

The Board's Guidance to Schools on Integrated Pest Management Regulations Does Not Go Far Enough to Ensure Consistent Compliance.

Summary

Key Recommendations

- ◆ Require the Board to more clearly define pesticide categories and specify the requirements that pertain to each category.
- ◆ The Board should develop better information resources and outreach for IPM Coordinators.

Key Findings

- ◆ The Board's system for classifying pesticides is not specific enough to prevent inappropriate pesticide applications in school environments.
- ◆ The Board does not routinely communicate with schools, resulting in schools being unaware of important changes in regulations and practices.

Conclusion

The Board administers the Texas school Integrated Pest Management Program to protect the health and safety of public school children. The Board develops regulations for the safe use of pesticides in schools, and inspects schools to ensure compliance with Integrated Pest Management regulations. Sunset staff evaluated the Board's administration of the program to determine whether it adequately protects the safety of school children, is run efficiently by the Board, and can be easily implemented by school districts. The staff concluded that the Board could improve the program by providing more clear and consistent guidance to schools.

Support

The Board administers the Texas School Integrated Pest Management Program, which is designed to limit school children's exposure to pesticides.

- ◆ The Texas Legislature created the school Integrated Pest Management (IPM) Program in 1991. The program is administered by the Board in cooperation with public school districts. IPM regulations require each public school district to create and abide by a pest management plan, appoint an IPM Coordinator, comply with certain record keeping and pesticide application practices, and train personnel in proper IPM techniques.

Integrated Pest Management

Integrated Pest Management describes a variety of practices that are intended to control and eliminate pests without requiring the use of pesticides. IPM techniques encourage the use of cultural, structural, technological, and other methods to control pests. Pesticides must be used judiciously, and typically only as a last resort. All pesticide applications must be performed by licensed applicators. Examples of IPM techniques include caulking cracks in walls, clearing brush from around buildings, and removing food from classrooms.

District plans encompass all school buildings and grounds. As administrator of the program, the Board conducts inspections of public schools, develops guidelines for appropriate pesticide use, and generally ensures compliance with program regulations. The textbox, *Integrated Pest Management*, provides an overview of the basic principles of IPM.

- ◆ All IPM Coordinators are required to attend one six-hour training in their first year of service. This training provides basic information on program administration and rules. In 2002, the Texas Cooperative Extension created the Southwest Technical Resources Center for IPM to provide training. While several organizations provide this sort of training, the Center trains 300 to 400 individuals each year, making it the single largest trainer of coordinators in the state. To date, the Center has provided training, consultation, and assistance to approximately 42 percent of all school districts in the state.¹
- ◆ Since its creation, the IPM program has been funded mostly through existing appropriations, with some additional funding provided by the Environmental Protection Agency (EPA). The Legislature has never earmarked funding for IPM program administration by the Board, or for program implementation by school districts. Likewise, the Center does not receive a separate appropriation for IPM education and training, but is funded by the Texas Cooperative Extension at Texas A&M University and through occasional grants from EPA.



The Integrated Pest Management Program encourages schools to use least toxic pest control measures.

The Board's system for classifying pesticides is not specific enough to prevent inappropriate pesticide applications in school environments.

- ◆ The Structural Pest Control Act requires the Board to develop a list of pesticides that are approved for use in schools. However, developing a static list is difficult because pesticide formulations and availability are constantly changing. Instead, the Board developed a three-tiered classification system

for pesticides. Under the system, the Board classifies all pest control products as green, yellow, or red, according to the danger they present to human health and the environment.

The Board's guidelines for classifying pest control products are based on toxicity, EPA classification, and language on the pesticide label. The textbox, *Pesticide Classification Guidelines*, details these guidelines. School districts apply the guidelines to determine the correct category for any pesticide they plan to use, and the applicator must follow the set of application regulations that pertain to that pesticide category. Under IPM programs, applicators are encouraged to use the least toxic pesticides available. When applicators intend to use more hazardous yellow or red products, they must get prior written approval from a certified applicator and an IPM Coordinator, and comply with additional application restrictions.

Pesticide Classification Guidelines

Green Products – These include inorganic pesticides, insect growth regulators, insect and rodent baits in tamper-resistant containers, botanical insecticides, pesticidal soap, and horticultural oils. Green products may be used at the discretion of the licensed applicator.

Yellow Products – These include all EPA III and IV pesticides, except for restricted-use or state-limited-use pesticides as defined under the Federal Insecticide, Fungicide, and Rodenticide Act or the Texas Agricultural Code. These products' labels carry either the "caution" signal word or no signal word. Yellow products require certified applicator approval and the IPM Coordinator must keep a copy of the approval on file.

Red Products – These include all EPA category I and II pesticides, as well as most restricted-use and state-limited-use pesticides. Labels typically carry a "warning" or "danger" signal word. Red products must receive prior approval from a certified applicator and the IPM Coordinator. Red list approvals must be kept in a separate file in the pest control use records for the school.

- ◆ Although the Board's intention in creating categories was to help school districts understand which pesticides are preferred for use in schools, the categories lack the specificity needed to adequately guide schools in the proper use of some pesticides. For example, under the Board's guidelines, some products carry label signal words, such as "caution" or "warning", indicating they belong in one category, while the classification of the products as insect growth regulators places them in a different category. To determine the correct category of use for other products, school personnel must research the nature of a product's active ingredients and match them to the appropriate criteria established by the Board for each category. This process puts the onus on school personnel who may not be familiar with EPA classifications to make decisions about appropriate pesticide use without enough guidance from the Board.

Once schools determine if a pesticide is green, yellow, or red, they must then consult numerous, and sometimes inconsistent, sections of both the statute and rules to ensure they follow all relevant regulations pertaining



Instead of a list of approved pesticides for schools, the Board classifies products as green, yellow, or red, according to danger.



The Board's guidelines indicate that some products belong in more than one category.



to re-entering an area where pesticides have been used, posting notice of application, and record keeping for that category.²

- ◆ Re-entry requirements provide an example of guidelines that are inconsistent and potentially contradictory. The Act states that no pesticides may be applied if children are expected to be present for organized activities during the next 12 hours.³ In contrast, the regulations allow the application of select green products if children are not within ten feet of the application site at the time of application.⁴ The Board eased re-entry requirements for select green products because some products, like glue traps or tamper-resistant bait containers, do not present any exposure risk to children. Other green products still fall under the 12-hour requirement. By easing these restrictions the Board has introduced inconsistency and made all re-entry requirements for this category harder to interpret.
- ◆ Posting requirements for school buildings and grounds are also inconsistent. While the Act requires 48-hour prior notice for all indoor pest control treatments, regardless of toxicity, it does not require prior notice for outdoor treatments. If schools choose to use select hazardous pesticides they are required to either “mark” or “secure” outdoor areas immediately following an application. Schools may meet this requirement by posting some form of notice or, alternately, relying on existing fences or barriers to secure an area.

Many schools acknowledge the close contact that students have with playgrounds and athletic fields, and have opted to provide clear notice, in the form of signs, for all outdoor pesticide use. However, since this is not required, most schools do not provide this notice. The result is that districts must post for the use of indoor treatments that may have no risk of exposure, but not for outdoor spraying of herbicides and pesticides that may present a significantly greater risk.

- ◆ Due to confusion in the regulations, Board investigators also do not have a uniform reading of the rules that pertain to pesticide categories. Through interviews with inspectors and Resource Center staff, Sunset found that some investigators have different interpretations of the categories of pesticide, and the standards associated with those categories. These distinct interpretations can lead to different standards being applied during the inspection process. The Southwest Technical Resource Center has recognized this inconsistency and now attends the agency’s annual inspector training and provides information to help promote consistent interpretation of the rules.

The Board does not routinely communicate with schools, resulting in schools being unaware of important changes in regulations and practices.

- ◆ The agency does not routinely communicate with districts regarding changes in rules and regulations. The Board evaluates the IPM program every four years as part of its regulation review cycle. This process consistently generates

changes in regulations. However, the Board does not notify districts of these changes, which would be difficult anyway because the Board does not maintain contact information for IPM Coordinators.

- ◆ The Board's primary means of communication with districts is through inspections, which provide a hands-on opportunity for IPM training. However, the Board inspects 20 percent of districts each year, but does not have to inspect 100 percent of schools every five years. As a result, some districts may go many years without an inspection. Issue 1 addresses the need for more consistent school inspections.
- ◆ IPM Coordinators are not required to obtain continuing education and, therefore, have no regular means to receive current information on practices and rules. Some districts employ certified applicators or technicians, who are required to obtain continuing education as a condition of licensure. These individuals may elect to get education credits in IPM-related coursework. However, the Board does not require that continuing education be related to IPM.

At present, 48 percent of school districts have at least one certified applicator on staff. For these schools districts, continuing education may provide a mechanism for transmitting new information on rules and practices. However, the districts that do not have applicators on staff cannot avail themselves of this opportunity.



The Board does not maintain contact information for IPM Coordinators.

Recommendations

Change in Statute

3.1 Require the Board to more clearly define pesticide categories and specify the requirements that pertain to each category.

This recommendation would clarify the Board's responsibility to identify which pesticides are suitable for use in schools and how those pesticides are to be used. It would remove the current requirement for the Board to list the specific pesticides that may be used and instead require the Board to adopt categories of pesticides with clear, easier to follow guidelines as to their use. The current Board rules establishing pesticide categories need further clarification to better serve the needs of school personnel. Specifically, Board regulations should ensure that all products fit into only one category of use, and that school personnel can apply regulations to individual products without additional research. By redefining the current category system in rule, the Board will be able to provide clear guidance to school districts and assist them in using the least toxic products as safely as possible.

This recommendation would remove the statutory requirements for the Board to develop a list of acceptable pesticides, and for schools to restrict entry for 12 hours following all pesticide applications, and instead require the Board to establish clearer guidelines in rule. The Board would need to revise IPM rules to explicitly delineate pesticide categories according to the risks of human exposure and environmental harm. IPM category guidelines should be easily understandable to all school districts.

The Board should develop clear regulations that correspond to each category that include:

- ◆ the physical distance required between application sites and students at the time of application;
- ◆ reporting, record keeping, and pesticide approval requirements;
- ◆ re-entry requirements; and
- ◆ posting regulations for indoor and outdoor pesticide use.

If differences exist between indoor and outdoor regulations they should be clearly stated. The Board should seek stakeholder input from IPM Coordinators, the Southwest Technical Resource Center, and other interested groups in this process. By more clearly defining pesticide rules, the Board will help schools to comply with the law and better protect students.

Management Action

3.2 The Board should develop better information resources and outreach for IPM Coordinators.

By providing more information to school districts, the Board can help coordinators to stay abreast of changes in pest control practices and assist schools in reducing students' exposure to pesticides. The Board should provide information concerning changes in regulations and practices to IPM Coordinators. This recommendation could be accomplished in several ways. The Board should post IPM information, including changes in rules, on its website in a format that school districts can easily access. The Board should consider collecting the contact information of district coordinators and using a coordinator e-mail distribution list to disseminate information. The Board might easily coordinate with the Resource Center, which already has such a distribution list.

Fiscal Implication

These recommendations will not have a fiscal impact to the State. The recommendations are procedural improvements that should require only minor costs to update rules, create and maintain a list of IPM Coordinators, and make small improvements to the Board's website. Coordination with the Resource Center could reduce costs.

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<sup>1</sup> The Southwest Technical Resource Center for Integrated Pest Management, *IPM Coordinator Trainings-History*, Dallas, Texas, (Internal Reporting Memo), provided by e-mail December 19, 2005.

<sup>2</sup> Texas Occupations Code, sec. 1951.212, sec. 1951.455, sec. 1951.456; Texas Administrative Code, Title 22, part 25, rule 595.6 (c)-(e), rule 595.7 (e), (g), rule 595.8 (b)-(c), (e), rule 595.11(a)-(i), and rule 595.17(d)-(e).

<sup>3</sup> Texas Occupations Code, sec. 1951.212 (d).

<sup>4</sup> Texas Administrative Code, Title 22, part 25, rule 595.11(a)1, and rule 595.11(b)1.