

**DRAFT 1-24-22
Proposed Rule
LSA Document # 22-CC**

DIGEST

Adds 357 0.5 to establish definitions referenced throughout the article. Adds 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 “lawn”. Adds 357 IAC 1-0.5-4 to add a definition of “nontarget site”. Adds 357 IAC 1-0.5-5 to add a definition of “pesticide notification registry”. Adds 357 IAC 1-0.5-6 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. Adds 357 IAC 1-5-4 to clarify that pesticide or fertilizer granules must be removed from nontarget impervious surfaces after commercial application to a lawn or vegetative area. Amends 357 IAC 1-12-2 to incorporate the concept of adverse effect that was added to IC 15-16 in 2021. 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, 357 IAC 1-5-1, 357 IAC 1-6, 357 IAC 1-8, 357 IAC 1-10, 357 IAC 1-11, 357 IAC 1-12-1, 357 IAC 1-13, 357 IAC 1-14, 357 IAC 1-15, 357 IAC 1-16-3, 357 IAC 1-16-4, 357 IAC 1-16-5, 357 IAC 1-16-7, and 357 IAC 1-16-9. Effective 30 days after filing with the Publisher.

357 IAC 1-0.5; 357 IAC 1-0.5-1; 357 IAC 1-0.5-2; 357 IAC 1-0.5-3; 357 IAC 1-0.5-4; 357 IAC 1-0.5-5; 357 IAC 1-0.5-6; 357 IAC 1-5-2; 357 IAC 1-5-3; 357 IAC 1-5-4; 357 IAC 1-12-2; 357 IAC 1-16-1; 357 IAC 1-16-2; 357 IAC; 357 IAC 1-17-1

SECTION 1. 357 IAC 1-0.5 IS ADDED TO READ AS FOLLOWS:

Rule 0.5. Definitions

357 IAC 1-0.5-1 Applicability

Authority: IC 15-16-4-50; IC 15-16-4-52; IC 15-16-5-44; IC 15-16-5-45; IC 15-16-5-64

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.

SECTION 2. 357 IAC 1-0.5-2 IS ADDED TO READ AS FOLLOWS:

357 IAC 1-0.5-2 “Drift” defined

Authority: IC 15-16-5-44

Affected: IC 15-16-5

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:

- (1) Erosion.**
- (2) Volatility after deposition on the target site.**
- (3) Windblown soil particles.**

SECTION 3. 357 IAC 1-0.5-3 IS ADDED TO READ AS FOLLOWS:

357 IAC 1-0.5-3 “Lawn” defined

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

Affected: IC 15-16-5

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

building.

SECTION 4. 357 IAC 1-0.5-4 IS ADDED TO READ AS FOLLOWS:

357 IAC 1-0.5-4 "Nontarget site" defined

Authority: IC 15-16-5-44

Affected: IC 15-16-5

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

- (1) included on the pesticide label as a United States Environmental Protection Agency (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.

SECTION 5. 357 IAC 1-0.5-5 IS ADDED TO READ AS FOLLOWS:

357 IAC 1-0.5-5 "Pesticide notification registry" defined

Authority: IC 15-16-4-50; IC 15-16-4-52; IC 15-16-5-44

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

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.

SECTION 6. 357 IAC 1-0.5-6 IS ADDED TO READ AS FOLLOWS:

357 IAC 1-0.5-6 "School" defined

Authority: IC 15-16-4-50; IC 15-16-4-52; IC 15-16-5-44; IC 15-16-5-64

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

Sec. 6. As used in this article, "school" has the meaning set forth in 355 IAC 4-0.5-10.

SECTION 7. 357 IAC 1-5-2 IS AMENDED TO READ AS FOLLOWS:

357 IAC 1-5-2 Posting

Authority: IC 15-16-4-50; IC15-16-5-44

Affected: IC 15-16-4; 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 (20) 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; **and**
- (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) ~~shall be~~ **(5) 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.**

~~(c) 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)~~

SECTION 8. 357 IAC 1-5-3 IS AMENDED TO READ AS FOLLOWS:

357 IAC 1-5-3 Customer notification

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

Affected: IC 15-16-4; 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** 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)~~

SECTION 9. 357 IAC 1-5-4 IS ADDED TO READ AS FOLLOWS:

357 IAC 1-5-4 Pesticide and fertilizer granule removal

Authority: IC 15-16-2-44; IC 15-16-4-50; IC 15-16-5-44

Affected: IC 15-16-2; IC 15-16-4; IC 15-16-5

Sec. 4. Immediately following each application of a dry or granular pesticide or fertilizer made intentionally to a lawn or other vegetative area by a commercial licensed applicator or registered technician, an employee of the application business or organization shall remove any granules from all immediately adjacent nontarget impervious sites, including but not limited to the following:

- (1) Sidewalks.
- (2) Walkways.
- (3) Porches.
- (4) Driveways.
- (5) Parking areas.
- (6) Bicycle paths.
- (7) Streets.
- (8) Patios.
- (9) Decks.

SECTION 9. 357 IAC 1-12-2 IS AMENDED TO READ AS FOLLOWS:

357 IAC 1-12-2 Drift restriction

Authority: IC 15-16-5-44

Affected: IC 15-16-5-65

Sec. 2. 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)

SECTION 10. 357 IAC 1-16-1 IS AMENDED TO READ AS FOLLOWS:

357 IAC 1-16-1 Purpose

Authority: IC 15-16-4-50; IC 15-16-4-52; IC 15-16-5-44

Affected: IC 15-16-4; 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:
(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.~~
- ~~(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.~~
- ~~(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)

SECTION 11. 357 IAC 1-16-2 IS AMENDED TO READ AS FOLLOWS:

357 IAC 1-16-2 Applicability

Authority: IC 15-16-4-50; IC 15-16-4-52; IC 15-16-5-44

Affected: IC 15-16-5

Sec. 2. This rule applies to all:

(1) Pesticides, ~~as defined in section 3(3) of this rule;~~ and **except the following nonrestricted general 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.**

(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)

SECTION 12. 357 IAC 1-17-1 IS AMENDED TO READ AS FOLLOWS:

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)

SECTION 14. THE FOLLOWING ARE REPEALED: 357 IAC 1-3; 357 IAC 1-5-1; 357 IAC 1-6; 357 IAC 1-8; 357 IAC 1-10; 357 IAC 1-11; 357 IAC 1-12-1; 357 IAC 1-13; 357 IAC 1-14; 357 IAC 1-15; 357 IAC 1-16-3; 357 IAC 1-16-4; 357 IAC 1-16-5; 357 IAC 1-16-7; 357 IAC 1-16-9.

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