

DRAFT 1-9-20
Proposed Rule
LSA Document # 20-XX

DIGEST

Amends 355 IAC 4-0.5-1 to reference the applicability of definitions in IC 15-16-4 and IC 15-16-5. Adds 355 IAC 4-0.5-5 to add a definition of certification categories. Adds 355 IAC 4-0.5-6 to add a definition of CCH. Adds 355 IAC 4-0.5-7 to add a definition of in-house training. Adds 355 IAC 4-0.5-8 to add a definition of PARP. Amends 355 IAC 4-1 to limit the use of restricted use pesticides to certified applicators only and to consolidate and coordinate certification standards and procedures for commercial applicators from 355 IAC 4-5-3, 355 IAC 4-6-3, 357 IAC 1-11-2, 357 IAC 1-15-2, and 357 IAC 1-16-4. Amends 355 IAC 4-1-4 to limit use of restricted use pesticides to certified applicators only. Amends 355 IAC 4-2 to consolidate and coordinate requirements for supervision of noncertified pesticide applicators from 357 IAC 1-11-2, 357 IAC 1-15-3, and 357 IAC 1-16-5. Amends 355 IAC 4-2-8 restrict the technician registration requirement to noncertified for hire applicators only. Amends 355 IAC 4-4-1 to consolidate and coordinate pesticide record keeping requirements from 355 IAC 4-1.5, 355 IAC 4-5-2, 357 IAC 1-15-4, and 357 IAC 1-16-9. Amends 355 IAC 4-4-1.5 to coordinate pesticide use records for commercial applicators and private applicators. Amends 355 IAC 4-4-2 to establish pesticide record production timelines. Amends 355 IAC 4-4-3 to expand the restricted use pesticide distribution record keeping requirements to match those required by 40 CFR 171. Repeals 355 IAC 4-0.5-1.5. Repeals 4-0.5-2. Repeals 4-0.5-3. Repeals 4-0.5-4. Repeals 355 IAC 4-2-1. Repeals 355 IAC 4-2-5. Repeals 355 IAC 4-2-6. Repeals 355 IAC 4-2-7. Repeals 355 IAC 4-3-0.5. Repeals 355 IAC 4-5-1. Repeals 355 IAC 4-5-3. Repeals 355 IAC 4-6. Repeals 355 IAC 4-7-1.

ARTICLE 4. PESTICIDE USE AND APPLICATION

Rule 0.5. Definitions

355 IAC 4-0.5-1 Applicability

Authority: IC 15-16-5-44; IC 15-16-5-45

Affected: IC 15-16-5

Sec. 1. **In addition to** the definitions in this rule, **the definitions in IC 15-16-4 and IC 15-16-5** apply throughout this article. *(State Chemist of the State of Indiana; 355 IAC 4-0.5-1; filed Nov 22, 1999, 3:39 p.m.: 23 IR 776; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; readopted filed Sep 20, 2007, 1:46 p.m.: 20071010-IR-355070484RFA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA)*

355 IAC 4-0.5-1.5 "Certification" defined (**Repealed**)

Authority: IC 15-16-5-44; IC 15-16-5-45

Affected: IC 15-16-5

~~Sec. 1.5. "Certification" means the status achieved by an individual who has demonstrated competency in a particular category by having met the certification requirements established for that category. Certification shall:~~

~~(1) be assigned to the individual; and~~

~~(2) not be impacted by that individual's employment status.~~

~~*(State Chemist of the State of Indiana; 355 IAC 4-0.5-1.5; filed Jan 30, 2007, 9:49 a.m.: 20070228-IR-355060063FRA; readopted filed Sep 20, 2007, 1:46 p.m.: 20071010-IR-355070484RFA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA)*~~

355 IAC 4-0.5-1.7 "Fertilizer material" defined

Authority: IC 15-16

Affected: IC 15-16-2-11

Sec. 1.7. "Fertilizer material", as defined in IC 15-16-2-11, means any substance containing nitrogen, phosphate, potash, or any recognized plant nutrient that:

- (1) is used for the plant nutrient content; and
- (2) has nutrient value in promoting plant growth.

The term includes unmanipulated animal and vegetable manures. (*State Chemist of the State of Indiana; 355 IAC 4-0.5-1.7; filed Dec 10, 2010, 10:32 a.m.: 20110105-IR-355100565FRA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA*)

355 IAC 4-0.5-2 "Licensed applicator for hire" defined (**Repealed**)

Authority: IC 15-16

Affected: IC 15-16

~~Sec. 2. "Licensed applicator for hire" means any licensed certified commercial applicator who is:~~

- ~~(1) employed by a licensed pesticide business; and~~
- ~~(2) directly responsible for the use or supervision of the use of any:~~
 - ~~(A) pesticide; or~~
 - ~~(B) product regulated under:~~

~~(i) IC 15-16-2, IC 15-16-4, or IC 15-16-5; or~~

~~(ii) regulations adopted under IC 15-16-2, IC 15-16-4, or IC 15-16-5;~~

~~on the property of another. (*State Chemist of the State of Indiana; 355 IAC 4-0.5-2; filed Nov 22, 1999, 3:39 p.m.: 23 IR 776; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; readopted filed Sep 20, 2007, 1:46 p.m.: 20071010 IR 355070484RFA; filed Nov 28, 2012, 2:42 p.m.: 20121226 IR 355120517FRA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023 IR 355130361RFA*)~~

355 IAC 4-0.5-3 "Licensed applicator not for hire" defined (**Repealed**)

Authority: IC 15-16-5-44; IC 15-16-5-45

Affected: IC 15-16-5

~~Sec. 3. (a) "Licensed applicator not for hire" means a licensed certified commercial applicator who is employed by a private employer to use or supervise the use of:~~

- ~~(1) a restricted use pesticide on the property of the employer; or~~
- ~~(2) any pesticide on the property of the employer in a potentially hazardous situation or site as determined by the Indiana pesticide review board by rule.~~

~~(b) The term does not include the following:~~

- ~~(1) A doctor of veterinary medicine.~~
- ~~(2) A medical doctor.~~
- ~~(3) An applicator who uses only the following nonrestricted use pesticides:~~
 - ~~(A) Germicides.~~
 - ~~(B) Disinfectants.~~
 - ~~(C) Bactericides.~~
 - ~~(D) Sanitizers.~~
 - ~~(E) Water purifiers.~~
 - ~~(F) Swimming pool chemicals.~~

~~(*State Chemist of the State of Indiana; 355 IAC 4-0.5-3; filed Nov 22, 1999, 3:39 p.m.: 23 IR 776; errata filed Dec 9, 1999, 12:31 p.m.: 23 IR 813; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; readopted filed Sep 20, 2007, 1:46 p.m.: 20071010 IR 355070484RFA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023 IR 355130361RFA*)~~

355 IAC 4-0.5-4 "Licensed public applicator" defined (**Repealed**)

Authority: IC 15-16-5-44; IC 15-16-5-45

Affected: IC 15-16-5

~~Sec. 4. (a) "Licensed public applicator" means a licensed certified commercial applicator who, as an employee of a state agency, municipal corporation, other governmental agency, or nonprofit organization, uses or supervises the use of:~~

- ~~(1) a restricted use pesticide; or~~

(2) any pesticide in a potentially hazardous situation or site as determined by the Indiana pesticide review board by rule.

(b) The term does not include the following:

(1) A doctor of veterinary medicine.

(2) A medical doctor.

(3) An applicator who uses only the following nonrestricted use pesticides:

(A) Germicides.

(B) Disinfectants.

(C) Bactericides.

(D) Sanitizers.

(E) Water purifiers.

(F) Swimming pool chemicals.

(State Chemist of the State of Indiana; 355 IAC 4-0.5-4; filed Nov 22, 1999, 3:39 p.m.: 23 IR 777; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; readopted filed Sep 20, 2007, 1:46 p.m.: 20071010 IR 355070484RFA; filed Nov 28, 2012, 2:42 p.m.: 20121226 IR 355120517FRA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023 IR 355130361RFA)

355 IAC 4-0.5-5 "Categories" defined

Authority: IC 15-16-5-44; IC 15-16-5-45

Affected: IC 15-16

Sec. 5. "Categories" means the commercial applicator certification categories established in 355 IAC 4-1-3.

355 IAC 4-0.5-6 "CCH" defined

Authority: IC 15-16-5-44; IC 15-16-5-45

Affected: IC 15-16

Sec. 6. "CCH" means a continuing certification hour for commercial applicators or registered technicians. One (1) CCH is equivalent to one (1) hour of pesticide-related instruction or training that has been evaluated and approved by the state chemist.

355 IAC 4-0.5-7 "In-house training" defined

Authority: IC 15-16-5-44; IC 15-16-5-45

Affected: IC 15-16

Sec. 7. "In-house training" means training or instruction that is designed specifically for a company's own employees.

355 IAC 4-0.5-8 "PARP" defined

Authority: IC 15-16-5-44; IC 15-16-5-45

Affected: IC 15-16

Sec. 8. "PARP" means a private applicator recertification program of pesticide related instruction or training that has been evaluated and approved by the state chemist

Rule 1. Categorization of Licenses and Certificates

355 IAC 4-1-1 Definitions (Repealed)

Sec. 1. (Repealed by State Chemist of the State of Indiana; filed Nov 21, 1984, 3:33 pm: 8 IR 334)

355 IAC 4-1-1.1 Commercial applicators; licensing
Authority: IC 15-16-5-44; IC 15-16-5-45
Affected: IC 15-16-5-7

Sec. 1.1. (a) Completing the certification requirements as a commercial applicator (IC 15-16-5-7) shall be a qualifying requirement for each of the licenses ~~defined in 355 IAC 4-0-5~~ **required under IC 15-16-5.**

(b) An individual who is employed as a licensed applicator at more than one (1) business location or agency at the same time shall:

- (1) hold separate and distinct licenses for each employer; and
- (2) pay all applicable license fees.

(State Chemist of the State of Indiana; 355 IAC 4-1-1.1; filed Nov 21, 1984, 3:33 p.m.: 8 IR 331; filed Nov 22, 1999, 3:39 p.m.: 23 IR 777; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Jan 30, 2007, 9:49 a.m.: 20070228-IR-355060063FRA; readopted filed Sep 20, 2007, 1:46 p.m.: 20071010-IR-355070484RFA; filed Nov 28, 2012, 2:42 p.m.: 20121226-IR-355120517FRA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA)

355 IAC 4-1-2 Licensed applicator not for hire; certification (*Repealed*)

Sec. 2. (*Repealed by State Chemist of the State of Indiana; filed Nov 21, 1984, 3:33 pm: 8 IR 334*)

355 IAC 4-1-2.1 Commercial applicators; certification standards and procedures
Authority: **IC 15-16**; IC 15-16-5
Affected: **IC 15-16-2**; **IC 15-16-4**; **IC 15-16-5**; IC 15-16-5-52;

Sec. 2.1. (a) **Except as provided in section 4 of this rule or 355 IAC 4-2, an individual must be a commercial applicator to do any of the following:**

- (1) **Purchase a restricted use pesticide.**
- (2) **Use a restricted use pesticide.**
- (3) **Except for a pesticide intended for disinfecting or sanitizing, use or supervise the use of a pesticide product for hire.**
- (4) **Use or supervise the use of a fertilizer material for hire on turf.**
- (5) **Use or supervise the use of a fertilizer material for hire on another person's property to produce an agricultural crop.**
- (6) **Use or supervise the use of a pesticide on a golf course.**
- (7) **Except for a pesticide intended for disinfecting or sanitizing, use or supervise the use of a pesticide at a school.**
- (8) **Use or supervise the use of a pesticide on publicly accessible property for community wide mosquito management.**
- (9) **Apply a pesticide by means of aerial application.**
- (10) **Make a diagnostic inspection or report to determine infestations of a wood destroying pest.**

~~(a)~~ (b) Initial certification of commercial applicators shall be by written ~~closed book~~ examinations developed by the state chemist. The minimum passing score on all examinations administered by the state chemist shall be ~~seventy five percent (75%) unless another minimum passing score has been established by the state chemist after consideration of the recommendations of the~~ **determined based on recommendation of a standards setting committee, as described in subsection (e)-(d).**

~~(b)~~ (c) Except for applicators in category 12, ~~and~~ category 13, **and category 14**, each certified commercial applicator shall have passed:

- (i) a core examination, **covering subject matter that is common to most categories of applicators;** and
- (ii) a category examination, **covering subject matter that is specific to the occupational groups identified by the categories described in 355 IAC 4-1-3.**

~~(c)~~ (d) For each examination, the state chemist shall appoint a separate ~~standards~~ committee to develop certification subject matter and standards. Members of this committee shall include, at a minimum, individuals representing ~~the following:~~

- ~~(1) The state chemist.~~
- ~~(2) The Purdue University cooperative extension service.~~

(3) the largest pesticide user groups covered by that category.

(e) Certification subject matter referenced in subsection (d) shall include, but not be limited to, relevant subject matter content referenced in 40 CFR 171.

(4) **(f)** Initial certification shall remain in force from the date of passing the examination through December 31 of the fourth year following the year during which the examination was passed unless revoked or suspended.

(5) **(g)** No examination may be attempted more than three (3) times in any twelve (12) month period. The twelve (12) month period shall commence on the date that the first examination failure occurs.

(6) **(h)** The state chemist shall specify examination procedures that must be followed by any individual taking an examination. Failure to comply with these procedures or any unauthorized assistance provided by or received by an individual during the examining period shall be cause for immediate termination of the examining process for all involved individuals and no additional opportunity to take any examinations shall be provided to the involved individuals for a period of five (5) years.

(i) Initial certification as a for hire commercial applicator in category 7b, as described in section 3(8) of this rule, or category 12, as described in section 3(13) of this rule, shall also require completion of a practical hands-on training program approved by the state chemist.

(j) Initial certification as a for hire commercial applicator in category 3b, as described in section 3(4) of this rule, shall also require completion of one of the following:

(A) A practical hands-on training program reviewed and approved by the state chemist.

(B) Ninety (90) days of experience as an active Category 3b certified applicator or registered technician in Indiana or any state having a comparable and verifiable program as determined by the state chemist.

(C) A formal post high school two (2) year minimum turf program or a related program that includes turf production in its curriculum. An official transcript must be submitted to the state chemist for approval to qualify by this method.

(D) One (1) year of experience as an active licensed applicator in any licensing category in Indiana or in another state.

(k) Individuals certified as commercial applicators must be a minimum of eighteen (18) years of age, as proven by a valid government issued identification or the equivalent.

(State Chemist of the State of Indiana; 355 IAC 4-1-2.1; filed Nov 21, 1984, 3:33 p.m.: 8 IR 331; filed Nov 22, 1999, 3:39 p.m.: 23 IR 777; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Jan 30, 2007, 9:49 a.m.: 20070228-IR-355060063FRA; readopted filed Sep 20, 2007, 1:46 p.m.: 20071010-IR-355070484RFA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA)

355 IAC 4-1-3 Commercial applicators; categories of certification and licenses

Authority: IC 15-16

Affected: IC 15-16-2; IC 15-16-5

Sec. 3. Commercial applicators shall be certified and licensed in one (1) or more of the following categories:

(1) Category 1. Agricultural pest management. This category includes individuals using or supervising the use of pesticides on noncrop agricultural lands such as pastures, or in production of agricultural crops, including, but not limited to, the following:

(A) Grains.

(B) Soybeans and oil seed.

(C) Forage.

(D) Vegetables.

(E) Fruits.

(F) Nuts.

(2) Category 2. Forest pest management. This category includes individuals using or supervising the use of pesticides in forests or forest nurseries.

(3) Category 3a. Ornamental pest management. This category includes individuals using or supervising the use of pesticides on ornamental plants and related areas such as the following:

- (A) Driveways.
 - (B) Sidewalks.
 - (C) Residential parking areas.
 - (D) Landscape beds.
 - (E) Fence lines.
- (4) Category 3b. Turf management. This category includes individuals using or supervising the use of:
- (A) pesticides on turf and related areas such as:
 - (i) driveways;
 - (ii) sidewalks;
 - (iii) residential parking areas;
 - (iv) landscape beds but not ornamental plantings within the beds;
 - (v) fence lines; and
 - (vi) riprap; or
 - (B) fertilizer materials on turf.

This category does not include the use of pesticides applied for the purpose of managing pests to prevent infestation of a structure.

- (5) Category 4. Seed treatment. This category includes individuals using or supervising the use of pesticides on seed stocks for the purpose of managing pest organisms that are anticipated to attack the plant or germinating seed.
- (6) Category 5. Aquatic pest management. This category includes individuals using or supervising the use of pesticides purposefully applied to any of the following:
- (A) Standing or running water.
 - (B) Wetlands.
 - (C) Related areas such as riprap.
- (7) Category 6. Industrial weed management. This category includes individuals using or supervising the use of pesticides in the maintenance of public or private:
- (A) roads;
 - (B) utility rights-of-way;
 - (C) pipelines;
 - (D) railway rights-of-way;
 - (E) parking lots;
 - (F) ditch banks;
 - (G) riprap;
 - (H) fence lines;
 - (I) restoration areas; and
 - (J) substations;

and other similar areas.

- (8) Category 7a. Industrial, institutional, structural, and health related pest management. This category includes individuals using or supervising the use of pesticides for management of pests other than termites in or around structures such as any of the following:
- (A) Human dwellings.
 - (B) Offices.
 - (C) Retail establishments.
 - (D) Farm structures.
 - (E) Restaurants.
 - (F) Warehouses.
 - (G) Institutional establishments.
 - (H) Industrial facilities.
 - (I) Food processing facilities.

- (9) Category 7b. Termite control. This category includes individuals using or supervising the use of pesticides for the management of termites and other wood destroying organisms. Certification in this category also qualifies individuals to inspect structures for the purpose of determining the presence or absence of evidence of termites or other wood destroying

organisms.

(10) Category 7d. Fumigation. Certification in this category is required for all individuals using or supervising the use of pesticides that in the gaseous state are designed to kill or repel pests.

(11) Category 8. Community-wide mosquito management. This category includes governmental employees or other individuals using or supervising the use of pesticides for community-wide mosquito abatement. ~~as defined in 357 IAC 4-1-1-4(3).~~

(12) Category 11. Aerial application. Certification in this category is required for all individuals who apply pesticides by means of:

- (A) fixed wing;
- (B) rotary wing;
- (C) ultralight aircraft; ~~or~~
- (D) lighter-than-air aircraft, **or**
- (E) unmanned aerial vehicle.**

(13) Category 12. Wood destroying pest inspection. Certification in this category limits individuals to the inspection of structures for the purpose of determining evidence of the presence or absence of termites or other wood destroying organisms. It does not permit these individuals to use or supervise the use of pesticides for hire. The certification requirements for this category shall be determined by the state chemist.

(14) Category 13. Limited certification. This category includes individuals using or supervising the use of a very limited number of specialized pesticides in or on a very limited number of types of sites and situations not adequately covered by other categories listed in this section. The requirements for these limited certifications shall be determined by the state chemist.

(15) Category 14. Agricultural fertilizer material application. This category includes individuals using or supervising the use of fertilizer material for purposes of producing an agricultural crop on the property of another person.

(State Chemist of the State of Indiana; 355 IAC 4-1-3; Pesticide Use & Application Reg 1, Sec. 3; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 440; filed Nov 21, 1984, 3:33 p.m.: 8 IR 332; filed Nov 22, 1999, 3:39 p.m.: 23 IR 778; errata filed Dec 9, 1999, 12:31 p.m.: 23 IR 814; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Jan 30, 2007, 9:49 a.m.: 20070228-IR-355060063FRA; readopted filed Sep 20, 2007, 1:46 p.m.: 20071010-IR-355070484RFA; filed Dec 10, 2010, 10:32 a.m.: 20110105-IR-355100565FRA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA)

355 IAC 4-1-4 Private applicators; certification requirements

Authority: IC 15-16-5-44; IC 15-16-5-45

Affected: IC 15-16-4-51; IC 15-16-5

Sec. 4. (a) An individual must be a private applicator to purchase or use a restricted use pesticide for purposes of producing an agricultural commodity on property owned, rented, managed, or controlled by the individual or the individual's employer.

~~(a)~~ **(b) Initial certification as a private applicator (IC 15-16-4-51) shall require an individual to pass the same written closed book exams examinations** as those described for commercial applicators in section 2.1 of this rule, except that the state chemist shall determine which commercial applicator examination will be considered appropriate for the private applicator's proposed use of pesticides.

~~(b)~~ **(c) Certification and the permit for private applicators shall remain valid from the date of passing the examination and paying the permit fee through December 31 of the fourth year following the year during which the examination was passed.**

(d) Individuals certified as private applicators must be a minimum of eighteen (18) years of age, as proven by a valid government issued identification or the equivalent.

(State Chemist of the State of Indiana; 355 IAC 4-1-4; filed Nov 21, 1984, 3:33 p.m.: 8 IR 334; filed Nov 22, 1999, 3:39 p.m.: 23 IR 780; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Jan 30, 2007, 9:49 a.m.: 20070228-IR-355060063FRA; readopted filed Sep 20, 2007, 1:46 p.m.: 20071010-IR-355070484RFA; filed Nov 28, 2012, 2:42 p.m.: 20121226-IR-355120517FRA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA)

Rule 2. ~~Site Awareness and Direct Supervision of Noncertified Applicators~~

355 IAC 4-2-1 Definitions (**Repealed**)

Authority: IC 15-16

Affected: IC 15-16-5-36

Sec. 1. The following definitions apply throughout this rule:

(1) "Competent person" means a person who:

- (A) has the ability to read and comprehend written instructions, including the text of pesticide and fertilizer labels;
- (B) is at least sixteen (16) years of age; and
- (C) is a registered technician.

(2) "Direct supervision" means either of the following:

(A) The physical presence of the supervising certified applicator at the work site under circumstances that permit continuous direct voice contact with the noncertified individual.

(B) The supervising certified applicator has provided the noncertified competent person the following:

- (i) Written instructions covering site specific precautions to prevent injury to persons or the environment or damage to property.
- (ii) A copy of the labels of all pesticide and fertilizer products to be used.
- (iii) The means and instructions to establish direct voice communication during the use of the pesticide or fertilizer with the supervising certified applicator.
- (iv) All personal protective equipment and instructions on proper use required by the labels of the pesticide or fertilizer products for the uses being performed.

(3) "Registered technician" means a noncertified person who, having met the requirements of section 8 of this rule, is registered by the state chemist and thereby is authorized to engage in pesticide use and related activities while working under the direct supervision of a certified applicator.

(4) "Work site" means any location at which pesticides or fertilizers are used.

(5) "Written instructions" means a written or printed site assessment fact sheet or similar document that shall be reviewed by the noncertified applicator prior to each pesticide or fertilizer application. The required elements on the site assessment fact sheet shall be industry specific and developed by the state chemist in consultation with the appropriate certified applicator industry.

(State Chemist of the State of Indiana; Pesticide Use & Application Reg 2, Sec 1; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 442; filed Apr 21, 1982, 3:45 p.m.: 5 IR 1191; filed Sep 20, 2001, 3:54 p.m.: 25 IR 376; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; readopted filed Sep 20, 2007, 1:46 p.m.: 20071010-IR-355070484RFA; filed Nov 28, 2012, 2:42 p.m.: 20121226-IR-355120517FRA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA)

355 IAC 4-2-2 Pesticide or fertilizer use by noncertified persons **individuals**

Authority: IC 15-16

Affected: IC 15-16-5-49

Sec. 2. **Nonrestricted general use** pesticides or fertilizers may be used by a noncertified **person individual** working under the direct supervision of a certified **commercial** applicator, **in accordance with section 3 of this rule.** ~~All persons conducting use of pesticides or fertilizers for hire by aerial application shall be certified.~~ *(State Chemist of the State of Indiana; Pesticide Use & Application Reg 2, Sec 2; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 443; filed Apr 21, 1982, 3:45 p.m.: 5 IR 1192; filed Sep 20, 2001, 3:54 p.m.: 25 IR 376; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Aug 18, 2005, 4:30 p.m.: 29 IR 6; readopted filed Sep 20, 2007, 1:46 p.m.: 20071010-IR-355070484RFA; filed Nov 28, 2012, 2:42 p.m.: 20121226-IR-355120517FRA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA)*

355 IAC 4-2-3 ~~On-site~~ Supervision of use

Authority: IC 15-16

Affected: IC 15-16-5

Sec. 3. (a) The supervising ~~certified~~ **commercial** applicator shall be physically present **at the pesticide use site** as defined in section 1(2)(A) of this rule if the:

- (1) label of the pesticide being used so stipulates; or
- (2) noncertified individual ~~(A)~~ has had no prior experience with either the pesticide, the fertilizer, or the application methodology in use; or
- ~~(B) is not competent as defined in section 1(1) of this rule.~~ (3) pesticide is being used for hire, and the noncertified individual is not a registered technician, as provided in section 8 of this rule.

(b) The supervising commercial applicator must provide the noncertified individual with the following:

- (1) a complete legible copy of the pesticide or fertilizer product label being used;
- (2) the means and instructions to establish direct voice or text communication with the supervisor during the pesticide use; and
- (3) all equipment and instruction required by the label of the pesticide or fertilizer product to use the product safely and effectively.

(State Chemist of the State of Indiana; Pesticide Use & Application Reg 2, Sec 3; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 443; filed Apr 21, 1982, 3:45 p.m.: 5 IR 1192; filed Sep 20, 2001, 3:54 p.m.: 25 IR 376; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; readopted filed Sep 20, 2007, 1:46 p.m.: 20071010-IR-355070484RFA; filed Nov 28, 2012, 2:42 p.m.: 20121226-IR-355120517FRA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA)

355 IAC 4-2-4 Application instructions *(Repealed)*

Sec. 4. *(Repealed by State Chemist of the State of Indiana; filed Sep 20, 2001, 3:54 p.m.: 25 IR 378)*

355 IAC 4-2-5 Applicability of supervision requirements **(Repealed)**

Authority: IC 15-16

Affected: IC 15-16-5

Sec. 5. ~~The requirements for direct supervision of noncertified individuals shall apply to the use of the following:~~

~~(1) All pesticides or fertilizers by any person required by IC 15-16-5 or the rules under that chapter to be licensed as one (1) of the following:~~

- ~~(A) A pesticide business.~~
- ~~(B) A for hire applicator.~~
- ~~(C) A not for hire applicator.~~
- ~~(D) A public applicator.~~

~~(2) Restricted use pesticides.~~

(State Chemist of the State of Indiana; Pesticide Use & Application Reg 2, Sec 5; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 443; filed Apr 21, 1982, 3:45 p.m.: 5 IR 1192; filed Sep 20, 2001, 3:54 p.m.: 25 IR 377; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; readopted filed Sep 20, 2007, 1:46 p.m.: 20071010-IR-355070484RFA; filed Nov 28, 2012, 2:42 p.m.: 20121226-IR-355120517FRA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA)

355 IAC 4-2-6 Certified and noncertified applicators' responsibilities

Authority: IC 15-16-4-52; IC 15-16-5-44

Affected: IC 15-16-5

Sec. 6. Certified supervising applicators and noncertified individuals **must be in possession of a complete and legible copy of the pesticide label at all times that the pesticide is being used.** ~~shall be responsible for the following:~~

~~(1) A certified supervising applicator shall provide the items listed in section 1(2)(B) of this rule to the noncertified individual.~~

~~(2) A noncertified individual shall:~~

- ~~(A) be in possession of the items listed in section 1(2)(B) of this rule;~~
- ~~(B) carry out the instructions of the supervising certified applicator; and~~
- ~~(C) upon request, produce the items listed in section 1(2)(B) of this rule for inspection by the state chemist.~~

(State Chemist of the State of Indiana; Pesticide Use & Application Reg 2, Sec 6; filed Apr 21, 1982, 3:45 p.m.: 5 IR 1192; filed Sep

20, 2001, 3:54 p.m.: 25 IR 377; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; readopted filed Sep 20, 2007, 1:46 p.m.: 20071010-IR-355070484RFA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA)

355 IAC 4-2-7 Limit on number of noncertified individuals to be supervised (**Repealed**)

Authority: IC 15-16-4-52; IC 15-16-5-44

Affected: IC 15-16-5

~~Sec. 7. (a) A certified applicator providing direct supervision as described in section 1(2)(B) of this rule may supervise no more than ten (10) noncertified individuals unless an emergency exemption as provided in subsection (b) has been granted by the state chemist.~~

~~(b) A certified applicator may apply for and the state chemist may grant an emergency exemption for up to sixty (60) days from the date of application by the certified applicator to allow for temporary supervision of more than ten (10) noncertified individuals.~~

~~(c) The state chemist will determine if the emergency exemption as applied for is justifiable and reasonable to grant. (State Chemist of the State of Indiana; 355 IAC 4-2-7; filed Sep 20, 2001, 3:54 p.m.: 25 IR 377; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; readopted filed Sep 20, 2007, 1:46 p.m.: 20071010-IR-355070484RFA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA)~~

355 IAC 4-2-8 Technician registration requirements

Authority: IC 15-16-5-44

Affected: IC 15-16-5-60

Sec. 8. (a) An individual must be a registered technician to use a nonrestricted general use pesticide for hire under the supervision of a commercial applicator.

~~(a)~~ **(b)** To become a registered technician, an individual must do the following:

(1) Pass the commercial applicator core examination described in 355 IAC 4-1-2.1.

(2) Submit an application on a form provided by the state chemist.

(3) Submit the technician registration fee.

~~(b)~~ **(c)** Registration shall remain in force from the date of passing the examination through December 31 of the fourth year following the year during which the examination was passed unless revoked or suspended.

~~(c)~~ **(d)** The registration period may be extended indefinitely for an additional five (5) years if the registered technician accumulates at least eight (8) continuing registration credits by attending at least two (2) state chemist approved continuing registration programs while the registration is in force.

~~(d)~~ **(e)** Annual registration credentials shall expire on December 31 unless renewed by payment of the renewal fee by that date. Renewal after December 31 shall include a late fee as established by IC 15-16-5-60 in addition to the renewal fee.

~~(e)~~ **(f)** The registration credential shall be in the possession of the registered technician at all times the technician is at a work site as defined in section 1(4) of this rule. (State Chemist of the State of Indiana; 355 IAC 4-2-8; filed Sep 20, 2001, 3:54 p.m.: 25 IR 377; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Aug 18, 2005, 4:30 p.m.: 29 IR 6; readopted filed Sep 20, 2007, 1:46 p.m.: 20071010-IR-355070484RFA; filed Nov 28, 2012, 2:42 p.m.: 20121226-IR-355120517FRA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA)

Rule 3. Financial Responsibility of Commercial Applicators

355 IAC 4-3-0.5 Definitions (**Repealed**)

Authority: IC 15-16-5-44

Affected: IC 15-16-5-19; IC 15-16-5-25; IC 27-1-3-20

~~Sec. 0.5. The following definitions apply throughout this rule:~~

~~(1) "Pesticide", as defined in IC 15-16-5-25, includes, but is not limited to, the following products:~~

~~(A) Fungicides.~~

~~(B) Herbicides.~~

- (C) Insecticides.
- (D) Rodenticides.
- (E) Termiticides.

(2) "Pesticide business license", as defined in IC 15-16-5-19, means the license issued annually by the state chemist to a for-hire:

- (A) pesticide application business; or
- (B) category 12 wood destroying pest inspection business.

(3) "Wood destroying pest" means a wood infesting pest commonly targeted for inspection prior to a real estate transfer, including:

- (A) carpenter ants;
- (B) carpenter bees;
- (C) reinfesting wood boring beetles;
- (D) termites; or
- (E) wood destroying fungus.

(State Chemist of the State of Indiana; 355 IAC 4-3-0.5; filed Nov 28, 2012, 2:38 p.m.: 20121226-IR-355120134FRA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA)

355 IAC 4-3-1 Proof of financial responsibility

Authority: IC 15-16-5-44

Affected: IC 15-16-5-48; IC 15-16-5-58; IC 27-1-3-20

Sec. 1. (a) Prior to the issuance of a pesticide business license, applicants shall furnish evidence of financial responsibility acceptable to the state chemist.

(b) Pesticide business licensees must provide the state chemist with updated proof of liability insurance or surety bond whenever the pesticide liability insurance or surety bond expires or is modified. *(State Chemist of the State of Indiana; Pesticide Use & Application Reg 3, Sec 1; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 443; filed Jan 10, 1995, 8:45 a.m.: 18 IR 1238; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; readopted filed Sep 20, 2007, 1:46 p.m.: 20071010-IR-355070484RFA; filed Nov 28, 2012, 2:38 p.m.: 20121226-IR-355120134FRA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA)*

355 IAC 4-3-2 Minimum coverage amounts

Authority: IC 15-16-5-44; IC 15-16-5-45

Affected: IC 15-16-5-48; IC 15-16-5-58

Sec. 2. (a) The minimum coverage requirements for a pesticide application business shall be three hundred thousand dollars (\$300,000) general liability combined single limit of liability for bodily injury and property damage.

(b) The minimum coverage requirements for a category 12 wood destroying pest inspection business shall be three hundred thousand dollars (\$300,000) general liability combined single limit of liability for property damage. *(State Chemist of the State of Indiana; Pesticide Use & Application Reg 3, Sec 2; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 444; filed Jan 10, 1995, 8:45 a.m.: 18 IR 1239; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; readopted filed Sep 20, 2007, 1:46 p.m.: 20071010-IR-355070484RFA; filed Nov 28, 2012, 2:38 p.m.: 20121226-IR-355120134FRA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA; filed Apr 8, 2015, 12:36 p.m.: 20150506-IR-355150001FRA)*

355 IAC 4-3-3 Type of coverage *(Repealed)*

Sec. 3. *(Repealed by State Chemist of the State of Indiana; filed Apr 8, 2015, 12:36 p.m.: 20150506-IR-355150001FRA)*

355 IAC 4-3-4 Acceptable proof of insurance form

Authority: IC 15-16-5-44; IC 15-16-5-45

Affected: IC 15-16-5-48; IC 15-16-5-58

Sec. 4. (a) Proof of liability insurance shall be provided by the issuing insurance company on a certificate of insurance.

(b) The state chemist may be listed as a certificate holder on the certificate of insurance. (*State Chemist of the State of Indiana; Pesticide Use & Application Reg 3, Sec 4; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 444; filed Jan 10, 1995, 8:45 a.m.: 18 IR 1239; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; readopted filed Sep 20, 2007, 1:46 p.m.: 20071010-IR-355070484RFA; filed Nov 28, 2012, 2:38 p.m.: 20121226-IR-355120134FRA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA; filed Apr 8, 2015, 12:36 p.m.: 20150506-IR-355150001FRA*)

Rule 4. Records

355 IAC 4-4-1 Commercial applicator use records

Authority: **IC 15-16-4-50; IC 15-16-5-59**; IC 15-16-5-44

Affected: **IC 15-16-4; IC 15-16-5**; IC 15-16-5-59

Sec. 1. (a) All commercial applicators or their employees shall keep and maintain records of all **use and** applications of pesticides ~~classified for restricted use~~ **referenced in 355 IAC 4-1-2.1(a)**. Such records ~~shall provide~~ **must include** the following:

~~(1) Name and address of customer or property owner and address or location description of the site of application if different.~~

(2) Address, geographic coordinates, or location description of site of application.

~~(2) (3) Name and certification number (or certification number of the supervising certified applicator) of the person making the application~~ **responsible commercial applicator.**

(4) Certification, license, permit, or registration number of the responsible commercial applicator.

(5) Name of the noncertified applicator(s) being supervised, if applicable.

~~(3) (6) Date of application (month, day, and year).~~

(7) Start and stop times of the application.

~~(4) (8) Type or description of plant, crop, animal, commodity, stored product, or site treated.~~

~~(9) and Principal pests to be controlled.~~

~~(5) (10) Acreage, area, or number of plants or animals treated or other appropriate description.~~

~~(6) (11) Brand name of pesticide product(s) applied including name of the manufacturer~~

(12) EPA registration number of the pesticide product(s) applied. and brand name (including formulation if specifically identified in the brand name).

~~(7) (13) Amount of pesticide product used, expressed as either:~~

~~(A) concentrate give total quantity of formulation applied (pounds, gallons, etc.); or~~

~~(B) total amount of diluted mixture (ready to use) give total amount applied and active ingredient concentration (percentage).~~

(b) For outdoor agricultural or aerial pesticide applications, in addition to the information required in section 1(a), the records must include the following:

(1) Wind direction at start and stop times of the application.

(2) Wind speed at start and stop times of the application.

(3) Air temperature at start and stop times of the application.

(c) For termite control pesticide applications for hire, in addition to the information required in section 1(a), the records must include the following:

(1) A copy of the contract, service agreement or other similar written documentation for the treated structure. This written documentation as it relates to pricing shall be declared confidential as provided for in IC 15-16-5-41.

(2) A graph or diagram of the treated structure.

(3) Dimensions of the treated structure. This includes depth from grade to the top of the foundation footing if soil applied liquids are used.

(4) Treatment specifications, if soil applied liquids are used.

(5) A copy of the termite control customer disclosure form signed by the customer.

~~(b) (d)~~ **(d)** The records to be ~~maintained~~ **created** under this section shall be recorded ~~by the thirtieth day from~~ **on** the date of application and be kept and maintained for a period of at least two (2) years.

~~(c) The records to be maintained under this section shall be maintained collectively.~~

~~(d) Written or electronic information which includes all of the items in subsection (a) and used to create the records shall be maintained from the date of application until the collective written record required is generated.~~

~~(e) If requested, the commercial applicator shall, within thirty (30) days of a restricted use pesticide application date, provide a copy of the records maintained under this section to the person for whom the restricted use pesticide was applied. Such person shall keep this copy for two (2) years after the date of the application. (State Chemist of the State of Indiana; Pesticide Use & Application Reg 4, Sec 1; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 444; filed Nov 3, 1993, 9:00 a.m.: 17 IR 339; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; readopted filed Sep 20, 2007, 1:46 p.m.: 20071010-IR-355070484RFA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA)~~

355 IAC 4-4-1.5 Private applicator use records

Authority: **IC 15-16-4-50**; IC 15-16-5-44; **IC 15-16-5-59**

Affected: **IC 15-16-4**; IC 15-16-5

Sec. 1.5. (a) All private applicators or their employees shall keep and maintain records of all **use and** applications of **restricted use** pesticides ~~classified for restricted use~~. Such records ~~shall provide~~ **must include the requirements described in sections 1(a) and (b) of this rule**, following:

~~(1) Address or location description of site of application.~~

~~(2) Name and certification number (or certification number of the supervising certified applicator) of the person making the application.~~

~~(3) Date of application (month, day, and year).~~

~~(4) Type of plants, crop, animals, commodity, stored product, or sites treated and principal pests to be controlled.~~

~~(5) Acreage, area, or number of plants or animals treated or other appropriate description.~~

~~(6) Pesticide applied, including name of the manufacturer, EPA registration number, and brand name (including formulation if specifically identified in the brand name).~~

~~(7) Amount used, expressed as either:~~

~~(A) concentrate—give total quantity of formulation applied (pounds, gallons, etc.); or~~

~~(B) diluted mixture (ready to use)—give total amount applied and active ingredient concentration (percentage).~~

~~(b) The records to be maintained created under this section shall be recorded by the thirtieth day from on the date of application and be kept and maintained for a period of two (2) years.~~

~~(c) Written or electronic information which includes all of the items in subsection (a) and used to create the records shall be maintained from the date of application until the collective written record required is generated. (State Chemist of the State of Indiana; 355 IAC 4-4-1.5; filed Nov 3, 1993, 9:00 a.m.: 17 IR 339; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; readopted filed Sep 20, 2007, 1:46 p.m.: 20071010-IR-355070484RFA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA)~~

355 IAC 4-4-2 Record inspection; availability

Authority: IC 15-16-5-44

Affected: IC 15-16-5

Sec. 2. (a) All ~~required~~ records **required by this rule and information** shall upon **in-person written** or oral request be made **immediately** available for inspection and copying by the state chemist, ~~or his authorized agent~~. The person requesting the records must present his or her credentials prior to the release of records.

(b) All records required by this rule shall upon written request be made available within fifteen (15) days for inspection or copying by the state chemist.

~~(c) No government agency shall release information obtained under this rule that would directly or indirectly reveal the identity of producers of commodities to which restricted use pesticides have been applied. However, information collected by the state chemist during the course of a complaint or damage investigation shall not be subject to this restriction on release.~~

~~(d) When a licensed health care professional determines that information required to be maintained as part of these records is necessary to provide medical treatment to an individual who may have been exposed to the pesticide, the state chemist or the private or commercial applicator shall provide the requested information.~~

~~(d)~~ (e) As used in this rule, "licensed health care professional" means a physician, nurse, emergency medical technician, or other qualified individual licensed by a state to provide medical treatment.

~~(e)~~ (f) No licensed health care professional shall release any record or information from any record obtained under subsection ~~(e)~~ (d) except as necessary to provide medical treatment to an individual who may have been exposed to the restricted use pesticide for which the record is maintained. (*State Chemist of the State of Indiana; Pesticide Use & Application Reg 4, Sec 2; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 445; filed Nov 3, 1993, 9:00 a.m.: 17 IR 340; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; readopted filed Sep 20, 2007, 1:46 p.m.: 20071010-IR-355070484RFA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA*)

355 IAC 4-4-3 Restricted pesticide dealers; records
Authority: IC 15-16-4-52; IC 15-16-5-44
Affected: IC 15-16

~~Sec. 3. Dealers selling or distributing pesticides with uses classified as restricted shall be registered with the Office of the State Chemist each year.~~ (a) **A person must be a registered pesticide dealer to sell or distribute restricted use pesticides.**

- (b) ~~These Dealers shall create a record for each transaction involving a restricted use pesticide~~ **that includes** the following:
- (i) ~~Name, address and certificate number~~ of the certified applicator for whom the purchase **or distribution** is being made.
 - (ii) **Certification, license, or permit number of the certified applicator.**
 - (iii) **Certification, license, or permit expiration date.**
 - (iv) **Certification categories of the certified applicator.**
 - (v) Date of distribution.
 - (vi) ~~Identity~~ **Brand name of the pesticide product** (~~manufacturer, EPA registration number, and brand name~~).
 - (vii) **EPA registration number of the pesticide product.**
 - (viii) Amount of **pesticide product sold or distributed.**
 - (ix) ~~Signature~~ **or verifiable confirmation of the person presenting the certification credentials** ~~ordering or taking delivery of the product.~~

(c) These records shall be **created on the date of the sale or distribution and shall be** maintained for two (2) years from the date of sale.

(State Chemist of the State of Indiana; Pesticide Use & Application Reg 4, Sec 3; filed Aug 3, 1976, 4:10 pm: Rules and Regs. 1977, p. 445; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; readopted filed Sep 20, 2007, 1:46 p.m.: 20071010-IR-355070484RFA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA)

~~Rule 5. Licensed Applicators (for Hire) and Registered Technicians; Qualifications, Training, and Supervision~~ **Termite Control Notification and Customer Disclosure**

355 IAC 4-5-1 Definitions (**Repealed**)
Authority: IC 15-16-5-44; IC 15-16-5-45
Affected: IC 15-16-5-48

~~Sec. 1. The following definitions apply throughout this rule:~~

- (1) ~~"Category 7b licensed applicator for hire" means any licensed, certified individual who is:~~
 - (A) ~~employed by a licensed pesticide business to:~~
 - (i) ~~use or supervise the use of any pesticide; and~~
 - (ii) ~~perform related activities such as inspections by the firm; and~~
 - (B) ~~for purposes of this rule, certified in Category 7b.~~
- (2) ~~"Preconstruction termiticide treatment" means the application of a termiticide to a structure or building site during the construction phase for the purpose of protecting that structure from infestation by subterranean termites.~~
- (3) ~~"Registered technician" means an uncertified employee of a licensed business who, having met the requirements stated in~~

355 IAC 4-2-8, is registered by the state chemist to use pesticides and perform related activities, such as inspections, while working under the direct supervision of a licensed applicator for hire.

(4) "Termite control customer disclosure form" means a form approved by the state chemist and issued by a Category 7b licensed applicator for hire to a termite control customer for the purpose of disclosing to the customer all termiticide label directed procedures that were not performed as part of that termiticide application. This form is not:

(A) required if all label directed procedures are performed as part of the initial termiticide use;

(B) required if the termiticide is applied only as:

(i) part of a reapplication to a structure previously treated by the applicator; or

(ii) a preconstruction termiticide treatment; and

(C) valid unless signed by the termite control customer or his or her agent.

(5) "Termiticide" means any pesticide product registered with the state chemist when used for control, suppression, or prevention of termites. The term includes, but is not limited to, the following:

(A) Liquid soil applied products.

(B) Liquid wood applied products.

(C) Bait products.

(D) Foam products.

(E) Granular products.

(State Chemist of the State of Indiana; 355 IAC 4-5-1; filed Feb 17, 1986, 3:00 p.m.; 9 IR 1570, eff Apr 1, 1986; filed Sep 10, 1999, 4:41 p.m.; 23 IR 302; readopted filed Nov 21, 2001, 10:17 a.m.; 25 IR 1269; filed Aug 18, 2005, 4:30 p.m.; 29 IR 7; filed Jan 28, 2010, 11:23 a.m.; 20100224-IR-355090617FRA; readopted filed Sep 25, 2013, 11:08 a.m.; 20131023-IR-355130361RFA)

355 IAC 4-5-2 Record keeping and supervision Requirements for licensed **termite control pesticide** applicators for hire

Authority: IC 15-16-5-44; IC 15-16-5-45

Affected: IC 15-16-5-41

Sec. 2. Licensed Commercial applicators that use termite control pesticides for hire shall be are required to do the following:

(1) Develop records for all for hire termiticide applications performed by that licensed applicator or registered technician operating under that licensed applicator's direct supervision as described in 355 IAC 4-2-

(2) Ensure that the records required under this section include the following:

(A) A copy of the contract, service agreement or other similar written documentation for the treated structure. This written documentation as it relates to pricing shall be declared confidential as provided for in IC 15-16-5-41.

(B) A graph or diagram of the treated structure.

(C) Dimensions of the treated structure. This includes depth from grade to the top of the foundation footing if soil applied liquids are used.

(D) Treatment specifications, if soil applied liquids are used.

(E) The U.S. Environmental Protection Agency product registration number for the termiticides used.

(F) The dilution rate of the termiticides if soil applied or wood applied liquids are used.

(G) The total volume of termiticide use dilutions if soil applied or wood applied liquids are used.

(H) A copy of the termite control customer disclosure form signed by the customer.

(I) The name and registration numbers of all of the technicians participating in the treatment.

(J) The name and license number of the applicator or supervisor if treatment was performed by a registered technician.

(K) The day, month, and year of treatment.

(3) Keep and maintain the records required under this section for a period of five (5) years from the date of treatment.

(4) Provide the registered technicians under the licensed applicator's supervision with the following:

(A) Direct supervision as required in 355 IAC 4-2-

(B) The information required in subdivision (2).

(5) (1) Ensure that ~~the a~~ termite control customer disclosure form, ~~when required,~~ **approved by the state chemist** is issued to and signed by the customer or the customer's agent before making ~~the termiticide a~~ **termite control pesticide** application **for hire**.

~~(6)~~ **(2)** Except as provided in subdivision ~~(7)~~ **(3)**, ensure that the state chemist is notified by means of written communication at least three (3) hours before the initial application of a preconstruction ~~termite treatment~~ **termite control pesticide** of the following:

(A) The physical address of the application site.

(B) The date of the application.

(C) The time the application is scheduled to begin.

(D) The estimated square footage involved in the initial application.

(E) The name and license number of the ~~licensed~~ **commercial** applicator responsible for making or supervising the application.

~~(7)~~ **(3)** If the ~~licensed commercial~~ applicator ~~and the licensed applicator's employer~~ **are** is notified of the need ~~for~~ **to perform** the initial application less than three (3) hours before the application is to occur, the ~~licensed commercial~~ applicator ~~may telephone~~ **must contact** the state chemist **immediately** and then submit the written notification in subdivision ~~(6)~~ **(2)** as soon as is practical.

(State Chemist of the State of Indiana; 355 IAC 4-5-2; filed Feb 17, 1986, 3:00 p.m.: 9 IR 1570, eff Apr 1, 1986; filed Sep 10, 1999, 4:41 p.m.: 23 IR 303; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Aug 18, 2005, 4:30 p.m.: 29 IR 7; filed Jan 28, 2010, 11:23 a.m.: 20100224-IR-355090617FRA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA)

355 IAC 4-5-3 Requirements for Category 7b applicator license for hire **(Repealed)**

~~Authority: IC 15-16-5-44; IC 15-16-5-45~~

~~Affected: IC 15-16-5~~

~~Sec. 3. To become a licensed applicator for hire in Category 7b, an individual must complete the following:~~

~~(1) An approved program at the Purdue University Structural Pest Control Training Center or other program the state chemist has reviewed and determined to be of comparable quality and scope.~~

~~(2) The Category 7b certification and licensing procedures established in 355 IAC 4-0.5 and 355 IAC 4-1.~~

(State Chemist of the State of Indiana; 355 IAC 4-5-3; filed Feb 17, 1986, 3:00 p.m.: 9 IR 1570, eff Apr 1, 1986; filed Sep 10, 1999, 4:41 p.m.: 23 IR 303; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Aug 18, 2005, 4:30 p.m.: 29 IR 8; readopted filed Nov 18, 2011, 1:21 p.m.: 20111214-IR-355110570RFA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA)

355 IAC 4-5-4 Technician registration requirements *(Repealed)*

~~Sec. 4. *(Repealed by State Chemist of the State of Indiana; filed Aug 18, 2005, 4:30 p.m.: 29 IR 8)*~~

355 IAC 4-5-5 Record submission process *(Repealed)*

~~Sec. 5. *(Repealed by State Chemist of the State of Indiana; filed Aug 18, 2005, 4:30 p.m.: 29 IR 8)*~~

355 IAC 4-5-6 Supervision of uncertified employees *(Repealed)*

~~Sec. 6. *(Repealed by State Chemist of the State of Indiana; filed Aug 18, 2005, 4:30 p.m.: 29 IR 8)*~~

355 IAC 4-5-7 New resident applicators; temporary license *(Repealed)*

~~Sec. 7. *(Repealed by State Chemist of the State of Indiana; filed Sep 10, 1999, 4:41 p.m.: 23 IR 306)*~~

355 IAC 4-5-8 Nonresident applicators; reciprocity *(Repealed)*

~~Sec. 8. *(Repealed by State Chemist of the State of Indiana; filed Sep 10, 1999, 4:41 p.m.: 23 IR 306)*~~

355 IAC 4-5-9 Denial, suspension, or revocation of technician registration *(Repealed)*

Sec. 9. *(Repealed by State Chemist of the State of Indiana; filed Sep 10, 1999, 4:41 p.m.: 23 IR 306)*

355 IAC 4-5-10 Denial of the opportunity to take the category 7b (355 IAC 4-1-3) examination *(Repealed)*

Sec. 10. *(Repealed by State Chemist of the State of Indiana; filed Sep 10, 1999, 4:41 p.m.: 23 IR 306)*

355 IAC 4-5-11 Exemption *(Repealed)*

Sec. 11. *(Repealed by State Chemist of the State of Indiana; filed Aug 18, 2005, 4:30 p.m.: 29 IR 8)*

355 IAC 4-5-12 Effective date *(Repealed)*

Sec. 12. *(Repealed by State Chemist of the State of Indiana; filed Sep 10, 1999, 4:41 p.m.: 23 IR 306)*

Rule 6. Training Requirements for Licensed Applicators and Registered Technicians; Category 3b **(Repealed)**

~~355 IAC 4-6-1 Definitions~~

~~Authority: IC 15-16~~

~~Affected: IC 15-16-2-11~~

~~Sec. 1. The following definitions apply throughout this rule:~~

~~(1) "Category 3b licensed applicator for hire" means any licensed certified individual who is:~~

~~(A) employed by a licensed pesticide business to use or to supervise the use of any:~~

~~(i) pesticide intended to manage turf pests; or~~

~~(ii) fertilizer material on turf;~~

~~by the business; and~~

~~(B) for purposes of this rule, certified in Category 3b.~~

~~(2) "Fertilizer material", as defined in IC 15-16-2-11, means any substance containing nitrogen, phosphate, potash, or any recognized plant nutrient that:~~

~~(A) is used for the plant nutrient content; and~~

~~(B) has nutrient value in promoting plant growth.~~

~~The term includes unmanipulated animal and vegetable manures.~~

~~(3) "Turf pest" means any organism that inhabits or feeds upon the turf layer and root zone created by growing plants (usually grasses) and their matted roots and by so doing alters the vigor or appearance of the turf.~~

~~(State Chemist of the State of Indiana; 355 IAC 4-6-1; filed Jan 13, 1988, 4:47 p.m.: 11 IR 1760; filed Jan 9, 1992, 3:00 p.m.: 15 IR 702; filed Jan 5, 2000, 3:54 p.m.: 23 IR 1100; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Aug 18, 2005, 4:30 p.m.: 29 IR 8; filed Dec 10, 2010, 10:32 a.m.: 20110105 IR 355100565FRA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023 IR 355130361RFA)~~

355 IAC 4-6-2 Licensed applicators for hire requirements *(Repealed)*

Sec. 2. *(Repealed by State Chemist of the State of Indiana; filed Aug 18, 2005, 4:30 p.m.: 29 IR 9)*

~~355 IAC 4-6-3 Requirements for Category 3b applicator license for hire~~

~~Authority: IC 15-16-5-45~~

~~Affected: IC 15-16-5~~

~~Sec. 3. To become a Category 3b licensed applicator for hire an individual must complete the following:~~

~~(1) One (1) of the following:~~

~~(A) A practical hands on training program reviewed and approved by the state chemist.~~

~~(B) Ninety (90) days of experience as an active Category 3b certified applicator or registered technician in Indiana~~

or any state having a comparable and verifiable program as determined by the state chemist.

(C) A formal post high school two (2) year minimum turf program or a related program that includes turf production in its curriculum. An official transcript must be submitted to the state chemist for approval to qualify by this method.

(D) One (1) year of experience as an active licensed applicator in any licensing category in Indiana or in another state.

(2) The Category 3b certification and licensing procedures established in 355 IAC 4-0.5 and 355 IAC 4-1.

(State Chemist of the State of Indiana; 355 IAC 4-6-3; filed Jan 13, 1988, 4:47 p.m.: 11 IR 1761; filed Jan 9, 1992, 3:00 p.m.: 15 IR 703; filed Jan 5, 2000, 3:54 p.m.: 23 IR 1101; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Aug 18, 2005, 4:30 p.m.: 29 IR 8; readopted filed Nov 18, 2011, 1:21 p.m.: 20111214 IR 355110571RFA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023 IR 355130361RFA)

355 IAC 4-6-4 Technician registration requirements *(Repealed)*

Sec. 4. *(Repealed by State Chemist of the State of Indiana; filed Aug 18, 2005, 4:30 p.m.: 29 IR 9)*

355 IAC 4-6-5 Advanced training program *(Repealed)*

Sec. 5. *(Repealed by State Chemist of the State of Indiana; filed Jan 9, 1992, 3:00 p.m.: 15 IR 705)*

355 IAC 4-6-6 Supervision of uncertified employees *(Repealed)*

Sec. 6. *(Repealed by State Chemist of the State of Indiana; filed Aug 18, 2005, 4:30 p.m.: 29 IR 9)*

355 IAC 4-6-7 New resident applicators for hire; requirements *(Repealed)*

Sec. 7. *(Repealed by State Chemist of the State of Indiana; filed Jan 5, 2000, 3:54 p.m.: 23 IR 1103)*

355 IAC 4-6-8 Nonresident applicators; requirements *(Repealed)*

Sec. 8. *(Repealed by State Chemist of the State of Indiana; filed Jan 5, 2000, 3:54 p.m.: 23 IR 1103)*

355 IAC 4-6-9 Denial of application for technician registration *(Repealed)*

Sec. 9. *(Repealed by State Chemist of the State of Indiana; filed Jan 5, 2000, 3:54 p.m.: 23 IR 1103)*

355 IAC 4-6-10 Exemption *(Repealed)*

Sec. 10. *(Repealed by State Chemist of the State of Indiana; filed Aug 18, 2005, 4:30 p.m.: 29 IR 9)*

355 IAC 4-6-11 Effective date *(Repealed)*

Sec. 11. *(Repealed by State Chemist of the State of Indiana; filed Jan 5, 2000, 3:54 p.m.: 23 IR 1103)*

Rule 7. Renewal of Applicator Certification and Technician Registration

355 IAC 4-7-1 Definitions **(Repealed)**

Authority: ~~IC 15-16-5~~

Affected: ~~IC 15-16-5~~

Sec. 1. The following definitions apply throughout this rule:

- (1) "Categories" means the commercial applicator certification categories established in 355 IAC 4-1-3.
- (2) "CCH" means a continuing certification hour for commercial applicators or registered technicians. One (1) CCH is equivalent to one (1) hour of pesticide related instruction or training that has been evaluated and approved by the state chemist.
- (3) "Certification" means the status achieved by an individual who has demonstrated minimal competency to use pesticides, as established in 355 IAC 4-0.5-1.5.
- (4) "In house training" means training or instruction that is designed specifically for a company's own employees.
- (5) "PARP" means a private applicator recertification program of pesticide related instruction or training that has been evaluated and approved by the state chemist.
- (6) "Person" means any:
 - (A) individual;
 - (B) partnership;
 - (C) association;
 - (D) fiduciary;
 - (E) corporation; or
 - (F) organized group of persons whether incorporated or not.
- (7) "State chemist" means the Indiana state chemist or the state chemist's authorized agent.
- (8) "Technician registration" means the status achieved by an individual who has demonstrated minimal competency to use pesticides under the direct supervision of a certified applicator, as established in 355 IAC 4-2-8.

(State Chemist of the State of Indiana; 355 IAC 4-7-1; filed May 12, 2009, 11:20 a.m.: 20090610-IR-355090063FRA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA)

355 IAC 4-7-2 Commercial applicators; certification renewal standards

Authority: IC 15-16-2; IC 15-16-5

Affected: IC 15-16-2; IC 15-16-5

Sec. 2. (a) Certification renewal of commercial applicators shall be accomplished by the applicator completing one (1) of the following:

- (1) The written examination procedures for initial certification established in 355 IAC 4-1-2.1.
- (2) Accumulating the minimum number of CCHs listed in the table in subsection (b) before the expiration of the applicator's certification period for that category.
- (b) The minimum number of CCHs required for renewal of each category is as follows:

Category 1	20 CCHs
Category 2	10 CCHs
Category 3a	15 CCHs
Category 3b	20 CCHs
Category 4	10 CCHs
Category 5	15 CCHs
Category 6	15 CCHs
Category 7a	20 CCHs
Category 7b	15 CCHs
Category 7d	20 CCHs
Category 8	15 CCHs
Category 11	20 CCHs
Category 12	10 CCHs
Category 13	10 CCHs
Category 14	3 CCHs

(c) A commercial applicator can accumulate CCHs only in the categories in which the applicator is certified at the time of

participating in the training.

(d) A commercial applicator can accumulate a maximum of one-half (1/2) of the number of CCHs required in subsection (b) at any one (1) training program.

(e) CCHs accumulated by a commercial applicator in excess of the number of CCHs required in subsection (b) shall not be carried forward to the next certification period.

(f) Renewed certification shall remain in force through December 31 of the fifth year following renewal unless revoked or suspended prior to that date. (*State Chemist of the State of Indiana; 355 IAC 4-7-2; filed May 12, 2009, 11:20 a.m.: 20090610-IR-355090063FRA; filed Nov 28, 2012, 2:42 p.m.: 20121226-IR-355120517FRA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA*)

355 IAC 4-7-3 Registered technicians; registration renewal standards

Authority: IC 15-16-5

Affected: IC 15-16-5

Sec. 3. (a) Registration renewal of registered technicians shall be accomplished by the technician completing one (1) of the following:

(1) The written examination procedures for initial registration established in 355 IAC 4-2-8(a)(1).

(2) Accumulating at least eight (8) CCHs before the expiration of the technician's registration period.

(b) A registered technician can accumulate CCHs designated for any category.

(c) A registered technician can accumulate a maximum of four (4) CCHs at any one (1) training program.

(d) CCHs accumulated by a registered technician in excess of eight (8) shall not be carried forward to the next registration period.

(e) Renewed registration shall remain in force through December 31 of the fifth year following renewal unless revoked or suspended prior to that date. (*State Chemist of the State of Indiana; 355 IAC 4-7-3; filed May 12, 2009, 11:20 a.m.: 20090610-IR-355090063FRA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA*)

355 IAC 4-7-4 Criteria and procedures for approving CCHs

Authority: IC 15-16-5

Affected: IC 15-16-5

Sec. 4. (a) The state chemist shall be responsible for evaluating all instruction and training opportunities submitted for consideration of approval for CCHs.

(b) Training and instruction may be evaluated and approved for CCHs in more than one (1) certification category.

(c) Except as provided in subsection (e), all requests for CCH approval must be submitted to the state chemist as follows:

(1) At least twenty-one (21) days prior to the date that the instruction or training event will occur.

(2) In a format determined by the state chemist.

(3) By an individual directly responsible for the instruction or training event.

(d) Criteria to be followed by the state chemist for the evaluation of instruction and training events for CCH approval shall include, but may not be limited to, the following:

(1) Must be open to all certified applicators and registered technicians.

(2) Except as provided in subdivision (3), any costs or participation fees to cover expenses incurred by the training providers must be the same for all certified applicators and registered technicians.

(3) Professional educational organizations claiming Internal Revenue Service 501(c) status and governmental organizations may charge variable participation fees.

(4) Must not be in-house training.

(5) The venue must be large enough to accommodate a reasonable number of certified applicators or registered technicians from outside of the immediate organization facilitating the instruction or training.

(6) Must be open without fee or charge to the state chemist for monitoring.

(7) Must have an effective mechanism for the person responsible for the training to verify participation of the certified applicator or registered technician from the start to the conclusion of the CCH event.

(8) Subject matter and content must include, but may not be limited to, at least one (1) of the following:

- (A) Pest identification.
 - (B) Pest biology.
 - (C) Pesticide chemistry.
 - (D) Pesticide equipment calibration and maintenance.
 - (E) Pesticide use.
 - (F) Pest management by cultural, mechanical, or other nonpesticide means, including, but not limited to, the following:
 - (i) Sanitation.
 - (ii) Exclusion.
 - (iii) Fertilization.
 - (iv) Irrigation.
 - (v) Soil compaction.
 - (vi) Pest monitoring.
 - (G) Pesticide label interpretation.
 - (H) Pesticide label safety measures.
 - (I) Public and customer safety.
 - (J) Consumer and customer complaints.
 - (K) Applicator safety.
 - (L) Environmental safety.
 - (M) Associated state and federal laws or regulations affecting pesticides or pesticide users.
- (9) Subject matter and content may not include any of the following:
- (A) Product or service sales or promotions.
 - (B) Employee hiring or retention.
 - (C) General business practices.
- (e) Requests for CCH approval in category 13 must be submitted to the state chemist as follows:
- (1) Within two (2) weeks from the end date that the training event occurred.
 - (2) In a format determined by the state chemist.
 - (3) By the category 13 certified applicator requesting personal CCHs.
 - (4) With evidence of a mechanism by an independent source to verify participation by the certified applicator.

(State Chemist of the State of Indiana; 355 IAC 4-7-4; filed May 12, 2009, 11:20 a.m.: 20090610-IR-355090063FRA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA)

355 IAC 4-7-5 Private applicators; certification renewal standards

Authority: IC 15-16-5

Affected: IC 15-16-5

Sec. 5. (a) Certification renewal of private applicators shall be accomplished by the applicator completing one (1) of the following:

- (1) The written examination procedures for initial certification established in 355 IAC 4-1-4.
- (2) Attending at least three (3) PARPs before the expiration of the applicator's certification period.
- (b) A private applicator can accumulate a maximum of two (2) PARP credits in any one (1) year of the applicator's five (5) year certification period.
- (c) Credit for attendance at PARPs by a private applicator in excess of the minimum three (3) required shall not be carried forward to the next certification period.

(d) Renewed certification shall remain in force through December 31 of the fifth year following renewal unless revoked or suspended prior to that date. *(State Chemist of the State of Indiana; 355 IAC 4-7-5; filed May 12, 2009, 11:20 a.m.: 20090610-IR-355090063FRA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA)*

355 IAC 4-7-6 Criteria and procedures for approving PARPs

Authority: IC 15-16-5

Affected: IC 15-16-5

Sec. 6. (a) The state chemist shall be responsible for evaluating all training or instruction opportunities submitted for consideration of approval as a PARP.

(b) All requests for PARP approval must be submitted to the state chemist as follows:

(1) In a format determined by the state chemist.

(2) By a county extension educator with the Purdue cooperative extension service.

(c) Criteria to be followed by the state chemist for the evaluation of training and instruction for PARP approval shall include, but may not be limited to, the following:

(1) Must be open to all private applicators.

(2) Except as provided in subdivision (3), any costs or registration fees must be the same for all private applicators.

(3) Must be open without fee or charge to the state chemist for monitoring.

(4) Must have an effective mechanism for the county extension educator responsible for the training to verify participation of the private applicator from the start to the conclusion of the PARP event.

(5) Must include at least two (2) hours of pesticide related material.

(6) Must include at least one (1) state chemist approved regulatory topic.

(7) Subject matter and content must include, but may not be limited to, at least one (1) of the following:

(A) Pest identification.

(B) Pest biology.

(C) Pesticide chemistry.

(D) Pesticide equipment calibration and maintenance.

(E) Pesticide use.

(F) Pest management by cultural, mechanical, or other nonpesticide means including, but not limited to, the following:

(i) Sanitation.

(ii) Exclusion.

(iii) Fertilization.

(iv) Irrigation.

(v) Soil compaction.

(vi) Pest monitoring.

(G) Pesticide label interpretation.

(H) Pesticide label safety measures.

(I) Public and customer safety.

(J) Consumer and neighbor complaints.

(K) Applicator safety.

(L) Environmental safety.

(M) Associated state and federal laws or regulations affecting pesticides and pesticide users.

(8) Subject matter and content may not include any of the following:

(A) Product or service sales or promotions.

(B) Employee hiring or retention.

(C) General business practices.

(State Chemist of the State of Indiana; 355 IAC 4-7-6; filed May 12, 2009, 11:20 a.m.: 20090610-IR-355090063FRA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA)

355 IAC 4-7-7 Regulatory response to violations

Authority: IC 15-16-5

Affected: IC 15-16-5

Sec. 7. (a) A certified applicator or registered technician who makes false or fraudulent reports or in any way misrepresents his or her participation in the certification or registration renewal process shall be subject to the following:

(1) Revocation of all accumulated CCHs or PARPs to date.

(2) Regulatory provisions in the following:

(A) IC 15-16-5-65.

(B) IC 15-16-5-66.

(C) IC 15-16-5-70.

(b) A person who makes false or fraudulent reports or in any way misrepresents information that is part of the certification or registration renewal process shall be subject to the following:

(1) Revocation of authority and privilege to participate in any future CCH or PARP events.

(2) Regulatory provisions in the following:

(A) IC 15-16-5-65.

(B) IC 15-16-5-66.

(C) IC 15-16-5-70.

(State Chemist of the State of Indiana; 355 IAC 4-7-7; filed May 12, 2009, 11:20 a.m.: 20090610-IR-355090063FRA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA)

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