

**Pesticide Neighbor Notification for Schools
Guidance Document
Education Law 409-H
Commissioner's Regulation 155.24**

Notification to the school community of potential pesticide applications is a key component of an integrated pest management (IPM) program. The School Pesticide Neighbor Notification Law, Section 409-h of the New York State Education Law and Commissioner's Regulation 155.24, has formalized the pesticide application notification process and provides specific direction on when and how the notification must take place.

The Neighbor Notification Law applies to all public and nonpublic elementary and secondary schools and details specific parties who must be notified, as well as the times and circumstances related to such notification.

This guidance document will provide basic questions and answers, as well as sample letters for complying with the requirements of the Pesticide Neighbor Notification Law.

The Public and Nonpublic Elementary and Secondary School Pesticide Neighbor Notification Complaint Form is also enclosed in this document.

Questions and comments on this document may be addressed to the: New York State Education Department; Office of Facilities Planning; Room 1060 Education Building Annex; Albany, New York; 12234 or lsahr@mail.nysed.gov.

September 2001

Pesticide Neighbor Notification Basics

When did the law become effective?

- The law became effective on July 1, 2001.

Who must comply with the new Pesticide Neighbor Notification Law?

- The law applies to all public and nonpublic schools and BOCES.

What is a pesticide?

- Part 325.1 of New York State Department of Environmental Conservation (DEC) regulation defines pesticides as: any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, weeds, or other forms of plant or animal life or viruses, except viruses on or in living humans or other animals, which DEC shall declare to be a pest.

The DEC definition of pesticides includes products classified as insecticides, rodenticides, fungicides, and herbicides.

What types of school facilities does the law effect?

- The law covers all instructional and administrative buildings and grounds. This includes all playgrounds, athletic fields, and bus garages.

Who is responsible for ensuring compliance with the law?

- At the local level, each school district and nonpublic school must designate an employee of the school to act as the school pesticide representative. This person is the school contact for any pesticide application questions or issues.
- At the State level, the State Education Department is charged with ensuring compliance with the law. The Pesticide Neighbor Notification Law amended Education Law by adding a new section 409-h. Pursuant to this section, Commissioner's Regulation was amended to add section 155.24.

Are there penalties associated with non-compliance?

- Yes. The State Education Department may withhold district state aid monies if it is proven that the school district or nonpublic school has failed to adopt the provisions specified in the law. Schools will be provided thirty days notice of this withholding during which time they may present evidence of extenuating circumstances related to their alleged non-compliance.

Are all pesticide applications covered under this law?

- No. The School Pesticide Neighbor Notification Law excludes the following pesticide applications from notification:
 - anti-microbial pesticides and products
 - aerosol products with a directed spray in containers of 18 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
 - nonvolatile rodenticides in tamper resistant bait stations or in areas inaccessible to children
 - silica gels and other nonvolatile ready-to-use paste, foam, and gel formulations of insecticides in areas inaccessible to children
 - nonvolatile insecticidal baits in tamper resistant bait stations or in areas inaccessible to children
 - boric acid and disodium octaborate tetrahydrate
 - a product designated by the US Environmental Protection Agency (EPA) as a biopesticide (www.epa.gov/pesticides/biopesticides/)
 - a product classified by the EPA as an exempt material under 40 CFR 152.25
 - an emergency application of a pesticide to protect against an imminent threat to human health
 - a pesticide application which occurs when the facility remains unoccupied for a continuous seventy-two hours following the application.

Notification Guidance

The School Pesticide Neighbor Notification Law and Commissioner's Regulation 155.24 cites specific parties who must be notified, as well as the times and circumstances related to the notification during the school year. Likewise, Commissioner's Regulation 155.24 requires a similar notification process during the summer school period. The following describes these processes.

School Year Notification Requirements

Beginning of Each School Year

A written notice must be provided to all students, persons in parental relation, and staff at the beginning of each school year with a statement that pesticide applications may take place during the upcoming school year. This notice must also include the name of the school representative to contact for further information. The basics of the school IPM program should also be explained at this time.

The notice must offer individuals an opportunity to register to receive a written notification at least forty-eight hours prior to pesticide applications, including instructions on how to register with the school to be on the notification list. Individuals may request that their name be added to the registry at any point during the school year.

This notification may be provided in any of the following methods on or before the end of the first week of school:

- a written notice provided directly to students and staff
- a written notice delivered in a receptacle designated for specific students and staff
- a notice mailed to the student's or staff's home address
- a notice in a school newsletter

If a student enrolls or if a person commences employment after the beginning of the school year, the notification must be provided within one week of their enrollment or start of employment.

Forty-Eight Hour Registry Notification Protocol

Not less than forty-eight hours prior to a pesticide application, individuals on the forty-eight hour registry must be provided with written notification containing the following information:

- the specific date and location of the application (outdoor applications may include an alternate date due to potential weather conditions)
- the name of the product, including the EPA pesticide registration number
- the name and phone number of the school representative to contact for information

The forty-eight hour written notification must also include the following statement:

This notice is to inform you of a pending pesticide application to a school facility. You may wish to discuss with the designated school representative what precautions are being taken to protect your child from exposure to these pesticides. Further information about the product(s) being applied, including any warnings that appear on the label of the pesticide(s) that are pertinent to the protection of humans, animals, or the environment, can be obtained by calling the National Pesticide Telecommunications Network Information Line at 1-800-858-7378 or the New York State Department of Health Center for Environmental Health Information Line at 1-800-458-1158.

The written notification may be provided in any of the following methods:

- a notice provided directly to persons on the registry
- a notice delivered in a receptacle designated for persons on the registry
- a notice mailed to the home address of persons on the registry
- a notice sent electronically to persons on the registry
- a notice sent by FAX to persons on the registry

The notification must also be posted in a public location within the relevant facility.

Emergency Pesticide Application Protocol

If an emergency pesticide application is necessary to protect against an imminent threat to human health, a good faith effort must be made to supply the written notification to individuals on the forty-eight hour registry, prior to the actual application.

A notification must also be provided to the State Department of Health with the following information:

- the name of the person making the pesticide application
- the pesticide business registration number or certified applicator number of the person making the application
- the date and location of the application
- the name of the product, including the EPA pesticide registration number
- the reason for the pesticide application

Pesticide Application Summary Reports

All staff and persons in parental relation must be provided with a written summary of pesticide applications three times each school year at the following intervals:

- within ten days of the end of the school year
- within two school days of the end of winter recess
- within two school days of the end of spring recess

The written summary must include the following information for the period covered since the previous written summary report:

- the date and location of pesticide applications
- the names of the products used
- a reminder that schools must offer individuals an opportunity to register to receive a written notification forty-eight hours prior to pesticide applications, including instructions on how to register with the school to be on the notification list

- information on how to obtain further information about the products were applied, including any warnings that appear on the label of the pesticide(s) that are pertinent to the protection of humans, animals, or the environment
- the name and phone number of the school representative to contact for additional information.

Question: If a school does not use any pesticide products in buildings or grounds, other than those cited as exempt under Education Law 409-H, is the school still required to provide follow-up written notifications to all persons in parental relation and staff at the following intervals: within ten days of the end of the school year; and within two days of the end of winter recess, spring recess, and summer school?

Answer: No, however if an emergency application is necessary to protect against an imminent threat to human health, the school must make a good faith effort to notify **all** persons in parental relation and staff in writing prior to the emergency application. If the product used falls under those classified as exempt under Education Law 409-H, the notification is not required. Schools must still provide the initial written notification to all persons in parental relation and staff at the beginning of the school year or summer school session informing them of the name and phone number of the school pesticide representative to contact for further information on the school's pest management policies and procedures.

Summer School Notification Requirements

Beginning of Summer School

A written notice must be provided to students, persons in parental relation, and staff enrolled, employed, or involved in summer school at the beginning of the summer school session with a statement that pesticide applications may take place during summer school, including the name of a school representative to contact for further information.

The notice must offer individuals an opportunity to register to receive a written notification at least forty-eight hours prior to pesticide applications, including instructions on how to register with the school to be on the notification list. Individuals may request that their name be added to the registry at any point during the summer school session.

This notification may be provided in any of the following methods on or before the end of the first week of the summer school session:

- a written notice provided directly to students and staff
- a written notice delivered in a receptacle designated for specific students and staff
- a notice mailed to the student's or staff's home address
- a notice in a school newsletter

If a student enrolls or if a person commences employment after the beginning of the summer school session, the notification must be provided within one week of their enrollment or start of employment.

Summer School Forty-Eight Hour Registry Notification Protocol

Not less than forty-eight hours prior to a pesticide application, individuals on the summer school forty-eight hour registry must be provided with written notification with the following information:

- the specific date and location of the application (outdoor applications may include an alternate date due to potential weather conditions)
- the name of the product, including the EPA pesticide registration number
- the name and phone number of a school representative to contact for information

The forty-eight hour written notification must also include the following statement:

This notice is to inform you of a pending pesticide application to a school facility. You may wish to discuss with the designated school representative what precautions are being taken to protect your child from exposure to these pesticides. Further information about the product(s) being applied, including any warnings that appear on the label of the pesticide(s) that are pertinent to the protection of humans, animals, or the environment, can be obtained by calling the National Pesticide Telecommunications Network Information Line at 1-800-858-7378 or the New York State Department of Health Center for Environmental Health Information Line at 1-800-458-1158.

This written notification may be provided in any of the following methods:

- a notice provided directly to persons on the registry
- a notice delivered in a receptacle designated for persons on the registry
- a notice mailed to the home address of persons on the registry
- a notice sent electronically persons on the registry
- a notice sent by FAX to persons on the registry

The notification must also be posted in a public location within the relevant facility.

Summer School Emergency Pesticide Application Protocol

If an emergency pesticide application is necessary during summer school to protect against an imminent threat to human health, a good faith effort must be made to supply the written notification to individuals on the forty-eight hour registry prior to the actual application.

A notification must also be provided to the State Department of Health with the following information:

- the name of the person making the pesticide application
- the pesticide business registration number or certified applicator number of the person making the application
- the date and location of the application
- the name of the product, including the EPA pesticide registration number
- the reason for the pesticide application

Summer School Pesticide Application Summary Report

All staff and persons in parental relation enrolled, employed, or involved in summer school must be provided with a written summary of pesticide applications within two days of the end of summer school.

The summary must include the following information for the summer school period:

- the date and location of pesticide applications
- the names of the products used
- a reminder that schools must offer individuals an opportunity to register to receive a written notification forty-eight hours prior to pesticide applications, including instructions on how to register with the school to be on the notification list
- information on how to obtain further information about the products were applied, including any warnings that appear on the label of the pesticide(s) that are pertinent to the protection of humans, animals, or the environment
- the name and phone number of a school representative to contact for additional information.

Sample initial notification to persons in parental relation and staff

Dear Parent, Guardian, and School Staff:

New York State Education Law Section 409-H, effective July 1, 2001, requires all public and nonpublic elementary and secondary schools to provide written notification to all persons in parental relation, faculty, and staff regarding the potential use of pesticides periodically throughout the school year. The _____ School District (or nonpublic school) is required to maintain a list of persons in parental relation, faculty, and staff who wish to receive 48-hour prior written notification of certain pesticide applications. The following pesticide applications are not subject to prior notification requirements:

- a school remains unoccupied for a continuous 72-hours following an application;
- anti-microbial products;
- nonvolatile rodenticides in tamper resistant bait stations in areas inaccessible to children;
- nonvolatile insecticidal baits in tamper resistant bait stations in areas inaccessible to children;
- silica gel and other nonvolatile ready-to-use pastes, foams, or gels in areas inaccessible to children;
- boric acid and disodium octaborate tetrahydrate;
- the application of EPA designated biopesticides;
- the application of EPA designated exempt materials under 40CFR152.25;
- the use of aerosol products with a directed spray in containers of 18 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.

In the event of an emergency application necessary to protect against an imminent threat to human health, a good faith effort will be made to supply written notification to those on the 48-hour prior notification list. If you would like to receive 48-hour prior notification of pesticide applications that are scheduled to occur in your school, please complete the form below and return it to the _____ School District (or nonpublic school) pesticide representative at: (insert address, telephone, e-mail address, and FAX).

| | | |
|---|----------------|-----------------|
| _____ School District (or nonpublic school) | | |
| Request for Pesticide Application Notification | | |
| School Building Name | | |
| Name: | | Address: |
| Day Phone: | Evening Phone: | E-Mail Address: |

Please feel free to contact the _____ School District (or nonpublic school) pesticide representative at: (insert address, telephone, e-mail address, and FAX) for further information on these requirements.

Sample 48-hour notification

October 9, 2001

Dear Parent, Guardian, and School Staff:

Pursuant to State Education Law Section 409-H, this notice is to inform you of a pending pesticide application to the _____ school facility. You may wish to discuss with (insert name), the designated school representative, what precautions are being taken to protect your child from exposure to these pesticides.

Further information about the product(s) being applied, including any warnings that may appear on the label of the pesticide(s) that are pertinent to the protection of humans, animals, or the environment, can be obtained by calling the National Pesticide Telecommunications Network Information Phone Number (1-800-858-7378) or the New York State Department of Health Center for Environmental Health Info Line at (1-800-458-1158).

| Required Information | Information Details |
|-----------------------------------|---------------------|
| Application Date | October 12, 2001 |
| Application Location | |
| Product to be Used | |
| EPA Pesticide Registration Number | |

As a reminder, the following pesticide applications are not subject to prior notification requirements:

- a school remains unoccupied for a continuous 72-hours following an application;
- anti-microbial products;
- nonvolatile rodenticides in tamper resistant bait stations in areas inaccessible to children;
- nonvolatile insecticidal baits in tamper resistant bait stations in areas inaccessible to children;
- silica gels and other nonvolatile ready-to-use pastes, foams, or gels in areas inaccessible to children;
- boric acid and disodium octaborate tetrahydrate;
- the application of EPA designated biopesticides;
- the application of EPA designated exempt materials under 40CFR152.25;
- the use of aerosol products with a directed spray in containers of 18 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.

Please feel free to contact the _____ School District (or nonpublic school) pesticide representative at: (insert address, telephone, e-mail address, and FAX) for further information on these requirements, including information on products that are scheduled to be applied in this school.

Sample follow-up notification to persons in parental relation and staff

January 4, 2002

Dear Parent, Guardian, and School Staff:

New York State Education Law Section 409-H, effective July 1, 2001, requires all public and nonpublic elementary and secondary schools to provide written notification to all persons in parental relation, faculty, and staff regarding the potential use of pesticides periodically throughout the school year. The following pesticide applications took place in the _____ School from September 4, 2001 to February 15, 2002:

| Date of Application | Location of Application | Product Used |
|---------------------|-------------------------|--------------|
| 1) | | |
| 2) | | |

As a reminder, the _____ School District (or nonpublic school) is required to maintain a list of persons in parental relation, faculty, and staff who wish to receive 48-hour prior written notification of certain pesticide applications. The following pesticide applications are not subject to prior notification requirements:

- a school remains unoccupied for a continuous 72-hours following an application;
- anti-microbial products;
- nonvolatile rodenticides in tamper resistant bait stations in areas inaccessible to children;
- nonvolatile insecticidal baits in tamper resistant bait stations in areas inaccessible to children;
- silica gels and other nonvolatile ready-to-use pastes, foams, or gels in areas inaccessible to children;
- boric acid and disodium octaborate tetrahydrate;
- the application of EPA designated biopesticides;
- the application of EPA designated exempt materials under 40CFR152.25;
- the use of aerosol products with a directed spray in containers of 18 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.

In the event of an emergency application necessary to protect against an imminent threat to human health, a good faith effort will be made to supply written notification to those on the 48-hour prior notification list. If you have not yet registered to receive 48-hour prior notification of pesticide applications that are scheduled to occur in your school, please complete the form below and return it to the _____ School District (or nonpublic school) pesticide representative at: (insert address, telephone, e-mail address, and FAX).

| | | |
|---|----------------|-----------------|
| _____ School District (or nonpublic school) Request for Pesticide Application Notification | | |
| School Building Name | | |
| Name: | Address: | |
| Day Phone: | Evening Phone: | E-Mail Address: |

Please feel free to contact the _____ School District (or nonpublic school) pesticide representative at: (insert address, telephone, e-mail address, and FAX) for further information on these requirements, including information on the products that have been applied in this school.

**Public and Nonpublic
Elementary and Secondary School
Pesticide Neighbor Notification
Complaint Form
(please print)**

INSTRUCTIONS: This form is to be used to file complaints relating to public or nonpublic elementary or secondary schools pursuant to alleged noncompliance with section 409-h of the State Education Law (Pesticide Neighbor Notification Law) and Commissioner's Regulation 155.24. Information provided on this form will be used to investigate the school's compliance with these sections. Please provide detailed facts relative to your complaint. **Please attach additional information as necessary.**

School District or Nonpublic School Name:

Building Name & Address:

Your Name & Telephone Number:

Your Address:

Please provide a detailed description of the complaint:

Return completed form to:

**Laura Sahr
New York State Education Department
Office of Facilities Planning
Room 1060 EBA
Albany, New York 12234
FAX: 518-486-5918**