

OCCUPATIONS CODE CHAPTER 1951. STRUCTURAL PEST CONTROL

OCCUPATIONS CODE
TITLE 12. PRACTICES AND TRADES RELATED TO WATER, HEALTH, AND
SAFETY
SUBTITLE B. PRACTICES RELATED TO HEALTH AND SAFETY
CHAPTER 1951. STRUCTURAL PEST CONTROL

SUBCHAPTER E. POWERS AND DUTIES OF DEPARTMENT RELATING TO
STRUCTURAL PEST CONTROL

Sec. 1951.212. INTEGRATED PEST MANAGEMENT PROGRAMS FOR SCHOOL
DISTRICTS.

- a) The department shall establish standards for an integrated pest management program for the use of pesticides, herbicides, and other chemical agents to control pests, rodents, insects, and weeds at the school buildings and other facilities of school districts.
- b) The department shall use an existing advisory committee or create a new advisory committee to assist the department in developing the standards for the integrated pest management program. In developing the standards, the advisory committee shall consult with a person knowledgeable in the area of integrated pest management in schools.
- c) The department shall include in standards adopted under this section a requirement to use the least toxic methods available to control pests, rodents, insects, and weeds.
- d) The department by rule shall establish categories of pesticides that a school district is allowed to apply. For each category, the department shall specify:
 - a) the minimum distance a school district must maintain between an area where pesticides are being applied and an area where students are present at the time of application;
 - b) the minimum amount of time a school district is required to wait before allowing students to enter an indoor or outdoor area in a school building or on school grounds for normal academic instruction or organized extracurricular activities after pesticides have been applied;
 - c) the requirements for posting notice of the indoor and outdoor use of pesticides;
 - d) the requirements for obtaining approval before applying the pesticide; and
 - e) the requirements for maintaining records of the application of pesticides.
- e) Each school district shall:
 - (1) adopt an integrated pest management program that incorporates the standards established by the department under this section;
 - (2) designate an integrated pest management coordinator for the district;

and

- (3) report to the department not later than the 90th day after the date the district designates or replaces an integrated pest management coordinator the name, address, telephone number, and e-mail address of the district's current coordinator.
- (f) Each person who is designated as the integrated pest management coordinator for a school district shall successfully complete six hours of continuing education in integrated pest management every three years.
- (g) The department shall inspect each school district at least once every five years for compliance with this section and may conduct additional inspections based on a schedule of risk-based inspections using the following criteria:
- (1) whether there has been a prior violation by the school district;
 - (2) the inspection history of the school district;
 - (3) any history of complaints involving the school district; and
 - (4) any other factor determined by the department by rule.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by: Acts 2007, 80th Leg., R.S., Ch. 890, Sec. 1.26, eff. September 1, 2007.

Title 4, Part 1, Chapter 7, Subchapter H Division 1. GENERAL PROVISIONS 4 TAC §7.114 Definitions

(16) Integrated Pest Management (IPM)--A pest management strategy that relies on accurate identification and scientific knowledge of target pests, reliable monitoring methods to assess pest presence, preventative measures to limit pest problems and thresholds to determine when corrective control measures are needed. Under IPM, whenever economical and practical, multiple control tactics should be used to achieve best control of pests. These tactics will possibly include, but are not limited to, the judicious use of pesticides.

Title 4, Part 1, Chapter 7, Subchapter H, Divisions 2 – Licenses; RULE §7.121 Persons Required to Secure License

a) Business License--Any person engaged in structural pest control for compensation must secure a business license from the department for each business location, including branch offices, in accordance with the Texas Structural Pest Control Act and the regulations of the department. Each business license holder must designate a responsible certified commercial applicator for each business location who is not also serving as a responsible certified commercial applicator for any other business licensee or any other business location. No person shall engage in, offer to engage in, advertise for, solicit, or perform any of the services identified in §1951.003 of the Texas Structural Pest Control Act, for compensation, without first obtaining a business license and having a certified commercial applicator certified in each license category in which business is conducted. The business license may reflect only those categories in which at least one certified

applicator is actively licensed.

(b) Responsible Certified Commercial Applicator--A certified commercial applicator who has been designated by the business license holder to be responsible for training and supervision of all pest control operations of the business. The person may be employed by other business location(s) as a certified commercial applicator, but may only be the responsible certified commercial applicator for one business license location.

(c) Certified Commercial Applicator--A person licensed in category as a certified commercial applicator who can perform pest control services, identifications and control measures without direct supervision but under supervision of the responsible certified commercial applicator. A certified commercial applicator must hold a separate license for every business for which the certified commercial applicator is employed but is not required to hold a separate license for branch offices of an employer.

(d) Certified Noncommercial Applicator--An employee of a governmental entity, apartment building, day-care center, hospital, nursing home, hotel, motel, lodge, warehouse, food-processing establishment, school or educational institution and other noncommercial entity. The person licensed in category as a noncommercial certified applicator who can perform pest control services, identifications and control measures without direct supervision. A certified noncommercial applicator must be licensed for every business entity for which the certified noncommercial applicator is employed but is not required to hold a separate license for branch offices of an employer.

(e) Technician--A person licensed in category who performs pest control services under the direct supervision of a commercial or noncommercial certified applicator. A technician must be licensed for every business or noncommercial entity for which the technician is employed but is not required to hold a separate license for branch offices of an employer.

(f) Apprentice--A person, who is registered by a business or noncommercial entity to train for a technician license, has not passed the technician examination and who performs pest control services under the direct supervision of a licensed technician or a certified applicator. An apprentice may work only for the business or noncommercial entity for which they are registered.

Title 4, Part 1, Chapter 7, Subchapter H, Divisions 3 – Compliance and Enforcement RULE §7.144 Pest Control Use Records

a) The responsible certified applicator or, in the case of the certified noncommercial applicator, the certified applicator shall ensure that correct and accurate records of all uses of pesticides and pest control devices registered with the United States

Environmental Protection Agency and the department are maintained for a period of two (2) years. Said records must be kept on the premise of the business licensee or, in the case of a certified noncommercial applicator, the employer's premises. The records must include, but are not limited to:

- (1) routine operational data, name and address of the customer;
 - (2) name of pesticides or devices used or EPA registration number;
 - (3) total amounts of each pesticide applied where the percentage of active ingredient was not changed;
 - (4) device used and total number of each device;
 - (5) for manufacturer's formulations that are mixed with water or other material, the mixing rate and total amount of material applied or the percent of active ingredient(s) and total amount of material applied;
 - (6) purpose for which the pesticides or devices were used or target pest;
 - (7) date the pesticides or devices were used;
 - (8) service address where the pesticides and devices were used, except that for utility pole re-treatments, records shall be kept for the location of each pole treated; and
 - (9) the name, and license number of the person(s) applying pesticides or using devices or name of the technician or apprentice and license number of the supervising certified applicator if the technician or apprentice have not been assigned a license or registration number.
- (b) If a physical device is used, the appropriate unit of measurement (square foot, cubic foot, or linear foot) of the physical device must be recorded and a diagram describing the installation will be provided.
- (c) These records shall be made available to the department or its authorized agents upon written or verbal request.

RULE §7.146 Pest Control Sign

(a) A pest control sign must be provided by the licensee to the owner or manager at least 48 hours prior to a planned indoor treatment at a residential rental property with five or more rental units.

(b) A pest control sign must be provided by the licensee to the employer or building manager at least 48 hours prior to a planned indoor treatment at a workplace. A workplace is defined as any nonresidence structure with three or more full-time paid employees which is treated by a licensed business or a certified noncommercial applicator.

(c) A pest control sign must be provided by the licensee to the chief administrator, IPM Coordinator or building manager at least 48 hours prior to a planned indoor treatment at a hospital, nursing home, hotel, motel, lodge, warehouse, food-processing establishment, school or educational institution, or day-care center. This requirement does not apply for new construction on school campuses where students have not yet been introduced.

- (d) An indoor treatment includes a perimeter treatment if the primary purpose of the treatment is to treat the interior of the structure.
- (e) A person may not be considered in violation of this section if the space to be treated is vacant, unused and unoccupied at the time of treatment, or if extenuating circumstances require an emergency treatment.
- (f) Each pest control sign must be at least 8 1/2 inches by 11 inches in size and contain the required information with the first line in a minimum of 24-point type (one-fourth inch) and all remaining lines in a minimum of 12-point type (one-eighth inch). The addition of advertising and logos to the sign is permissible to the extent that such advertising does not interfere with the purpose of public notification of a pest control treatment. A standard sign in Spanish is available from the department upon request. The sign shall appear in a format approved by the department. The text and format of the sign is available on the Structural Pest Control Service website at: <http://www.tda.state.tx.us/spcs/>, or by contacting the Texas Department of Agriculture at P.O. Box 12847, Austin, TX 78711-2847, Phone (866) 918-4481.
- (g) In the space marked "For more information call or contact," the telephone number where information on the pesticide(s) used may be obtained must be listed, such as the apartment manager, building manager, IPM Coordinator or pest control operator.
- (h) In the space marked "phone number of hotline for pesticide information," the following wording must be used: National Pesticide Information Center 1-800-858-7378.
- (i) If a workplace has its own pesticide information center, the workplace center telephone number may be listed rather than the information in subsection (h) of this section.

RULE §7.147 Consumer Information Sheet

- (a) For an indoor treatment at a private residence that is not a rental property the certified applicator or technician must give the consumer information sheet to the owner of the residence before each treatment begins, or, if the owner is not available at the time treatment begins, leave the sheet in a conspicuous place in the residence.
- (b) For indoor treatment at a residential rental property with less than five (5) rental units, the certified applicator or technician must leave the consumer information sheet in the residence at the time of each treatment.
- (c) For an indoor treatment at a residential rental property with five (5) or more rental units, the certified applicator or technician must supply the consumer information sheet to the owner or manager of the complex. The certified applicator or technician must also supply the owner or manager with a pest control sign. The owner or manager or an employee or agent of the owner or manager, other than the certified applicator or technician, must notify residents who live in direct or adjacent areas of the treatment by:

- (1) posting the sign in an area of common access of residents at least 48 hours before each planned treatment; or
- (2) distributing the information sheet at least 48 hours before each planned treatment by leaving the sheet on the front door of each unit or in a conspicuous place inside each unit.

(d) For an indoor treatment at a workplace, the certified applicator or technician must supply the consumer information sheet and a pest control sign to the employer or the building manager. The employer or the building manager or an employee or agent of the owner or manager, other than the certified applicator or technician, must notify individuals at the workplace of the date of the planned treatment by:

- (1) posting the sign in an area of common access that the employees are most likely to see at least 48 hours before each planned treatment; and
- (2) providing the consumer information sheet to any individual working in the building on request of the individual if the request is made during normal business hours.

(e) For an indoor treatment at a building that is a hospital, nursing home, hotel, motel, lodge, warehouse, food-processing establishment, school or educational institution, or a day-care center, the certified applicator or technician must supply the consumer information sheet and a pest control sign to the chief administrator, IPM Coordinator or building manager. The chief administrator, IPM Coordinator or building manager must notify the individuals who work or reside in the building of the treatment by:

- (1) posting the sign in an area of common access that the individuals are likely to check at least 48 hours before each planned treatment; and**
- (2) providing the information sheet to any individual working or residing in the building on request of the individual.**

(f) Personnel at a school or educational institution or a day-care center are required to inform the parents, guardians, or managing conservators of the children attending the school or day-care center, at the time the child is registered, that:

- (1) the school, institution, or center periodically applies pesticides indoors and outdoors; and**
- (2) prior notice and information on the application of the pesticides is available from the school, institution, or center at the written request of the parents, guardians, or managing conservators. Telephonic, written or electronic notification will meet this requirement.**

(g) For the purpose of this section, if the primary purpose of a perimeter treatment of a premises is to augment or supplement an indoor treatment, or is performed in lieu of an indoor treatment for a particular pest or pests by preventing the entry or re-entry of pests into the interior of the premises, then the perimeter treatment shall be considered an indoor treatment.

(h) The department's Consumer Information Sheet must be used. Copies of the Consumer Information Sheet are available from the department in English and Spanish and are available on the Structural Pest Control Service website at:

<http://www.tda.state.tx.us/spcs/>, or by contacting the Texas Department of Agriculture at P.O. Box 12847, Austin, TX 78711-2847, Phone (866) 918-4481. The department's Consumer Information Sheet may be copied and used in accordance with this section.

(i) The pre-notification requirements of subsections (c), (d) and (e) of this section are waived if the customer and certified applicator sign a statement attesting to the fact that an emergency exists which requires immediate treatment. If such an emergency exists, the Consumer Information Sheet must be provided by the licensee at the time of treatment. The statement must be kept on file with the pest control use records. If the customer is not available to sign a statement at the time of treatment, that shall be recorded in the use records along with the customer's name and telephone number. An emergency is defined as an imminent hazard to health or property or an imminent infestation. An emergency treatment is limited to the localized area of the emergency.

(j) Licensees holding the lawn and ornamental or weed categories may use text provided by the department in place of that required in subsection (h) of this section. This text is available on the Structural Pest Control Service website at:
<http://www.tda.state.tx.us/spcs/>, or by contacting the Texas Department of Agriculture at P.O. Box 12847, Austin, TX 78711-2847, Phone (866) 918-4481.

(k) Any consumer may waive receipt of the Consumer Information Sheet for multiple treatments by signing or initialing below the following statement: "I have received one copy of the Consumer Information Sheet for all treatments to be provided as a part of this pest control service agreement. I may receive additional copies at any time upon request to the service provider, and will receive any updates to the Consumer Information Sheet which may occur." A licensee must keep a copy of this statement in the pest control use records for each customer covered by the agreement.

RULE §7.148 Responsibilities of Unlicensed Persons for Posting and Notification

(a) Owners or managers of residential rental properties with five (5) or more units must either:

(1) post a pest control sign at least 48 hours before the planned treatment in an area of common access to residents; or

(2) distribute the consumer information sheet to each unit planned to be treated and each unit adjacent to those planned to be treated at least 48 hours before the planned time of treatment. Adjacent means having a common wall, ceiling, or floor. Area of common access means a common area that an individual is likely to check on a regular basis, such as building entranceway, mailboxes, laundry rooms, beverage machines, building bulletin boards, etc.

(b) Employers, building managers, IPM Coordinators and chief administrators of workplaces, hospitals, nursing homes, hotels, motels, lodges, warehouses, food-processing establishments, school or educational institutions, and day-care centers must post a pest control sign in an area of common access at least 48 hours prior to

each planned treatment and provide a Consumer Information Sheet to any individual working or residing in the building at the request of that individual. Area of common access means a common area that an individual is likely to observe on a regular basis, such as building entranceway, mailboxes, laundry rooms, beverage machines, building bulletin boards, etc. This requirement does not apply to new construction on school campuses where students have not yet been introduced.

(c) Chief administrators or the IPM Coordinator of schools or educational institutions and day-care centers must notify the parents or guardians of children attending the facility in writing that pesticides are periodically applied indoors and outdoors, and that information on the times and types of applications and prior notification is available upon request. Such notification must be made at the time of the child's registration. Telephonic, written or electronic notification of planned applications will meet the notification requirements.

(d) The 48 hour pre-notification requirements of subsections (a) and (b) of this section may be waived if an emergency exists and the customer and certified applicator sign a statement attesting to the fact that an emergency exists that requires immediate treatment. The statement must be kept on file with the pest control use records at the business license location. Certified noncommercial applicators may attest to an emergency by signing a statement attesting to the emergency and must keep the statement on file with the pest control use records. An emergency is defined as an imminent hazard to health or property or an imminent infestation and emergency treatment is limited to the localized area of the emergency.

(e) A person may not be considered in violation of this section if a pest control sign is removed by an unauthorized person or if the space to be treated is vacant, unused and unoccupied at the time of treatment.

RULE §7.150 Integrated Pest Management Program for School Districts

(a) Responsibility of School Districts to Adopt an IPM Program. Each school district shall establish, implement, and maintain an Integrated Pest Management (IPM) program. An IPM program is a regular set of procedures for preventing and managing pest problems using an integrated pest management strategy, as defined in §7.114 of this title (relating to Definition of Terms). The school district is responsible for the IPM Coordinator(s) compliance with these regulations.

(1) The IPM program shall contain these essential elements:

(A) a school board approved IPM policy, stating the school district's commitment to follow integrated pest management guidelines in all pest control activities that take place on school district property. The IPM policy statement shall include:

(i) a definition of IPM consistent with this section;

(ii) a reference to Texas laws and rules governing pesticide use and IPM in public schools;

(iii) information about who can apply pesticides on school district property; and

(iv) information about designating, registering, and required training for the school district's IPM coordinator. The Superintendent and IPM Coordinator will maintain a copy of the policy.

(B) a monitoring program to determine when pests are present and when pest problems are severe enough to justify corrective action;

(C) the preferential use of lower risk pesticides and the use of non-chemical management strategies to control pests, rodents, insects and weeds;

(D) a system for keeping records of facility inspection reports, pest-related work orders, pest control service reports, pesticide applications, and pesticide complaints;

(E) a plan for educating and informing school district employees about their roles in the IPM program; and

(F) written guidelines that identify thresholds for when pest control actions are justified.

(2) Each school district superintendent shall appoint an IPM Coordinator(s) to implement the school district's IPM program. Not later than 90 days after the superintendent designates or replaces an IPM Coordinator(s), the school district must report to the department the newly appointed coordinator's name, address, telephone number, e-mail address and the effective date of the appointment. A school district that appoints more than one IPM Coordinator shall designate a Responsible IPM Coordinator who will have overall responsibility for the IPM program and provides oversight of subordinate IPM Coordinators regarding IPM program decisions.

(3) Each school district that engages in pest control activities must employ or contract with a licensed applicator, who may, if an employee, also serve as the IPM Coordinator(s).

(4) Each school district shall prior to or by the first week of school attendance, ensure that a procedure is in place to provide prior notification of pesticide applications in accordance with this chapter. Individuals who request in writing to be notified of pesticide applications may be notified by telephonic, written or electronic methods.

(b) Responsibilities of the IPM Coordinator(s). The IPM Coordinator(s) shall be responsible for implementation of the school district IPM Program and district compliance with these rules. In addition, the IPM Coordinator(s) shall:

(1) successfully complete a department-approved IPM Coordinator training course within six months of appointment;

(2) obtain at least six hours of department-approved IPM continuing education units at least every three years, beginning the effective date of this rule or the date of designation, whichever is later. No approved course may be repeated for credit within the same three year period;

(3) oversee and be responsible for:

(A) coordination of pest management personnel, ensuring that all school employees who perform pest control, including those employees authorized to perform incidental use applications, have the necessary training, are equipped with the appropriate personal protective equipment, and have the necessary licenses for their pest management responsibilities;

(B) ensuring that all IPM program records, including incidental use training records (as provided for under §7.155), facility inspection reports, pest-related work orders, pest control service reports, pesticide applications, and pesticide complaints are maintained for a period of two years and are made available to a department inspector upon request;

(C) conducting periodic facility inspections on campus buildings and grounds;

(D) working with district administrators to ensure that all pest control proposal specifications for outside contractors are compatible with IPM principles, and that contractors work under the guidelines of the school district's IPM policy;

(E) ensuring that all pesticides used on school district property are in compliance with the school district's IPM program and that current pesticide labels and Material Safety Data Sheets (MSDS) are available for interested individuals upon request;

(F) overseeing and implementing that portion of the plan that ensures that school district administrators and relevant school district personnel are provided opportunities to be informed and educated about their roles in the IPM program, reporting, and notification procedures;

(G) pesticide applications, including the approval of emergency applications at buildings and on school district grounds, are conducted in accordance with these rules;

(H) maintaining a current copy of the school district's IPM policy and making available to a department inspector upon request.

(c) Responsibilities of Certified Applicators and Licensed Technicians. The commercial or noncommercial certified applicator or licensed technician shall:

(1) apply only EPA labeled pesticides, appropriate for the target pest, except as provided in these rules;

(2) provide the structural pest management needs of the school district by following the school district's IPM program and these regulations;

(3) obtain written approval from the IPM Coordinator(s) for the use of pesticides in accordance with these rules;

(4) handle and forward to the IPM Coordinator(s) records of IPM activities, any complaints relating to pest problems, and pesticide use;

(5) ensure that pesticide use records are forwarded to the IPM Coordinator within two (2) business days or in a time frame as agreed to by the IPM Coordinator;

(6) consult with the IPM Coordinator(s) concerning the use of control measures in buildings and grounds; and

(7) ensure that all pest control activities are consistent with the school district's IPM program and IPM policy.

(d) Pesticide Use In School Districts. All pesticides used by school districts must be registered with the United States Environmental Protection Agency (EPA) and the Texas Department of Agriculture, with the exception of those pesticides that have been exempted from registration by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), Section 25(b). All pesticides used by school districts must also bear a label as required by FIFRA and Chapter 76 of the Texas Agriculture Code. Pesticide use must also meet the following requirements.

(1) Pest control signs shall be posted at least 48 hours prior to a pesticide application inside school district buildings as provided for under §7.148 of this title (relating to Responsibilities of Unlicensed Persons for Posting and Notification).

(2) For outdoor applications made on school district grounds, a pest control sign shall be displayed at the time of application and will remain posted until the specified reentry interval has been met in accordance with these rules.

(3) Pesticides used on school district property shall be mixed outside of student occupied areas of building and grounds.

(4) The use of non-pesticide control measures, non-pesticide monitoring tools and mechanical devices, such as glue boards and traps as permitted in accordance with these rules, are exempt from posting requirements.

(5) Pesticide applications shall not be made to outdoor school grounds if such an application will expose students to physical drift of pesticide spray particles. Reasonable preventative measures shall be taken to avoid the potential of drift to occur.

(6) School districts are allowed to apply the following pesticides to control pests, rodents, insects and weeds at school buildings, grounds or other facilities in accordance with the approval for use and restrictions listed for each category:

(A) Green Category Pesticides.

(i) Definition: A pesticide will be designated as a Green Category pesticide if it meets the following criteria:

(I) all active ingredients belonging to EPA toxicity categories III and IV;

(II) it contains a CAUTION signal word on the product label, unless no signal word is required to appear on the product label as determined by EPA; and

(III) it consists of the active ingredient boric acid; disodium octoborate tetrahydrate or related boron compounds; silica gel; diatomaceous earth; or belongs to the class of pesticides that are insect growth regulators; microbe-based insecticides; botanical insecticides containing no more than 5% synergist (and does not include synthetic pyrethroids); biological (living) control agents; pesticidal soaps; natural or synthetic horticultural oils; or insect and rodent baits in tamper-resistant containers, or for crack-and-crevice use only;

(ii) Approval for Use: Green Category pesticides do not require prior written approval. These pesticides may be applied at the licensee's discretion under the guidelines of the school district IPM program.

(iii) Restrictions:

(I) Green Category pesticides may be applied indoors if students are not present and are not expected to be present in the room or treated area at the time of application. Reentry into the treated area is permitted as soon as the application is complete, the pesticide spray has dried, or the reentry interval specified on the pesticide label has expired, whichever interval is longer.

(II) Green Category pesticides may be applied outdoors if students are not present within ten (10) feet of the application site at the time of treatment. Students are allowed reentry into the treated area as soon as the application is complete, the pesticide spray has dried or the reentry interval specified on the pesticide label has expired, whichever interval is longer.

(B) Yellow Category Pesticides.

(i) Definition: A pesticide will be designated as a Yellow Category pesticide if it meets the following criteria:

(I) all active ingredients belonging to EPA toxicity categories III and IV;

(II) it contains a CAUTION signal word on the product label, unless no signal word is required to appear on the product label as determined by EPA; and

(III) it does not meet the criteria to be designated as a Green Category pesticide under subparagraph (A)(i) of this paragraph.

(ii) Approval for Use: Yellow Category pesticides require written approval from the certified applicator prior to their use. Yellow Category pesticide approvals shall have a duration of no longer than six (6) months or six (6) applications per site, whichever occurs first.

(iii) Restrictions:

(I) Yellow Category pesticides may be applied indoors if students are not present or not expected to be present in the room or treated area within the next four (4) hours following the application, or until the reentry interval specified on the pesticide label has expired, whichever interval is longer.

(II) Yellow Category pesticides may be applied outdoors if students are not present or not expected to be present within ten (10) feet of application site and the area is secured and reentry is in accordance with these rules for no less than four (4) hours, or until the reentry interval specified on the pesticide label has expired, whichever interval is longer.

(III) The treated area must be clearly posted at all entry points or secured using a locking device, a fence or other practical barrier such as commercially available barrier caution tape or periodically monitored to keep students out of the treated area until the allowed reentry time.

(C) Red Category Pesticides.

(i) Definition: A pesticide will be designated as a Red Category Pesticide if it meets the following criteria:

(I) all active ingredients belonging to EPA toxicity category I or II;

(II) it contains a WARNING or DANGER signal word on the product label; and

(III) it contains an active ingredient that has been designated as a restricted use pesticide, a state-limited-use pesticide or a regulated herbicide; and it does not meet the criteria to be designated as a Green Category pesticide under subparagraph (A)(i) of this paragraph, or a Yellow Category pesticide under subparagraph (B)(i) of this paragraph.

(ii) Approval for Use: Prior to the application, licensees must provide written justification to the IPM Coordinator for the use of the red category pesticide and must obtain signed approval for the application from the IPM Coordinator. Red Category pesticide approvals shall have a duration of no longer than three (3) months or three (3) applications per site, whichever occurs first.

(iii) Restrictions.

(I) Red Category pesticides may be applied indoors if students are not present and are not expected to be present in the room or treated area within eight (8) hours following the application, or until the reentry interval specified on the pesticide label has expired, whichever interval is longer.

(II) Red Category pesticides may be applied outdoors if students are not present within twenty five (25) feet of the application site, the area is secured in accordance with these rules, and reentry by students is prohibited for no less than eight (8) hours, or until the reentry interval specified on the pesticide label has expired, whichever interval is longer.

(III) The treated area must be clearly posted at all entry points or secured using a locking device, a fence or other practical barrier such as commercially available barrier caution tape or periodically monitored to keep students out of the treated area until the allowed reentry time.

RULE §7.155 Incidental Use For Schools

a) The Incidental Use For Schools Fact Sheet must contain the following text: "This fact sheet must be distributed to all employees of school districts who apply general use Green Category pesticides (or Yellow Category pesticides specific to ant, bee and wasp applications) and are not licensed by the Texas Department of Agriculture. The fact sheet, instruction and training must be provided upon initial employment by the school district's IPM Coordinator, and thereafter must be available as needed. These general use Green Category pesticides include insecticides only and involve applications made both

inside and outside of structures. Incidental Use is not intended for long term or extensive pest control measures, rather emergency situations where safety of students or workers is at risk and there is insufficient time to contact a licensed applicator. Where long term pest control is required, a trained, licensed person is to make the applications. Examples of Incidental Use situations are treating fire ants in a transformer box or treatments for bees or wasps as a non-routine application to protect children or personnel. Incidental Use is defined as site-specific and incidental to the employee's primary duties. If it is part of the employee's primary duty to make applications of pesticides, that employee is required by law to obtain a Texas Department of Agriculture license, depending on the location and type of application. In all cases of incidental use, the employee should use the least hazardous, effective method of controlling pests. All applications to schools or school grounds must be in compliance with school district IPM policies. If chemicals are utilized, they must be applied in strict accordance with manufacturer labels of products being used. Applications made inconsistent with the department law and regulations, or applications made inconsistent with the label requirements of the product may result in an enforcement action being taken against the individual and/or the certified applicator or technician responsible. Incidental pesticide use in schools regulated by the Texas Department of Agriculture. If you have any questions or comments, contact the Texas Department of Agriculture, phone number 1-866-918-4481 or P.O. Box 12847, Austin, Texas 78711-2847.

(b) The Incidental Use For Schools Fact Sheet must be provided during pesticide instruction and training by the IPM Coordinator to each employee of the school district whose primary duty is not pest control, and whose work may include tasks subject to the exception. The IPM Coordinator must keep records of all the training conducted annually.

(c) Primary duty is defined as a job duty that is part of a written job description or is a regularly assigned task of the employee.

(d) Pest control use records must be kept by IPM Coordinator(s) for all incidental pesticide use applications including reason for application and justification for emergency for two (2) years.

e) Incidental pesticide use in school districts is limited to insecticides that are Green and Yellow Category pesticides

[http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac_view=5&ti=4&pt=1&ch=7&sch=H](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=5&ti=4&pt=1&ch=7&sch=H)