

DEPARTMENT OF AGRICULTURE
Office of Consumer and Environmental Regulation
(New Administrative Regulation)

302 KAR 26:090. Wood destroying organism treatments and integrated pest management in schools.

RELATES TO: KRS 217B.190, 217B.515, 217B.520, 217B.525, 217B.545

STATUTORY AUTHORITY: KRS 217B.050, 217B.530

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217B.050 requires the Department of Agriculture to promulgate administrative regulations to implement the provisions of KRS Chapter 217B. KRS 217B.515 requires that any person engaging in structural pest control be licensed. This administrative regulation establishes requirements applicable to the licensure and practice of commercial structural pest control and fumigation.

Section 1. Definitions.

- (1) "Children are present" means the designated time period between two (2) hours before the start time and forty-five (45) minutes after the dismissal time of the regularly scheduled school day as determined by the school authority under the calendar set by the school board.
- (2) "Graph" means a drawing of a structure that:
 - (a) Identifies the type of structure;
 - (b) Provides an outline of the structure indicating approximate length and width;
 - (c) Records the location of any current visible wood-destroying organism activity;
 - (d) Records the location of any current visible damage caused by any wood-destroying organism; and
 - (e) Records the location of all treatment methods applied, including all partial treatments applied to any selected areas of the structure.
- (3) "Integrated pest management program" means a strategy of controlling pests, general pests, and wood destroying organisms by combining biological, chemical, cultural, mechanical, and physical control methods in a way that minimizes economic, health, and environmental risks.
- (4) "Notification" means information distributed to persons who request a notice of a pesticide application.
- (5) "Outside areas" means the property associated with commercial, industrial, or residential structures where a commercial structural pest management license holder, under KRS 217B.515, is authorized to control pests, general pests, and wood destroying organisms by means other than chemicals used for lawn care or agricultural pests.
- (6) "Posted" means a sign measuring at least 8.5 in. x 11 in. displaying the words "Pesticide Treatment Area" and "Do Not Enter" along with listing an identified time for re-entry after the pesticide application is made.
- (7) "Registry" means a list, maintained by a school authority, of individuals that request advance notification of pesticide application.
- (8) "School" means an institution for teaching children such as, but not limited to, preschool, kindergarten, child day care centers, primary, and secondary schools.
- (9) "School authority" means superintendent, assistant superintendent, principal, assistant principal, headmaster, or a designee.

Section 2. Documentation of Treatment for Wood-destroying Organisms. At the time of treatment application for control or prevention of wood-destroying organisms, a graph shall be issued to the owner of the property.

Section 3. Integrated Pest Management in Schools. Each school district shall implement an integrated pest management program with a primary goal of controlling pests, general pests, and wood-destroying organisms with the judicious use of pesticides.

(1) Pesticides may be applied without notification indoors and to outside areas when children are not present.

(2) Pesticides may be applied without notification when children are present but shall be limited to:

(a) Germicides, disinfectants, bactericides, sanitizing agents, water purifiers, and swimming pool chemicals used in normal cleaning activities;

(b) Personal insect repellents;

(c) Human or animal ectoparasite control products administered by qualified health professionals or veterinarians;

(d) Manufactured paste, gel, or other formulations designated on the product label as bait and applied according to label instructions where humans do not have reasonable access to the application area; and

(e) Rodent control products placed in industry identified tamper-resistant bait stations or rodenticides placed in wall voids or other rodent harborage sites that are inaccessible to humans.

(3)

(a) Each school authority shall maintain a registry of electronic mail or telephone contact numbers of parents or guardians who have requested notification prior to the application of pesticides in schools when children are present, and shall provide written notice to parents or guardians at the beginning of each school year of the existence of the registry and the process for being placed on the registry. The written notice shall be as follows: "Dear Parent or Guardian: Each school district in the Commonwealth is required to implement a program of "integrated pest management" with the primary goal of preventing and controlling pests through strategies that may include judicious use of pesticides. The application of pesticides in the school or on school grounds during times when children are present is limited by state regulation, but there may be occasions when, after consulting with a certified pesticide applicator, the school administration determines that a pesticide application is necessary when children are present in the school. As required by state regulation, we have created a registry for parents or guardians who wish to receive an electronic message or telephone call prior to the application of pesticides in the school when children are present. Please provide the school administration your email address or phone number if you wish to be placed on this registry."

(b) Notification by the school to parents or guardians on the registry shall be required if the school authority, after consultation with the certified applicator, determines that a pesticide application other than those listed in subsection (2) of this section, is necessary when children are present in the school.

(c) For pesticide applications made when children are present, the school authority shall provide the notification to persons listed on the registry at least one (1) hour prior to the making of the application.

(4) The notification required by subsection (3)(b) of this section shall include:

(a) The date and time of the pesticide application;

(b) The target pests to be treated;

(c) A description of the use of the area treated;

(d) The brand name of the pesticides applied and the pesticide application method; and

(e) A telephone number that persons requesting prior notification can use to contact the school authority for more information.

(5) A copy of the notification shall be maintained by the school authority for twenty-four (24) months after the notification is issued and shall be subject to inspection upon request

by Kentucky Department of Agriculture personnel.

(6) The certified applicator shall only be required to provide to the school authority the information required in subsection (4)(a) to (d) of this section on an Integrated Pest Management School Acknowledgement form provided by the department. The certified applicator shall retain a copy of the completed form.

(7) The completed form required by subsection (6) of this section shall:

(a) Include the information required in subsection (4)(a) to (d) of this section; and

(b) Be signed by the school authority acknowledging that the required information was received from the certified applicator prior to the application of pesticides when children are present.

(8) A copy of the completed form shall be maintained for thirty-six (36) months by the certified applicator after it is received and shall be subject to inspection upon request by Kentucky Department of Agriculture personnel.

(9) The area where the point of application of a pesticide occurred shall be posted by the certified applicator regardless of the absence or presence of children.

Section 4. Incorporation by Reference.

(1) "Integrated Pest Management School Acknowledgement", 2017, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Agriculture, Division of Environmental Services, 107 Corporate Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

DR. RYAN QUARLES, Commissioner

APPROVED BY AGENCY: June 13, 2022

FILED WITH LRC: June 14, 2022 at 10 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 23, 2022 at 11:00 a.m., at the Kentucky Department of Agriculture, 111 Corporate Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 330-6360, email clint.quarles@ky.gov.