

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

Form #3

Do Not Mark In This Box

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2009 JUL 21 PM 3:02

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE  
AND  
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: West Virginia Department of Agriculture TITLE NUMBER: 61

CITE AUTHORITY: 19-16A-4

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 12J

TITLE OF RULE BEING AMENDED: Integrated Pest Management Programs in Schools and Day Care  
Centers/Facilities

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Authorized Signature

**QUESTIONNAIRE**

*(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)*

DATE: July 16, 2009

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Department of Agriculture  
1900 Kanawha Blvd., East  
Charleston WV 25305-0190

LEGISLATIVE RULE TITLE: Integrated Pest Management Programs in Schools and Day  
Care Centers/Facilities

1. Authorizing statute(s) citation 19-16A-4

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:  
06/11/2009

b. What other notice, including advertising, did you give of the hearing?  
Mailed notice of proposed changes to constituency groups (public school IPM coordinators, day care centers, private schools and pesticide application businesses) along with instructions on how to access the proposed rule online.

c. Date of Public Hearing(s) *or* Public Comment Period ended:  
07/15/2009

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached     x     No comments received

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

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f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

<u>Herma Johnson, Director</u>	<u>Grant Bishop, Assistant Director</u>
Regulatory & Environmental Affairs Division	Pesticide Regulatory Programs
West Virginia Dept. of Agriculture	West Virginia Dept. of Agriculture
1900 Kanawha Blvd., East	1900 Kanawha Blvd., East
Charleston WV 25305-0190	Charleston WV 25305-0190
304-558-2227	304-558-2209
304-558-3594 fax	304-558-2228
hjohnson@ag.state.wv.us	gbishop@ag.state.wv.us

g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

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3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

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b. Date of hearing or comment period:

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c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

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d. Attach findings and determinations and reasons:

Attached 

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State of West Virginia  
**Department of Agriculture**  
Gus R. Douglass, Commissioner

Janet L. Fisher  
Deputy Commissioner

Steve Hannah  
Deputy Commissioner

## Summary

### West Virginia Rules for Integrated Pest Management Programs in Schools, Day Care Centers/Facilities

§61-12J

#### Amendments to Existing Rule

Amendments are proposed to Title 61, Series 12J, Integrated Pest Management Programs in Schools and Day Care Centers/Facilities. The first amendment changes language to reflect that fact that the responsibility for the Integrated Pest Management program and the corresponding documentation can be transferred to a pesticide application business with which a school or day care has a service contract.

**§3.2** Language is added so that either a school, child care center/facility or the contracted pesticide application business can be responsible for the fact that pesticides shall not be applied unless monitoring indicates that pests are present.

**§4.3** Language is added so that either a school or the contracted pesticide application business can be responsible for the sanitation and maintenance survey. Language is changed from "should" to "shall" to require mandatory completion of the survey and mandatory six-month updates.

**§4.6** Language is added so that either a school or the pest control company can be required to maintain the Integrated Pest Management (IPM) file.

**§4.7** Language is added so that if a school contracts with a pesticide application business, then that business is responsible for the documents required to be in the IPM file.

**§4.8** Language is added so that a school or the contracted pesticide application business can be responsible for providing copies of pesticide labels or material safety data sheets to parents and employees. The requirement for

consumer information sheet has been removed because such sheets are not commonly available.

**§5.5** Language is added so that either a day care center/facility or the pest control company can be responsible maintaining the IPM file.

**§5.6** Language is added so that either a day care center/facility or the pest control company can be responsible for the documents required to be in the IPM file.

**§8.1** A second amendment requires the contracted pesticide application business to notify a school or child care administrator 48 hours in advance of a Level 3 or 4 pesticide application. This should give the school or day care center or facility ample time to provide 24 hour notification to parents and employees.

A third change has been proposed to the terminology for day care centers and facilities that will bring the language in line with the West Virginia Department of Health and Human Resources by changing "day care" to "child care." These changes are located throughout the rule.



State of West Virginia  
**Department of Agriculture**  
Gus R. Douglass, Commissioner

Janet L. Fisher  
Deputy Commissioner

Steve Hannah  
Deputy Commissioner

**Statement of Circumstances**

West Virginia Rules for Integrated Pest Management  
Programs in Schools and Day Care Centers/Facilities  
§61-12J

Amendments to Existing Rule

Several changes are being proposed to Title 61, Series 12J, Integrated Pest Management Programs in Schools and Day Care Centers/Facilities. Each will enable the West Virginia Department of Agriculture to conduct its school and day care integrated pest management compliance assistance and enforcement activities in a more efficient manner, while improving the health and safety of students and staff of West Virginia schools and child care establishments.

The first amendment is designed to change the language so that a school, day care or their contracted pesticide application business can be responsible for the documents that are contained in the Integrated Pest Management file. This amendment is necessary because existing language appears to place the responsibility solely on a school or day care. The agency desires the language to reflect the fact that the responsibility can be transferred to a pesticide application business with which the school or day care has a service contract.

A second amendment would require a contracted pesticide application business to notify a school or child care administrator 48 hours in advance of a Level 3 or 4 pesticide application. A longer notification period is necessary so that the school or day care administration has ample time to provide 24 hour notification to parents and employees.

A third amendment proposes that the terminology for day care centers and day care facilities be changed to correspond with that used by the West Virginia Department of Health and Human Resources. Thus, "day care center" will be referred to as "child care center" and "family day care facility" will be referred to as "child care facility."

APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Integrated Pest Management Programs in Schools and Day Care Centers/Facilities

Type of Rule:  Legislative  Interpretive  Procedural

Agency: West Virginia Department of Agriculture

Address: 1900 Kanawha Blvd., East  
Charleston WV 25305-0190

304-558-2209 Grant Bishop gbishop@ag.state.wv.us

Phone Number: 304-558-2227 Herma Johnson Email: hjohnson@ag.state.wv.us

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

None

**Fiscal Note Detail**

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

<b>FISCAL YEAR</b>			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: \_\_\_\_\_

Rule Title: Integrated Pest Management Programs in Schools and Day Care Centers/Facilitie

3. **Explanation of above estimates (including long-range effect):**  
Please include any increase or decrease in fees in your estimated total revenues.

### MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

The proposed changes will clarify the responsibilities of various entities for Integrated Pest Management Programs in Schools and Day Care Centers/Facilites and the corresponding documentation, require additional time for notification to parents and employees of pesticide applications, and edit terminology to correspond with another state agency's wording.

Date: 7-21-09

Signature of Agency Head or Authorized Representative

*Steve Hamer*

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TITLE 61  
LEGISLATIVE RULES  
WEST VIRGINIA DEPARTMENT OF AGRICULTURE

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

SERIES 12J  
INTEGRATED PEST MANAGEMENT PROGRAMS IN SCHOOLS  
AND CHILD DAY-CARE CENTERS/FACILITIES

**61-12J-1 General**

1.1. Scope - This legislative rule establishes procedures to provide for integrated pest management programs in schools, child day care centers and family child day care facilities.

1.2. Authority - WV Code §19-16A-4

1.3. Filing Date - April 4, 2006

1.4. Effective Date - July 1, 2006

**61-12J-2 Definitions**

2.1.3. "Broadcast" means the application of pesticides over an area such as a lawn, field, room, crawl space, or other such surface. The term does not include crack and crevice or spot applications made to selected plants, insects, soil, or surfaces.

2.2.4. "Child Day care" means a child day care center or a family child day care facility.

2.3.5. "Child Day care center" means a completed structure used for the care of thirteen or more children on a non-residential basis.

2.1. "~~Consumer information sheet~~" means a fact sheet that is designed for distribution to consumers and contains information on the toxicity of the end use concentration of a pesticide product. In the case of ready to use products, "~~consumer information sheets~~" may be the same as "~~material safety data sheets.~~"

2.4.2. "Crack and crevice treatment" means the application of small amounts of insecticides into openings commonly found at expansion joints, between different elements of construction, and between equipment and floors or walls.

2.5.6. "Family child day care facility" means a completed structure used to provide non-residential child care for seven to twelve children.

2.6.7. "Least hazardous materials" means the use of pest control practices and methods, including the use of chemicals in a manner to cause the least practical exposure to the occupants

of a structure. The “least hazardous materials” takes into account the ~~pest control~~ method of application, toxicity of the product and the exposure to the occupants to the practice or methods employed to control pests, such as the use of a non-volatile material formulation and/or application method as opposed to a broadcast application that creates potential for exposure.

2.7.8. “Material safety data sheet” means a fact sheet that is designed for distribution to chemical manufacturing plant workers and refers to the toxicity of the concentrate of a pesticide product. In the case of ready-to-use products, “material safety data sheets” may be the same as “consumer information sheets.”

2.8.9. “Pesticide” means, for the purposes of this rule, the use of insecticides and herbicides that are applied ~~sprayed~~ into or around a building and the adjacent grounds used by a school, child ~~day~~ care center or family child ~~day~~ care facility.

2.9.12. “Re-entry period” means the time that must elapse from the completion of a pesticide application until students or school and child ~~day~~ care employees may enter the building to conduct scheduled activities.

2.10. “School” means a completed structure used for public or private education, grades kindergarten through twelfth grade.

2.11. “School grounds” means the area outside of the school buildings controlled, managed, or owned by the school or school district, including lawns, playgrounds, sports fields, and any other property or facility controlled, managed, or owned by a school.

2.12.13. “Space treatment” means the application of a pesticide that is intended to discharge the pesticide into the air throughout an entire room or area.

2.13.14. “Spot treatment” means the application of a pesticide to a limited area where pests are likely to occur, such as floors, walls, bases or the underside of equipment, turf or ground. A “spot” shall not be more than 2 square feet and shall not be more than 20 percent of a surface area.

### **61-12J-3 Integrated Pest Management**

3.1. Integrated Pest Management is a system of controlling pests in which pests are identified, action thresholds are considered, all possible control options are evaluated and selected controls are implemented. Control options, which include biological, chemical, cultural, manual, and mechanical methods, are used to prevent or remedy unacceptable pest activity or damage. Choice of control options is based on effectiveness, environmental impact, site characteristics, worker/public health and safety, and economics. The goal of an integrated pest management system is to manage pests and the environment to balance benefits of control, costs,

public health and environmental quality. Integrated pest management takes into account site-specific factors and takes advantage of all pest management options.

3.2. Schools, child day care centers and family child day care facilities or contracted pesticide application businesses covered by this rule shall not apply pesticides unless monitoring as specified in Section 6 of this rule indicates pests are present.

#### **61-12J-4 Integrated Pest Management Programs for Schools**

4.1. All schools covered by this rule shall develop and maintain an integrated pest management program. The best management practices contained in "Integrated Pest Management in Schools and Other Public Institutions, Best Management Practices," published by the West Virginia Department of Agriculture may be used in the development of the program.

4.2. At a minimum, the integrated pest management program for a school shall contain:

- 4.2.1. a policy statement;
- 4.2.2. pest management objectives;
- 4.2.3. education of the building occupants in integrated pest management practices;
- 4.2.4. inspection activities;
- 4.2.5. monitoring activities;
- 4.2.6. an evaluation of the integrated pest management strategies in practice; and
- 4.2.7. action thresholds for common pests.

4.3. At the inception of the integrated pest management program, the school or the contracted pesticide application business should make a survey of the facility and record the structural maintenance, cultural or sanitation practices that need correcting in order to insure the success of an integrated pest management program. This record ~~shall~~ should be updated ~~periodically~~ prior to the beginning of each school year with a follow-up inspection within six months, with the items to be corrected noted on the record.

4.4. Pest management objectives and pest threshold levels will vary for each school facility and the occupants of the facility. In order to provide a cross representation of input to the integrated pest management program from the school's occupants and the school community, the Local School Improvement Council as created by West Virginia Code §18-5A-2 may comment on the school's integrated pest management plan.

4.5. Schools covered by this rule shall file completed integrated pest management plans with the Commissioner for compliance ~~review inspection~~. When any changes are made to the program, they shall submit the revised integrated pest management plan to the Commissioner prior to the initiation of the new plan.

4.6. Schools or contracted pest control operators shall maintain an Integrated Pest Management file in the main office in each school facility. The Integrated Pest Management file shall contain at a minimum the following items or documents:

4.6.1. the adopted integrated pest management plan;

4.6.2. sanitation and maintenance surveys;

4.6.3. monitoring diagrams of the facility;

4.6.4. pest surveillance data sheets;

4.6.5. notification of Level 3 or Level 4 treatment as specified in § 61-12J-8.1.

4.6.6.5. treatment records of the facility, including a floorplan indicating treatment locations;

4.6.7.6. labels of pesticide products used at the facility; and

4.6.8.7. ~~copies of consumer information sheets when available and material safety data sheets.~~

4.7. If a school contracts with a pesticide application business for any pesticide applications or monitoring, the business then assumes responsibility for the documents required to be in the IPM file.

4.8.7. Upon request, schools or contracted pesticide application businesses covered by this rule shall provide copies of pesticide labels and ~~consumer information sheets when available or material safety data sheets in the absence of consumer information sheets~~ to employees of the school facility or to parents or legal guardians of the school's students.

4.9.8. Areas of schools, such as but not limited to greenhouses, nursery plots or agricultural field plantings, utilized for vocational agricultural plots or research are exempt from the requirements of this rule.

**61-12J-5 Integrated Pest Management Programs for Child Day Care Centers and Family Child Day Care Facilities**

5.1. All child day care centers and family child day care facilities covered by this rule shall develop and maintain an integrated pest management program. The best management practices contained in “Integrated Pest Management in Schools and Other Public Institutions, Best Management Practices,” published by the West Virginia Department of Agriculture may be used in the development of the program.

5.2. At a minimum, the integrated pest management program for a child day care center or family child day care facility shall contain:

- 5.2.1. a policy statement;
- 5.2.2. pest management objectives;
- 5.2.3. education of the building occupants in integrated pest management practices;
- 5.2.4. inspection activities;
- 5.2.5. monitoring activities;
- 5.2.6. an evaluation of the integrated pest management strategies in practice; and
- 5.2.7. action thresholds for common pests.

5.3. At the inception of the integrated pest management program, the child day care should make a survey of the facility and record the structural maintenance, cultural or sanitation practices that need correcting in order to insure the success of an integrated pest management program. This record should be updated periodically with the items to be corrected noted on the record.

5.4. All child day care centers or family child day care facilities covered by this rule shall file completed integrated pest management plans with the Commissioner for compliance inspection. When any changes are made to the program, they shall submit the revised integrated pest management plan to the Commissioner prior to the initiation of the new plan.

5.5. Child Day care center or family child day-care facility operators or contracted pesticide application businesses shall maintain an Integrated Pest Management file in a central location at each center or facility in operation. The Integrated Pest Management file shall contain at a minimum the following items or documents:

- 5.5.1. the approved integrated pest management plan;

5.5.2. sanitation and maintenance surveys;

5.5.3. monitoring diagrams for the child day care center or family child day care facility;

5.5.4. pest surveillance data sheets;

5.5.5. notification of Level 3 or Level 4 treatment as specified in § 61-12J-8.1.

5.5.6.5. treatment records for the child day care center or family child day care facility, including diagrams of treatment locations;

5.5.7.6. labels of pesticide products used at the child day care center or family child day care facility; and

5.5.8.7. copies of ~~consumer information sheets when available~~ and material safety data sheets for the products used at the child day care center or family child day care facility.

5.6. If a child care center or facility contracts with a pesticide application business for any pesticide applications or monitoring, the business then assumes responsibility for the documents required to be in the IPM file.

5.7.6. Child Day care centers and family child day care facilities covered by this rule shall provide copies of pesticide labels and consumer information sheets when available or material safety data sheets in the absence of consumer information sheets to a child's parents or legal guardians upon request.

## **61-12J-6 Monitoring for Pest Infestations**

### **6.1. Monitoring Program**

6.1.1. Each school, child day care center or family child day care facility shall have a monitoring program. The monitoring program shall include inspecting areas of the facility for pest evidence, entry points, food, water and harborage sites, and estimating pest population levels. Each school, child day care center or family child day care facility shall evaluate the information gained through monitoring to determine whether the action threshold has been exceeded and what can be done in the way of prevention.

6.1.2. Each school, child day care center or family child day care facility shall conduct a monitoring program in suspect areas of their facility on an ongoing basis. Sticky traps designed for cockroaches and other crawling insects shall be placed along wall/floor junctions, on vertical surfaces, behind appliances, in closets, cabinets and shelves, and in other areas where insects have been seen.

6.1.3. Components of the monitoring program shall include:

6.1.3.a. A floorplan of the school, child day care center or family child day care facility showing the number and accurate location of each trap;

6.1.3.b. Periodic inspection of each trap at no greater than monthly intervals year round with the following information recorded on a Pest Surveillance Data Sheet:

6.1.3.b.A. The trap number and its location;

6.1.3.b.B. The date checked;

6.1.3.b.C. The trap's condition (either OK or ~~needs to be~~ replaced);

6.1.3.b.D. The numbers and kinds of insects, arthropods, rodents or other pests trapped;

6.1.3.b.E. Pest damage or other evidence of pests such as feces, cast skins, or rub marks;

6.1.3.b.F. Any need for pest management; and

6.1.3.b.G. The name of the person performing the monitoring activity;

6.1.3.c. Removal and disposal of the trap after catch numbers are recorded and identification is confirmed, to prevent counting specimens more than one time and to prevent their use as food by other insects or rodents; and

6.1.3.d. Replacement of the traps when the adhesive is no longer tacky.

6.2. When monitoring indicates the level of pest infestation meets or exceeds the threshold levels established for the school, child day care center or family child day care facility and pest type, the progressive levels of pest control techniques and chemical applications as outlined in Section 7 of this rule shall be followed in controlling the pest population. If monitoring indicates that pest populations do not meet or exceed threshold levels, no pesticides shall be applied.

**61-12J-7 Use of the Least Hazardous Materials - Re-entry Intervals**

7.1. In an integrated pest management program, persons responsible for pest management shall ~~should~~ evaluate all possible control options. Control options range from non-

chemical methods to least hazardous pesticides to pesticides with a higher degree of risk to human health. In keeping with the legislative mandate for integrated pest management, the licensed pesticide applicator ~~pest control contractor~~ shall, after monitoring for pest infestations, proceed in controlling pests using the least hazardous method that is both practical and effective as outlined in this section.

#### 7.1.1. Level 1 - Non-chemical Control Methods

7.1.1.a. Pest-preventive measures should be incorporated into existing structures. These preventive measures reduce the need for pesticide applications, and include sanitation, such structural repairs as sealing cracks, and such physical and mechanical controls as screens, traps, and air doors. A school, child day care center or family child day care facility shall consult the West Virginia Department of Agriculture's best management practices document "Integrated Pest Management in Schools and Other Public Institutions, Best Management Practices" for integrated pest management strategies for specific sites. Every facility will experience slightly different combinations of pests.

#### 7.1.2. Level 2 - Least Hazardous Materials

7.1.2.a. If non-chemical pest management methods alone are ineffective or impractical, it may be necessary for a school, child day care center or family child day care facility to incorporate a pesticide into the integrated pest management program. Although all pesticides are inherently toxic, there are a number of pesticide materials that are determined to be of low impact to occupants because of their organic or biological nature, low toxicity, relative non-volatility, and/or low or non-existent exposure to the occupants due to the manner in which they are applied as baits, gels or dusts into cracks and crevices or wall voids.

7.1.2.b. The least hazardous pesticides are those with a Caution signal word (EPA toxicity categories III and IV) including dusts – pyrethrin and pyrethroid, boric acid, disodium octaborate tetrahydrate, silica gel, and diatomaceous earth; insecticidal soaps; insect growth regulators; biological control agents — fungi, bacteria, nematodes; or materials formulated as baits in tamper-resistant containers or for crack and crevice or void placement only.

7.1.2.c. There is no re-entry interval for these products due to their level of safety.

#### 7.1.3. Level 3 - Crack and Crevice and Spot Treatments

7.1.3.a. Schools, child day care centers or family child day care facilities shall apply products with an EPA Caution signal word but not listed under Level 2 as crack and crevice or spot treatments.

7.1.3.b. Products applied by these methods provide for reduced, minimal use of liquid materials that may present some, but limited volatility of the pesticide applied. Exposure to occupants is minimal.

7.1.3.c. The re-entry interval for which students and employees shall remain out of the treated area of the facility after the conclusion of treatment is four hours or the time period specified on the pesticide label as registered by the United States Environmental Protection Agency, whichever is greater.

#### 7.1.4. Level 4 - Broadcast Applications and Space Treatments

7.1.4.a. Products with a Caution signal word applied by broadcast application or as a space treatment or products with a Warning or Danger signal word applied by any application method.

7.1.4.b. Products applied by these methods create the greatest opportunities for exposure at the time of application due to drift or volatility. However products applied as fogging agents are usually of low mammalian toxicity and pose little exposure after label re-entry times specified by the United States Environmental Protection Agency.

7.1.4.c. The re-entry interval for which students and employees are to remain out of the treated area of the facility after the conclusion of treatment is eight hours or the period specified on the label of the pesticide product as registered by the United States Environmental Protection Agency, whichever is greater, except when the air in the treated area can be purged by the heating, cooling and ventilation system, the period of reentry shall be 4 hours or the period specified on the label of the pesticide product as registered by the United States Environmental Protection Agency, whichever is greater.

### 61-12J-8 Prior Notification

8.1. If a licensed pesticide application business is contracted to make a Level 3 or Level 4 pesticide application, the contractor must provide notification to the school or child care administrator 48 hours in advance of the application.

8.2.1. Employees of Schools, Child Day Care Centers or Family Child Day Care Facilities

8.2.1.1. All schools, child day care centers or family child day care facilities shall notify their employees through routine announcement or individual notice at least 24 hours in advance of all applications of pesticides in levels 3 and 4 as detailed in Section 7 of this rule, including applications made after school hours, on a weekend or during a holiday break.

8.3.2. Parents or Legal Guardians of Students of Schools

8.3.2.1. At the beginning of each school year, or at the time a student is enrolled into the school, school administrators shall notify the parents or legal guardians of the right to be informed of the application of level 3 or 4 pesticides as detailed in Section 7 of this rule.

8.3.2.2. The notification to the parents or legal guardians shall contain a registration form, whereby the parent or legal guardian can request to be notified by the school administrator of the application of level 3 or 4 pesticides.

8.3.2.3. The administrator of the school shall provide notification to the parent or legal guardian requesting notification at least 24 hours in advance of all applications of level 3 or 4 pesticides, including applications made after school hours, over a weekend or during a holiday break.

### 8.3. Parents or Legal Guardians of Children in Child Day Care Centers or Family Child Day Care Facilities

8.3.1. At the time a child day care center or family child day care facility operator signs a contract or other agreement for the care of a child, the operator shall notify the parent or legal guardian of the right to be informed of the application of a level 3 or 4 pesticide as detailed in Section 7 of this rule.

8.3.2. The child day care center or family child day care facility operator shall post and make available to the parent or legal guardian, notification of all applications of level 3 or 4 pesticides at least 24 hours in advance of any pesticide application, including applications made after hours, over a weekend or during a holiday break. The notification shall be placed at the register where the parent or legal guardian signs the child into and out of the child day care center or family child day care facility.

### 61-12J-9 Application of Pesticides to Schools, and Child Day Care Centers and Family Child Day Care Facilities

9.1. Level 3 and Level 4 pesticide applications shall not be made in the presence of students, children in child day care centers or children in family child day care facilities or employees of schools, child day care centers or family child day care facilities, except for school, child day care center or family child day care facility employees who are certified pesticide applicators. Pesticides may be applied to a localized area of infestation when students, children or school, child day care center or family child day care facility employees are present if the infestation causes an imminent threat of bodily harm.

9.2. All pest control methods or practices shall be conducted in conformance to the Use of the Least Hazardous Materials as outlined in Section 7 of this rule.

9.3. All pesticide applications made to schools, child day care centers or family child day care facilities shall be applied in accordance with the integrated pest management plan filed with the Commissioner.

9.4. All pesticide applications shall only be made by certified commercial pesticide applicators or certified public applicators or registered technicians under the supervision of a certified pesticide applicator as outlined in West Virginia Department of Agriculture Certified Pesticide Applicator Rules, 61 CSR 12A.

9.5. The commissioner shall require all certified pesticide applicators applying pesticides or supervising the application of pesticides, or persons providing services as a consultant to complete a specialized training program in urban integrated pest management.

9.5.1. Any specialized urban integrated pest management programs not offered by the commissioner must be approved by the commissioner.

9.5.2. Pesticide applicators certified in the General Pest Control sub-category as detailed in 61 CSR 12A Certified Pesticide Applicator Rules who complete the specialized training program in urban integrated pest management prior to September 1, 1996 shall be determined to be certified in Urban Integrated Pest Management.

9.5.3. After September 1, 1996, the commissioner shall require all certified pesticide applicators applying pesticides or supervising the application of pesticides in a school, child day care center or family child day care facility, or persons providing services as a consultant to schools, child day care centers and family child day care facilities to be examined and certified in the sub categories of General Pest Control and Urban Integrated Pest Management as outlined in 61 CSR 12A Certified Pesticide Applicator Rules.

#### **61-12J-10 Record Keeping**

10.1. Schools, child day care centers and family child day care facilities covered by this rule shall keep for a period of two years all documents required to be in the Integrated Pest Management Files as detailed in Subsection 4.6 and Subsection 5.5, respectively, of this rule.

10.2. The records required for the Integrated Pest Management of schools, and child day care centers and family child day care facilities shall be made available upon request to the commissioner to verify the maintenance of the integrated pest management program.

10.3. Pesticide application records as required in Subdivision 4.5.5. and Subdivision 5.5.5 of this rule shall contain all of the information required in Subsection 7.2. West Virginia Department of Agriculture Rule, Licensing of Pesticide Businesses, 61 CSR 12B.

## **61-12J-11 Implementation**

11.1. The commissioner shall make available to all schools, child day cares centers and family child day care facilities a copy of the integrated pest management materials titled “Integrated Pest Management in School and other Public Institutions, Best Management Practices” and “Integrated Pest Management in Schools and Other Public Institutions, A Guide for Commercial Applicators”.

11.2. All pesticide applications made to schools, child day care centers and family child day care facilities shall be made in accordance with this rule and the integrated pest management programs on file with the commissioner after September 1, 1996.

**Orkin Pest Control**

# Fax

<b>To:</b> Grant Bishop	<b>From:</b> Jay Copen
<b>Fax:</b> 304-558-2228	<b>Pages:</b> 5
<b>Phone:</b>	<b>Date:</b> 7/14/2009
<b>Re:</b> IPM proposed changes (comments)	<b>CC:</b>

**Urgent**   
 **For Review**   
 **Please Comment**   
 **Please Reply**   
 **Please Recycle**

I have made notes on the pages of the proposed changes to the IPM Program.

I am specifically concerned about the Operator being responsible for the IPM files in these locations. Considering we are there for only a limited amount of time each month, how could we be held responsible for all the documents in the file? Yes, I understand we should be responsible of the service records (we have control of these by having copies at our offices), but beyond that, there has to be at least a shared responsibility. We have enough problems keeping up with the files now; taking responsibility away from the facility would make our job even more difficult.

public health and environmental quality. Integrated pest management takes into account site-specific factors and takes advantage of all pest management options.

3.2. Schools, child day care centers and family child day care facilities or contracted pesticide application businesses covered by this rule shall not apply pesticides unless monitoring as specified in Section 6 of this rule indicates pests are present.

**61-12J-4 Integrated Pest Management Programs for Schools**

4.1. All schools covered by this rule shall develop and maintain an integrated pest management program. The best management practices contained in "Integrated Pest Management in Schools and Other Public Institutions, Best Management Practices," published by the West Virginia Department of Agriculture may be used in the development of the program.

4.2. At a minimum, the integrated pest management program for a school shall contain:

- 4.2.1. a policy statement;
- 4.2.2. pest management objectives;
- 4.2.3. education of the building occupants in integrated pest management practices;
- 4.2.4. inspection activities;
- 4.2.5. monitoring activities;
- 4.2.6. an evaluation of the integrated pest management strategies in practice; and
- 4.2.7. action thresholds for common pests.

4.3. At the inception of the integrated pest management program, the school or the contracted pesticide application business should make a survey of the facility and record the structural maintenance, cultural or sanitation practices that need correcting in order to insure the success of an integrated pest management program. This record shall ~~should~~ be updated ~~periodically~~ prior to the beginning of each school year with a follow-up inspection within six months, with the items to be corrected noted on the record.

2 x per year  
Survey Required!  
\$ \$

4.4. Pest management objectives and pest threshold levels will vary for each school facility and the occupants of the facility. In order to provide a cross representation of input to the integrated pest management program from the school's occupants and the school community, the Local School Improvement Council as created by West Virginia Code §18-5A-2 may comment on the school's integrated pest management plan.

PCO has no control of IPM file --- should be responsible for only service records --- NOT the TOTAL file

4.5. Schools covered by this rule shall file completed integrated pest management plans with the Commissioner for compliance review inspection. When any changes are made to the program, they shall submit the revised integrated pest management plan to the Commissioner prior to the initiation of the new plan.

4.6. Schools or contracted pest control operators shall maintain an Integrated Pest Management file in the main office in each school facility. The Integrated Pest Management file shall contain at a minimum the following items or documents:

- 4.6.1. the adopted integrated pest management plan;
- 4.6.2. sanitation and maintenance surveys;
- 4.6.3. monitoring diagrams of the facility;
- 4.6.4. pest surveillance data sheets;
- 4.6.5. notification of Level 3 or Level 4 treatment as specified in § 61-12J-8.1.
- 4.6.6.5. treatment records of the facility, including a floorplan indicating treatment locations;
- 4.6.7.6. labels of pesticide products used at the facility; and
- 4.6.8.7. ~~copies of consumer information sheets when available and material safety data sheets.~~

4.7. If a school contracts with a pesticide application business for any pesticide applications or monitoring, the business then assumes responsibility for the documents required to be in the IPM file.

4.8.7. Upon request, schools or contracted pesticide application businesses covered by this rule shall provide copies of pesticide labels and ~~consumer information sheets when available~~ or material safety data sheets ~~in the absence of consumer information sheets~~ to employees of the school facility or to parents or legal guardians of the school's students.

4.9.8. Areas of schools, such as but not limited to greenhouses, nursery plots or agricultural field plantings, utilized for vocational agricultural plots or research are exempt from the requirements of this rule.

**61-12J-5 Integrated Pest Management Programs for Child Day Care Centers and Family Child Day Care Facilities**

PCO HAS NO CONTROL OF THE IPM FILE. PCO CAN NOT BE HELD RESPONSIBLE

if enacted, the IPM file will then become the property of the PCO... AND could be removed when the account CANCELS

7/14/09

5.1. All child day care centers and family child day care facilities covered by this rule shall develop and maintain an integrated pest management program. The best management practices contained in "Integrated Pest Management in Schools and Other Public Institutions, Best Management Practices," published by the West Virginia Department of Agriculture may be used in the development of the program.

5.2. At a minimum, the integrated pest management program for a child day care center or family child day care facility shall contain:

- 5.2.1. a policy statement;
- 5.2.2. pest management objectives;
- 5.2.3. education of the building occupants in integrated pest management practices;
- 5.2.4. inspection activities;
- 5.2.5. monitoring activities;
- 5.2.6. an evaluation of the integrated pest management strategies in practice; and
- 5.2.7. action thresholds for common pests.

5.3. At the inception of the integrated pest management program, the child day care should make a survey of the facility and record the structural maintenance, cultural or sanitation practices that need correcting in order to insure the success of an integrated pest management program. This record should be updated periodically with the items to be corrected noted on the record.

5.4. All child day care centers or family child day care facilities covered by this rule shall file completed integrated pest management plans with the Commissioner for compliance inspection. When any changes are made to the program, they shall submit the revised integrated pest management plan to the Commissioner prior to the initiation of the new plan.

5.5. Child Day care center or family child day care facility operators or contracted pesticide application businesses shall maintain an Integrated Pest Management file in a central location at each center or facility in operation. The Integrated Pest Management file shall contain at a minimum the following items or documents:

- 5.5.1. the approved integrated pest management plan;
- 5.5.2. sanitation and maintenance surveys;

Same  
Comment  
AS on  
pages 3 & 4

5.5.3. monitoring diagrams for the child day care center or family child day care facility;

5.5.4. pest surveillance data sheets;

5.5.5. notification of Level 3 or Level 4 treatment as specified in § 61-12J-8.1.

5.5.6. treatment records for the child day care center or family child day care facility, including diagrams of treatment locations;

5.5.7. labels of pesticide products used at the child day care center or family child day care facility; and

5.5.8. ~~copies of consumer information sheets when available and material safety data sheets for the products used at the child day care center or family child day care facility.~~

5.6. If a child care center or facility contracts with a pesticide application business for any pesticide applications or monitoring, the business then assumes responsibility for the documents required to be in the IPM file.

} Same  
Comments  
AS on  
pages 3 & 4.

5.7. ~~Child Day care centers and family child day care facilities covered by this rule shall provide copies of pesticide labels and consumer information sheets when available or material safety data sheets in the absence of consumer information sheets to a child's parents or legal guardians upon request.~~

**61-12J-6 Monitoring for Pest Infestations**

**6.1. Monitoring Program**

6.1.1. Each school, child day care center or family child day care facility shall have a monitoring program. The monitoring program shall include inspecting areas of the facility for pest evidence, entry points, food, water and harborage sites, and estimating pest population levels. Each school, child day care center or family child day care facility shall evaluate the information gained through monitoring to determine whether the action threshold has been exceeded and what can be done in the way of prevention.

6.1.2. Each school, child day care center or family child day care facility shall conduct a monitoring program in suspect areas of their facility on an ongoing basis. Sticky traps designed for cockroaches and other crawling insects shall be placed along wall/floor junctions, on vertical surfaces, behind appliances, in closets, cabinets and shelves, and in other areas where insects have been seen.

6.1.3. Components of the monitoring program shall include:

**Orkin Pest Control**

**Fax**

<b>To:</b> Grant Bishop	<b>From:</b> Jay Copen
<b>Fax:</b> 304-558-2228	<b>Pages:</b> 5
<b>Phone:</b>	<b>Date:</b> 7/14/2009
<b>Re:</b> IPM proposed changes (comments)	<b>CC:</b>
<input type="checkbox"/> Urgent <input type="checkbox"/> For Review <input type="checkbox"/> Please Comment <input type="checkbox"/> Please Reply <input type="checkbox"/> Please Recycle	

I have made notes on the pages of the proposed changes to the IPM Program.

I am specifically concerned about the Operator being responsible for the IPM files in these locations. Considering we are there for only a limited amount of time each month, how could we be held responsible for all the documents in the file? Yes, I understand we should be responsible of the service records (we have control of these by having copies at our offices), but beyond that, there has to be at least a shared responsibility. We have enough problems keeping up with the files now; taking responsibility away from the facility would make our job even more difficult.

P.S. ATTN: PEGGY K. POWELL  
 WE AGREE WITH JAY COPEN ABOVE STATEMENTS AND  
 WOULD ALSO LIKE TO GO ON RECORD OF OUR OBJECTION  
 AS WELL.  
 PEST CONTROL PLUS, LLC / DAXTOR OWSLEY 304-881-9547  
 FAX 304-755-3032  
 PRECISION LAWN & PEST CONTROL, TIMOTHY RUSSELL 304-677-4160  
 TRI-STATE EXTERMINATING, SUB SPIROFF 304-954-3030



State of West Virginia

**DEPARTMENT OF AGRICULTURE**  
Gus R. Douglass, Commissioner

Janet L. Fisher  
Deputy Commissioner

Steve Hannah  
Deputy Commissioner

July 21, 2009

Mr. Jay Copen  
Orkin  
3019 Hill Point Dr.  
Charleston, WV 25302

In reply to: Your July 14, 2009 IPM proposed changes fax

Dear Mr. Copen:

Thank you for your comments on the notice of proposed rule changes to §61-12J Integrated Pest Management Programs in Schools and Day Care Centers (IPM rule). All comments and replies are forward to the Legislative Rule Making Review Committee.

In section 4.3 of your fax you made the comment that conducting a survey of the facility two times per year would cost the contracted pesticide application business or the school money. Currently the rule states that the sanitation and maintenance survey should be conducted at the inception of the IPM program and be updated periodically prior to the beginning of each school year with a follow-up inspection within six months. As you know, the key to an effective Integrated Pest Management program includes good structural maintenance, cultural and sanitation practices. The draft IPM rule states in section 4.3 that the school or the contracted pesticide application business should make a survey of the facility at the inception of the integrated pest management program. It then goes on to say the school or the contracted pesticide application business shall update the survey prior to the beginning of the school year with a follow-up inspection within six months. By changing should to shall, we have not increased the number of surveys that need conducted. In fact, according to many IPM plans on file in our office, schools often require a minimum of 2 sanitation and maintenance surveys per year. These plans are considered enforceable. In addition a 2008 report of compliance visits indicated that from 2005 to 2008 an average of 67% of school IPM files contained completed sanitation and maintenance surveys.

In section 4.6 you state that the PCO has no control of the IPM file and should be responsible for only service records not the total file. As you stated on page 1 of your fax the IPM file is indeed a shared responsibility between the school and the pest control company. The school is responsible for the location of the file within the school and the pest control company is responsible for the documents contained in the file. All documents required to be in the IPM file are considered service records because the pest control company contracts with the school or

child care center for these services. Since the inception of this rule we have enforced the regulation in this manner.

In section 4.7 you state that the PCO has no control over the IPM file and can not be held responsible. Once again, the location of the file within the school or child care center is not the responsibility of the pest control company. The documents contained in the IPM file are the responsibility of the pest control company unless for example the school conducts their own monitoring.

In section 4.7 you say if enacted the IPM file will then become the property of the PCO and could be removed when the account cancels. This is not true. According to section 10.1 the IPM file shall be kept in the school or child care center/facility for a period of two years.

Once again, thank you for your comments.

Sincerely,



Grant Bishop  
Assistant Director  
Regulatory and Environmental Affairs Division  
Pesticide Regulatory Programs

cc: Steve Hannah, Deputy Commissioner  
Herma Johnson, Director Regulatory and Environmental Affairs Division  
Dexter Owsley, Pest Control Plus  
Timothy Russell, Prescription Lawn and Pest  
Sue Spiroff, Tri-State Exterminating Company

***Pro-Tech Pest Services LLC***  
***PO Box 726***  
***Lumberport, WV 26386***  
***(304) 584-4045***  
***Cell phone 641-7420***  
***Fax (304) 584-4028***

July 14, 2009

To Whom It May Concern,

As per our conversation this morning I am writing to address changes to the IPM program.

I would like to see the wording in the program to reflect a label, MSDS sheet and floor plan should be attached to a service ticket at the time of the treatment. Further, that if there is an infestation such as roaches a new label, MSDS and floor plan does not have to be used with each treatment as long as the graph is updated and the new service ticket is attached.

I don't see the need to do label, MSDS, floor plan and service ticket each time if the product used to address the infestation is the same as is the case in a roach infestation.

I feel this would encourage tech. to actually do treatment.

I do not feel there should be labels or MSDS in the file if no treatments are being made. This is an area of confusion. If treatments are made then the label and MSDS should be there along with a Level 3 or Level 4 notice if applicable and the floor plan with service ticket. The placement of information in the file when there is no treatment is wasteful and confusing to the school staff. I have seen this information in files that are so old the chemical is not even used now.

I prefer to set up a new file each year for each location. On the front is the pest-sighting log. On the right side of the file I have the floor plan of the school marked with monitor location, the IPM policy and threshold levels, the sanitation and maintenance report and my surveillance data sheet. On the left side I have my service tickets and if there is treatment attached to that the label, MSDS, floor plan marked and dated and the level 3 or 4 notice, if applicable. If this is an on going infestation then each time I treat I update the floor plan with the date and information and attach the new service ticket. I update the file and provide the notification letters when needed and the principal handles the notice to parents and staff.

Page 2

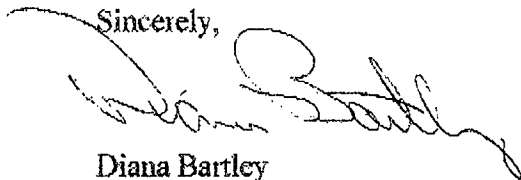
My other concern is exterior infestations of ants. I realize that we are to use the least hazardous method and material first but I have come upon ant infestations in exterior wall covering such as insulation board observing trails two fingers wide into the structure. I would like to use a liquid application to get a knockdown before school begins. Bait will take a long time and while effective it takes time.

I would like to see the certified applicator have more discretion to decide the best method of treatment. I know if I used a liquid product such as Transport, I would see results well before the children started school again. The locations I am speaking of have a history of ant problems to the point that swarms have been seen in the structure.

I hope I have articulated my concerns well enough to peak your interest. I have just taken over a new large IPM account as of the first of July and I have several locations that need problems addressed such as bees, ants and roaches. I want to be efficient and effective and I would like to see a more uniform simplified method in record keeping. Each new account I acquire has different paperwork, files that are set up but not maintained, some that have part of the information and other parts not there. I would like to see a more uniform method to help the tech. get a good job done for the children.

I will look forward to your response.

Sincerely,



Diana Bartley  
C02944



State of West Virginia

**DEPARTMENT OF AGRICULTURE**  
Gus R. Douglass, Commissioner

Janet L. Fisher  
Deputy Commissioner

Steve Hannah  
Deputy Commissioner

July 21, 2009

Ms. Diana Bartley  
Pro-Tech Pest Services LLC  
P.O. Box 726  
Lumberport, WV 26386

In reply to: Your July 14, 2009 Letter

Dear Ms. Bartley:

Thank you for your comments on the notice of proposed rule changes to §61-12J Integrated Pest Management Programs in Schools and Day Care Centers (IPM rule). All comments and replies are forward to the Legislative Rule Making Review Committee.

In response to the second paragraph first sentence, the IPM rule does not require a label, MSDS sheet and floor plan be attached to the service ticket at the time of the treatment. These documents are required to be in the IPM file that is kept at the school. Second Paragraph second sentence, you are correct, following an application the floorplan indicating treatment locations must be updated but a new label and MSDS sheet is not required unless the product label has been revised.

In response to the paragraph three, four and five, following the application of a pesticide a new service ticket must be placed in the IPM file and the floor plan indicating treatment location must be filled out. If the IPM file does not contain a label and MSDS of the product that was used you must place a copy of each in the file. Some pest control companies will place copies of pesticide labels and MSDS sheets of products they commonly use in the file prior to use. According to section 10.1 of the IPM rule, information that is required to be in the IPM file shall be kept in the school or child care center/facility for a period of two years.

Paragraph six is a description of your IPM services.

In response to paragraph seven, liquid applications are considered level 3 or level 4 treatments depending on the application method or product used and cannot be applied until the lesse toxic methods have been used.

In response to paragraph eight, the certified applicator does have discretion to decode the best method of treatment as long as they use the least hazardous method that is both practical and effective as outlined in section 7 of the IPM rules.

In response to paragraph nine, the same records are required for each school and must remain in the file for a period of two years. Any files from accounts that you have acquired should be maintained to include records from the previous two years.

Once again, thank you for your comments.

Sincerely,

A handwritten signature in cursive script that reads "Grant Bishop".

Grant Bishop  
Assistant Director  
Regulatory and Environmental Affairs Division  
Pesticide Regulatory Programs

cc: Steve Hannah, Deputy Commissioner  
Herma Johnson, Director Regulatory and Environmental Affairs Division

**Bishop, Grant**

---

**From:** Nick Raschella [nraschella@aceexterminators.com]  
**Sent:** Wednesday, July 15, 2009 11:02 AM  
**To:** Bishop, Grant; Johnson, Herma  
**Subject:** Proposed Rule Change 61-12J For IPM In Schools & Daycares

Some of the proposed changes the Pest Control Operators Association of WV would like to comment on:

- On page 3, item 4.3. It first states that either the school or the PCO should make the survey of the facility, etc. Later in the paragraph, it states 'this record **shall** be updated' (**shall** is a bit more specific than should) prior to the beginning of the school year and 6 months later. That's a twice a year 'survey' (documented) by someone....either the school or the PCO. Doesn't that increase the cost to the school system or child care facility?
- On page 4 (and basically repeated on pages 5 & 6 where it is specific to Child Care facilities), item 4.6 of the changes state the school or PCO contracted **shall** maintain an IPM file in the main office of each facility. (How could we be responsible for maintaining a file in a specific location when we have control for only a short period of time perhaps one maybe two times per month?) We believe only the service records (which we have copies of elsewhere) should be our responsibility....anything else could easily 'come up missing' anytime and we do not want to face a fine over something that we cannot control.
- Same page, item 4.7. States once again that if a PCO has a contract with the facility, 'the business then assumes responsibility for the documents required to be in the IPM file. Once again we do not want to face a fine over something that we cannot control.
- Said again, if we have no control of the documents, how can the businesses be held responsible if something comes up missing? Also, if this were to become part of the regulations, could we not maintain that these documents belonging to the company (since that is who is responsible) and that, should that facility cancel, can the company take those documents with them? Unlike now, when the Department maintains the documents belonging to the facility.

Thank you for the opportunity to add comments to the proposed changes and if you have any questions please feel free to contact me at anytime!

***Nicholas Raschella***

President  
 Ace Exterminators, INC  
 706 Crim Ave.  
 P.O. Box 877  
 Belington, WV 26250-0877  
 Phone: 304-823-3258  
 Fax: 304-823-3261  
 Mobile: 304-704-5070  
[www.AceExterminators.com](http://www.AceExterminators.com)

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7/16/2009



State of West Virginia

**DEPARTMENT OF AGRICULTURE**

Gus R. Douglass, Commissioner

Janet L. Fisher  
Deputy Commissioner

Steve Hannah  
Deputy Commissioner

July 21, 2009

Mr. Nicholas Raschella  
Pest Control Operators Association of WV  
P.O. Box 877  
Belington, WV 26250

In reply to: Your July 15, 2009 Email on Proposed Rule Change 61-12J for IPM in Schools and Day Cares

Dear Mr. Raschella,

Thank you for your comments on the notice of proposed rule changes to §61-12J Integrated Pest Management Programs in Schools and Day Care Centers (IPM rule). All comments and replies are forward to the Legislative Rule Making Review Committee.

In response to the first bulleted paragraph, the draft IPM rule states in section 4.3 that the school or the contracted pesticide application business should make a survey of the facility at the inception of the integrated pest management program. It then goes on to say the school or the contracted pesticide application business shall update the survey prior to the beginning of the school year with a follow-up inspection within six months. As you know, the key to an effective Integrated Pest Management program includes good structural maintenance, cultural and sanitation practices. I strongly feel that an IPM program cannot be accomplished without inspecting these key components and the language should be left as proposed. We cannot assume changing the language from should to shall increases the cost to the school or the child care facility. In fact, many IPM plans on file in our office indicate sanitation and maintenance surveys are being done twice a year. In addition a 2008 report of compliance visits indicated that from 2005 to 2008 an average of 67% of files contained completed sanitation and maintenance surveys.

In response to the second bulleted paragraph, the IPM file is a shared responsibility between the school and the pest control company. Good communication is the key. The school is responsible for the location of the file within the school and the pest control company is responsible for the documents contained in the file. All documents required to be in the IPM file are considered service records because the pest control company contracts with the school or child care center for these services. Since the inception of this rule we have enforced the regulation in this manner.

In response to bulleted paragraph three, the contracted pesticide application business would not be responsible for the location of the file but would be responsible for the documents contained in the file.

In response to the last bulleted paragraph, if something comes up missing from an IPM file in a school or child care facility the inspector would investigate to determine the location of the missing documents. If the investigation reveals the missing record(s) were not provided by the pesticide application business an enforcement action could be taken. If the school took the record(s) out of the file the pesticide application business would not be responsible. IPM documents in the IPM file do not belong to the pest control company. They are part of the IPM file and cannot be removed from the school or child care facility for two years. According to section 10.1 of the IPM rule the IPM file shall be kept in the school or child care center/facility for a period of two years.

Once again, thank you for your comments.

Sincerely,



Grant Bishop  
Assistant Director  
Regulatory and Environmental Affairs Division  
Pesticide Regulatory Programs

cc: Steve Hannah, Deputy Commissioner  
Herma Johnson, Director Regulatory and Environmental Affairs Division