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ENVIRONMENTAL PROTECTION

COMPLIANCE AND ENFORCEMENT

PESTICIDE CONTROL PROGRAM

Pesticide Control Code

Proposed Amendments: N.J.A.C. 7:30-1.2, 5.1, 6.2, 6.3, 9.4, 9.10, 9.12, 9.13, 10.2, 10.4,
11.1, 11.2 and 12.6

Proposed New Rules: N.J.A.C. 7:30-13

Authorized By: Bradley M. Campbell, Commissioner,
Department of Environmental Protection.

Authority: N.J.S.A. 13:1D-1 et seq., 13:1F-1 et seq., particularly 13:1F-4,
and 13:1F-19

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

DEP Docket Number: 04-04-04/373

Proposal Number:

A public hearing concerning this proposal will be held on May 26, 2004 from 10:00 A.M. until close of comments at:

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NJ Department of Environmental Protection

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Submit written comments by July 3, 2004 to:

Beth Smollon Margeson, Esq.

Attn: DEP Docket Number: 04-04-04/373

Office of Legal Affairs

Department of Environmental Protection

P.O. Box 402

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The agency proposal follows:

Summary

As the Department has provided a 60-day comment period on this notice of proposal, this notice is exempted from the rulemaking calendar requirement under N.J.A.C. 1:30-3.3(a)5.

The Pesticide Control Regulations, N.J.A.C. 7:30, govern the manufacture, distribution and use of pesticides in New Jersey. The Department of Environmental Protection (Department) is proposing amendments and new rules in N.J.A.C. 7:30, to incorporate requirements of the School Integrated Pest Management Act, P.L. 2002, c. 117 (IPM Act), N.J.S.A. 13:1F-19, which was signed into law on December 12, 2002. The IPM Act requires the implementation of an Integrated Pest Management (IPM) policy at public, private and charter school properties

throughout the State. IPM is an effective and environmentally sensitive approach to pest management, which involves monitoring of the pest population, increased sanitation, proper solid waste control, structural maintenance and the judicious use of pesticides.

Under the IPM Act, schools must implement an IPM Policy, which requires the development of an IPM Plan. The IPM Plan for each school describes the school's goals and day-to-day procedures regarding the management of pests and the use of pesticides. The Department is proposing new rules at N.J.A.C. 7:30-13, establishing the requirements for IPM at schools. In addition, the Department is proposing amendments to existing provisions of the Pesticide Control Regulations to coordinate with the new school IPM rules. The proposal also includes amendments not related to school IPM but needed to clarify / correct other rules in N.J.A.C. 7:30.

In developing the amendments and new rules, the Department conducted discussions with stakeholders through a series of task force and information-gathering meetings and electronic mail solicitations. The Department met with representatives of the following organizations: Rutgers Cooperative Extension, New Jersey Department of Agriculture, New Jersey Department of Education, Pesticide Control Council, New Jersey Environmental Federation, Sports Field Managers of New Jersey, Alliance for Environmental Concerns, New Jersey Pest Management Association, New Jersey School Board Association, and the Association of School Business Officials.

In accordance with the Pesticide Control Act, N.J.S.A. 13:1F-1 et seq., the Pesticide Control Council was consulted about the proposed amendments and new rules at its February 27, 2004 meeting. The Council's comments were reviewed and acted upon as necessary. The Council recommended that the Department proceed with promulgation of the rules.

A description of the proposed amendments and new rules follows:

Subchapter 1. SCOPE AND DEFINITIONS

N.J.A.C. 7:30-1.1(a) is proposed to be amended to include the use of IPM in schools in the scope of rules of the Pesticide Control Program.

N.J.A.C. 7:30-1.2 is proposed to be amended to include definitions of terms from the IPM Act that are used in proposed new Subchapter 13. These terms are "charter school", "integrated pest management coordinator" or "coordinator", "low impact pesticide", "school integrated pest management policy", "school pest emergency", "school property", "staff member" and "universal notification". The definitions for "pesticide" and "school" are proposed to be amended to provide specific meanings for purposes of proposed new Subchapter 13. The definition of the term "multiple family residence" is proposed to be amended to correct a cross-reference.

Subchapter 5. COMMERCIAL PESTICIDE OPERATORS

N.J.A.C. 7:30-5.1(e) is proposed to be amended to clarify that aerial pesticide applications must be made by a licensed commercial pesticide applicator, not an operator. This amendment will make the section consistent with the definition of "commercial pesticide operator" at N.J.A.C. 7:30-1.2, as well as with the requirements at N.J.A.C. 7:30-6.1 regarding commercial pesticide applicators.

Subchapter 6. COMMERCIAL PESTICIDE APPLICATORS

N.J.A.C. 7:30-6.2(a) is proposed to be amended to clarify a cross-reference.

N.J.A.C. 7:30-6.2(a)9 adds a qualification to the new certification category specific to IPM in schools, stating that applicants for licensing in this new category will be exempted from the 40 hours of on-the-job training.

N.J.A.C. 7:30-6.3(a)12ii(4) is proposed to be amended to clarify that a commercial pesticide applicator license and certification is not required for the aeration cycle portion of the sterilization of medical instruments and supplies. During the aeration cycle, no pesticide is in use; therefore no license or certification is required.

Proposed new N.J.A.C 7:30-6.3(a)13 adds a new certification category specific to IPM in schools. Only those persons who have completed the proper training for this category will be allowed to apply pesticides in schools or on school property.

Subchapter 9. PESTICIDE EXPOSURE MANAGEMENT

N.J.A.C. 7:30-9.4(c)2 is proposed to be amended to require the inclusion of the time an application is completed on the sign that is posted on the shoreline of a treated aquatic site.

N.J.A.C. 7:30-9.10(b)3vii, 9.12(b)1v, 9.12(c)4v, 9.12(d)1v, 9.13(b)2v, 9.13(c)2v, and 9.13(e)7v, are proposed to be amended to update the reference to the National Pesticide Information Center.

N.J.A.C 7:30-9.10(e)2 is proposed to be amended to clarify that all of the items listed in N.J.A.C. 7:30-9.10(b)3 are required in the community or area wide application information packets. The amendment is made to eliminate confusion experienced by the regulated community. The use of the words "in addition to" left some question as to which items were required in the packet, when in actuality, all of the items are required.

Subchapter 10. PESTICIDE USE

N.J.A.C. 7:30-10.2(n) is proposed to be amended to delete portions of the subsection regarding school pesticide use that are covered in proposed new Subchapter 13, and amend the subsection so that it pertains to day care centers. Also, the requirement for a seven-hour reentry (if the pesticide label does not specify a specific reentry time) is included here for day care centers to be consistent with the reentry time required by the IPM Act. Thus, children in day care centers will be afforded equal reentry protections after a pesticide application as is given to children at the grammar and high-school levels.

N.J.A.C. 7:30-10.4(n) is proposed to be amended to delete an incorrect reference to a non-existent provision.

Subchapter 11. PESTICIDE GRACE PERIOD REGULATIONS

N.J.A.C. 7:30-11.1(d) is proposed to be amended to correct a cross-reference. At N.J.A.C. 7:30-11.1(d)2 and (g), amendments are proposed to indicate that the penalty provisions of the Pesticide Control Act are not applicable to all violations, since the IPM Act specifically exempts violations arising under it from the penalty provisions of the Pesticide Control Act.

The table of violations at N.J.A.C. 7:30-11.2(a) is proposed to be amended to assign compliance grace periods and to designate all violations of N.J.A.C. 7:30-13 as minor or non-minor. The violation for N.J.A.C. 7:30-10.2(n) is amended to correspond to the proposed amendments to that subsection, discussed above.

Subchapter 12. AGRICULTURAL WORKER PROTECTION

N.J.A.C. 7:30-12.6(b) is proposed to be amended to make it clear that specific information regarding pesticide applications shall be displayed in the same central location as the pesticide

safety poster.

Subchapter 13. INTEGRATED PEST MANAGEMENT IN SCHOOLS

N.J.A.C. 7:30-13 is proposed to be added to establish the requirements for integrated pest management in schools in accordance with the IPM Act. This subchapter includes requirements for schools to adopt and implement an IPM Policy and Plan, and do a written evaluation of the plan on an annual basis. In addition, the school must designate an IPM coordinator who will be responsible for implementing the Policy and Plan. The school must also educate teachers, staff, students, and parents or guardians about IPM fundamentals, to help ensure the success of the IPM Plan. The schools are responsible for maintaining records of pesticide applications, and providing annual notification to staff and parents which includes the school's IPM Policy, a list of any pesticides used during the previous 12 months, and statements about the IPM coordinator's duties, such as maintaining product label and material safety data sheets, availability of the IPM coordinator, and the time and place of any IPM Policy related meetings. The schools are also responsible for providing notification to parents or guardians and the posting of notification signs at the school in the event that a pesticide, other than a low impact pesticide, must be used on school property. Re-entry requirements for pesticide applications on school property area also included in this subchapter. This subchapter also proposes certain enforcement provisions from the IPM Act, particular to IPM in schools. Specifically, there are provisions for issuing notices of violation and administrative orders. The IPM Act does not provide for the assessment of monetary penalties.

Social Impact

The proposed new rules and amendments will have a significant positive social impact in New Jersey. Numerous scientific studies have documented that there is a health risk associated with pesticide exposure, and children are more susceptible to hazardous impacts from pesticides than adults. A comprehensive approach to controlling pests that minimizes pesticide use will result in less pesticide exposure to children. In addition, as staff, students and parents become educated in the principles of IPM, this will likely increase the use of IPM in home environments and elsewhere resulting in greater protection of public health throughout the State.

The amendment at N.J.A.C. 7:30-10.2 will have a positive social impact by preserving protections currently in place for day care centers and making reentry requirements after pesticide use equal to those given to children at grammar and high school levels. The clarifications and corrections in the other subchapters will benefit the regulated community by providing a better understanding of the rules.

Economic Impact

Positive economic impacts for schools and municipalities are expected to result from successful school IPM programs. IPM focuses on pest prevention, unlike automatic chemical control, which does not consider the source or cause of the pest problem. Pest preventive techniques such as building repairs or emphasis on sanitation that an IPM Plan emphasizes may initially require some extra staff input or modest capital expenses, however, long-term savings should be realized as a result of reduced reliance on chemical pesticides. Other states and professional organizations have realized positive economic impacts from using IPM. For example, according to a Washington State Department of Ecology publication, the Anne Arundel

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School in Maryland reduced its pest control budget from \$46,000 to \$14,000 after its first year of IPM implementation. Additionally, the Director of Planning, at the Monroe County Community School Corporation, of Bloomington, Indiana, stated that since implementing an IPM program in 1995, the school district has saved approximately \$13,600 a year in pest management.

Schools will not incur significant economic impacts as a result of the proposed rules as the additional duties will likely be absorbed easily into existing school functions. Schools will be responsible for developing and implementing IPM policies and plans, designating and training an IPM coordinator, educating the members of the school community on IPM, maintain records about pesticides used at the school, provide notices for parents and staff when certain pesticide applications are made, and annual evaluation of the IPM program. The proposed rules give sufficient flexibility to schools in how to become proficient in IPM practices in order to eliminate unnecessary costs. Training costs can be eliminated by inserting necessary basic IPM training into already existing school certification programs for buildings and grounds personnel, and by making free training guides available for downloading on the Internet.

Pesticide application records that will be required to be maintained by the school are actually generated by the commercial pesticide applicator providing the service; the school is merely required to maintain them and allow inspection of the records upon request. Additional training costs can be reduced by incorporating IPM into already existing school certification programs for buildings and grounds personnel, or downloading free training guides from the Internet. Although schools will be required to notify all staff and parents or guardians when an application of a pesticide other than a "low impact pesticide" is used, wide latitude is allowed for delivering this notice including written notice, telephone contact and electronic mail, which will decrease any financial impact. This notice could also be combined with other notices sent home

routinely or periodically, such as school calendars or other informational bulletins. The Department will provide the format for signs posted at the school building.

Impacts on commercial pesticide applicators are expected to be minimal. The additional license category for IPM in schools would result in a nominal \$30 charge for study materials and the exam, and several hours to take the exam. Commercial pesticide applicators currently must undergo training and take at least two exams in order to obtain licensing in other categories. Additional information on the impact to commercial pesticide applicators can be found in the Regulatory Flexibility Analysis.

The amendments for use of pesticides in day care centers, and other clarifications and corrections, are not expected to have any economic impact. Day care provisions set boundaries or restrictions for pesticide use to avoid exposure. The additional clarifications and corrections merely make the rule easier to understand.

Environmental Impact

The new rules are designed to minimize the use of pesticides, require consideration of "low impact", or least hazardous, pesticides when chemical control is needed, and require notice to all potentially exposed individuals when a pesticide is used. These are all positive developments in the school environment, which do not negate the fact that necessary pesticide use plays a vital role in protecting property, food supplies, and personal health. Reducing the reliance on pesticide use through such IPM techniques as building maintenance and sanitation reduces the acknowledged risks such as allergic and asthmatic effects that come with even proper pesticide use. When chemical pest control is absolutely necessary, the mandate to consider less

hazardous alternatives first is another positive step in reducing potential risk to students, staff and the environment.

The amendment for the use of pesticides in day care centers, and the other clarifications and corrections, clarify the rule and promote compliance, which will result in a positive environmental impact.

Federal Standards Analysis

Executive Order No. 27(1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c.65) require State agencies that adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. There are no Federal standards that specifically apply to School Integrated Pest Management; therefore, no comparison with Federal standards is required.

Jobs Impact

The proposed new rules, the amendments to clarify and correct certain provisions, and the amendment for day care centers, are not expected to have any impact on jobs. It is anticipated that the function of IPM Coordinator at a school could be efficiently integrated into the job description of a present school employee, such as the supervisor of building and grounds. In instances where the IPM Coordinator is not a school employee, it is likely that the function of the IPM Coordinator will be assumed by an existing environmental consultant employed by the school. The rules are not expected to create or reduce the number of commercial pesticide applicators currently serving the marketplace in New Jersey since an applicator merely has to add an additional category to his or her license in order to qualify for pesticide applications on school property.

Agriculture Industry Impact

Pursuant to N.J.S.A. 52:14B-4, the Department has evaluated this rulemaking to determine the nature and extent of the impact of this rule on the agricultural industry. The proposed new rules and amendments are not expected to have any impact on the agricultural industry because they do not regulate, in any way, private pesticide applicators, who apply pesticides to an agricultural commodity.

Regulatory Flexibility Analysis

There are approximately 2,600 pesticide applicator businesses and 8,200 individual commercial pesticide applicators employed by them; many would potentially be affected by the new rules if they provide pest control services to a school. Nearly all pesticide applicator businesses in New Jersey fall under the definition of a "small business" as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed requirement to add a special license category for IPM in schools would have an impact, but it is expected to be minimal. Commercial pesticide applicators currently must undergo training and take at least two exams in order to obtain a license. Commercial pesticide applicators must make a record of pesticide applications under the present rules; under the proposed amendments, a pesticide applicator would merely have to provide a copy to the school to keep on file. This is not burdensome since pesticide applicators often provide a copy of the record of application to customers, as part of their contractual agreement. The Department does not anticipate that commercial pesticide applicators will need to employ professional services in order to comply with the rules. Of the approximately 1,200 private schools in the state, many fall under the

definition of a small business. It is not expected that these private schools will incur significant costs or need to hire additional professional services as a result of the proposed rules. Private schools will be responsible for all of the same IPM related duties as other schools, and like other schools, many already hire commercial pesticide applicators or employ a staff person who also functions as a pesticide applicator. The additional duties will likely be absorbed easily into the job description of a school staff member or assigned to a contractor presently hired for pest control services. All schools are being provided sufficient flexibility within the proposed rule to become proficient in IPM practices in order to eliminate unnecessary costs. The Department is providing model plans, free training guides and outreach information in order to ease the burden of the proposed rule. In developing the proposed rules, the Department has balanced the need to protect the school environment against the economic impact of the proposed rules and has determined that to minimize the impact of the rules proposed would endanger the environment, public health and public safety, and, therefore, no exemption from coverage is provided.

Smart Growth Impact

Executive Order No. 4 (2002) requires state agencies that adopt, amend or repeal any rule adopted pursuant to Section 4(a) of the Administrative Procedures Act, to describe the impact of proposed rules on the achievement of smart growth and implementation of the New Jersey State Development and Redevelopment Plan (State Plan). The Department has evaluated this rulemaking to determine the nature and extent of the proposed rules' impact on smart growth and the implementation of the State Plan. The proposed amendments do not involve land use policies or infrastructure development and therefore do not impact the achievement of smart growth. As to the implementation of the State Plan, reducing the use of pesticides in the school environment

through a successful IPM program is consistent with the pollution prevention philosophy and environmental protection goals of the State Plan.

SUBCHAPTER 1. SCOPE AND DEFINITIONS

7:30-1.1 Scope

(a) Unless otherwise provided by rule or statute, the following shall constitute the rules of the Pesticide Control Element and shall govern the manufacturing, labeling, registration, and classification of pesticides, the registration of pesticide dealers and pesticide dealer businesses, the registration of applicators of pesticides, **the use of Integrated Pest Management (IPM) in schools**, and the distribution, use, application, storage, handling, transportation, and disposal of pesticides in the State of New Jersey.

(b) (No change.)

7:30-1.2 Definitions

The following words and terms, when used in this [sub]chapter, shall have the following meanings, unless the context clearly indicates otherwise.

...

"Charter school" means a school established pursuant to P.L.1995, c.426 (N.J.S.A. 18A:36A-1 et seq.).

...

"Integrated pest management coordinator" or "coordinator" means an individual who is knowledgeable about integrated pest management systems and who has been so designated by a local school board, the board of trustees of a charter school, or the principal or lead administrator of a private school, as appropriate.

...

"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., as amended and supplemented, and that has been exempted from the registration and reporting requirements adopted pursuant to that act. In addition to these Federal-exempt pesticides, the following pesticide types or formulations are also included as low impact: 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.

...

“Multiple family residence” means any residence where the occupant is not the party contracting for the pest control application. This includes, but is not limited to, house rentals, apartments, student housing, dormitories, residential hotels (see also hotel/motel), and the areas of multiple residential unit structures which are not considered "common" areas. This definition does not include the following:

1. (No change.)

2. Common areas of structures with multiple residential units; these are considered commercial buildings which require structural notification pursuant to N.J.A.C.

7:30-9.12[(c)](d); and

3. (No change.)

...

"Pesticide" means and includes any substance or mixture of substances labeled, designed or intended for use in preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances labeled, designed, or intended for use as a defoliant, desiccant, or plant regulator; provided, that the term "pesticide" shall not include any substance or mixture of substances which the US EPA does not consider to be a pesticide. **For the purposes of N.J.A.C. 7:30-13 only, "pesticide" also means and includes 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.**

...

"School" means an establishment for teaching and learning, including, but not limited to, the following:

1. Preschool;
2. Day care centers;
3. Elementary school;
4. Junior high;
5. High school;

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6. Vocational/technical;
7. College; and
8. University.

For the purposes of N.J.A.C. 7:30-13 only, "school" instead means any public or private school as defined in N.J.S.A. 18A:1-1 et seq.

"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 nonchemical methods, and when nonchemical 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.

"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.

"School property" means any area inside and outside of the school buildings controlled, managed, or owned by a school or school district.

...

"Staff member" means an employee of a school or school district, including administrators, teachers, and other persons regularly employed by a school or school

district, but shall not include an employee hired by a school, school district or the State to apply a pesticide or a person assisting in the application of a pesticide.

"Universal notification" means notice provided by a local school board, a board of trustees of a charter school, or the principal or lead administrator of a private school, as appropriate, to all parents or guardians of children attending a school, and staff members of a school or school district.

SUBCHAPTER 5. COMMERCIAL PESTICIDE OPERATORS

7:30-5.1 General requirements

(a)-(d) (No change.)

(e) No commercial pesticide operator shall perform an aerial application of any pesticide.

SUBCHAPTER 6. COMMERCIAL PESTICIDE APPLICATORS

7:30-6.2 Certification and training

(a) In order to become certified, an applicant for a commercial pesticide applicator license who has never before been licensed or who has lost certification pursuant to the requirements of N.J.A.C. 7:30-6.5 or 6.6**(b)**, shall fulfill the following training and certification requirements:

1.-8. (No change.)

9. Certification category 13 is exempt from the training requirements above since any applicant requiring certification in this category will be required to pass any category or subcategory which is related to the specific type of pest control performed.

(b)-(g) (No change.)

7:30-6.3 Categories

(a) Any commercial pesticide applicator who satisfactorily completes the requirements for Core certification and training pursuant to N.J.A.C. 7:30-6.2 may become certified in one or more of the following categories or subcategories:

1.-11. (No change.)

12. Antimicrobial pest control:

i. (No change.)

ii. Category 12B - Sterilization: This subcategory includes commercial pesticide applicators using or supervising the use of restricted use pesticides for sterilization of medical supplies and instruments. All of the following are considered to be a “use” of a restricted use sterilant and require certification:

(1)-(3) (No change.)

(4) Monitoring during all parts of the chamber's automated cycle, **with the exception of the aeration portion of the cycle**; and

(5) (No change.)

13. Category 13 - IPM in Schools: This category includes commercial pesticide applicators making applications on school buildings and grounds pursuant to the provisions of N.J.A.C. 7:30-13.

- i. A person certified in this category shall also satisfactorily complete the requirement for certification in the category or subcategory related to the specific type of pest control the person will perform.**
 - ii. An applicant for certification in this category is not subject to the requirement at N.J.A.C. 7:30-6.2(a)3ii.**
- (b) (No change.)

SUBCHAPTER 9. PESTICIDE EXPOSURE MANAGEMENT

7:30-9.4 Aquatic notification

(a)-(b) (No change.)

(c) Prior to the start of any treatment, signs shall be posted on the shoreline of all treated aquatic sites as specified below. The commercial applicator or applicator business shall be responsible for the posting and removal of the signs, except that the applicator or applicator business may delegate to the contracting party, in writing, the removal of the signs.

1. (No change.)

2. Signs shall contain date of application, **time application is completed,** and all water use restrictions pertaining to the pesticide(s) used on that date. For each water use restriction, the length of time that water use is restricted is also required. If there is a total prohibition of a specific water use, that prohibition shall also be stated;

3.-6. (No change.)

(d)-(f) (No change.)

7:30-9.10 Notification: community or area wide applications

(a) (No change.)

(b) No person shall apply any pesticide on a community or area wide basis unless prior notification of the proposed application has been given to persons residing in the vicinity of the proposed target site.

1.-2. (No change.)

3. The notification required in (b)1 above shall contain at least:

i.-vi. (No change.)

vii. The New Jersey Poison Information and Education System telephone number for emergencies and the National Pesticide [Telecommunications Network] **Information Center** telephone number for routine health inquiries, and to obtain information about signs and symptoms of pesticide exposure;

viii.-xi. (No change.)

4.-8. (No change.)

(c)-(d) (No change.)

(e) In addition to the community and area wide notification requirements above, the following additional notification shall be made by the pesticide applicator for publicly sponsored/funded pesticide applications, including , but not limited to, mosquito adulticiding and gypsy moth control. These are applications made in the public interest which tend to target residential areas and adjacent areas such as parks and recreation sites.

1. (No change.)

2. Such information packets shall contain **all of the items in (b)3 above**, in addition to [the information required in (b)3 above,]the following information:

i.-iii. (No change.)

3.-4. (No change.)

7:30-9.12 Notification: household or structural pest control

(a) (No change.)

(b) At single family residences, no commercial application of pesticides shall be made for the control of household or structural pests without the following provisions being carried out, and sufficient time given to take appropriate precautions, if needed, to minimize potential exposure to individuals, pets and non-target sites; except as delineated in (b)3 below:

1. No application shall be made until the residents of the property are given the opportunity to review the following consumer information notice which shall be provided by the commercial applicator or applicator business in writing to the contracting party/residents and shall contain, at a minimum, the following:

i.-iv. (No change.)

v. The telephone number of the National Pesticide [Telecommunications Network] **Information Center** for general health and pesticide toxicology information and the New Jersey Poison Information and Education System telephone number for emergency situations;

vi.-ix. (No change.)

2.-4. (No change.)

(c) At multiple family residences, no commercial application of pesticides shall be made for the control of household or structural pests without the following provisions being carried out, and sufficient time given to take appropriate precautions, if needed, to minimize potential exposure to individuals, pets and non-target sites; except as delineated in (c)6 below:

1.-3. (No change.)

4. No application shall be made until the contracting party has been given the opportunity to review the following consumer information notice, a copy of which shall be provided by the commercial applicator or applicator business in writing to the contracting party, tenants, or residents and which shall contain, at a minimum, the following:

i.-iv. (No change.)

v. The telephone number of the National Pesticide [Telecommunications Network] **Information Center** for general health and pesticide toxicology information and the New Jersey Poison Information and Education System telephone number for emergency situations;

vi.-ix. (No change.)

5.-6. (No change.)

(d) At institutions, commercial, industrial or public buildings, no commercial application of pesticides shall be made for the control of household or structural pests without the following provisions being carried out, and sufficient time given to take appropriate precautions, if needed, to minimize potential exposure to individuals, pets and non-target sites:

1. No application shall be made until the contracting party and the building manager, or building contact person of the individual location, if different than the contracting

party, has been given the opportunity to review the following consumer information notice, a copy of which shall be provided by the commercial applicator or applicator business in writing:

- i.-iv. (No change.)
- v. The telephone number of the National Pesticide [Telecommunications Network] **Information Center** for general health and pesticide toxicology information and the New Jersey Poison Information and Education System telephone number for emergency situations;
- vi.-ix. (No change.)
- 2.-4. (No change.)
- (e)-(f) (No change.)

7:30-9.13 Notification: turf or ornamental applications

- (a) (No change.)
- (b) At single family residences, no commercial application of pesticides shall be made for the control of turf or ornamental pests on residential properties without the following provisions being carried out and sufficient time given to take appropriate precautions, if needed, to minimize potential exposure to individuals, pets and non-target sites, except as delineated in (b)4 below:
 - 1. (No change.)
 - 2. No application shall be made until the contracting party has been given the opportunity to review the following consumer information notice, a copy of which shall be provided by the commercial applicator or applicator business in writing:

i.-iv. (No change.)

v. The telephone number of the National Pesticide [Telecommunications Network] **Information Center** for general health and pesticide toxicology information and the New Jersey Poison Information and Education System telephone number for emergency situations;

vi.-vii. (No change.)

3.-5. (No change.)

(c) At multi-family residences, industrial and commercial buildings, no commercial application of pesticides shall be made for the control of turf or ornamental pests without the following provisions being carried out and sufficient time given to take appropriate precautions, if needed, to minimize potential exposure to individuals, pets and non-target sites:

1. (No change.)

2. No application shall be made until the contracting party and the building manager or building contact person of the individual location, if different, has been given the opportunity to review the following consumer information notice, a copy of which shall be provided by the applicator or applicator business in writing:

i.-iv. (No change.)

v. The telephone number of the National Pesticide [Telecommunications Network] **Information Center** for general health and pesticide toxicology information and the New Jersey Poison Information and Education System telephone number for emergency situations;

vi.-viii. (No change.)

3.-5. (No change.)

(d) (No change.)

(e) At schools, institutions, parks and similar sites, no commercial application of pesticides shall be made for the control of turf or ornamental pests without the following provisions being carried out:

1.-6. (No change.)

7. No application shall be made until the contracting party and the site manager, that is, the head of the school, institution or park, has been given the opportunity to review the following consumer information notice, which shall be provided by the applicator or applicator business in writing:

i.-iv. (No change.)

v. The telephone number of the National Pesticide [Telecommunications Network] **Information Center** for general health and pesticide toxicology information and the New Jersey Poison Information and Education System telephone number for emergency situations;

vi.-viii. (No change.)

8. (No change.)

(f) (No change.)

SUBCHAPTER 10. PESTICIDE USE

7:30-10.2 Pesticide use and/or application

(a)-(m) (No change.)

(n) No person shall make an application of any pesticide, except for rodenticides, insect baits and antimicrobial agents, in or around a [school with grades preschool through 12] **day care facility**, during normal [school] **operating** hours, as set by the [school] **facility** administration. After normal [school] **operating** hours, or for the exceptions in (n)1 [through 3] **and 2** below, applications can be made in areas where [students] **children** will not contact treated areas [until sufficient time is allowed for the pesticide to dry or settle, or to meet] **until** label re-entry or ventilation requirements have been met, **or if there is no specific re-entry time prescribed on the label, until seven hours have passed**

1. [Athletic] **Recreational** fields which are not used by [school] **the** children during normal [school] **operating** hours may be treated during normal [school] **operating** hours;
- [2. Residential areas for students not used by school children during normal school hours may be treated during normal school hours, provided that the notification requirements of N.J.A.C. 7:30-9.12(b) have been carried out;]
- [3]**2.** Structures that are separate from any structure used by [school] **the** children during normal **operating** hours and which shall not be used by [school] **the** children during normal **operating** hours may be treated during normal [school] **operating** hours.
- [4]**3.** This subsection is not applicable [to the application of pesticides for student instructional purposes and] to public health officials during the normal course of their duties.

(o)-(p) (No change.)

7:30-10.4 Restrictions on use of termiticides

(a)-(m) (No change.)

(n) Retreatments with termiticides, except termiticide baits, are allowed only when there is evidence of reinfestation [pursuant to (p)2 below] subsequent to the initial treatment, or if there is a disruption of the pesticide barrier in the soil due to construction, excavations, or landscaping. In cases of disruption of the soil barrier, only those locations where this occurred may be retreated. In cases of evidence of termite infestations, the entire premises may be treated if:

1.-2. (No change.)

(o)-(q) (No change.)

SUBCHAPTER 11. PESTICIDE GRACE PERIOD REGULATIONS

7:30-11.1 Grace period

(a)-(c) (No change.)

(d) Where the Department, or a local county government agency operating under the County Environmental Health Act (CEHA), N.J.S.A. 26:3A2-21 et seq., discovers a violation which is designated as minor in accordance with the table in N.J.A.C. 7:30-11.2 and in accordance with [(b)] (c) above, it shall issue a notice of violation to the person responsible for the minor violation which:

1. (No change.)

2. Notifies the person responsible for the violation that a penalty may be imposed **under the Pesticide Control Act and this chapter, as applicable**, unless compliance is achieved within the time period provided for the violation as set forth in (a) above.

(e)-(f) (No change.)

(g) Persons who commit major violations will not be accorded a grace period and are subject to the penalty provisions of the Pesticide Control Act **and this chapter, as applicable.**

7:30-11.2 Pesticide Control Code violation table

(a) The violations in the table below have been designated as minor or non-minor in accordance with the criteria in N.J.A.C. 7:30-11.1 (c) 2, 3, and 8. In the table, “M” means minor, and “NM” means non-minor. The violation text in the table below is merely a description of a violation and is not intended for use as a guide for regulatory compliance. For the complete text of a rule, refer to the appropriate section and paragraph in this chapter.

Citation (N.J.A.C. 7:30-	Violation	M	NM
...			
10.2(n)	Applying a pesticide in or around a [school] <u>day</u> <u>care facility</u> during normal [school] <u>operating</u> hours where [students] <u>children</u> would contact treated areas.		NM
...			
<u>13.1(b)</u>	<u>Failure to adopt and implement a school IPM</u> <u>Policy.</u>		<u>NM</u>
<u>13.2(a)</u>	<u>Failure of a school to develop and implement an</u> <u>IPM Plan pursuant to its Policy.</u>		<u>NM</u>

- 13.2(b)** **Failure of a school to use IPM methods in its** **NM**
pest control program.
- 13.2(c)** **Failure to provide information to students and** **M**
parents or guardians on how they can contribute
to the success of IPM.
- 13.2(d)** **Failure of the schools to report annually to** **M**
respective governing boards on the effectiveness
of the IPM Plan and recommend improvements
as needed.
- 13.3(a)** **Failure of a school to designate an IPM** **NM**
Coordinator.
- 13.3(a)1.i-v.** **Failure of an IPM Coordinator to implement the** **NM**
IPM Plan, maintain the required information
about the IPM Policy and Plan, act as a contact
for inquiries, maintain material safety data
sheets and labels, and to ensure that commercial
pesticide applicators on school property are in
compliance with applicable rules.
- 13.3(b)** **Failure of an IPM Coordinator to obtain** **NM**
training sufficient to implement an IPM Policy
and Plan.
- 13.3(c)** **Failure of an IPM Coordinator to submit the**
required information.

- | | | |
|-----------------------|---|------------------|
| <u>13.4(a)</u> | <u>Failure of a school to maintain pesticide application records, or make them available upon request.</u> | <u>NM</u> |
| <u>13.4(b)</u> | <u>Failure of a school to maintain pest surveillance data and other non-pesticide related records.</u> | <u>NM</u> |
| <u>13.5(a)</u> | <u>Failure of a school to provide annual notification of the IPM Policy.</u> | <u>NM</u> |
| <u>13.5(b)</u> | <u>Failure of a school to provide the annual notice to new staff members or parents or guardians of new students.</u> | <u>NM</u> |
| <u>13.6(b)</u> | <u>Failure of a school to provide notification 72 hours before the use of a pesticide other than a low impact pesticide.</u> | <u>NM</u> |
| <u>13.6(d)</u> | <u>Failure of a school to reissue required notification when a pesticide application has been rescheduled.</u> | <u>NM</u> |
| <u>13.6(e)</u> | <u>Failure of a school to meet the requirements of posted notification signs.</u> | <u>NM</u> |
| <u>13.6(f)</u> | <u>Failure of a school to include on the posted sign three dates in chronological order on which the pesticide application may take place.</u> | <u>NM</u> |
| <u>13.7(b)</u> | <u>Failure of a school to provide notice of an emergency application of pesticides.</u> | <u>NM</u> |

<u>13.7(c)</u>	<u>Failure of a school to post notification signs for an emergency application of pesticides.</u>	<u>NM</u>
<u>13.7(e)</u>	<u>Failure of a school to modify its IPM Policy in response to an emergency application of pesticides.</u>	<u>NM</u>
<u>13.8(a)</u>	<u>Failure to comply with re-entry requirements for a pesticide application.</u>	<u>NM</u>
<u>13.8(b)</u>	<u>Application of a pesticide other than a low impact pesticide when students are present.</u>	<u>NM</u>
<u>13.8(c)</u>	<u>Failure to comply with re-entry requirements for low impact pesticides.</u>	<u>NM</u>

SUBCHAPTER 12. AGRICULTURAL WORKER PROTECTION

7:30-12.6 Providing specific information about applications

(a) (No change.)

(b) The information shall be displayed in the location specified for the pesticide safety poster in N.J.A.C. 7:30-12.9[(e) and (f)]**(d)**.

(c)-(e) (No change.)

SUBCHAPTER 13. INTEGRATED PEST MANAGEMENT IN SCHOOLS

7:30-13.1 **Scope and Purpose; Integrated Pest Management Policy**

(a) Integrated Pest Management (IPM) is a way to manage pest control through practical and preventive methods that eliminate or reduce damage caused by pests with a goal of reducing the reliance on pesticide use. This subchapter establishes the requirements for IPM in schools in accordance with the School Integrated Pest Management Act, N.J.S.A. 13:1F-19. A school shall outline its obligations to perform IPM by adopting an IPM Policy as described in (b) below.

(b) The superintendent of a school district for each school in the district, the board of trustees of a charter school, and the principal or lead administrator of a private school shall adopt an IPM Policy that covers the following elements:

- 1. A description of IPM procedures to be followed at the school;**
- 2. The name of an IPM coordinator for the school;**
- 3. Education of the school community about IPM fundamentals;**
- 4. The establishment of record keeping requirements for pesticide and pest information;**
- 5. The establishment of notification and posting requirements;**
- 6. The establishment of re-entry requirements after a pesticide application;**
- 7. The establishment of pesticide applicator oversight requirements;**
- 8. Requirements for the development and implementation of an IPM Plan; and**
- 9. The requirement for an annual evaluation of the IPM Plan.**

7:30-13.2 Integrated Pest Management Plan

(a) As a requirement of its IPM Policy, each school shall develop and implement a site-specific IPM Plan that describes how the school will manage pests through IPM methods and comply with all aspects of the IPM Policy. The Department shall provide a model IPM Plan for schools and make this available as part of training and compliance assistance materials.

- 1. For public schools, the local school board, in collaboration with the school building administrator (principal), is responsible for the development of the IPM Plan for the school.**
- 2. For charter schools and non-public schools, the Board of Trustees or Principal or the Lead Administrator is responsible for the development of the IPM Plan.**
- 3. The IPM Plan shall contain at minimum, the following:**
 - i. The school's goals regarding the management of pests and the use of pesticides;**
 - ii. The school's site-specific needs regarding the management of pests;**
 - iii. A description of how each component of the school's IPM Policy will be implemented at the school.**

(b) When implementing its IPM Plan, each school shall use IPM methods to determine when to control pests, including:

- 1. Considering the full range of pest management options, including no action at all;**
 - 2. Using non-pesticide pest management methods whenever possible; and**
 - 3. Choosing to use a pesticide based on a review of all other available options and a determination that these options are not effective or not reasonable.**
 - i. When it is determined that a pesticide must be used, low impact pesticides and methods are preferred and shall be considered for use first.**
- (c) As part of its IPM Plan, the school and the IPM coordinator shall be responsible for educating the school community, including, but not limited to, teachers, staff, students, and parents or guardians, about potential pest problems and IPM methods used to achieve pest management objectives.**
- 1. School staff involved with implementation of the school IPM Policy and Plan shall be trained by the IPM coordinator in appropriate components of IPM as it pertains to the school environment.**
 - 2. Students, their parents or guardians, and school staff, shall be provided information and instructed by the IPM coordinator on how they can contribute to the success of IPM in their school.**
- (d) Annually, at the close of each school year, each school shall report on the effectiveness of its IPM Plan and make recommendations for improvements as needed.**
- 1. For public schools, the principal shall be responsible for reporting to the local school board.**
 - 2. For non-public schools and charter schools, the lead administrator or principal shall be responsible for reporting to the governing boards.**

7:30-13.3 Integrated pest management coordinator

(a) Each local school board of a school district, each board of trustees of a charter school, and each principal or lead administrator of a private school, as appropriate, shall designate an IPM coordinator to implement the IPM Plan.

1. The IPM coordinator shall be responsible for:

i. Implementing the IPM Policy and Plan;

ii. Maintaining information about the school or school district's school IPM Policy and Plan, and about pesticide applications on the school property of the school or the schools within the school district;

iii. Acting as a contact for inquiries about the school IPM Policy and Plan;

iv. Maintaining material safety data sheets, when available, and labels for all pesticides that are used on the school property of the school or of the schools in the school district.

v. Ensuring that commercial pesticide applicators operating on school property are in compliance with the following:

(1) Licensing requirements at N.J.A.C. 7:30-6 and 7.1;

(2) Applicable notification and posting requirements at N.J.A.C. 7:30-9;

(3) Label precautions from the Federal registered label of each pesticide used on school property; and

(4) All applicable provisions of the school IPM Policy and Plan.

(b) The IPM coordinator for a school or school district shall obtain Department-approved training sufficient to implement an IPM Policy and IPM Plan. This training may

include classroom training, publicly available website presentations, or other means. The training shall include at a minimum, the following:

- 1. A general overview of the principles of IPM;**
 - 2. Information on regulations pertaining to IPM in schools; and**
 - 3. An overview of the IPM Policy, and the IPM Plan specific to the IPM coordinator's school.**
- (c) Each school shall submit the following information to the Department:**
- 1. Name of the IPM coordinator;**
 - 2. Name and physical address (and mailing address if different) of the school(s) or school district for which the IPM coordinator is responsible;**
 - 3. County, district and school code, or other identifying school information;**
 - 4. Telephone number of the IPM coordinator;**
 - 4. Electronic mailing address of the IPM coordinator, if available; and**
 - 5. A statement certifying that the IPM coordinator has received DEP approved training in order to implement the IPM Policy and Plan.**

7:30-13.4 Records

(a) The local school board of a school district, the board of trustees of a charter school, or the principal or lead administrator of a private school, as appropriate, shall request from the commercial pesticide applicator and shall maintain records of pesticide applications used on school property in accordance with the following:

- 1. Records for all pesticide applications at a school shall be maintained at that school;**

- 2. Records shall be maintained for three years after the application, and maintained for five years after the application of a pesticide designed to control termites;**
- 3. Records shall be available upon request to the public for review;**
- 4. Records shall be immediately provided to the Department upon request; and**
- 5. Records shall include, at a minimum, the application records required at N.J.A.C. 7:30-6.8 and 7.3.**

(b) Records shall also include, but are not limited to, pest surveillance data sheets and other non-pesticide pest management methods and practices utilized.

7:30-13.5 Annual Notification

(a) Annually, at the beginning of each school year, each local school board, each board of trustees of a charter school, or each principal or lead administrator of a private school, as appropriate, shall include a notice of the school IPM Policy of the school or school district in school calendars or other forms of universal notification.

- 1. The notice shall include:**
 - i. The IPM Policy of the school or school district;**
 - ii. A list of any pesticide that is in use or that has been used in the last 12 months on school property;**
 - iii. The name, address, and telephone number of the IPM coordinator of the school or school district;**
 - iv. A statement that:**

- (1) The IPM coordinator maintains the product label and material safety data sheet, when available, of each pesticide that may be used on school property;**
 - (2) The label and data sheet is available for review by a parent, guardian, staff member, or student attending the school; and**
 - (3) The IPM coordinator is available to parents, guardians, staff members, and students to provide information for, and receive comments about, IPM activities and pesticide use;**
- v. The time and place of any meetings that will be held to adopt the school integrated pest management policy; and**
- vi. The statement: "As part of a school pest management plan, (insert school name) 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."**
- (b) After the beginning of each school year, each local school board, each board of trustees of a charter school, or each principal or lead administrator of a private school, as appropriate, shall provide the notice required in (a) above to:**

- 1. Each new staff member who is employed during the school year; and**
- 2. The parent or guardian of each new student enrolled during the school year.**

7:30-13.6 Notification: Other than Low Impact Pesticide Use

(a) If a local school board, board of trustees of a charter school or principal or lead administrator of a private school, as appropriate, determines that a pesticide, other than a low impact pesticide, must be used on school property, such pesticide shall be used only in accordance with this section.

- 1. The provisions of this section 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 guardians of the students that are using the school in an authorized manner; and**
- 2. The provisions of this section 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.**

(b) At least 72 hours before a pesticide, other than a low impact pesticide, is used on school property, the local school board, the board of trustees of a charter school, or the principal or lead administrator of a private school, as appropriate, shall provide to a parent or guardian of each student enrolled at the school and each staff member of the school, notice that includes:

- 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.**
- (c) The local school board of a school district, the board of trustees of a charter school, or the principal or lead administrator of a private school, as appropriate, may provide the notice required in (b) above by any of the methods listed at (c)1 through 5, below. This notice may be combined with any other notice provided to students, parents or guardians, and staff:**
- 1. Written notice sent home with the student and provided to each staff member;**
 - 2. A telephone call;**

3. Direct contact;

4. Written notice mailed at least one week before the application; or

5. Electronic mail.

(d) If the date of the application of the pesticide must be extended beyond the period required for notice under this section, the local school board, the board of trustees of a charter school, or the principal or lead administrator of a private school, as appropriate, shall reissue the notice required under this section for the new date of application.

(e) The local school board, the board of trustees of a charter school, or the principal or lead administrator of a private school, as appropriate, shall post signs that provide notice of the application of a pesticide, other than a low impact pesticide.

1. Signs shall be posted at least 72 hours before a pesticide is used on school property:

i. In a prominent place that is in or adjacent to the location to be treated; and

ii. At each entrance to the building or school ground to be treated.

2. The sign for the application of a pesticide shall:

i. Be at least 8 ½ inches by 11 inches; and

ii. State the same information as that required for prior notification of the pesticide application required in (b) above.

3. Signs shall remain posted for at least 72 hours after the end of the treatment.

(f) 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 application date is canceled due to weather. A sign shall be posted after an outdoor pesticide application as required by (e) above.

(g) The Department shall develop and make available to commercial pesticide applicators a form, which a commercial pesticide applicator may request an IPM coordinator to sign prior to the application of a pesticide, other than a low impact pesticide, on school property.

1. The form shall set forth a certification by the IPM coordinator that the notice and posting requirements for the application of a pesticide, or the posting requirement, established pursuant to The School Integrated Pest Management Act and this subchapter, have been complied with.

2. Upon being presented by a commercial pesticide applicator with a form pursuant to this paragraph, the signature of the IPM coordinator shall be required as a condition for the application of the pesticide.

7:30-13.7 Notification: Emergency Application of a Pesticide Other than a Low Impact Pesticide

(a) A pesticide, other than a low impact pesticide, may be applied on school property in response to an emergency, without complying with the requirements of N.J.A.C. 7:30-13.6, provided the requirements of subsection (b) below are met.

(b) Within 24 hours after the application of a pesticide pursuant to this section, or on the morning of the next school day, whichever is earlier, the local school board, the board of trustees of a charter school, or the principal or lead administrator of a private

school, as appropriate, shall provide to each parent or guardian of a student enrolled at the school, and staff member of the school, notice of the application of the pesticide for emergency pest control that includes:

1. The information required for a notice under N.J.A.C. 7:30-13.6;
2. 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
3. If necessary, a description of the steps that will be taken in the future to avoid emergency application of a pesticide pursuant to this section.

(c) When a pesticide is applied pursuant to this section, the local school board, the board of trustees of a charter school, or the principal or lead administrator of a private school, as appropriate, shall post a sign warning of the pesticide application at the time of the application of the pesticide, in accordance with the provisions N.J.A.C. 7:30-13.6(e).

(d) The local school board, the board of trustees of a charter school, or the principal or lead administrator of a private school, as appropriate, may provide the notice required by subsection b. of this section by:

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

(e) If there is an application of a pesticide pursuant to this section, the local school board, the board of trustees of a charter school, or the principal or lead

administrator of a private school, as appropriate, shall modify the IPM Plan of the school or school district if necessary, to minimize the future emergency applications of pesticides under this section.

7:30-13.8 Other than Low Impact Pesticide Applications: Prohibitions

(a) 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 State Environmental Protection Agency on the pesticide label, except that if no specific 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 students are expected to be present for academic instruction or for organized extra-curricular activities within seven hours of the application.

(b) A pesticide, other than a low impact pesticide, shall not be applied in a school building when students are present, unless in accordance with (a) above, and (b)1 and 2 below:

- 1. Students may not be present in an untreated portion of a school building 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; and**

2. Residential areas for students not used by school children during normal school hours may be treated during normal school hours, provided that the notification requirements of N.J.A.C. 7:30-9.12(b) have been carried out.

(c) A low impact pesticide may be applied in areas of a school building where students 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.

(d) This section shall not apply when pesticides are applied on school property for student instructional purposes or by public health officials during the normal course of their duties, such as inspections of food service locations.

(e) A commercial pesticide applicator shall not be liable to any person for damages resulting from the application of a pesticide at a school if the damages are solely due to the failure of the local school board, the board of trustees of a charter school, or the principal or lead administrator of a private school, as appropriate, to provide the notice required prior to the application of a pesticide pursuant to the School Integrated Pest Management Act, and this subchapter at N.J.A.C. 7:30-13.5, 13.6 and 13.7.

7:30-13.9 Enforcement Action

(a) The Department may issue an administrative order against a local school board, the board of trustees of a charter school, or a principal or chief administrator of a private school that fails to comply with the provisions of this subchapter or the provisions of the IPM Act, N.J.S.A. 13:1F-19.

(b) Upon identification of a violation, the Department will notify the violator by certified mail (return receipt requested) or by personal service. The notice shall:

- 1. Identify each section or requirement of this subchapter violated;**
- 2. Concisely state the facts alleged to constitute the violation;**
- 3. Specify action necessary to the cure the violation; and**
- 4. Advise the violator of the right to request an adjudicatory hearing.**

(c) A person requesting an adjudicatory hearing shall provide the following information in writing to the Department at the address in (e) below within 20 days from receipt of the notice:

- 1. The name, address, and telephone number of the person requesting the hearing;**
- 2. A copy of the administrative order;**
- 3. A brief description of any findings of fact or conclusions of law which are challenged or contested;**
- 4. A description of any facts or issues which the person believes constitute a defense to the administrative order;**
- 5. Information supporting the request and specific reference to or copies of other written documents relied upon to support the request;**
- 6. An estimate of the time required for the hearing (in days and/or hours); and**
- 7. A request, if necessary, for a barrier-free hearing location for physically disabled persons.**

(d) If the person fails to include all of the information required by (c)1 through 7 above, the Department may deny the hearing request.

(e) A request for an adjudicatory hearing shall be submitted to the Department at the address listed below, with a copy to the Pesticide Control Program at P.O. Box 411, Trenton, New Jersey 08625-0411:

Office of Legal Affairs

New Jersey Department of Environmental Protection

P.O. Box 402

Trenton, New Jersey 08625-0402

Attention: Adjudicatory Hearing Requests

(f) A notice of administrative order shall become a final order as follows:

1. If no hearing is requested, a notice of administrative order becomes a final order on the 21st day after the violator receives the notice;

2. If the Department denies a hearing request, a notice of administrative order becomes a final order upon the violator's receipt of the denial;

or

3. If the Department grants an adjudicatory hearing, the resolution of the contested case shall constitute a final order. Hearings shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(g) The penalty provisions of the "Pesticide Control Act of 1971", N.J.S.A. 13:1F-10 shall not apply to this subchapter.

This is a courtesy copy of this rule proposal. The official version will be published in the May 3, 2004 New Jersey Register. Should there be any discrepancies between this text and the official version of the proposal, the official version will govern.

Based on consultation with staff, I hereby certify that the above statements, including the Federal Standards Analysis addressing the requirement of Executive Order 27 (1994) and N.J.S.A. 52:14B-23, permit the public to understand accurately and plainly the purposes and expected consequences of the proposed new rules and amendments. I hereby authorize this proposal.

Date: _____

Bradley M. Campbell

Commissioner