

Synopsis of Regulations Relevant to Pest Management in New York State Schools

www.p12.nysed.gov/facplan/HealthSafety.htm

Integrated Pest Management

- New York State's RESCUE (Rebuild Schools to Uphold Education) legislation (Chap. 56 & 58 of the Laws of 1998) requires the establishment of a comprehensive maintenance plan in public elementary/secondary schools, including a plan for a least toxic approach to integrated pest management. (8NYCRR 155.6).

School Pesticide Notification Requirement

School pesticide notification requirements (New York State Education Law §409-h). In summary, the law and the corresponding Commissioner's Regulation 8 NYCRR 155.24 applies to public and nonpublic elementary/secondary schools, including all instructional and administrative buildings and grounds, playgrounds, athletic fields, and bus garages. The following highlights the requirements associated with section 409-h.

- All school districts must designate an individual to act as the school pesticide representative. This person is the school contact for all pesticide-related issues.
- At the beginning of each school year, a written notice must be provided to all students, persons in parental relation, and staff explaining the basics of the school's IPM program, including a statement that pesticide applications may occur during the upcoming school year.
- All persons must be offered the opportunity to register to receive written notification 48-hours prior to an actual application that includes information about the specific date, location, product name, and pesticide registration number.
- The law includes a provision for an emergency pesticide application if there is an imminent threat to human health, however a good faith effort must still be made to contact the persons on the 48-hour registry. If an emergency application is necessary, the State Department of Health must be notified.
- Written pesticide application summary reports must be provided to all persons in parental relation and staff three times each school year (within ten days of the end of the school year; within two days of the end of winter recess; and within two days of the end of spring recess). These reports must include the dates and locations of any pesticide applications, the names of the products used, guidance on how to obtain further information, and a reminder that anyone may add their name to the 48-hour registry throughout the school year.

The law also includes a list of pesticide products not covered under the law. They include anti-microbials; certain aerosol products with a directed spray; nonvolatile rodenticides and insecticidal baits in tamper resistant bait stations; silica gels and nonvolatile ready-to-use pastes and foams in areas inaccessible to children; boric acid and disodium octaborate tetrahydrate; biopesticides and exempt materials as designated and defined by the Environmental Protection Agency (EPA); emergency applications to protect against an imminent threat to human health; and an application which occurs when the facility remains unoccupied for a continuous 72-hours following an application.

Pesticide Use (New York State Department of Environmental Conservation)
(<http://www.dec.ny.gov/regulations/8527.html>)

- Pesticide applications at schools can only be performed by Certified Commercial Pesticide Applicators or Technicians. Applications by Apprentices require the on-site direct supervision of a Commercial Certified Pesticide Applicator. Commercial Certified Pesticide Applicators must recognize that Apprentices and Technicians, that are working under their direct supervision, are acting under their instruction and control, and that they are responsible for their actions, applications, and safety training.
- Pesticides must be used, stored, and disposed of according to label directions.
- Schools must register with the Department as a Pesticide Agency if they have employees that apply pesticides. If a school hires a pest management company they must hire a business that is registered by the Department.
- Certified applicators must complete true and accurate records of pesticide use immediately after pesticide applications, and submit annual reports of pesticide use to the Department.

Pesticide Use on School Playgrounds, Turf, Athletic, and Playing Fields
(www.dec.ny.gov/docs/materials_minerals_pdf/guidancech85.pdf)

Chapter 85 of the Laws of 2010 amendments to the New York State Education Law (§409-k), states that no school shall apply pesticides to any playgrounds, turf, athletic or playing fields, except that an emergency application of a pesticide may be made as determined by the county health department or for a county not having a health department such authority as the county legislature shall designate, the commissioner of health or his or her designee, the commissioner of environmental conservation or his or her designee, or, in the case of a public school, the school board.

- "Pesticide" shall have the same meaning as set forth in subdivision 35 of section 33-0101 of the State Environmental Conservation law, provided however **that it shall not include**: the application of anti-microbial pesticides and anti-microbial products as

defined by FIFRA in 7 U.S.C. Section 136 (mm) and 136 q (h)(2); the use of an aerosol product with a directed spray, in containers of eighteen fluid ounces or less, when used to protect individuals from an imminent threat from stinging and biting insects, including venomous spiders, bees, wasps and hornets; the use of non-volatile insect or rodent bait in a tamper resistant container; the application of a pesticide classified by the United States Environmental Protection Agency as an exempt material under 40 CFR Part 152.25; the use of boric acid and disodium octaborate tetrahydrate; or the use of horticultural soap and oils that do not contain synthetic pesticides or synergists.