

DRAFT 1-26-22
Proposed Rule
LSA Document # 22-AA

DIGEST

Amends 355 IAC 4-0.5-1 to clarify the applicability of definitions from IC 15-16-4 and IC 15-16-5. Adds 355 IAC 4-0.5-5 to add a definition of “certification categories”. Adds 355 IAC 4-0.5-6 to add a definition of “CCH”. Adds 355 IAC 4-0.5-7 to add a definition of “in-house training”. Adds 355 IAC 4-0.5-8 to add a definition of “PARP”. Adds 355 IAC 4-0.5-9 to add a definition of “preconstruction termite control treatment”. Adds 355 IAC 4-0.5-10 to add a definition of “school”. Amends 355 IAC 4-1 to coordinate and consolidate certification standards and procedures for all commercial applicators referenced in 355 IAC 4, 357 IAC 1-15, and 357 IAC 1-16. Amends 355 IAC 4-1-1.1 to limit application of restricted use pesticides to certified applicators only to comply with revisions to 40 CFR 171. Amends 355 IAC 4-2 to consolidate, coordinate, and reduce requirements for supervision of noncertified pesticide applicators from 355 IAC 4, 357 IAC 1-15, and 357 IAC 1-16. Amends 355 IAC 4-4 to consolidate, coordinate, and expand pesticide record keeping requirements under 355 IAC 4, 357 IAC 1-15, and 357 IAC 1-16. Amends 355 IAC 4-4-3 to expand restricted use pesticide distribution record keeping requirements to comply with revisions to 40 CFR 171. Amends 355 IAC 4-5-2 to simplify notification requirements for termite control pesticide applications. Amends 355 IAC 4-7-3 to create a training option with no written examination to qualify as a registered technician. Repeals 355 IAC 4-0.5-2, 355 IAC 4-0.5-3, 355 IAC 4-0.5-4, 355 IAC 4-1-4, 355 IAC 4-2-1, 355 IAC 4-2-3, 355 IAC 4-2-5, 355 IAC 4-2-7, 355 IAC 4-3-0.5, 355 IAC 4-5-1, 355 IAC 4-5-3, 355 IAC 4-6, and 355 IAC 4-7-1. Effective 30 days after filing with the Publisher.

355 IAC 4-0.5-1; 355 IAC 4-0.5-5; 355 IAC 4-0.5-6; 355 IAC 4-0.5-8; 355 IAC 4-0.5-9; 355 IAC 4-9; 355 IAC 4-0.5-10; 355 IAC 4-0.5-12; 355 IAC 4-1; 355 IAC 4-1-1; 355 IAC 4-2; 355 IAC 4-4; 355 IAC 4-4-3; 355 IAC 4-5-2

SECTION 1. 355 IAC 4-0.5-1 IS AMENDED TO READ AS FOLLOWS:

355 IAC 4-0.5-1 Applicability

Authority: IC 15-16-2; IC 15-16-4-50; IC 15-16-4-52; IC 15-16-5-44; IC 15-16-5-45

Affected: IC 15-16

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

SECTION 2. 355 IAC 4-0.5-5 IS ADDED TO READ AS FOLLOWS:

355 IAC 4-0.5-5 “Categories” defined

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

Affected: IC 15-16

Sec. 5. “Categories” means the commercial applicator certification categories described in 355 IAC 4-1-3.

SECTION 3. 355 IAC 4-0.5-6 IS ADDED TO READ AS FOLLOWS:

355 IAC 4-0.5-6 “CCH” defined

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

Affected: IC 15-16

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

approved by the state chemist.

SECTION 4. 355 IAC 4-0.5-7 IS ADDED TO READ AS FOLLOWS:

355 IAC 4-0.5-7 “In-house training” defined

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

Affected: IC 15-16

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

SECTION 5. 355 IAC 4-0.5-8 IS ADDED TO READ AS FOLLOWS:

355 IAC 4-0.5-8 “PARP” defined

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

Affected: IC 15-16

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

SECTION 6. 355 IAC 4-0.5-9 IS ADDED TO READ AS FOLLOWS:

355 IAC 4-0.5-9 “Preconstruction termite control treatment” defined

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

Affected: IC 15-16

Sec. 9. “Preconstruction termite control treatment” means the application of a pesticide product to a structure or building site during the construction phase for the purpose of protecting that structure from infestation by subterranean termites.

SECTION 7. 355 IAC 4-0.5-10 IS ADDED TO READ AS FOLLOWS:

355 IAC 4-0.5-10 “School” defined

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

Affected: IC 15-16

Sec. 10. (a) “School” means the physical buildings and grounds of an institution for the instruction of students, including the following:

- (1) A preschool.**
- (2) An elementary school, as defined in IC 20-18-2-4.**
- (3) A high school, as defined in IC 20-18-2-7.**
- (4) A nonpublic school, as defined in IC 20-18-2-12.**
- (5) The Indiana School for the Blind and Visually Impaired established under IC 20-21.**
- (6) The Indiana School for the Deaf established under IC 20-22.**

(b) For purposes of this article, the term does not include any of the following:

- (1) Sunday schools, vacation Bible schools, and any private religious school except those that are accredited by the Indiana Department of Education.**
- (2) Daycare centers.**
- (3) Home schools.**

SECTION 8. 355 IAC 4-1-1.1 IS AMENDED TO READ AS FOLLOWS:

355 IAC 4-1-1.1 **Pesticide** applicators; licensing **and permitting**

Authority: IC 15-16-2; IC 15-16-5-44; IC 15-16-5-45

Affected: IC 15-16

Sec. 1.1. (a) ~~Completing the certification requirements as a commercial applicator (IC 15-16-5-7) shall be a qualifying requirement for each of the licenses defined in 355 IAC 4-0.5.~~ **An individual must be a licensed commercial applicator or a permitted private applicator to:**

- (1) purchase a restricted use pesticide product;
- (2) use a restricted use pesticide product; or
- (3) apply a pesticide product by means of aerial application.

(b) **Except as provided in 355 IAC 4-2, and except for the use of a nonrestricted general use pesticide product labeled for use as a disinfectant, sanitizer, or self-applied personal insect repellent, an individual must be a licensed commercial applicator to:**

- (1) **use a nonrestricted general use pesticide product:**
 - (A) for hire;
 - (B) on a golf course;
 - (C) at a school; or
 - (D) for mosquito management, except for mosquito management conducted solely on a single-family residence; or
- (2) **use a fertilizer material for hire:**
 - (A) on turf; or
 - (B) to produce an agricultural crop; or
- (3) **make a diagnostic inspection or report to determine infestations of a wood destroying pest.**

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

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

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

SECTION 9. 355 IAC 4-2.1 IS AMENDED TO READ AS FOLLOWS:

355 IAC 4-1-2.1 Certification standards and procedures

Authority: IC 15-16-2; IC 15-16-5-44; IC 15-16-5-45

Affected: IC 15-16

Sec. 2.1. (a) Initial certification of commercial applicators **and private applicators** shall be by written ~~closed-book~~ examinations developed by the state chemist. The minimum passing score on all examinations administered by the state chemist shall be ~~seventy five percent (75%) unless another minimum passing score has been established by the state chemist after consideration of the~~ **established by the state chemist with consideration and** recommendations of the ~~standards~~ a committee, as described in subsection ~~(e)~~ **(f)**.

(b) ~~Except for individuals operating applicators in category 12, and category 13, or category 14, each certified commercial applicator shall have passed~~ **must pass:**

- (1) a core examination, covering subject matter that is common to most categories of applicators; and
- (2) a category examination, covering subject matter that is specific to the occupational group identified by each of the

separate categories described in 355 IAC 4-1-3

(c) Each private applicator using a restricted use pesticide product must pass a core examination.

(d) Each private applicator using a fumigant must pass:

(1) a core examination; and

(2) a category 7d examination.

(e) Each private applicator using a pesticide applied by aerial application must pass:

(1) a core examination; and

(2) a category 11 examination.

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

(1) The state chemist.

(2) The Purdue University cooperative extension service.

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

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

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

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

(j) In addition to other requirements in this section, initial certification as a for hire commercial applicator in category 7b or category 12 shall require completion of a practical hands-on training program reviewed and approved by the state chemist.

(k) In addition to other requirements in this section, initial certification as a for hire commercial applicator in category 3b shall require completion of one (1) of the following:

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

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

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

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

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

SECTION 10. 355 IAC 4-1-3 IS AMENDED TO READ AS FOLLOWS:

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

Authority: IC 15-16-2; IC 15-16-5-44; IC 15-16-5-45

Affected: IC 15-16

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

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

(A) Grains.

(B) Soybeans and oil seed.

(C) Forage.

- (D) Vegetables.
 - (E) Fruits.
 - (F) Nuts.
- (2) Category 2. Forest pest management. This category includes individuals using or supervising the use of pesticides in forests or forest nurseries.
- (3) Category 3a. Ornamental pest management. This category includes individuals using or supervising the use of pesticides on ornamental plants and related areas such as the following:
- (A) Driveways.
 - (B) Sidewalks.
 - (C) Residential parking areas.
 - (D) Landscape beds.
 - (E) Fence lines.
- (4) Category 3b. Turf management. This category includes individuals using or supervising the use of:
- (A) pesticides on turf and related areas such as:
 - (i) driveways;
 - (ii) sidewalks;
 - (iii) residential parking areas;
 - (iv) landscape beds but not ornamental plantings within the beds;
 - (v) fence lines; and
 - (vi) riprap; or
 - (B) fertilizer materials on turf.
- This category does not include the use of pesticides applied for the purpose of managing pests to prevent infestation of a structure.
- (5) Category 4. Seed treatment. This category includes individuals using or supervising the use of pesticides on seed stocks for the purpose of managing pest organisms that are anticipated to attack the plant or germinating seed.
- (6) Category 5. Aquatic pest management. This category includes individuals using or supervising the use of pesticides purposefully applied to any of the following:
- (A) Standing or running water.
 - (B) Wetlands.
 - (C) Related areas such as riprap.
- (7) Category 6. Industrial weed management. This category includes individuals using or supervising the use of pesticides in the maintenance of public or private:
- (A) roads;
 - (B) utility rights-of-way;
 - (C) pipelines;
 - (D) railway rights-of-way;
 - (E) parking lots;
 - (F) ditch banks;
 - (G) riprap;
 - (H) fence lines;
 - (I) restoration areas; and
 - (J) substations;
- and other similar areas.
- (8) Category 7a. Industrial, institutional, structural, and health related pest management. This category includes individuals using or supervising the use of pesticides for management of pests other than termites **or mosquitos** in or around structures such as any of the following:
- (A) Human dwellings.
 - (B) Offices.
 - (C) Retail establishments.
 - (D) Farm structures.
 - (E) Restaurants.
 - (F) Warehouses.

- (G) Institutional establishments.
 - (H) Industrial facilities.
 - (I) Food processing facilities.
- (9) Category 7b. Termite control. This category includes individuals using or supervising the use of pesticides for the management of termites and other wood destroying organisms. Certification in this category also qualifies individuals to inspect structures for the purpose of determining the presence or absence of evidence of termites or other wood destroying organisms.
- (10) Category 7d. Fumigation. ~~Certification in~~ This category ~~is required for~~ **includes** all individuals using ~~or supervising the use of~~ pesticides that in the gaseous state are designed to kill or repel pests.
- (11) Category 8. ~~Community-wide~~ Mosquito management. This category includes ~~governmental employees or other~~ individuals using or supervising the use of pesticides for ~~community-wide mosquito abatement, as defined in 357 IAC 1-11-1(3)~~ **management of mosquitos in public or private areas.**
- (12) Category 11. Aerial application. ~~Certification in~~ This category ~~is required for~~ **includes** all individuals who apply pesticides by means of:
- (A) fixed wing;
 - (B) rotary wing;
 - (C) ultralight aircraft; ~~or~~
 - (D) lighter-than-air aircraft; ~~or~~
 - (E) unmanned aerial vehicle.**
- (13) Category 12. Wood destroying pest inspection. ~~Certification in~~ **Except for individuals certified in category 7b,** this category ~~limits~~ **includes** individuals ~~to the inspection of~~ **who inspect** structures for the purpose of determining evidence of the presence or absence of termites or other wood destroying organisms. It does not permit these individuals to use or supervise the use of pesticides for hire. The certification requirements for this category shall be determined by the state chemist.
- (14) Category 13. Limited certification. This category includes individuals using or supervising the use of a very limited number of specialized pesticides in or on a very limited number of types of sites and situations not adequately covered by other categories listed in this section. ~~The need to create or eliminate specific limited certification categories and the requirements for these the limited certifications certification examinations~~ shall be determined by the state chemist.
- (15) Category 14. Agricultural fertilizer material application. This category includes individuals using or supervising the use of fertilizer material for purposes of producing an agricultural crop on the property of another person.

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

Rule 2. Supervision of Noncertified Applicators

SECTION 11. 355 IAC 4-2-2 IS AMENDED TO READ AS FOLLOWS:

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

Authority: IC 15-16-2; IC 15-16-5-44; IC 15-16-45

Affected: IC 15-16

Sec. 2. ~~Pesticides~~ **(a) Nonrestricted general use pesticide products** or ~~fertilizers~~ **fertilizer materials** may be used by a noncertified ~~person~~ **individual** working under the direct supervision of a ~~certified~~ **licensed commercial** applicator. ~~All persons conducting use of pesticides or fertilizers for hire by aerial application shall be certified.~~

(b) Supervision of a noncertified individual must be performed by a licensed commercial applicator that:

(1) is legally affiliated with the business or organization responsible for the use of the pesticide product or fertilizer material;

(2) has identified the means to establish direct voice or text message contact with the noncertified individual;
and

- (3) has provided the noncertified individual with:
- (i) a complete, legible copy of the pesticide or fertilizer product label being used; and
 - (ii) all equipment, including personal protective equipment, and instruction required by the label of the pesticide or fertilizer product to use the product safely and effectively.
- (c) In addition to the requirements in subsection (b), supervision of for-hire use must also include:
- (1) the continuous physical presence of a commercial licensed applicator at the work site; or
 - (2) the noncertified individual being a registered technician, as described in section 8 of this rule.

(State Chemist of the State of Indiana; Pesticide Use & Application Reg 2, Sec 2; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 443; filed Apr 21, 1982, 3:45 p.m.: 5 IR 1192; filed Sep 20, 2001, 3:54 p.m.: 25 IR 376; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Aug 18, 2005, 4:30 p.m.: 29 IR 6; readopted filed Sep 20, 2007, 1:46 p.m.: 20071010-IR-355070484RFA; filed Nov 28, 2012, 2:42 p.m.: 20121226-IR-355120517FRA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA)

SECTION 12. 355 IAC 4-2-6 IS AMENDED TO READ AS FOLLOWS:

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

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

Affected: IC 15-16-5

Sec. 6. Certified supervising applicators and noncertified individuals shall be responsible for the following:

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

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

~~(A) be in possession of the items listed in section 1(2)(B) of this rule;~~

~~(B) carry out the instructions of the supervising certified applicator; and~~

~~(C) upon request, produce the items listed in section 1(2)(B) of this rule for inspection by the state chemist.~~

must be in possession of a complete and legible copy of the pesticide label at all times of the pesticide being used.

(State Chemist of the State of Indiana; Pesticide Use & Application Reg 2, Sec 6; filed Apr 21, 1982, 3:45 p.m.: 5 IR 1192; filed Sep 20, 2001, 3:54 p.m.: 25 IR 377; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; readopted filed Sep 20, 2007, 1:46 p.m.: 20071010-IR-355070484RFA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA.)

SECTION 13. 355 IAC 4-2-8 IS AMENDED TO READ AS FOLLOWS:

355 IAC 4-2-8 Technician registration requirements

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

Affected: IC 15-16-5

Sec. 8. (a) To become a registered technician, an individual must do the following:

(1) **Either:**

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

(B) **Complete an initial applicator training program that has been:**

(i) developed and delivered by Purdue Pesticide Programs; and

(ii) approved by the state chemist.

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

(3) Submit the technician registration fee.

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

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

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

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

SECTION 14. 355 IAC 4-4-1 IS AMENDED TO READ AS FOLLOWS:

355 IAC 4-4-1 Commercial applicator use records

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

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

Sec. 1. (a) All commercial applicators ~~or their employees~~ **referenced in 355 IAC 4-1-1.1** shall keep and maintain records of all applications of ~~pesticides classified for restricted use~~ **all pesticide products for at least two (2) years from the date of application.** Such records ~~shall provide~~ **must include** the following:

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

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

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

(4) License number of the responsible commercial applicator.

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

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

(7) Start and stop times of the application.

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

(9) Principal pests to be controlled.

~~(5) (10) Specific acreage, area, parts of a structure, parts of a property, or number of plants or animals treated, or other appropriate description.~~

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

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

~~(7) (13) Amount of pesticide product used, expressed as either total quantity or volume of:~~

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

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

(b) In addition to the information required in subsection (a) and unless otherwise directed by the pesticide product label use directions, the records for outdoor agricultural applications of above ground liquid sprays or aerosols must also include the following:

(1) Wind direction at start time of the application.

(2) Wind direction at stop time of the application.

(3) Wind speed at start time of the application.

(4) Wind speed at stop time of the application.

(5) Air temperature at start time of the application.

(6) Air temperature at stop time of the application.

(7) Source of information for measurements referenced in subdivisions (1) through (6).

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

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

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

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

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

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

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

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

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

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

SECTION 15. 355 IAC 4-4-1.5 IS AMENDED TO READ AS FOLLOWS:

355 IAC 4-4-1.5 Private applicator use records

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

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

Sec. 1.5. (a) All private applicators ~~or their employees~~ shall ~~keep~~ **create** and maintain records of all applications of ~~pesticides classified for restricted use~~ **restricted use pesticide products for at least two (2) years from the date of application.** Such records shall ~~provide~~ **must include** the following: **items described in sections 1(a) and 1(b) of this rule.**

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

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

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

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

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

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

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

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

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

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

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

SECTION 16. 355 IAC 4-4-2 IS AMENDED TO READ AS FOLLOWS:

355 IAC 4-4-2 Record inspection; availability

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

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

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

(b) All records required by this rule shall upon written request be submitted to the state chemist within fifteen (15) days of date of receipt of notice for inspection or copying by the state chemist.

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

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

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

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

SECTION 17. 355 IAC 4-4-3 IS AMENDED TO READ AS FOLLOWS:

355 IAC 4-4-3 Restricted pesticide dealers; records

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

(b) **A registered pesticide dealer must keep and maintain a record for each transaction involving a restricted use pesticide for at least two (2) years from the date of distribution. Such records must include the following:**

(1) ~~Name, address and certificate number~~ of the certified applicator for whom the purchase **or distribution** is being made.

(2) **Certification, license, or permit number of the certified applicator.**

(3) **If other than from the state chemist, the state, tribe or federal agency that issued the certification.**

(4) **Certification, license, or permit expiration date of the certified applicator.**

(5) **Certification, license, or permit categories of the certified applicator.**

(6) **Address of the certified applicator or application business that employs the certified applicator.**

~~(b)~~ (7) **Date of distribution.**

~~(e)~~ (8) **Identity Brand name of the pesticide product (manufacturer, EPA registration number, and brand name).**

(9) **EPA registration number of the pesticide product.**

~~(d)~~ (10) **Amount of pesticide product sold distributed.**

~~(e)~~ (11) **Any applicable emergency exemption or state special local need registration number.**

(12) **Signature or verifiable confirmation of the person presenting the certification credentials, ordering or taking delivery of the product.**

~~These records shall be maintained for two years from the date of sale.~~

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

Rule 5. Termite Control Notification and Customer Disclosure

SECTION 18. 355 IAC 4-5-2 IS AMENDED TO READ AS FOLLOWS:

355 IAC 4-5-2 ~~Record keeping and supervision~~ **Customer disclosure and preconstruction notification requirements for licensed termite control applicators for hire**

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

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

Sec. 2. Licensed applicators (a) Except for a retreatment of a previously treated structure or a preconstruction termite control treatment, a commercial applicator that applies a termite control pesticide product for hire shall be required to do the following: must disclose to the customer any label-required procedures that will be omitted from the treatment of the structure.

(b) The disclosure referenced in subsection (a) must be made by a written termite control customer disclosure form that has been:

- (1) approved by the state chemist;
- (2) issued to the customer or the customer's agent; and
- (3) signed by the customer or the customer's agent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(5) Ensure that the termite control customer disclosure form, when required, is issued to and signed by the customer or the customer's agent before making the termiticide application.~~

~~(6) (c) Except as provided in subdivision (7), ensure that the state chemist is notified by means of written communication when adequate advance notice is not provided by the customer, a commercial applicator that intends to make a preconstruction termite control treatment for hire must notify the state chemist at least three (3) hours before the initial application of a preconstruction termiticide treatment.~~

~~(d) The notification referenced in subsection (c) may be made by web form, email, fax, text message, or telephone and must include of the following:~~

~~(A) The physical address or geographic coordinates of the application site.~~

~~(B) The date of the application.~~

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

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

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

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

(State Chemist of the State of Indiana; 355 IAC 4-5-2; filed Feb 17, 1986, 3:00 p.m.; 9 IR 1570, eff Apr 1, 1986; filed Sep 10, 1999,

4:41 p.m.: 23 IR 303; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Aug 18, 2005, 4:30 p.m.: 29 IR 7; filed Jan 28, 2010, 11:23 a.m.: 20100224-IR-355090617FRA; readopted filed Sep 25, 2013, 11:08 a.m.: 20131023-IR-355130361RFA)

SECTION 19. 355 IAC 4-7-3 IS AMENDED TO READ AS FOLLOWS:

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

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

Affected: IC 15-16-5

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

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

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

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

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

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

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

SECTION 20. THE FOLLOWING ARE REPEALED: 355 IAC 4-0.5-2; 355 IAC 4-0.5-3; 355 IAC 4-0.5-4; 355 IAC 4-1-4; 355 IAC 4-2-1; 355 IAC 4-2-3; 355 IAC 4-2-5; 355 IAC 4-2-7; 355 IAC 4-3-0.5; 355 IAC 4-5-1; 355 IAC 4-5-3; 355 IAC 4-6; 355 IAC 4-7-1.