



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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Policy Q & A

Right-of-Way and Mosquito Control Pesticide Applications on School Property

Introduction

Under the School IPM Act, New Jersey schools must notify parents and staff of pesticide applications on school grounds. This is a fairly straightforward process when the information about a pesticide application is coming from a service provider to the school such as a pest control company or landscaping business. However, since schools must provide notification for any pesticide application to school property, difficulty may arise when a power company or department of transportation treats a right-of-way on school property or a mosquito control agency treats school grounds for larval or adult mosquitoes. In these cases, a pesticide application may legally take place on school property without a school's consent and perhaps even without the school's knowledge. This policy intends to establish an effective notification scheme in these circumstances on a temporary basis, until pesticide rules are amended to clarify the obligations of both schools and pesticide applicators.

1. Question: What is a school?

Answer: For the purposes of the School IPM Act, a school is any educational facility, public, private or charter, devoted to children grades pre-kindergarten through grade 12. "Early learning centers" serving pre-kindergarten children are considered schools. Day-care centers are not considered schools.

2. Question: Do right-of-way and mosquito control agency pesticide applicators have to become certified in the new commercial pesticide applicator license Category 13 for School IPM?

Answer: Since the Category 13 exam was intended for service providers that the school hires, DEP will exempt power line, roadway and other right-of-way pesticide applicators as well as mosquito agency personnel from license Category 13 requirements when using pesticides on

school grounds. This is because Category 13 is designed for pest control service providers to schools who must have a working partnership with the school to make school IPM a success. Right-of-way and mosquito agency applicators are not service providers hired by schools. However, since the law requires the school to give notice to parents and staff of applications of non low-impact pesticides on school property, notification must be provided by the applicator.

3. Question: What are the requirements for schools to notify parents and staff of pesticide applications?

Answer: Since the law requires a school to inform parents and staff of a “non low-impact” pesticide application on school property, the school must comply regardless of whom is making the application. This notice must be given by the school 72 hours in advance of the pesticide application (certain exceptions apply). There is also a requirement for the school to post signs with certain information about the pesticide application. The exception to the 72-hour requirement is if there is a “school pest emergency” defined by law as...”an urgent need to mitigate or eliminate a pest that threatens the health or safety of a student or staff member”, in which case notice may be given within 24 hours after the application or the morning of the next school day, whichever is earlier.

4. Question: Are there any circumstances where notification does not have to be given by the school to parents and staff?

Answer: Yes. One circumstance is when something called a “low impact pesticide” is used. See the full definition with examples given in the School IPM page on the Pesticide Control Program’s website at www.njipm.org . Some examples are pesticide gel, paste, and bait formulations, microbial pesticides such as *bacillus thuringiensis*, disinfectants, and any pesticides listed by the Federal EPA on its “minimum risk” pesticide list.

Another circumstance is when the pesticide application is taking place during summer recess or extended holiday such as spring break, and no students or staff will be using the school in an authorized manner.

5. Question: What information must right-of-way and mosquito control pesticide applicators give to a school so that the school can comply with its own notification obligations, and when must it be given?

Answer: Right-of-way and mosquito control pesticide applicators must give the school notification more than 72 hours in advance of a pesticide application in order that the school can comply with its own 72-hour advance notification obligation under the law. See exceptions explained in the answer to # 7 below. The following is the complete list of what schools must provide to parents and staff at least 72 hours in advance. Right-of-way and mosquito control pesticide applicators must provide the information in # 1, 2, 3, 6, and 8 below, the pesticide label, and MSDS sheets for the pesticide if it is available.

1. The common name, trade name, and Federal Environmental Protection Agency registration number of the pesticide;
2. A description of the location of the application of the pesticide;

3. A description of 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 application date is canceled;
4. 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";
5. A description of potential adverse effects of the pesticide based on the material safety data sheet, if available, for the pesticide;
6. A description of the reasons for the application of the pesticide;
7. The name and telephone number of the IPM coordinator for the school or the school district; and
8. Any additional label instruction and precautions related to public safety.

6. Question: What is the best strategy for right-of-way and mosquito control agency pesticide applicators to comply?

Answer: Give as much information as possible up front, before any applications are made. This will allow the school IPM coordinator to be prepared with information they must provide to parents and school staff when a pesticide application happens. Give all pesticide labels and MSDS sheets for products anticipated to be used, including both "low-impact" and "non low-impact" pesticides. This information can be used when the school does its required annual notice to parents and staff of all pesticides used on school grounds. Then, as applications of non low impact pesticides happen, call the contact at the school with the other information described in # 5 above.

7. Question: Can pesticide applications take place on school property while the children are in school?

Answer: Yes (the following answer is specifically directed at outdoor applications- there is a slightly different answer for indoor applications). Low-impact pesticides can be applied during school hours as long as students will not contact treated areas until the pesticide has dried or settled, or the prescribed re-entry time on the pesticide label (if there is one) has elapsed. For all other pesticides, they can be applied during school hours in areas that students are not expected to be for academic instruction or extracurricular activities prior to the re-entry time on the pesticide label, or if the label has no specific time in hours for re-entry, for a minimum of seven hours. **Important Note:** DEP has a regulatory requirement to take "...reasonable precautions, before, during, and after..." a pesticide application to avoid exposure to people or the environment. Thus, whether or not an applicator is allowed to apply to school grounds caution and common sense should prevail when students are using school property.

8. Question: What are the exceptions for mosquito control personnel for the timing of their notification to a school?

Answer: It is expected that the nature of mosquito control activities including larviciding and adulticiding, will not always allow for notice to schools far enough in advance for the school to comply with its own 72-hour notice to parents and staff.

For Adulticiding and Larviciding: When possible, notification must be given to schools more than 72 hours in advance if a non low-impact pesticide is being used. If this is not possible, the provision in the School IPM Act that allows for pest control in an “emergency” will be applicable. The school must give notice to parents and staff as soon as possible, but no later than 24 hours after the application, or on the morning of the next school day, whichever is earlier. The school must also post signs on school property at the time of application (or as soon as possible after an application, if an emergency). This means that mosquito control personnel must notify the school with the information in Answer #5 in order for the school to post signs at the time of application, and follow up with the notices to parents and staff.

9. Question: What must schools do with notification given to them for right-of-way and mosquito control pesticide applications?

Answer: Information about right-of-way and mosquito control pesticide applications must be included in the annual notice schools must provide under N.J.A.C. 7:30-13.5. Mosquito adulticide, larvicide, and right-of-way pesticide applications using non low-impact pesticides must conform to the 72-hour notification or emergency notification procedures, whichever is legally appropriate. These applications will also trigger the school to post signs at the entrances to the treated area with the information required in N.J.A.C. 7:30-13.6(e).

10. Question: Does a school have to ask for notification, or do right-of-way and mosquito control pesticide applicators have to provide notice without being asked?

Answer: The DEP position is that either may be applicable depending on the scenario. Since not all pesticide applicators may know exactly when they are on school property or when a facility on a given tract of land is considered a school, DEP will promote through its outreach efforts the fact that schools must request from utility companies, departments of transportation, and county mosquito agencies advance notice in order that they can fulfill their notification obligations. On the other hand, if right-of-way or mosquito control pesticide applicators know they are going to make an application on the property of a school that has not yet requested notification, they must provide it so the school can fulfill its legal obligation for notification. The DEP will also promote awareness of the notification obligations through outreach to utility companies, mosquito control agencies, and departments of transportation. Schools will be educated to include the possibility of right-of-way or mosquito control pesticide applications in their annual notices, depending on the characteristics of the school property.