

DRAFT 10-26-21
Proposed Rule
LSA Document # 21-YY

DIGEST

Amends 357 IAC 1-0.5-1 to clarify the applicability of definitions in IC 15-16-4 and IC 15-16-5. Adds 357 IAC 1-0.5-2 to add a definition of drift. Adds 357 IAC 1-0.5-3 to add a definition of nontarget site. Adds 357 IAC 1-0.5-4 to add a definition of pesticide notification registry. Adds 357 IAC 1-0.5-5 to add a definition of school. Amends 357 IAC 1-5-2 to clarify commercial lawn posting responsibilities. Amends 357 IAC 1-5-3 to clarify commercial lawn customer notification responsibilities. Amends 357 IAC 1-12-2 to replace the term harm with the term adverse effect recently added to IC 15-16. Amends 357 IAC 1-16-2 to clarify and limit the applicability of the rule for pesticide use in schools. Amends 357 IAC 1-17-1 to clarify which dicamba products are included as state restricted use pesticide products. Repeals 357 IAC 1-3. Repeals 357 IAC 1-5-1. Repeals 357 IAC 1-6. Repeals 357 IAC 1-8. Repeals 357 IAC 1-10. Repeals 357 IAC 1-11. Repeals 357 IAC 1-12-1. Repeals 357 IAC 1-13. Repeals 357 IAC 1-14. Repeals 357 IAC 1-15. Repeals 357 IAC 1-16-3. Repeals 357 IAC 1-16-4. Repeals 357 IAC 1-16-5. Repeals 357 IAC 1-16-7. Repeals 357 IAC 1-16-9.

TITLE 357 INDIANA PESTICIDE REVIEW BOARD

ARTICLE 1. DEFINITION; USE OF PESTICIDES

Rule 0.5 Definitions

357 IAC 1-0.5-1 Applicability

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

Affected: IC 15-16-4; 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.

357 IAC 1-0.5-2 "Drift" defined (*Moved from 357 IAC 1-12-1*)

Authority: IC 15-16-5

Affected: IC 15-16-5; IC 20-18-2; IC 20-21; IC 20-22; IC 20-32-8-2

Sec. 2. "Drift" means the physical movement of a pesticide through the air at the time of application from the target site to a nontarget site. The term shall not include the movement of a pesticide, at a time after the application has been made, by any of the following:

- (A) Erosion.
- (B) Volatility after deposition on the target site.
- (C) Windblown soil particles.

357 IAC 1-0.5-3 "Lawn" defined (*Moved from 357 IAC 1-5-1*)

Authority: IC 15-16-5

Affected: IC 15-16-5; IC 20-18-2; IC 20-21; IC 20-22; IC 20-32-8-2

Sec. 3. "Lawn" means a land area of mown grass in a yard, garden, park, or other grounds immediately surrounding a building.

357 IAC 1-0.5-4 "Nontarget site" defined (*Moved from 357 IAC 1-12-1*)

Authority: IC 15-16-5

Affected: IC 15-16-5; IC 20-18-2; IC 20-21; IC 20-22; IC 20-32-8-2

Sec. 4. "Nontarget site" means any site that is not:

- (1) included on the pesticide label as an EPA-accepted target site; or
- (2) an intended target site of the pesticide application, including, but not limited to, the following:

- (A) Personal property.
- (B) Public property.
- (C) A body of water.
- (D) A person.
- (E) An animal.
- (F) Livestock.
- (G) Managed pollinators.
- (H) A commodity.
- (I) A desirable plant.

357 IAC 1-0.5-5 "Pesticide notification registry" defined (*Moved from 357 IAC 1-16-3*)

Authority: IC 15-16-5

Affected: IC 15-16-5; IC 20-18-2; IC 20-21; IC 20-22; IC 20-32-8-2

Sec. 5. "Pesticide notification registry" means the registry created and maintained by a school corporation listing the names and contact information of parents and guardians of children at the school and school staff who have requested to be notified of the details of pesticide applications at the school.

357 IAC 1-0.5-4 "School" defined

Authority: IC 15-16-5

Affected: IC 15-16-5; IC 20-18-2; IC 20-21; IC 20-22; IC 20-32-8-2

Sec. 4. As used in this article, "school" has the meaning set forth in 355 IAC 4-0.5-10.

Rule 1. Definition of Pest (*Expired*)

(*Expired under IC 4-22-2.5, effective January 1, 2008.*)

Rule 2. Prescription Use Pesticides (*Expired*)

(*Expired under IC 4-22-2.5, effective January 1, 2002.*)

Rule 3. Distribution of Pesticide Products with Restricted Uses (**Repealed**) (*Moved to 355 IAC 4-4-3*)

357 IAC 1-3-1 Definitions

Authority: IC 15-16-4-50

Affected: IC 15-16-5-7; IC 15-16-5-30

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

(1) "Business location" means the physical site of each office, warehouse, salesroom, or other establishment with a distinct mailing or electronic address at which orders for pesticide products with restricted uses are brokered or accepted from certified users.

(2) "Certified user" means the following:

(A) A private applicator (IC 15-16-5-30).

(B) A commercial applicator (IC 15-16-5-7).

(C) A person acting as an agent for and under the direct supervision of clause (A) or (B).

(3) "Restricted use pesticide dealer" means any business location from which restricted use pesticides are distributed or brokered to certified users.

(*Indiana Pesticide Review Board; Reg 4, Sec 1; filed Jul 14, 1977, 2:26 p.m.: Rules and Regs. 1978, p. 656; filed Apr 18, 2001, 3:37 p.m.: 24 IR 2680; readopted filed Oct 29, 2001, 4:41 p.m.: 25 IR 936; readopted filed Sep 20, 2007, 1:47 p.m.: 20071010 IR 357070485RFA; filed Nov 28, 2012, 2:49 p.m.: 20121226 IR 357120513FRA; readopted filed Dec 2, 2013, 4:00 p.m.: 20140101 IR 357130491RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227 IR 357170359RFA*)

357 IAC 1-3-2 Restrictions on distribution

Authority: IC 15-16-4-50

Affected: IC 15-16-4

~~Sec. 2. Restricted use pesticides shall be distributed into or within Indiana only to persons who are certified users, except when such distribution is for resale by a restricted use pesticide dealer. (Indiana Pesticide Review Board; Reg 4, Sec 2; filed Jul 14, 1977, 2:26 p.m.; Rules and Regs. 1978, p. 656; filed Apr 18, 2001, 3:37 p.m.: 24 IR 2680; readopted filed Oct 29, 2001, 4:41 p.m.: 25 IR 936; readopted filed Sep 20, 2007, 1:47 p.m.: 20071010 IR 357070485RFA; readopted filed Dec 2, 2013, 4:00 p.m.: 20140101 IR 357130491RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227 IR 357170359RFA)~~

~~357 IAC 1-3-3 Distribution to certified users by registered dealers only~~

~~Authority: IC 15-16-4-50~~

~~Affected: IC 15-16-4; IC 15-16-5-57~~

~~Sec. 3. Restricted use pesticides shall be distributed to certified users only by restricted use pesticide dealers who are registered in accordance with IC 15-16-5-57 and in compliance with regulations pertaining thereto. (Indiana Pesticide Review Board; Reg 4, Sec 3; filed Jul 14, 1977, 2:26 p.m.; Rules and Regs. 1978, p. 656; filed Apr 18, 2001, 3:37 p.m.: 24 IR 2680; readopted filed Oct 29, 2001, 4:41 p.m.: 25 IR 936; readopted filed Sep 20, 2007, 1:47 p.m.: 20071010 IR 357070485RFA; filed Nov 28, 2012, 2:49 p.m.: 20121226 IR 357120513RFA; readopted filed Dec 2, 2013, 4:00 p.m.: 20140101 IR 357130491RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227 IR 357170359RFA)~~

~~357 IAC 1-3-4 List of external sales representatives (Repealed)~~

~~Sec. 4. (Repealed by Indiana Pesticide Review Board; filed Apr 18, 2001, 3:37 p.m.: 24 IR 2681)~~

~~357 IAC 1-3-5 Creation, and retention, of distribution records~~

~~Authority: IC 15-16-4-50~~

~~Affected: IC 15-16-4~~

~~Sec. 5. (a) Records of distributions of restricted use pesticides that include all of the items in subsection (c) shall be maintained by restricted use pesticide dealers and accessible from the business location of the dealer for a period of two (2) years.~~

~~(b) All written and electronic documentation relating to the distribution of restricted use pesticides must be retained by the restricted use pesticide dealer until the distribution is recorded as specified in subsection (a).~~

~~(c) The records to be maintained under this section shall include the following:~~

~~(1) Name, certificate number of the certified user for whom the purchase is being made and the expiration date of that certificate.~~

~~(2) Date of distribution.~~

~~(3) EPA registration number and brand name of the product.~~

~~(4) Amount of product distributed.~~

~~(5) Signature of person ordering or taking delivery of the product.~~

~~(Indiana Pesticide Review Board; Reg 4, Sec 5; filed Jul 14, 1977, 2:26 p.m.; Rules and Regs. 1978, p. 656; filed Apr 18, 2001, 3:37 p.m.: 24 IR 2680; readopted filed Oct 29, 2001, 4:41 p.m.: 25 IR 936; readopted filed Sep 20, 2007, 1:47 p.m.: 20071010 IR 357070485RFA; readopted filed Dec 2, 2013, 4:00 p.m.: 20140101 IR 357130491RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227 IR 357170359RFA)~~

Rule 4. List of Restricted Use Pesticides

357 IAC 1-4-1 List of restricted use pesticides (Repealed)

Sec. 1. (Repealed by Indiana Pesticide Review Board; filed Nov 20, 1986, 3:47 pm: 10 IR 865)

357 IAC 1-4-2 List of restricted use pesticide products (Repealed)

Sec. 2. (Repealed by Indiana Pesticide Review Board; filed Apr 20, 1990, 4:40 p.m.: 13 IR 1704)

357 IAC 1-4-3 Restricted use pesticide products (Expired)

Sec. 3. (Expired under IC 4-22-2.5, effective January 1, 2008.)

Rule 5. Outdoor Lawn Pesticide Applications; Notification and Posting

357 IAC 1-5-1 Definitions (**Repealed**) (*Moved to 357 IAC 1-0.5*)

Authority: IC 15-16-5-44

Affected: IC 15-16-5

~~Sec. 1. (a) As used in this rule, "commercial application for hire" means the intentional application of pesticides for hire by any means to a lawn or any part thereof by or under the direct supervision of a licensed applicator for hire or by a registered technician.~~

~~(b) As used in this rule, "golf course" means an area designated and used primarily for the play or practice of the game of golf, including, for example, surrounding grounds, trees, and ornamental beds.~~

~~(c) As used in this rule, "lawn" means land area covered with turf kept closely mown or land area covered with turf and trees and shrubs. The term does not include the following:~~

~~(1) Land area used for research for agricultural or commercial production of turf.~~

~~(2) Land area situated exclusively within a public or private right of way.~~

~~(3) Land area devoted to the production of any agricultural commodity.~~

~~(4) Land area devoted to use as a golf course.~~

~~(5) Land area situated within three (3) feet of the foundation of a structure when a pesticide is applied to the area as a preventative or control measure for structural pests.~~

~~(d) As used in this rule, "lawn marker" means a sign that is placed in, or adjacent to, a lawn to serve as notification that a pesticide has been applied to that lawn.~~

~~(e) As used in this rule, "structural pest" means a pest that commonly invades or attacks man's dwellings or structures. The term includes, but is not limited to, the following:~~

~~(1) Termites.~~

~~(2) Fleas.~~

~~(3) Cockroaches.~~

~~(4) Ants.~~

~~(5) Beetles.~~

~~(6) Crickets.~~

~~(7) Spiders.~~

~~(8) Sowbugs.~~

~~(9) Pillbugs.~~

~~(10) Centipedes.~~

~~(11) Millipedes.~~

~~(f) As used in this rule, "turf" means the surface layer of soils created by growing plants (usually grasses) and their matted roots. (Indiana Pesticide Review Board; 357 IAC 1-5-1; filed Apr 20, 1990, 4:35 p.m.: 13 IR 1701; filed Jun 9, 2000, 9:58 a.m.: 23 IR 2705; readopted filed Oct 29, 2001, 4:41 p.m.: 25 IR 936; readopted filed Sep 20, 2007, 1:47 p.m.: 20071010-IR-357070485RFA; readopted filed Dec 2, 2013, 4:00 p.m.: 20140101-IR-357130491RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227-IR-357170359RFA)~~

357 IAC 1-5-2 Posting

Authority: IC 15-16-5-44

Affected: IC 15-16-5

Sec. 2. (a) At the time of each **commercial for hire** pesticide application identified by section 1(a) of this rule, the licensed applicator for hire, or **made intentionally to a lawn**, an employee of the licensed **pesticide application** business, shall place a lawn marker at a conspicuous point of access to the lawn.

(b) The lawn marker shall consist of a sign that:

(1) ~~shall be~~ **is** at least four (4) inches by five (5) inches **or twenty square inches** in size;

(2) ~~shall be~~ **is** constructed of sturdy, weather resistant material;

(3) ~~shall have~~ **has** a background, lettering, and symbols in contrasting colors;

(4) on the prominent side, ~~shall read~~ **is printed** "LAWN CARE APPLICATION KEEP OFF THE GRASS" in letters of not less than three-eighths (3/8) of an inch high;

~~(5) may display a symbol depicting the message required in subdivision (4);~~

~~(6) may display the company name and logo or other group or association affiliation; and~~

~~(7) (5) shall be~~ **is** affixed to a sturdy nonmetallic support extending the bottom of the lawn marker **at least** six (6) ~~to eighteen (18)~~ inches above the ~~turf.~~ **lawn surface.**

~~(e) The lawn marker may be removed no sooner than the day following the pesticide application. (Indiana Pesticide Review Board; 357 IAC 1-5-2; filed Apr 20, 1990, 4:35 p.m.: 13 IR 1702; errata, 13 IR 1861; filed Jun 9, 2000, 9:58 a.m.: 23 IR 2706; readopted filed Oct 29, 2001, 4:41 p.m.: 25 IR 936; readopted filed Sep 20, 2007, 1:47 p.m.: 20071010-IR-357070485RFA; readopted filed Dec 2, 2013, 4:00 p.m.: 20140101-IR-357130491RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227-IR-357170359RFA)~~

357 IAC 1-5-3 Customer notification

Authority: IC 15-16-5-44

Affected: IC 15-16-5

Sec. 3. (a) At the time of each **commercial for hire** pesticide application ~~identified by section 1(a) of this rule, the licensed applicator for hire or~~ **made intentionally to a lawn**, an employee of the licensed **pesticide application** business shall provide the customer with a written ~~statement~~ **notification** containing the following ~~information:~~

(1) ~~Business Name and telephone number~~ **immediate contact information** of the licensed **pesticide application** business.

(2) ~~Signature Name and license or registration number of the licensed applicator for hire or registered technician individual~~ **Signature Name** and license or registration number of the **licensed applicator for hire or registered technician individual** who made the application.

(3) Date and time of application.

(4) Type of pesticide application service and brand name of pesticides applied, which shall be listed, at a minimum, as one

(1) or more of the following:

(A) Grassy weed control (brand name).

(B) Broadleaf weed control (brand name).

(C) Insect control (brand name).

(D) Disease control (brand name).

(E) Other pest control not adequately described in clauses (A) through (D) (brand name).

(5) Post application label safety precautions for each pesticide, **including but not limited to instructions to the customer to keep humans and pets off the treated areas until the application has dried.**

~~(6) Instructions to the customer to remove the lawn marker no sooner than the day following the application.~~

~~(7) Instructions to the customer to contact the business telephone number if more specific information is desired regarding the pesticide product applied.~~

(b) ~~The written statement~~ **customer notification** required in subsection (a) shall be provided to the customer **or the customer's agent** by: ~~any of the following means:~~

(1) ~~Leave at the residence.~~ **printed copy;**

(2) ~~Leave with the property manager or his or her authorized representative in the case of a multiunit residence.~~ **telephone text message; or**

(3) ~~Mail to the property manager or his or her authorized representative if management is located at a location other than the pesticide application site, within seven (7) days of the date of the pesticide application.~~ **electronic mail.**

~~(Indiana Pesticide Review Board; 357 IAC 1-5-3; filed Apr 20, 1990, 4:35 p.m.: 13 IR 1702; filed Jun 9, 2000, 9:58 a.m.: 23 IR 2706; readopted filed Oct 29, 2001, 4:41 p.m.: 25 IR 936; readopted filed Sep 20, 2007, 1:47 p.m.: 20071010-IR-357070485RFA; readopted filed Dec 2, 2013, 4:00 p.m.: 20140101-IR-357130491RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227-IR-357170359RFA)~~

Rule 6. Civil Penalty Assessment Schedule **(Repealed)** *(Replaced by S.E.A. No.227)*

357 IAC 1-6-1 Definitions- **(Repealed)**

Authority: IC 15-16

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

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

- (1) "Adulterated" means a product as described in IC 15-16-4-3.
- (2) "Board" means the Indiana pesticide review board created by IC 15-16-4-42.
- (3) "Bulk pesticide" means a pesticide as described in IC 15-16-4-7.
- (4) "Distribute" means to distribute a product, as described in IC 15-16-4-11.
- (5) "Labeling" means all products labels and written, printed, or graphic material as described in IC 15-16-4-24.
- (6) "Legal citation" means the Indiana Code (IC) or the Indiana Administrative Code (IAC) section or subsection cited on the schedule to describe the relevant portion of a pesticide law or rule that has been violated.
- (7) "Misbranded" means a product as described in IC 15-16-4-25.
- (8) "Per day" means the method to be utilized for determining the civil penalty to be assessed for a violation that is of a continuing nature but may be the result of one (1) distinguishable act or failure to act. The violation number shall remain the same when assessing civil penalties for multiple counts of violation on a per day basis.
- (9) "Per incident" means the method to be utilized for determining the violation number for a violation that is usually not of a continuing nature and is the result of a separate and distinguishable act or failure to act. Violations involving separate and distinguishable acts may be assigned accumulating violation numbers.
- (10) "Per person" means the method to be utilized for determining the civil penalty to be assessed for a violation that may involve more than one (1) person. The violation number shall remain the same when assessing civil penalties on a per person basis.
- (11) "Per product" means the method to be utilized for determining the violation number for a violation that may involve more than one (1) different product. Violations involving multiple products will be assigned accumulating violation numbers.
- (12) "Person" has the meaning set forth in IC 15-16-4-28.
- (13) "Per year" means the method to be utilized for determining the violation number for a violation that may be documented on several dates or at several locations but is the result of one (1) distinguishable act or failure to act.
- (14) "Product" means pesticide product as defined in IC 15-16-4-33.
- (15) "Schedule" means the civil penalty schedule required by IC 15-16-4-69 and IC 15-16-5-66 and as specified in section 2 of this rule.
- (16) "State chemist" means the Indiana state chemist or his or her appointed agent.
- (17) "Violation assessment" means the scheme to be utilized for determining the violation number and the count of violations eligible to be assessed civil penalties on the schedule. This scheme includes the concept of assessing civil penalties on a per incident, per day, per product, and per year basis as indicated on the schedule.

(Indiana Pesticide Review Board; 357 IAC 1-6-1; filed Jan 9, 1992, 3:00 p.m.: 15 IR 706; readopted filed Oct 29, 2001, 4:41 p.m.: 25 IR 936; filed Jan 7, 2005, 2:15 p.m.: 28 IR 1689; readopted filed Nov 18, 2011, 1:21 p.m.: 20111214 IR 357110572RFA; filed Nov 28, 2012, 2:49 p.m.: 20121226 IR 357120513FRA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227 IR 357170359RFA)

357 IAC 1-6-2 Schedule (Repealed)

Authority: IC 15-16

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

Sec. 2. (a) The schedule of civil penalties for violations of IC 15-16-4 and IC 15-16-5, and the rules adopted under these laws is as follows:-

Legal Violation Citation	General Description of Violation	Violation Number			Violation-Assessment
		1 First	2 Second	3 Third and subsequent	
IC 15-16-4-57(1) or IC 15-16-4-66(1)	Produce, distribute, display, sell, offer for sale, or transport a nonregistered pesticide product.	\$250	\$500	\$1,000	Per product and per year
IC 15-16-4-57(2)	Produce, distribute, display, sell, offer for sale, or transport a pesticide product with labeling claims or directions for use different from that registered.	\$100	\$200	\$300	Per product and per year
IC 15-16-4-57(3)	Produce, distribute, display, sell, offer for sale, or transport a pesticide product with composition different from that registered.	\$250	\$500	\$1,000	Per product and per year

IC 15-16-4-57(4)	Produce, distribute, display, sell, offer for sale, or transport a pesticide product with incomplete or illegible label or in a container other than manufacturer's immediate, unbroken, and approved or authorized container.	\$250	\$500	\$1,000	Per product and per incident
IC 15-16-4-57(5), IC 15-16-4-66(2), or IC 15-16-4-66(3)	Produce, distribute, display, sell, offer for sale, or transport an adulterated or misbranded pesticide product.	\$250	\$500	\$1,000	Per product and per year
IC 15-16-4-57(6) or IC 15-16-4-57(9)	Produce, distribute, display, sell, offer for sale, or transport a pesticide product in a container not in compliance with rules adopted by the board or regulations adopted under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.)	\$250	\$500	\$1,000	Per product, per incident, and per year
IC 15-16-4-57(7) or IC 15-16-4-59(5)	Distribute a highly volatile herbicide except on written permission by the state chemist.	\$250	\$500	\$1,000	Per product and per incident
IC 15-16-4-57(8)	Produce, distribute, display, sell, offer for sale, transport, or store a bulk pesticide without a fully-compliant label affixed to the container.	\$100	\$200	\$300	Per product and per incident
IC 15-16-4-57(9)	Produce, distribute, sell, offer for sale, or transport a pesticide that violates the Federal Insecticide, Fungicide, and Rodenticide Act (U.S.C. 136 et seq.) or regulations adopted under the Act.	\$250	\$500	\$1,000	Per product and per incident
IC 15-16-4-59(1)	Detach, alter, deface, or destroy a pesticide product label or labeling.	\$250	\$500	\$1,000	Per product and per incident
IC 15-16-4-59(2)	Add any substance to, or take any substance from, a pesticide in a manner that may defeat the purpose of IC 15-16-4 or IC 15-16-5.	\$250	\$500	\$1,000	Per product and per incident
IC 15-16-4-59(4)	Use or cause to be used a pesticide contrary to the rules adopted by the board.	\$250	\$500	\$1,000	Per product and per incident
IC 15-16-4-59(6) or IC 15-16-5-65(6)	Neglect, or after notice, refuse to comply with IC 15-16-4, IC 15-16-5, the rules adopted under these chapters, or any lawful order of the state chemist or board.	\$250	\$500	\$1,000	Per product and per incident
IC 15-16-4-67 or IC 15-16-5-64	Produce, handle, transport, store, display, dispose, or distribute a pesticide product or pesticide product container in a manner that may endanger or cause injury to humans, beneficial vegetation, crops, livestock, wildlife, beneficial insects, the environment, food, feed, or other associated products.	\$250	\$500	\$1,000	Per incident
IC 15-16-4-68	Dispose of, discard, or store a pesticide product or pesticide container in a manner that may cause injury to humans, plants, animals, wildlife, lands, or waters.	\$250	\$500	\$1,000	Per incident
IC 15-16-4-73(c)	Sell, use, or remove without written permission from the state chemist or by a court order a pesticide product placed under a stop sale, use, or	\$250*	\$500*	\$1,000*	Per incident

	removal order by the state chemist.				
IC 15-16-4-77 or IC-15-16-5-65(19)	Recklessly, knowingly, or intentionally impede or prevent the state chemist or the state chemist's agent in the performance of the state chemist's duty in connection with IC 15-16-4 or IC 15-16-5.	\$250*	\$500*	\$1,000*	Per incident
IC 15-16-5-65(1)	Make a false or fraudulent claim either verbally or through any media misrepresenting the effect of a pesticide product or a method to be used.	\$250	\$500	\$1,000	Per incident and per day
IC 15-16-5-65(2)	Recommend, use, or supervise the use of a registered pesticide product in a manner inconsistent with its labeling, or in violation of the United States Environmental Protection Agency or Indiana state restrictions on the use of that pesticide product.	\$250	\$500	\$1,000	Per incident and per day
IC 15-16-5-65(3)	Use a known ineffective or improper pesticide product or known ineffective amount of pesticide.	\$250	\$500	\$1,000	Per incident
IC 15-16-5-65(4)	Operate faulty or unsafe equipment.	\$250	\$500	\$1,000	Per incident and per day
IC 15-16-5-65(5)	Operate in a careless or negligent manner.	\$250	\$500	\$1,000	Per incident and per day
IC 15-16-5-65(7)	Refuse or neglect to keep and maintain the records required by IC 15-16-5 or to make reports and supply information when required or requested by the state chemist in the course of an investigation or inspection.	\$250	\$500	\$1,000	Per incident and per day
IC 15-16-5-65(8)	Make false or fraudulent records, invoices, or reports.	\$250	\$500	\$1,000	Per incident and per day
IC 15-16-5-65(9)	Engage in or profess to engage in the business of using a pesticide or any other product regulated under IC 15-16-5 or by rules adopted under IC 15-16-5 or making a diagnostic inspection to determine infestations of a wood destroying pest for hire on the property of another without having a pesticide business license issued by the state chemist.	\$250	\$500	\$1,000	Per day
IC 15-16-5-65(10)	Use a restricted use pesticide without having an applicator, who is licensed or permitted under IC 15-16-5, in direct supervision.	\$250	\$500	\$1,000	Per incident, per day, and per person
IC 15-16-5-65(11)	Use fraud or misrepresentation in making an application for, or renewal of, a license, permit, registration, or certification.	\$250	\$500	\$1,000	Per incident and per person
IC 15-16-5-65(12)	Refuse or neglect to comply with any limitations or restrictions on or in a duly issued license, permit, registration, or certification.	\$250	\$500	\$1,000	Per incident and per day
IC 15-16-5-65(13)	Aid or abet a person to evade IC 15-16-5, conspire with a person to evade IC 15-16-5, or allow a license, permit, registration, or certification to be used by another person.	\$250*	\$500*	\$1,000*	Per day
IC 15-16-5-65(14)	Make false or misleading statements during or after an inspection concerning any infestation or infection of pests.	\$250	\$500	\$1,000	Per incident
IC 15-16-5-65(15)	Impersonate any federal, state, county, or city	\$250*	\$500*	\$1,000*	Per incident

	inspector, investigator, or official.				
IC 15-16-5-65(16)	Knowingly purchase or use a pesticide product that was not registered under IC 15-16-4.	\$250	\$500	\$1,000	Per incident
IC 15-16-5-65(17)	Fail to continuously maintain financial responsibility required under IC 15-16-58 or to provide proof of financial responsibility to the state chemist when requested.	\$250	\$500	\$1,000	Per day
IC 15-16-5-65(18)	Intentionally alter a duly issued license, permit, registration, or certification.	\$250*	\$500*	\$1,000*	Per incident
355 IAC 4-2-3	Fail to provide on-site supervision to a noncertified individual.	\$125	\$250	\$500	Per day
355 IAC 4-2-5	Fail to provide direct supervision.	\$125	\$250	\$500	Per day
355 IAC 4-2-6	Fail to provide technician with label, fact sheet, safety equipment, or voice communication.	\$25	\$50	\$100	Per day
355 IAC 4-2-7	Supervise more than 10 technicians.	\$100	\$100	\$100	Per day and per person
355 IAC 4-2-8	Fail to have technician credential at the work site.	\$25	\$50	\$100	Per incident
355 IAC 4-4-1	Fail to keep and maintain commercial applicator-restricted use pesticide application records.	\$100	\$200	\$300	Per day
355 IAC 4-4-1.5	Fail to keep and maintain private applicator-restricted use pesticide application records.	\$100	\$100	\$100	Per day
355 IAC 4-4-1 or 355 IAC 4-4-1.5	Fail to keep all required restricted use pesticide application record elements.	\$25	\$50	\$100	Per day
355 IAC 4-4-3	Fail to register as a restricted use pesticide dealer.	\$250	\$500	\$1,000	Per day
355 IAC 4-4-3	Fail to keep restricted use pesticide sale or distribution records.	\$250	\$500	\$1,000	Per day
355 IAC 4-5-2(1)	Fail to develop for hire termiticide application records.	\$100	\$200	\$300	Per day
355 IAC 4-5-2(2)	Fail to keep all required for hire termiticide application records.	\$25	\$50	\$100	Per day
355 IAC 4-5-2(3)	Fail to keep for hire termiticide application records for five years.	\$100	\$200	\$300	Per day
355 IAC 4-5-2(4)	Fail to provide label and application specifications to termite control technicians.	\$25	\$50	\$100	Per incident
355 IAC 4-5-2(5)	Fail to ensure the completed termite control customer disclosure form is issued to the customer before the application.	\$250	\$500	\$1,000	Per incident
355 IAC 4-5-2(6)	Fail to ensure that the state chemist is notified in advance of a preconstruction termiticide application.	\$250	\$500	\$1,000	Per incident
355 IAC 4-7-7	Make false or fraudulent reports or misrepresent participation in the certification or registration-renewal process.	\$250	\$500	\$1,000	Per incident
357 IAC 1-3-2	Distribute a restricted use pesticide to a noncertified user.	\$250*	\$500*	\$1,000*	Per incident
357 IAC 1-3-3	Distribute a restricted use pesticide without a dealer	\$250	\$500	\$1,000	Per incident

	registration.				
357 IAC 1-3-5(a)	Fail to keep restricted use pesticide distribution records.	\$100	\$200	\$300	Per incident
357 IAC 1-3-5(e)	Fail to keep all required elements of restricted use pesticide distribution records.	\$25	\$50	\$75	Per incident
357 IAC 1-5-2(a)	Fail to place a lawn marker at the time of a commercial application for hire.	\$100	\$200	\$300	Per incident
357 IAC 1-5-2(b)	Fail to ensure the lawn marker meets all of the required specifications.	\$50 \$100	\$100 \$200	\$200 \$400	Per incident
357 IAC 1-5-3	Fail to provide written customer notification containing all required notification elements.	\$100 \$200	\$200 \$400	\$300 \$600	Per incident
357 IAC 1-10-2	Load, mix, or store a pesticide within an isolation area around a community public water supply system.	\$100 \$200	\$200 \$400	\$300 \$600	Per incident and per day
357 IAC 1-10-3	Fail to provide proper storage or containment in wellhead area.	\$100 \$200	\$200 \$400	\$300 \$600	Per day
357 IAC 1-10-4	Fail to properly and immediately clean up a pesticide spill within an isolation wellhead area.	\$250	\$500	\$1,000	Per incident and per day
357 IAC 1-11-2	Use or supervise the use of a pesticide for community wide mosquito abatement without a category 8 license.	\$250	\$500	\$1,000	Per day
357 IAC 1-11-3	Fail to supervise a noncertified community wide abatement applicator as required.	\$250	\$500	\$1,000	Per day
357 IAC 1-12-2	Apply a pesticide in a manner that allows it to drift from the target site in sufficient quantity to cause harm to a nontarget site.	\$250	\$500	\$1,000	Per incident
357 IAC 1-13-2	Cause the open burning of a pesticide container.	\$250	\$500	\$1,000	Per incident and per product
357 IAC 1-14-3(a)	Fail to attach the required labeling to a pesticide service container.	\$250	\$500	\$1,000	Per incident and per product
357 IAC 1-14-3(b)	Fail to have possession of a complete label copy during transport of a pesticide service container.	\$250	\$500	\$1,000	Per incident and per product
357 IAC 1-15-2	Use or supervise the use of a pesticide on a golf course without having a category 3b commercial applicator license.	\$250	\$500	\$1,000	Per day
357 IAC 1-15-3	Fail to supervise a noncertified pesticide applicator on a golf course.	\$250	\$500	\$1,000	Per day
357 IAC 1-15-4	Fail to keep and maintain all required records of a pesticide applied on the golf course.	\$250	\$500	\$1,000	Per day
357 IAC 1-16-4	Use or supervise the use of a pesticide at a school without the proper commercial applicator license.	\$250	\$500	\$1,000	Per incident
357 IAC 1-16-5	Fail to supervise a noncertified pesticide applicator at a school.	\$250	\$500	\$1,000	Per incident
357 IAC 1-16-6(a)	Apply a pesticide at a school during normal instructional hours when school is in session.	\$250	\$500	\$1,000	Per incident
357 IAC 1-16-6(e)	Allow a student to enter a pesticide treatment area.	\$250	\$500	\$1,000	Per incident

	during the required restricted reentry period.				
357 IAC 1-16-7	Store a pesticide at a school contrary to the storage requirements.	\$250	\$500	\$1,000	Per incident
357 IAC 1-16-8	Fail to provide required pesticide notification.	\$250	\$500	\$1,000	Per incident
357 IAC 1-16-9(a)	Fail to keep and maintain required pesticide application at school records.	\$250	\$500	\$1,000	Per incident
357 IAC 1-16-9(f)	Fail to provide requested pesticide application records for inspection or copying.	\$250	\$500	\$1,000	Per incident
355 IAC 5-2-1 or 355 IAC 5-2-4	Store a pesticide in a bulk container made of improper design or materials.	\$100	\$200	\$300	Per incident and per day
355 IAC 5-2-2	Store a pesticide in an underground bulk container.	\$250	\$500	\$1,000	Per incident and per day
355 IAC 5-2-3	Abandon a bulk storage container improperly.	\$250	\$500	\$1,000	Per incident
355 IAC 5-2-5	Fail to anchor a bulk storage container to prevent flotation or instability.	\$100	\$200	\$300	Per incident and per day
355 IAC 5-2-6	Fail to vent a bulk storage container.	\$100	\$100	\$100	Per incident
355 IAC 5-2-7	Fail to provide bulk storage container security.	\$100	\$100	\$100	Per day
355 IAC 5-2-8	Fill bulk storage container beyond intended capacity.	\$100	\$200	\$300	Per incident
355 IAC 5-2-9	Fail to have proper shut off valve on bulk storage container.	\$50	\$50	\$50	Per day
355 IAC 5-2-10	Fail to support bulk storage container appurtenances.	\$50	\$50	\$50	Per day
355 IAC 5-2-11	Fail to have a proper liquid level gauging device on a bulk storage container.	\$50	\$50	\$50	Per incident
355 IAC 5-2-12	Fail to maintain a bulk storage container.	\$100	\$100	\$100	Per day
355 IAC 5-3-1(a)	Fail to carry out operational area activities within contained area.	\$250*	\$500*	\$1,000*	Per incident
355 IAC 5-3-1(b) or 355 IAC 5-3-1(d)	Operate operational area containment with improper design, construction, capacity, or drainage.	\$100	\$200	\$300	Per incident and per day
355 IAC 5-3-1(e)	Fail to remove liquids promptly from operational area containment.	\$100	\$200	\$300	Per day
355 IAC 5-3-1(f)	Fail to protect storage containers and appurtenances from damage by vehicles.	\$250	\$500	\$1,000	Per incident
355 IAC 5-3-1(h)	Fail to maintain operational area containment.	\$100	\$200	\$300	Per day
355 IAC 5-4-1(a)	Store a bulk storage container outside of secondary containment.	\$250*	\$500*	\$1,000*	Per day
355 IAC 5-4-1(b)	Fail to separate pesticide secondary containment from other materials.	\$100	\$200	\$300	Per day
355 IAC 5-4-1(e)	Fail to maintain required capacity for secondary containment.	\$100	\$200	\$300	Per day
355 IAC 5-4-1(f)	Operate secondary containment with tile drainage within or under the containment.	\$100	\$200	\$300	Per day

355 IAC 5-4-2	Operate secondary containment with improperly-constructed or sealed walls.	\$100	\$200	\$300	Per day
355 IAC 5-4-3	Operate secondary containment with improperly-constructed or sealed base.	\$100	\$200	\$300	Per day
355 IAC 5-4-4	Operate secondary containment with a relief outlet, valve, or improper pump.	\$100	\$200	\$300	Per day
355 IAC 5-4-7	Operate an improperly designed, constructed, or maintained elephant ring.	\$100	\$200	\$300	Per day
355 IAC 5-4-8(a)	Fail to maintain secondary containment.	\$100	\$200	\$300	Per day
355 IAC 5-4-8(b)	Fail to maintain secondary containment free of debris and foreign matter.	\$25	\$50	\$100	Per day
355 IAC 5-5-1	Store dry bulk pesticide in improper, non-elevated, uncovered, or unsecured container or manner.	\$250	\$500	\$1,000	Per day
355 IAC 5-8-1	Fail to notify the state chemist annually of the bulk storage facility location and status.	\$50	\$100	\$150	Per year

* This penalty shall not be subject to the potential for mitigation listed in section 5 of this rule.

(b) Each penalty for each violation, if the violation is of a continuing nature, shall not be imposed for more than one hundred eighty (180) days when assessed on a per day basis.

(c) Each penalty for each violation, if the violation is of an identical repetitive nature, shall not be imposed for more than one hundred eighty (180) incidents when assessed on a per incident basis. (*Indiana Pesticide Review Board; 357 IAC 1-6-2; filed Jan 9, 1992, 3:00 p.m.: 15 IR 706; readopted filed Oct 29, 2001, 4:41 p.m.: 25 IR 936; filed Jan 7, 2005, 2:15 p.m.: 28 IR 1690; readopted filed Nov 18, 2011, 1:21 p.m.: 20111214-IR-357110572RFA; filed Nov 28, 2012, 2:49 p.m.: 20121226-IR-357120513FRA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227-IR-357170359RFA*)

357 IAC 1-6-3 Violation types (*Repealed*)

Sec. 3. (*Repealed by Indiana Pesticide Review Board; filed Jan 7, 2005, 2:15 p.m.: 28 IR 1693*)

357 IAC 1-6-4 Determining the violation number and count of violations to be assessed (**Repealed**)

Authority: IC 15-16-4-50; IC 15-16-4-69

Affected: IC 15-16-4

Sec. 4. For purposes of imposing civil penalties, the state chemist shall comply with the following when determining the violation number and the count of violations:

(1) Only violations committed within the immediate past five (5) years of the date of the violation being addressed shall be considered.

(2) A person's violation numbers shall accumulate as first, second, third, etc., independently for each violation listed on the schedule.

(3) When multiple different but similar or related violations are committed by ~~cited for~~ a single distinguishable act or failure to act, only one (1) of those violations may be subject to a civil penalty for that act. This subdivision is intended to avoid duplicating civil penalty assessment for violation of multiple provisions of the statute or rule that may be essentially the same or closely related. This subdivision is not intended to limit in any way civil penalty assessment for violations that are the result of more than one (1) distinguishable unrelated act or failure to act or a violation of a continuing or repetitive nature.

(4) When civil penalty assessment procedures outlined in subdivision (3) are being followed, the state chemist will utilize the appropriate violation with the highest penalty listed on the schedule.

(*Indiana Pesticide Review Board; 357 IAC 1-6-4; filed Jan 9, 1992, 3:00 p.m.: 15 IR 706; readopted filed Oct 29, 2001, 4:41 p.m.: 25 IR 936; filed Jan 7, 2005, 2:15 p.m.: 28 IR 1692; readopted filed Nov 18, 2011, 1:21 p.m.: 20111214-IR-357110572RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227-IR-357170359RFA*)

357 IAC 1-6-5 Potential penalty mitigation (Repealed)

Authority: IC 15-16-4-50; IC 15-16-4-69
Affected: IC 15-16-4

~~Sec. 5. (a) The amount of a civil penalty may be adjusted downward to reflect particular mitigating factors. Some factors that may be considered are the following:~~

- ~~(1) Good faith efforts of the violator to comply.~~
- ~~(2) Cooperation by the violator with the state chemist during the investigation or inspection process.~~
- ~~(3) The violator's history of compliance.~~
- ~~(4) Whether the violation involved a nonrestricted general use pesticide.~~
- ~~(5) The potential for damage.~~
- ~~(6) Remedial or corrective action taken by the violator.~~

~~(b) Failure to pay the full amount of any previously mitigated civil penalty by the date prescribed by the state chemist may subject the violator to the full amount of the nonmitigated civil penalty. (Indiana Pesticide Review Board; 357 IAC 1-6-5; filed Jan 9, 1992, 3:00 p.m.: 15 IR 707; readopted filed Oct 29, 2001, 4:41 p.m.: 25 IR 936; filed Jan 7, 2005, 2:15 p.m.: 28 IR 1692; readopted filed Nov 18, 2011, 1:21 p.m.: 20111214-IR-357110572RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227-IR-357170359RFA)~~

357 IAC 1-6-6 Notification of legal recourse (Repealed)

Authority: IC 15-16-4-50; IC 15-16-4-69
Affected: IC 15-16-4

~~Sec. 6. The state chemist shall notify in writing each person on whom a civil penalty may be imposed of the opportunity to obtain a hearing on the proposed action by filing with the board within thirty (30) days notice of the action. (Indiana Pesticide Review Board; 357 IAC 1-6-6; filed Jan 9, 1992, 3:00 p.m.: 15 IR 707; readopted filed Oct 29, 2001, 4:41 p.m.: 25 IR 936; filed Jan 7, 2005, 2:15 p.m.: 28 IR 1693; readopted filed Nov 18, 2011, 1:21 p.m.: 20111214-IR-357110572RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227-IR-357170359RFA)~~

357 IAC 1-6-7 Imposition of civil penalties

Authority: IC 15-16-4-50; IC 15-16-4-69
Affected: IC 15-16-4

~~Sec. 7. (a) Nothing in this rule shall require the state chemist to impose a civil penalty for a violation.~~

~~(b) The state chemist may initiate any of the following enforcement actions for a violation instead of or in addition to a civil penalty:~~

- ~~(1) A warning.~~
- ~~(2) A citation.~~
- ~~(3) A license, permit, registration, or certification:
 - ~~(A) denial;~~
 - ~~(B) modification;~~
 - ~~(C) suspension; or~~
 - ~~(D) revocation.~~~~

~~(4) Referral for criminal prosecution.~~

~~(5) Referral to the U.S. Environmental Protection Agency or other appropriate agency.~~

~~(Indiana Pesticide Review Board; 357 IAC 1-6-7; filed Jan 7, 2005, 2:15 p.m.: 28 IR 1693; readopted filed Nov 18, 2011, 1:21 p.m.: 20111214-IR-357110572RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227-IR-357170359RFA)~~

357 IAC 1-6-8 Penalty money collected (Repealed)

Authority: IC 15-16-4-69
Affected: IC 15-16-4

~~Sec. 8. (a) The state chemist shall credit all money collected for civil penalties to the Purdue University Cooperative Extension Service.~~

~~(b) The Purdue University Cooperative Extension Service shall use the money solely for the purpose of providing education about pesticides. (Indiana Pesticide Review Board; 357 IAC 1-6-8; filed Jan 7, 2005, 2:15 p.m.: 28 IR 1693; readopted filed Nov 18,~~

2011, 1:21 p.m.: 20111214-IR-357110572RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227-IR-357170359RFA)

Rule 7. Civil Penalty Assessment Schedule; Pesticide Use and Application

357 IAC 1-7-1 Definitions *(Repealed)*

Sec. 1. *(Repealed by Indiana Pesticide Review Board; filed Nov 28, 2012, 2:49 p.m.: 20121226-IR-357120513FRA)*

357 IAC 1-7-2 Schedule *(Repealed)*

Sec. 2. *(Repealed by Indiana Pesticide Review Board; filed Nov 28, 2012, 2:49 p.m.: 20121226-IR-357120513FRA)*

357 IAC 1-7-3 Violation types *(Repealed)*

Sec. 3. *(Repealed by Indiana Pesticide Review Board; filed Jan 7, 2005, 1:50 p.m.: 28 IR 1689)*

357 IAC 1-7-4 Determining the violation number and count of violations to be assessed *(Repealed)*

Sec. 4. *(Repealed by Indiana Pesticide Review Board; filed Nov 28, 2012, 2:49 p.m.: 20121226-IR-357120513FRA)*

357 IAC 1-7-5 Potential penalty mitigation *(Repealed)*

Sec. 5. *(Repealed by Indiana Pesticide Review Board; filed Nov 28, 2012, 2:49 p.m.: 20121226-IR-357120513FRA)*

357 IAC 1-7-6 Notification of legal recourse *(Repealed)*

Sec. 6. *(Repealed by Indiana Pesticide Review Board; filed Nov 28, 2012, 2:49 p.m.: 20121226-IR-357120513FRA)*

357 IAC 1-7-7 Imposition of civil penalties *(Repealed)*

Sec. 7. *(Repealed by Indiana Pesticide Review Board; filed Nov 28, 2012, 2:49 p.m.: 20121226-IR-357120513FRA)*

357 IAC 1-7-8 Penalty money collected *(Repealed)*

Sec. 8. *(Repealed by Indiana Pesticide Review Board; filed Nov 28, 2012, 2:49 p.m.: 20121226-IR-357120513FRA)*

Rule 8. Indiana Pesticide Law Violators; Public Listing **(Repealed)** *(Replaced by automated public posting of all investigation information on OISC web site.)*

357 IAC 1-8-1 Definitions-

Authority: IC 15-16-4-52; IC 15-16-4-69; IC 15-16-5-44; IC 15-16-5-65

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

Sec. 1. (a) As used in this rule, "criteria for publicly listing" means the standards on which a decision will be made by the state chemist to include the identity of a person who has violated any of the provisions of IC 15-3-3.5 [IC 15-3 was repealed by P.L.2 2008, SECTION 83, effective July 1, 2008. See IC 15-16-4.], IC 15-3-3.6 [IC 15-3 was repealed by P.L.2 2008, SECTION 83, effective July 1, 2008. See IC 15-16-5.], or the rules thereunder, on a listing prepared for ready access and publication to the general public.

(b) As used in this rule, "person" means any:

- (1) individual;
- (2) partnership;
- (3) association;
- (4) fiduciary;
- (5) corporation; or

(6) organized groups of persons;

whether incorporated or not. (*Indiana Pesticide Review Board; 357 IAC 1-8-1; filed Sep 10, 1999, 4:47 p.m.: 23 IR 306; readopted filed Dec 2, 2005, 2:30 p.m.: 29 IR 1381; readopted filed Nov 29, 2012, 9:00 a.m.: 20121226 IR 357120582RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227 IR 357170359RFA*)

357 IAC 1-8-2 Applicability

Authority: IC 15-16-4-52; IC 15-16-4-69; IC 15-16-5-44; IC 15-16-5-65

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

Sec. 2. The criteria for publicly listing shall be applied to all persons who have violated IC 15-3-3.5 [*IC 15-3 was repealed by P.L.2-2008, SECTION 83, effective July 1, 2008. See IC 15-16-4.*], IC 15-3-3.6 [*IC 15-3 was repealed by P.L.2-2008, SECTION 83, effective July 1, 2008. See IC 15-16-5.*], or rules thereunder, but shall be limited to the following:

(1) Any person who has been assessed a civil penalty by the state chemist.

(2) Any person who has had any certification, registration, license, permit, or other required credential or status issued by the state chemist denied, revoked, canceled, or suspended as the result of the violation.

(*Indiana Pesticide Review Board; 357 IAC 1-8-2; filed Sep 10, 1999, 4:47 p.m.: 23 IR 306; readopted filed Dec 2, 2005, 2:30 p.m.: 29 IR 1381; readopted filed Nov 29, 2012, 9:00 a.m.: 20121226 IR 357120582RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227 IR 357170359RFA*)

Rule 9. Pesticide Consultants; Registration (*Expired*)

(*Expired under IC 4-22-2.5, effective January 1, 2013.*)

Rule 10. Regulation of Pesticides Near Community Public Water Supply System Wells (**Repealed**) (*Moved to 355 IAC 5-11*)

357 IAC 1-10-1 Definitions

Authority: IC 15-16-5-44; IC 15-16-5-64

Affected: IC 15-16-5

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

(1) "Community public water supply system" or "CPWSS" means a public water supply system as referenced in 327 IAC 8-4.1-1(5) that serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents.

(2) "Discharge" means a release of a pesticide from a storage container into secondary containment.

(3) "Impervious surface" means a surface composed of a watertight material that effectively prevents discharged pesticide from impacting the soil or ground water, and from reaching a drinking water well or dry well, storm or sanitary sewer, or septic system.

(4) "Isolation area" means an area as referenced in 327 IAC 8-3.4-9, which is established around a CPWSS production well, to protect ground water from direct contamination by pesticides.

(5) "Public water supply system" or "PWSS" means a public water supply as established by 326 IAC 8-4.1-1(20) for the provision to the public of piped water for human consumption if such a system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year.

(6) "Secondary containment" means any structure, such as a dike, used to contain pesticide discharge from storage containers and prevent run-off or leaching.

(7) "State chemist" means the Indiana state chemist or his appointed agent.

(8) "Time of travel" or "TOT", as referenced in 327 IAC 8-4.1-1(25), means the calculated length of time that a particle of water takes to reach a CPWSS production well from a certain point.

(9) "Time of travel threshold" means a minimum five (5) year TOT for modeled wellhead protection areas or three thousand (3,000) feet for fixed radius wellhead protection areas as delineated in 327 IAC 8-4.1-1(26).

(10) "Wellhead protection area" or "WHPA" as referenced in 327 IAC 8-4.1-1(27) means the surface and subsurface area that contributes water to a CPWSS production well or well field and through which contaminants are likely to move and reach the well within the TOT threshold.

(*Indiana Pesticide Review Board; 357 IAC 1-10-1; filed Apr 23, 2003, 3:45 p.m.: 26 IR 2859; readopted filed Jul 20, 2009, 7:01 a.m.: 20090819 IR 357090369RFA; readopted filed Nov 17, 2015, 1:01 p.m.: 20151216 IR 357150335RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227 IR 357170359RFA*)

357 IAC 1-10-2 Prohibited activities within the isolation area

Authority: ~~IC 15-16-4-50~~; IC 15-16-5-44; IC 15-16-5-64

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

Sec. 2. (a) ~~The following activities shall be prohibited within the isolation area, except for pesticides labeled for the intentional use in the treatment of water for drinking:~~

~~(1) Pesticide loading;~~

~~(2) Pesticide mixing;~~

~~(3) Pesticide storage.~~

~~(b) Application of pesticides within the isolation area shall be permitted unless prohibited by:~~

~~(1) the pesticide label; or~~

~~(2) a rule by the Indiana pesticide review board.~~

(Indiana Pesticide Review Board; 357 IAC 1-10-2; filed Apr 23, 2003, 3:45 p.m.: 26 IR 2860; readopted filed Jul 20, 2009, 7:01 a.m.: 20090819 IR 357090369RFA; readopted filed Nov 17, 2015, 1:01 p.m.: 20151216 IR 357150335RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227 IR 357170359RFA)

357 IAC 1-10-3 Pesticide storage within the WHPA and outside of the isolation area

Authority: IC 15-16-5-44; IC 15-16-5-64

Affected: IC 15-16-5

Sec. 3. (a) Pesticide containers stored:

(1) within a WHPA; and

(2) outside of an isolation area determined by the Indiana department of environmental management; and

(3) with the capacity to hold pesticides in undivided quantities exceeding fifty five (55) U.S. gallons or one hundred (100) pounds dry product;

shall be subject to the storage and containment requirements in 355 IAC 5-

(b) Pesticide containers not covered by the requirements referenced in subsection (a) shall be stored:

(1) on an impervious surface;

(2) in a covered area that is protected from precipitation; and

(3) within secondary containment when the quantity of pesticide product in all containers exceeds fifty five (55) U.S. gallons of liquid or one hundred (100) pounds of dry product and a spill or leak is likely to enter a septic system, sanitary or storm sewer, drinking water well, or dry well.

(c) Secondary containment required in subsection (b) shall be:

(1) constructed with a capacity of a minimum of at least one hundred ten percent (110%) of the volume of the largest storage container within the contained area plus the volume displaced by all other pesticide containers, equipment, and other items in the containment vessel; and

(2) constructed, installed, and maintained so as to prevent the spill or leakage of the pesticide.

(Indiana Pesticide Review Board; 357 IAC 1-10-3; filed Apr 23, 2003, 3:45 p.m.: 26 IR 2860; readopted filed Jul 20, 2009, 7:01 a.m.: 20090819 IR 357090369RFA; filed Nov 28, 2012, 2:49 p.m.: 20121226 IR 357120513RFA; readopted filed Nov 17, 2015, 1:01 p.m.: 20151216 IR 357150335RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227 IR 357170359RFA)

357 IAC 1-10-4 Cleanup of discharged or spilled pesticide

Authority: IC 15-16-5-44; IC 15-16-5-64

Affected: IC 15-16-5

Sec. 4. (a) Remediation and cleanup of a discharged or spilled pesticide in an isolation area shall be performed immediately upon discovery.

(b) Clean up procedures shall be conducted in:

(1) accordance with the procedures on the pesticide product label; and

(2) a manner that prevents the pesticide from impacting the soil or ground water, and from reaching a drinking water well, dry well, storm sewer, sanitary sewer, or septic system.

(Indiana Pesticide Review Board; 357 IAC 1-10-4; filed Apr 23, 2003, 3:45 p.m.: 26 IR 2860; readopted filed Jul 20, 2009, 7:01 a.m.: 20090819 IR 357090369RFA; filed Nov 28, 2012, 2:49 p.m.: 20121226 IR 357120513RFA; readopted filed Nov 17, 2015,

1:01 p.m.: 20151216 IR 357150335RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227 IR 357170359RFA)

357 IAC 1-10-5 Inspection and compliance

Authority: IC 15-16-5-44; IC 15-16-5-64

Affected: IC 15-16-5

Sec. 5. (a) The inspection for compliance with this rule is the responsibility of the state chemist but may be delegated by the state chemist to the Indiana department of environmental management and to employees of state, county, or municipal government.

(b) The initiation of enforcement for violations of the provisions shall be the sole responsibility of the state chemist. (Indiana Pesticide Review Board; 357 IAC 1-10-5; filed Apr 23, 2003, 3:45 p.m.: 26 IR 2861; readopted filed Jul 20, 2009, 7:01 a.m.: 20090819 IR 357090369RFA; readopted filed Nov 17, 2015, 1:01 p.m.: 20151216 IR 357150335RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227 IR 357170359RFA)

357 IAC 1-10-6 Compliance with the effective date of rule (Repealed)

Sec. 6. (Repealed by Indiana Pesticide Review Board; filed Nov 28, 2012, 2:49 p.m.: 20121226 IR 357120513RFA)

Rule 11. Community-Wide Mosquito Abatement Pesticide Applicators and Technicians (Repealed) (Moved to 355 IAC 4-4)

357 IAC 1-11-1 Definitions

Authority: IC 15-16-5-44; IC 15-16-5-64

Affected: IC 15-16-5-52

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

(1) "Category 8" means the public health pest control certification and license category referenced in 355 IAC 4-1-3(14), which includes pesticide applicators who use or supervise the use of pesticides in mosquito abatement operations.

(2) "Commercial applicator license" means the license issued annually by the state chemist to an individual who has met the requirements established in IC 15-3-3.6-8.1 [IC 15-3 was repealed by P.L.2-2008, SECTION 83, effective July 1, 2008. See IC 15-16-5-52.], including the following licenses:

(A) Applicator for hire.

(B) Applicator not for hire.

(C) Public applicator.

(3) "Community wide mosquito abatement" means any pesticide application activities, including mosquito adulticiding and larviciding, conducted wholly or in part on publicly accessible property. The term does not include pesticide applications performed for the control of mosquitoes solely on a single family residence.

(4) "Direct supervision" means one (1) of the following:

(A) The supervision and oversight procedures for noncertified applicators, as required in 355 IAC 4-2-

(B) The supervising certified applicator is:

(i) present at the pesticide application site in close proximity to and within reasonable line of sight of the noncertified applicator; and

(ii) operating under conditions that permit direct voice contact with the noncertified applicator.

(C) For employees of a governmental agency, the supervising certified applicator:

(i) has provided the noncertified applicator with written instructions covering site specific precautions to prevent injury to persons or the environment or damage to property at the pesticide application site; and

(ii) is operating under conditions that permit direct voice contact with the noncertified applicator.

(5) "Publicly accessible property" means public or private property to which the public or patrons have a reasonable expectation of relatively unrestricted access.

(6) "Registered technician" means a noncertified person who, having met the requirements of 355 IAC 4-2-8, 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 and licensed applicator.

(7) "State chemist" means the Indiana state chemist or his appointed agent.

(Indiana Pesticide Review Board; 357 IAC 1-11-1; filed Jan 2, 2004, 2:00 p.m.: 27 IR 1878; readopted filed Jun 11, 2010, 9:10 a.m.: 20100623 IR 357100194RFA; readopted filed Dec 1, 2016, 2:55 p.m.: 20161228 IR 357160453RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227 IR 357170359RFA)

357 IAC 1-11-2 Applicator certification and licensing

Authority: IC 15-16-5-44; IC 15-16-5-64

Affected: IC 15-16-5

Sec. 2. (a) Except as provided in section 3 of this rule, a person may not use or supervise the use of any pesticide for community wide mosquito abatement activities without having obtained a commercial applicator license in Category 8 from the state chemist.

(b) Completing the certification requirements as a commercial applicator (IC 15-3-3.6-6-2(7) *[sic]*) in Category 8 shall be a qualifying requirement for each of the licenses referenced in section 1(2) of this rule.

(c) A person may satisfy the Category 8 certification requirements by either:

(1) completing the requirements established in 355 IAC 4-1 for a Category 8 applicator; or

(2) completing the requirements established in 355 IAC 4-1 for a Category 7a applicator and providing proof to the state chemist of practical community wide mosquito abatement experience within the last five (5) years previous to the effective date of this rule.

(Indiana Pesticide Review Board; 357 IAC 1-11-2; filed Jan 2, 2004, 2:00 p.m.: 27 IR 1878; readopted filed Jun 11, 2010, 9:10 a.m.: 20100623-IR-357100194RFA; readopted filed Dec 1, 2016, 2:55 p.m.: 20161228-IR-357160453RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227-IR-357170359RFA)

357 IAC 1-11-3 Direct supervision of noncertified applicators

Authority: IC 15-16-5-44; IC 15-16-5-64

Affected: IC 15-16-5

Sec. 3. (a) A person who has not obtained a commercial applicator license may use a pesticide if the person is working under the direct supervision of a certified and licensed applicator employed by the business, agency, or organization that also employs the person.

(b) An applicator using pesticides for community wide mosquito abatement activities is subject to all of the site awareness and direct supervision provisions of 355 IAC 4-2, except as described in section 1(4)(C) of this rule. *(Indiana Pesticide Review Board; 357 IAC 1-11-3; filed Jan 2, 2004, 2:00 p.m.: 27 IR 1878; readopted filed Jun 11, 2010, 9:10 a.m.: 20100623-IR-357100194RFA; readopted filed Dec 1, 2016, 2:55 p.m.: 20161228-IR-357160453RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227-IR-357170359RFA)*

Rule 12. Pesticide Drift

357 IAC 1-12-1 Definitions (**Repealed**) (*Moved to 357 IAC 1-0.5*)

Authority: IC 15-16-5-44

Affected: IC 15-16-5-65

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

(1) "Drift" means the physical movement of a pesticide through the air at the time of application from the target site to a nontarget site. The term shall not mean the movement of a pesticide, at a time after the application has been made, by any of the following:

(A) Erosion.

(B) Volatility after deposition on the target site.

(C) Windblown soil particles.

(2) "Nontarget site" means any site that is not the intended target site of the pesticide application, including, but not limited to, the following:

(A) Personal property.

(B) Public property.

(C) A body of water.

(D) A person.

(E) An animal.

(F) Livestock.

(G) Managed bees.

- (H) A commodity.
- (I) A desirable plant.
- (3) ~~"Standards" means the legally enforceable limits, as established by state or federal regulations.~~
- (4) ~~"Sufficient quantity to cause harm" means an amount of pesticide that results in any of the following:~~
 - (A) ~~Pesticide residues in excess of established tolerances or standards.~~
 - (B) ~~Documented:~~
 - (i) ~~death;~~
 - (ii) ~~illness;~~
 - (iii) ~~stunting;~~
 - (iv) ~~deformation;~~
 - (v) ~~discoloration; or~~
 - (vi) ~~other effects;~~
- ~~that are detrimental to the nontarget site.~~
- (5) ~~"Target site" means the specific site to which a pesticide was intentionally applied.~~
- (6) ~~"Tolerance" means the maximum amount of a pesticide residue, as established by the U.S. Environmental Protection Agency, that may lawfully remain on or in food or animal feed.~~
- (7) ~~"Volatility" means the ability of a pesticide to move to a nontarget site as a vapor rather than as a:~~
 - (A) ~~drift particle; or~~
 - (B) ~~spray droplet.~~

(Indiana Pesticide Review Board; 357 IAC 1-12-1; filed Mar 17, 2006, 1:00 p.m.: 29 IR 2523; readopted filed Nov 29, 2012, 9:00 a.m.: 20121226-IR-357120582RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227-IR-357170359RFA)

357 IAC 1-12-2 Drift restriction
 Authority: IC 15-16-5-44
 Affected: IC 15-16-5-65

Sec. 2. (a) A person may not apply a pesticide in a manner that allows it to drift from the target site in sufficient quantity to cause ~~harm~~ **an adverse effect** to a nontarget site.

(Indiana Pesticide Review Board; 357 IAC 1-12-2; filed Mar 17, 2006, 1:00 p.m.: 29 IR 2524; readopted filed Nov 29, 2012, 9:00 a.m.: 20121226-IR-357120582RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227-IR-357170359RFA)

Rule 13. Open Burning of Pesticide Containers **(Repealed)** *(Moved to 355 IAC 5-10)*

~~357 IAC 1-13-1 Definitions (Repealed)~~
 Authority: IC 15-16-5-64
 Affected: IC 15-16-5-65

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

- (1) ~~"Open burning" means the burning of any pesticide container wherein air contaminants resulting from combustion are emitted directly into the air, without passing through a stack or chimney from an enclosed chamber, as described in 326 IAC 4-1-0.5(6).~~
- (2) ~~"Pesticide container" means any:~~
 - (A) ~~package;~~
 - (B) ~~can;~~
 - (C) ~~bottle;~~
 - (D) ~~jug;~~
 - (E) ~~bag;~~
 - (F) ~~barrel;~~
 - (G) ~~drum;~~
 - (H) ~~tank; or~~
 - (I) ~~other containing device;~~

~~used to enclose a pesticide or pesticide-related waste. The term does not include equipment used solely for the application of a pesticide.~~

(Indiana Pesticide Review Board; 357 IAC 1-13-1; filed Jun 4, 2009, 9:08 a.m.: 20090701-IR-357090058FRA; readopted filed Nov 17, 2015, 1:01 p.m.: 20151216-IR-357150335RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227-IR-357170359RFA)

357 IAC 1-13-2 Prohibition against open burning of pesticide containers (Repealed)

Authority: IC 15-16-5-64

Affected: IC 13-15; IC 13-17; IC 15-16-5-65

Sec. 2. A person may not cause the open burning of any pesticide container.

(Indiana Pesticide Review Board; 357 IAC 1-13-2; filed Jun 4, 2009, 9:08 a.m.: 20090701-IR-357090058FRA; readopted filed Nov 17, 2015, 1:01 p.m.: 20151216-IR-357150335RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227-IR-357170359RFA)

Rule 14. Use of Pesticide Service Containers (Repealed) (Moved to 355 IAC 5-11)

357 IAC 1-14-1 Definitions

Authority: IC 15-16-5-64

Affected: IC 15-16

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

(1) "Applicator" means a person who will be applying the pesticide.

(2) "Service container" means any package, can, bottle, jug, bag, or other containing device used to transport a pesticide from a storage site to an application site. The term shall not mean any of the following:

(A) The original labeled container provided by the manufacturer.

(B) A container larger than the original labeled container provided by the manufacturer.

(C) A measuring device.

(D) Equipment used solely for the application of a pesticide.

(Indiana Pesticide Review Board; 357 IAC 1-14-1; filed Jun 4, 2009, 9:09 a.m.: 20090701-IR-357090059FRA; readopted filed Nov 17, 2015, 1:01 p.m.: 20151216-IR-357150335RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227-IR-357170359RFA)

357 IAC 1-14-2 Use of service containers

Authority: IC 15-16-5-64

Affected: IC 15-16

Sec. 2. (a) Except as provided in subsection (b), an applicator may transfer a diluted or an undiluted pesticide to a service container for the purpose of transporting the pesticide from the applicator's storage site to an application site.

(b) Use of a service container shall not be permitted if the original label of the pesticide requires storage in the original container only or prohibits transfer to other containers. *(Indiana Pesticide Review Board; 357 IAC 1-14-2; filed Jun 4, 2009, 9:09 a.m.: 20090701-IR-357090059FRA; readopted filed Nov 17, 2015, 1:01 p.m.: 20151216-IR-357150335RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227-IR-357170359RFA)*

357 IAC 1-14-3 Labeling of service containers

Authority: IC 15-16-5-64

Affected: IC 15-16

Sec. 3. (a) The applicator must securely attach to the service container labeling for the pesticide that includes the following:

(1) The complete brand name.

(2) The EPA registration number.

(3) The name of the active ingredient or ingredients.

(4) The percentage or percentages of the active ingredient or ingredients.

(b) The applicator must have in his or her possession during transport of the service container a complete representative copy of the entire label for the pesticide. *(Indiana Pesticide Review Board; 357 IAC 1-14-3; filed Jun 4, 2009, 9:09 a.m.: 20090701-IR-357090059FRA; readopted filed Nov 17, 2015, 1:01 p.m.: 20151216-IR-357150335RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227-IR-357170359RFA)*

Rule 15. Applicator Certification and Licensing at Golf Courses **(Repealed)** *(Moved to 355 IAC 4-4)*

357 IAC 1-15-1 Definitions

Authority: IC 15-16-5-44

Affected: IC 15-16-5-52

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

(1) "Any pesticide" means both restricted use and nonrestricted use pesticides.

(2) "Commercial applicator license" means the license issued annually by the state chemist to an individual who has met the requirements established in IC 15-16-5-52, including the following licenses:

(A) Applicator for hire.

(B) Applicator not for hire.

(C) Public applicator.

(3) "Direct supervision" means one (1) of the following:

(A) The supervision and oversight procedures for noncertified applicators, as required in 355 IAC 4-2.

(B) The supervising certified applicator is:

(i) present at the golf course; and

(ii) operating under conditions that permit direct voice contact with the noncertified applicator.

(C) The supervising certified applicator:

(i) has previously examined the specific application area while accompanied by the noncertified applicator;

(ii) has provided the noncertified applicator with written instructions covering site-specific precautions to prevent injury to persons or the environment at the pesticide application site; and

(iii) is operating under conditions that permit direct voice contact with the noncertified applicator.

(4) "Direct voice contact" means real-time communication by two-way radio, cell phone, landline phone, or any other communication device that would allow the supervising certified applicator to effectively communicate with the noncertified applicator during the use of the pesticide or the pesticide-related emergency.

(5) "Golf course" means any turf areas designated and used primarily for the play or practice of the game of golf, including, but not limited to, the following areas:

(A) Fairways.

(B) Greens.

(C) Roughs.

(D) Tees.

(6) "State chemist" means the Indiana state chemist or his or her authorized agent.

(7) "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 application. The required elements on the site assessment fact sheet shall be developed by the state chemist in consultation with the representatives from the golf course industry.

(Indiana Pesticide Review Board; 357 IAC 1-15-1; filed Jun 4, 2009, 9:10 a.m.; 20090701 IR 357090062FRA; readopted filed Nov 17, 2015, 1:01 p.m.; 20151216 IR 357150335RFA; readopted filed Dec 1, 2017, 9:25 a.m.; 20171227 IR 357170359RFA)

357 IAC 1-15-2 Applicator certification and licensing

Authority: IC 15-16-5-44

Affected: IC 15-16-5

Sec. 2. (a) Except as provided in section 3 of this rule, a person may not use or supervise the use of any pesticide on a golf course without having obtained a commercial applicator license from the state chemist.

(b) Completing the certification requirements as a category 3b commercial applicator shall be a qualifying requirement for each of the licenses referenced in section 1(2) of this rule. *(Indiana Pesticide Review Board; 357 IAC 1-15-2; filed Jun 4, 2009, 9:10 a.m.; 20090701 IR 357090062FRA; readopted filed Nov 17, 2015, 1:01 p.m.; 20151216 IR 357150335RFA; readopted filed Dec 1, 2017, 9:25 a.m.; 20171227 IR 357170359RFA)*

357 IAC 1-15-3 Direct supervision of noncertified applicators

Authority: IC 15-16-5-44

Affected: IC 15-16-5

Sec. 3. A person who has not obtained a commercial applicator license may use a pesticide on a golf course if the person is working under the direct supervision of a certified and licensed applicator affiliated with the business, agency, or organization that owns or operates that golf course or the pesticide business hired to apply pesticides on that golf course. *(Indiana Pesticide Review Board; 357 IAC 1-15-3; filed Jun 4, 2009, 9:10 a.m.: 20090701 IR 357090062FRA; readopted filed Nov 17, 2015, 1:01 p.m.: 20151216 IR 357150335RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227 IR 357170359RFA)*

357 IAC 1-15-4 Golf course pesticide use records

Authority: IC 15-16-5-44

Affected: IC 15-16-5

Sec. 4. (a) A commercial applicator shall keep and maintain records of all applications of pesticides made on the golf course by the applicator or the noncertified individuals supervised by the applicator. The records shall provide the following:

- (1) The name or address of the golf course.
- (2) The name and certification number of the certified applicator responsible for the application.
- (3) The date and time of application.
- (4) The principal pest or pests to be controlled.
- (5) A description of the area treated, including, but not limited to, the following:
 - (A) The fairway number or numbers.
 - (B) The green number or numbers.
 - (C) The rough number or numbers.
 - (D) The tee number or numbers.
- (6) The pesticide applied, including the following:
 - (A) The name of the manufacturer.
 - (B) The U. S. Environmental Protection Agency registration number.
 - (C) The brand name.
- (7) The amount used, expressed as either:
 - (A) concentrate, giving the total quantity of formulation applied, in pounds, gallons, etc.; or
 - (B) diluted mixture (ready to use), giving the total amount applied and active ingredient concentration (percentage).

(b) Written, printed, or electronic information that 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.

(c) The records to be maintained under this section shall be:

- (1) recorded by the thirtieth day from the date of application; and
- (2) kept and maintained for a period of two (2) years.

(Indiana Pesticide Review Board; 357 IAC 1-15-4; filed Jun 4, 2009, 9:10 a.m.: 20090701 IR 357090062FRA; readopted filed Nov 17, 2015, 1:01 p.m.: 20151216 IR 357150335RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227 IR 357170359RFA)

357 IAC 1-15-5 Record inspection; availability

Authority: IC 15-16-5-44

Affected: IC 15-16-5

Sec. 5. (a) All required records and information shall, upon written or oral request, be made available for inspection and copying by the state chemist or his or her authorized agent.

(b) 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 commercial applicator shall provide the requested information.

(c) No licensed health care professional shall release any record or information from any record obtained under subsection (b) except as necessary to provide medical treatment to an individual who may have been exposed to the pesticide for which the record is maintained. *(Indiana Pesticide Review Board; 357 IAC 1-15-5; filed Jun 4, 2009, 9:10 a.m.: 20090701 IR 357090062FRA; readopted filed Nov 17, 2015, 1:01 p.m.: 20151216 IR 357150335RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227 IR 357170359RFA)*

Rule 16. Pesticide Use at Schools

357 IAC 1-16-1 Purpose

Authority: IC 15-16-5

Affected: IC 15-16-5

Sec. 1. The purpose of this rule is to minimize the potential for pesticide exposure to students at schools. ~~by ensuring the following:~~

(1) Pesticides are used only by: ***(Moved to 355 IAC 4-4)***

(A) a certified applicator; or

(B) an individual operating under the direct supervision of the certified applicator.

~~(2) Pesticides are not used when students are in the pesticide application area.~~

~~(3) Pesticides are stored in locked storage areas. ***(Moved to 355 IAC 5-9-2)***~~

~~(4) Except for immediate health threat situations, school corporations provide advance notice of pesticide applications to school parents, guardians, and staff on a notification registry.~~

~~(5) School corporations keep records of pesticide applications. ***(Moved to 355 IAC 4-4)***~~

~~(6) Pesticides with lowest hazards to children are used whenever practical and effective.~~

(Indiana Pesticide Review Board; 357 IAC 1-16-1; filed Sep 24, 2010, 1:44 p.m.: 20101020-IR-357100336FRA; readopted filed Dec 1, 2016, 2:55 p.m.: 20161228-IR-357160453RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227-IR-357170359RFA)

357 IAC 1-16-2 Applicability

Authority: IC 15-16-5

Affected: IC 15-16-5

Sec. 2. This rule applies to all:

(1) Pesticides, as defined in section 3(3) of this rule **except the following nonrestricted general use pesticides: ***(Moved from 357 IAC 1-16-3(3))*****

(A) Bactericides.

(B) Disinfectants.

(C) Gel or paste bait insecticides.

(D) Germicides.

(E) Manufactured enclosed insecticides.

(F) Personal insect repellents when self-applied.

(G) Sanitizing agents.

(H) Swimming pool chemicals.

(I) Water purifying chemicals.

~~;~~ and

(2) Schools ~~administered or maintained by a school corporation~~, as defined in section 3(7) of this rule. **355 IAC 4-0.5-10.**
(Indiana Pesticide Review Board; 357 IAC 1-16-2; filed Sep 24, 2010, 1:44 p.m.: 20101020-IR-357100336FRA; readopted filed Dec 1, 2016, 2:55 p.m.: 20161228-IR-357160453RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227-IR-357170359RFA)

357 IAC 1-16-3 Definitions **(Repealed) ***(Moved to 355 IAC 1-0.5)*****

Authority: IC 15-16-5

Affected: IC 20-18-2; IC 20-21; IC 20-22; IC 20-32-8-2

Sec. 3. The following definitions apply throughout this rule:

(1) "~~Commercial applicator license~~" means the license issued annually by the state chemist to an individual who has met the requirements established in IC 15-16-5-52, including the following:

(A) A licensed applicator for hire, as defined in IC 15-16-5-16.

(B) A licensed applicator not for hire, as defined in IC 15-16-5-17.

(C) A licensed public applicator, as defined in IC 15-16-5-20.

(2) "~~Direct supervision~~" means one (1) of the following:

(A) The supervision and oversight procedures for noncertified applicators, as required in 355 IAC 4-2.

(B) The supervising certified applicator is:

(i) present at the pesticide application site; and

- (ii) ~~operating under conditions that permit direct voice contact with the noncertified applicator.~~
- (C) ~~The supervising certified applicator:~~
 - (i) ~~has previously examined the pesticide application site while accompanied by the noncertified applicator;~~
 - (ii) ~~has provided the noncertified applicator with written instructions covering site-specific precautions to prevent injury to persons or the environment at the pesticide application site; and~~
 - (iii) ~~is operating under conditions that permit direct voice contact with the noncertified applicator.~~
- (3) ~~"Pesticide" means both restricted use and nonrestricted use pesticides, as defined in IC 15-16-5-25. For purposes of this rule, the term does not include the following nonrestricted use pesticides:~~
 - (A) ~~Bactericides.~~
 - (B) ~~Disinfectants.~~
 - (C) ~~Gel or paste bait insecticides.~~
 - (D) ~~Germicides.~~
 - (E) ~~Manufactured enclosed insecticides.~~
 - (F) ~~Personal insect repellents when self applied.~~
 - (G) ~~Sanitizing agents.~~
 - (H) ~~Swimming pool chemicals.~~
 - (I) ~~Water purifying chemicals.~~
- (4) ~~"Pesticide application site" means the target treatment area on school property where the pesticide is intentionally applied.~~
- (5) ~~"Pesticide notification registry" means the registry created and maintained by a school corporation listing the names and contact information of parents and guardians of children at the school and school staff who have requested to be notified of the details of pesticide applications at the school.~~
- (6) ~~"School" means the physical buildings and grounds of an institution for the instruction of students, including the following:~~
 - (A) ~~A preschool.~~
 - (B) ~~An elementary school as defined in IC 20-18-2-4.~~
 - (C) ~~A high school as defined in IC 20-18-2-7.~~
- (7) ~~"School corporation" means any of the following:~~
 - (A) ~~A school corporation as defined in IC 20-18-2-16.~~
 - (B) ~~A nonpublic school as defined in IC 20-18-2-12.~~
 - (C) ~~The Indiana School for the Blind and Visually Impaired established under IC 20-21.~~
 - (D) ~~The Indiana School for the Deaf established under IC 20-22. For purposes of this rule, the term does not include any of the following~~
 - (i) ~~Sunday schools and vacation Bible schools, and any other program of a religious entity except those that are accredited by the Indiana Department of Education.~~
 - (ii) ~~Daycare centers.~~
 - (iii) ~~Home schools.~~
 - (iv) ~~Any private religious school except those that are accredited by the Indiana Department of Education.~~
- (8) ~~"State chemist" means the Indiana state chemist or his or her authorized agent.~~
- (9) ~~"Student", as defined in IC 20-32-8-2, means any individual who is enrolled in a school corporation.~~
- (10) ~~"Use", as defined in IC 15-16-5-36, means an act of handling, releasing, or exposing individuals or the environment to a pesticide. The term includes the following:~~
 - (A) ~~Application or supervision of an application of a pesticide, including mixing or loading the pesticide.~~
 - (B) ~~Storage of pesticides and pesticide containers.~~
 - (C) ~~Transportation of pesticides and pesticide containers.~~
 - (D) ~~Disposal of pesticides and pesticide containers.~~

(Indiana Pesticide Review Board; 357 IAC 1-16-3; filed Sep 24, 2010, 1:44 p.m.: 20101020-IR-357100336FRA; readopted filed Dec 1, 2016, 2:55 p.m.: 20161228-IR-357160453RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227-IR-357170359RFA)

357 IAC 1-16-4 Applicator certification and licensing (Repealed) (Moved to 355 IAC 4-4)

Authority: IC 15-16-5-44; IC 15-16-5-51
 Affected: IC 15-16-5

Sec. 4. (a) Except as provided in section 5 of this rule, an individual may not use or supervise the use of a pesticide at a school without having obtained a commercial applicator license from the state chemist.

(b) Completing the certification procedures described in 355 IAC 4-1 shall be a qualifying requirement for a commercial applicator license.

(c) A commercial applicator license shall be issued in one (1) or more of the categories described in 355 IAC 4-1-3.

(d) The license category in subsection (c) must be relevant to the use of the pesticide at the school by the applicator.

(Indiana Pesticide Review Board; 357 IAC 1-16-4; filed Sep 24, 2010, 1:44 p.m.: 20101020-IR-357100336FRA; readopted filed Dec 1, 2016, 2:55 p.m.: 20161228-IR-357160453RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227-IR-357170359RFA)

357 IAC 1-16-5 Direct supervision of noncertified applicators **(Repealed)** *(Moved to 355 IAC 4-4)*

Authority: IC 15-16-5-44; IC 15-16-5-51

Affected: IC 15-16-5

Sec. 5. An individual who has not obtained a commercial applicator license may use a pesticide at a school if the individual is working under the direct supervision of a licensed commercial applicator affiliated with the:

(1) school corporation; or

(2) pesticide business hired to apply pesticides at that school.

(Indiana Pesticide Review Board; 357 IAC 1-16-5; filed Sep 24, 2010, 1:44 p.m.: 20101020-IR-357100336FRA; readopted filed Dec 1, 2016, 2:55 p.m.: 20161228-IR-357160453RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227-IR-357170359RFA)

357 IAC 1-16-6 Pesticide use restrictions

Authority: IC 15-16-5-44; IC 15-16-5-51

Affected: IC 15-16-4-38; IC 15-16-5

Sec. 6. (a) Except as provided in subsection (b), a pesticide must not be applied at a school during normal instructional hours when school is in session.

(b) A pesticide may be applied at a school during periods specified in subsection (a) if applied to:

(1) control an observed pest that poses an immediate health threat situation to the students present; or

(2) an area outside of and not immediately adjacent to student-occupied buildings.

(c) Except as provided in subsection (d), the school corporation must not allow students to enter a pesticide treatment area after an application until the longer of the following time periods has elapsed:

(1) The minimum reentry time specified on the pesticide label.

(2) Four (4) hours.

(d) A rodenticide (IC 15-16-4-38) bait may be applied in areas inaccessible to students without regard to subsection (c).

(Indiana Pesticide Review Board; 357 IAC 1-16-6; filed Sep 24, 2010, 1:44 p.m.: 20101020-IR-357100336FRA; readopted filed Dec 1, 2016, 2:55 p.m.: 20161228-IR-357160453RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227-IR-357170359RFA)

357 IAC 1-16-7 Pesticide storage restrictions **(Repealed)** *(Moved to 355 IAC 5-9)*

Authority: IC 15-16-5

Affected: IC 15-16-5

Sec. 7. Pesticides stored at schools must be in:

(1) the original pesticide container or a clearly labeled service container, as described in 357 IAC 1-14-3;

(2) a locked area or cabinet clearly marked as pesticide storage; and

(3) an area separated by a solid wall from areas where:

(A) food is stored;

(B) food is served; or

(C) students have access.

(Indiana Pesticide Review Board; 357 IAC 1-16-7; filed Sep 24, 2010, 1:44 p.m.: 20101020-IR-357100336FRA; readopted filed Dec 1, 2016, 2:55 p.m.: 20161228-IR-357160453RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227-IR-357170359RFA)

357 IAC 1-16-8 Pesticide notification

Authority: IC 15-16-5-44; IC 15-16-5-51

Affected: IC 15-16-5

Sec. 8. (a) A school corporation must invite parents, guardians, and staff to be added to a pesticide notification registry:

- (1) at the start of each school year; or
- (2) during the school year when a student:
 - (A) enrolls in; or
 - (B) transfers into;

the school.

(b) An individual may request to be added to the registry at any time during the school year.

(c) Except as provided in subsection (f), a school corporation must, by whatever means the school corporation determines to be appropriate, provide individuals on the registry with pesticide notice **at least forty-eight (48) hours prior to the pesticide application.**

(d) The pesticide notice must include the following:

- (1) The name or address of the school.
- (2) The licensed commercial applicator responsible for the application, **or his or her designee**, including the following:
 - (A) Name.
 - (B) License number.
 - (C) Telephone number.
 - ~~(D) Designee for information about the pesticide application if different than the applicator.~~
- (3) The anticipated date and time of the application.
- (4) The principal target pest.
- (5) A description of the application area.
- (6) The pesticide or pesticides to be applied including the following:
 - (A) The name of the manufacturer.
 - (B) The United States Environmental Protection Agency registration number.
 - (C) The brand name.

(7) If forty-eight (48) hours advance notice is not provided, an explanation why it was not provided.

(e) The pesticide notice must be provided at least forty-eight (48) hours in advance of a pesticide application at the school.

(f) A pesticide notice is not required for a pesticide application:

- (1) made more than forty-eight (48) hours before a scheduled school day; or
- (2) described in section 6(b) of this rule.

(Indiana Pesticide Review Board; 357 IAC 1-16-8; filed Sep 24, 2010, 1:44 p.m.: 20101020-IR-357100336FRA; readopted filed Dec 1, 2016, 2:55 p.m.: 20161228-IR-357160453RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227-IR-357170359RFA)

357 IAC 1-16-9 Pesticide record keeping **(Repealed)** *(Moved to 355 IAC 4-4)*

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

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

~~Sec. 9. (a) Except as provided in subsection (b), a school corporation must keep and maintain records of all pesticide applications made at the school.~~

~~(b) A licensed-for-hire applicator hired by the school corporation to apply pesticides may by written agreement keep and maintain the application records for the school corporation.~~

~~(c) The pesticide application records must include the following:~~

- ~~(1) The name or address of the school.~~
- ~~(2) The licensed commercial applicator responsible for the application including the following:
 - ~~(A) Name.~~
 - ~~(B) License number.~~
 - ~~(C) The actual applicator if different than the individual named in clause (A).~~~~
- ~~(3) The date and time of the application.~~
- ~~(4) The principal target pest.~~
- ~~(5) A description of the application area.~~
- ~~(6) The pesticide or pesticides applied including the following:
 - ~~(A) The name of the manufacturer.~~
 - ~~(B) The United States Environmental Protection Agency registration number.~~~~

~~(C) The brand name.~~

~~(7) The amount used, expressed as either:~~

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

~~(B) diluted mixture (ready to use), giving the total amount applied and active ingredient concentration (percentage).~~

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

~~(e) The records to be maintained under this section must be:~~

~~(1) recorded by the thirtieth day from the date of application; and~~

~~(2) kept and maintained for a period of two (2) years from the date of application.~~

~~(f) All required records and information must, upon written or oral request, be made available by the school corporation for inspection and copying. (Indiana Pesticide Review Board; 357 IAC 1-16-9; filed Sep 24, 2010, 1:44 p.m.: 20101020-IR-357100336FRA; readopted filed Dec 1, 2016, 2:55 p.m.: 20161228-IR-357160453RFA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227-IR-357170359RFA)~~

Rule 17. State Restricted Use Pesticide Products

357 IAC 1-17-1 State restricted use pesticide products

Authority: IC 15-16-4-50

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

Sec. 1. Pesticide products defined by the following categories or active ingredients are designated and classified as restricted use pesticides in the state of Indiana:

(1) Any pesticide classified by the U.S. Environmental Protection Agency as a restricted use pesticide.

(2) All formulations containing methomyl (Chemical Abstracts Service Reg. No. 16752-77-5).

(3) Any dicamba containing pesticide product that:

(A) contains a dicamba active ingredient concentration greater than or equal to six and one-half percent (6.5%); and

(B) is intended for agricultural production uses but

~~(i) does not also contain 2,4-D as an active ingredient; or~~

~~(ii) is not labeled solely for use on turf or other nonagricultural use sites.~~

~~(Indiana Pesticide Review Board; 357 IAC 1-17-1; filed Sep 11, 2012, 2:41 p.m.: 20121010-IR-357120135FRA; filed Oct 5, 2017, 9:30 a.m.: 20171101-IR-357170180FRA; readopted filed Dec 1, 2017, 9:25 a.m.: 20171227-IR-357170359RFA)~~

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