11. "Staff member" means an employee of the school district, including administrators, teachers, and other persons regularly employed by the school district, but shall not include an employee hired by the school district or the State to apply a pesticide or a person assisting in the application of a pesticide.
12. "Universal notification" means notice provided by the school district to all parents or legal guardians of children attending a school, and staff members of the school district.

## B. Integrated Pest Management Coordinator (IPMC)

The Business Administrator shall be designated the Integrated Pest Management Coordinator (IPMC) of the school district. The Integrated Pest Management Coordinator (IPMC) shall:

1. Maintain information about individual schools, the school district's Integrated Pest Management Policy, and about pesticide applications on the school property of the schools within the school district;
2. Act as a contact for inquiries about the School Integrated Pest Management Policy; and
3. Maintain material safety data sheets, when available, and labels for all pesticides that are used on the school property or in the schools in the school district.

## C. Maintenance of Records of Pesticide Application; Notices of Policy

The IPMC shall request from the pesticide applicator and shall maintain records of pesticide applications used on school property or for each school in the school district for three years after the application, and for five years after the application of a pesticide designed to control termites, and on request, shall make the data available to the public for review.

A notice of the school district's Integrated Pest Management Policy shall be included in school calendars or another form of universal notification to pupils and parent(s) or legal guardian(s). The notice shall include:

1. The school district's Integrated Pest Management Policy;
2. A list of any pesticide that is in use or that has been used in the last twelve months on school district property at each school location;
3. The name, address, and telephone number of the Integrated Pest Management Coordinator of (IPMC)

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of the school district;

4. A statement that:

- a. The IPMC maintains the product label and material safety data sheet, when available, of each pesticide that may be used on school property;
- b. The label and data sheet is available for review by a parent, legal guardian, staff member, or student attending the school; and
- c. The Integrated Pest Management Coordinator (IPMC) is available to parents, legal guardians, and staff members for information and comment.

5. The time and place of any Board meetings that will be held to adopt the School Integrated Pest Management Policy; and

6. The following statement:

"As part of a school pest management plan, the School District may use pesticides to control pests. The United States Environmental Protection Agency (EPA) and the New Jersey Department of Environmental Protection (DEP) register pesticides to determine that the use of a pesticide in accordance with instructions printed on the label does not pose an unreasonable risk to human health and the environment. Nevertheless, the EPA and DEP cannot guarantee that registered pesticides do not pose any risk to human health, thus unnecessary exposure to pesticides should be avoided. The EPA has issued the statement that where possible, persons who are potentially sensitive, such as pregnant women, infants and children, should avoid unnecessary pesticide exposure."

After the beginning of each school year, the IPMC, in conjunction with the Building Principal(s), shall provide this notice to each new staff member who is employed during the school year and to the parent(s) or legal guardian(s) of each new student enrolled during the school year.

D. Permitted Use of Certain Pesticides; Notice

If it is determined that a pesticide, other than a low impact pesticide, must be used on school property, the pesticide may be used only in accordance with the requirements of N.J.S.A. 13:1F-25.

1. More than seventy-two hours before a pesticide, other than a low impact pesticide, is used on school property, the Building Principal shall receive notice from the IPMC. The Principal shall provide notice to a parent or legal guardian of each student enrolled at the school and each staff member of the school, at least seventy-two hours before use that includes:
  - a. The common name, trade name, and federal Environmental Protection Agency registration number of the pesticide;

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- b. A description of the location of the application of the pesticide;
  - c. The date and time of application, except that, in the case of outdoor pesticide applications, one notice shall include three dates, in chronological order, on which the outdoor pesticide applications may take place if the preceding date is canceled;
  - d. A statement that the Office of Pesticide Programs of the United States Environmental Protection Agency has stated: "Where possible, persons who potentially are sensitive, such as pregnant women, infants, and children, should avoid any unnecessary pesticide exposure";
  - e. A description of potential adverse effects of the pesticide based on the material safety data sheet, if available, for the pesticide;
  - f. A description of the reasons for the application of the pesticide;
  - g. The name and telephone number of the school district's IPMC; and
  - h. Any additional label instruction and precautions related to public safety.
2. The notice required by D.1. above may be provided by:
- a. Written notice sent home with the pupil and provided to each staff member;
  - b. A telephone call;
  - c. Direct contact;
  - d. Written notice mailed at least one week before the application; or
  - e. Electronic mail.
3. If the date of the application of the pesticide must be extended beyond the period required for notice under this section, the Board shall reissue the notice required under D.1. above for the new date of application.

## E. Posting of Sign Prior to Use of Certain Pesticides

At least seventy-two hours before a pesticide, other than a low impact pesticide, is used on school property, the IPMC shall post a sign that provides notice of the application of the pesticide in a prominent place that is in or adjacent to the location to be treated and at each entrance to the building or school ground to be treated.

A sign required for the application of a pesticide shall:

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1. Remain posted for at least seventy-two hours after the end of the treatment;
2. Be at least 8½ inches by 11 inches; and
3. State the same information as that required for prior notification of the pesticide application pursuant to Section D.1. of this Regulation.

In the case of outdoor pesticide applications, each sign shall include three dates, in chronological order, on which the outdoor pesticide application may take place if the preceding date is canceled due to weather. A sign shall be posted after an outdoor pesticide application in accordance with 1, 2 and 3 above.

The requirement imposed pursuant to this section shall be in addition to any requirements imposed pursuant to the "Pesticide Control Act of 1971," P.L. 1971, c.176 (C.13:1F-1 et seq.), and any rules or regulations adopted pursuant thereto.

## F. Applicability of Notice and Posting Requirements

The provisions of Sections D and E of this Regulation shall apply if any person applies a pesticide, other than a low impact pesticide, on school property, including a custodian, staff member, or commercial applicator. These provisions shall apply to a school during the school year, and during holidays and the summer months, only if the school is in use by children during those periods. During those periods, notices shall be provided to all staff members and the parents or legal guardians of the students that are using the school in an authorized manner.

## G. Emergency Use of Certain Pesticides

A pesticide, other than a low impact pesticide, may be applied on school property in response to an emergency, without complying with the provisions of Sections D and E of this Regulation, provided the following requirements are met:

1. Less than twenty-four hours after the application of a pesticide pursuant to this section, or on the morning of the next school day, whichever is earlier, the IPMC shall provide to the Building Principal, who shall within twenty-four hours after the application or on the morning of the next school day, provide to each parent or legal guardian pupils enrolled at the school, and staff members of the school, notice of the application of the pesticide for emergency pest control that includes:
  - a. The information required for a notice under Section D of this Regulation;
  - b. A description of the problem and the factors that qualified the problem as an emergency that threatened the health or safety of a student or staff member; and
  - c. If necessary, a description of the steps that will be taken in the future to avoid emergency

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application of a pesticide pursuant to this section.

The district may provide notice required in G.1. above by:

1. Written notice sent home with the pupil and provided to the staff members;
2. A telephone call;
3. Direct contact; or
4. Electronic mail.

When a pesticide is applied pursuant to this section, the IPMC shall post a sign warning of the pesticide application at the time of the application of the pesticide in accordance with the provisions of Section E of this Regulation.

If there is an application of a pesticide pursuant to this section, the IPMC shall modify the School Integrated Pest Management Plan of the school district if necessary, to minimize the future emergency applications of pesticides under this section.

A pesticide, other than a low impact pesticide, shall not be applied on school property where students are expected to be present for academic instruction or for organized extra-curricular activities prior to the time prescribed for re-entry to the application site by the United States Environmental Protection Agency on the pesticide label, except that if no specific numerical re-entry time is prescribed on a pesticide label, such a pesticide, other than a low impact pesticide, shall not be applied on school property where pupils are expected to be present for academic instruction or for organized extra-curricular activities within seven hours of the application.

A pesticide, other than a low impact pesticide, shall not be applied in a school building when students are present. Students may not be present in an untreated portion of a school building being treated unless the area being treated with a pesticide, other than a low impact pesticide, is served by a separate ventilation system and is separated from the untreated area by smoke or fire doors.

A low impact pesticide may be applied in areas of a school building where pupils will not contact treated areas until sufficient time is allowed for the substance to dry or settle, or after the period of time prescribed for re-entry or for ventilation requirements on the pesticide label has elapsed.

The requirements of this section shall not apply when pesticides are applied on school property for pupil instructional purposes or by public health officials during the normal course of their duties.

## H. Immunity From Liability of Commercial Pesticide Applicator

A commercial pesticide applicator shall not be liable to any person for damages resulting from the application

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of a pesticide at a school if the damages are solely due to the failure of the IPMC to provide the notice required prior to the application of a pesticide pursuant to the provisions of sections 7, 8, 9, or 10 of P.L. 2002, c.117 (C.13:1F-25, C.13:1F-26, C.13:1F-27 or C.13:1F-28).

## I. Development, Availability of Form for Certifying Compliance

The Department of Environmental Protection shall develop and make available to commercial pesticide applicators a form that a commercial pesticide applicator may request an Integrated Pest Management Coordinator (IPMC) to sign prior to the application of a pesticide, other than a low impact pesticide, on school property. The form developed pursuant to this section shall set forth a certification by the Integrated Pest Management Coordinator (IPMC) that the notice and posting requirements for the application of a pesticide established pursuant to Sections D and E of this Regulation, or the posting requirement established pursuant to Section G of this Regulation, as appropriate, have met compliance requirements. Upon being presented by a commercial pesticide applicator with a form pursuant to this section, the signature of the Integrated Pest Management Coordinator (IPMC) shall be required as a condition for the application of the pesticide.

The Department of Environmental Protection may issue an administrative order against a local school Board that fails to adopt and implement a pesticide use and school Integrated Pest Management Policy in compliance with the provisions of N.J.S.A. 13:1F-32.

The Commissioner shall adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules or regulations as are necessary to implement the provisions of this Act.

Date Adopted: 11/20/03