



MEMORANDUM

Date: July 26, 2000

To: Minnesota Public and Private K-12 Schools

From: Jan K. Malcolm, Commissioner
Minnesota Department of Health

Dr. Christine Jax, Commissioner
Minnesota Department of Children, Families, and Learning

Subject: Model Notices for Pesticide Applications in Schools

The Minnesota Legislature passed a new law called the Parents Right To Know Act of 2000 (M.S. 123B.575). This law requires public and non-public K-12 schools that plan to apply pesticides specified in the law, to provide a notice to parents and employees that they apply pesticides. This law also requires the Minnesota Department of Health (MDH) to develop and make available a model notice for schools to use, if they choose to do so.

The purpose of this memo is to provide the MDH model notice to schools, and to summarize the key requirements of the law. We encourage schools to read the law themselves (enclosed) to obtain a direct interpretation of the legal requirements. We also encourage schools to share this memo with head custodians and/or other appropriate staff.

Requirements

Schools are required to provide notification if they apply the pesticides specified in the law. These pesticides are: (1) toxicity category I, II, III pesticides, which are classified by the US Environmental Protection Agency, and (2) restricted use pesticides defined by federal law. (For clarification of what is meant by these types of pesticides, refer to the definitions below. To identify the toxicity category of a specific pesticide product, refer to the Department of Children, Families, & Learning website <http://cfl.state.mn.us/> after August 1, 2000).

General Notification

The general notice is required to be provided to parents and employees by September 15 each school year. This notice must:

- State that an estimated schedule of pesticide applications is available for review or copying at the school office.
- State that long-term health effects on children from the application of pesticides or the class of chemicals to which they belong may not be fully understood.
- Inform parents that they may request the school to notify them in the manner specified (see below) before pesticide applications made on days other than those specified in the estimated schedule.

In addition to the notice described above, a school that is required to provide a notice shall include in an official school handbook or policy guide of a general nature a section informing parents that an estimated schedule of applications is available for review or copying at the school offices, and that a parent may receive, upon request, prior notice for pesticide applications made on days other than those specified in the estimated schedule.

Individual Notification (for applications made on days other than those specified in the estimated schedule)

The school principal or other person having general control and supervision of the school must provide reasonable notice to a parent, upon request. This notice must include the following:

- the pesticide to be applied,
- the time of the planned application, and
- the location at the school of the planned application.

Schools also are required to keep a copy of notifications for at least six years in a manner available to the public. A school may request reimbursement for the school's reasonable costs of providing this notice, including any costs of mailing, from individuals requesting notification.

Exemptions

The following are exempt from notification under the law:

- Any school that does not apply pesticides or that applies only toxicity category IV pesticides;
- Home schools;
- Emergency pesticide applications required by local or state health officials;
- Disinfectants, sanitizers, deodorizers, or microbial agents used for general cleaning purposes.

Model Notices

The model notices (attached) were developed, in consultation with representatives from the Department of Children, Families, and Learning, Office of Environmental Assistance, University of Minnesota Extension Service, Minnesota Department of Agriculture, Minnesota Pollution Control Agency, and the MDH (Model Notice Workgroup). These

notices also were developed after reviewing public comments on previous drafts of the model notices, and conducting a public meeting (June 30, 2000).

The attached notices are: (1) a general notice for parents or guardians (Model Notice #1), (2) an individual notice for parents or guardians (Model Notice #2), and (3) a general notice for employees (Model Notice #3). Schools may use the model notices, if they choose to do so, or may develop their own notice in accordance with the law. Information in brackets and capital letters in the model notices indicate areas in the notice where schools may want to add more specific information (i.e., school contact name, phone number), OR indicate comments from the Workgroup.

Interpretation

The Workgroup recognizes that there are different interpretations of this law. The Workgroup solicited comments and feedback from several individuals who worked on the law, as well as the public at large. The following are a few important points for clarification:

General Notice

- The law states that schools are required to provide an estimated schedule of the pesticide applications for review or copying at the school office. Although not required by the law, the Workgroup encourages schools to also distribute the estimated schedule for pesticide applications to parents and school employees.
- The law states, “the notice must be provided no later than September 15 of each school year...” (Subdivision 3). The Workgroup recognizes that it may be difficult for schools to estimate a schedule of pesticide applications for the entire school year. Schools may wish to consider revising the estimated schedule, as appropriate.

Individual Notice

- The law states, “A parent of a student at a school may request that the school principal or other person having general control and supervision of the school notify the parent prior to the application of any pesticides listed in subdivision 2 at the school on a day different from the days specified in the notice under subdivision 3” (Subdivision 6). The Workgroup interprets this to say that a parent may request individual notification for applications made **on a day different from the days specified in the estimated schedule; not notification for every pesticide application.**
- The law states that **school employees** must receive a notice that the estimated schedule of pesticide applications is available for review or copying at the school office (Subdivision 2). However, the law does not require schools to provide individual notification to school employees (i.e., notification for pesticide applications made on days other than those specified in the estimated schedule). The Workgroup encourages schools to consider providing individual notification to school employees, if requested by the employee.

- The law states, “The school principal or other person having general control and supervision of the school must provide reasonable notice to a parent who has requested such notification”(Subdivision 6). Since the time for **reasonable** notification is not specified, each school shall determine the amount of time that is reasonable or appropriate.
- No cause of action may be brought against a school district, a school, or the districts or school’s employees or agents for any failure to comply with the requirements under the law (Subdivision 12). The law also addresses school district and parental rights and responsibilities with regard to compulsory attendance and failure to comply (Subdivision 13-14).
- To identify the toxicity category or classification of a specific pesticide product, contact the Department of Children, Families & Learning’s website (<http://cfl.state.mn.us/>) after August 1, 2000. Schools will need to enter either the product’s name or US Environmental Protection Agency registration number from the product label.
- The law also provides a description of the components of an integrated pest management plan (Subdivision 8).

The model notices and memorandum will be available on the MDH web site after August 1, 2000, at: <http://www.health.state.mn.us/divs/eh/esa/hra/notification.html>. For questions regarding the model notice, contact Chuck Stroebel, Minnesota Department of Health by phone at 651/215-0919 or by e-mail at chuck.stroebel@state.mn.us.

Definitions

Toxicity Categories I, II, and III: The US Environmental Protection Agency classifies pesticides into categories according to their acute (short-term) toxicity. These toxicity categories are based on a series of tests conducted to determine acute health effects. Pesticide labels are required to carry a prominent “signal word” which reflects the toxicity category of the pesticide product. The following are the categories, in the order of most toxic to least toxic, and their pesticide label signal word: Category I (highly toxic) with signal words DANGER or DANGER/POISON > Category II (moderately toxic) with signal word WARNING> Category III (slightly toxic) with signal word CAUTION > Category IV (relatively nontoxic) with signal word CAUTION. ** Note toxicity categories III and IV have the same signal word on the product label.

Restricted Use Pesticide: The US Environmental Protection Agency classifies some pesticides as “Restricted Use.” Under federal and Minnesota state law, restricted use pesticides may be applied only by certified and licensed applicators. In Minnesota applicators who apply pesticides as a service “for-hire” must be certified and licensed to apply ANY pesticide for customers.

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Enclosures