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**TITLE 357 INDIANA PESTICIDE REVIEW BOARD**

**Proposed Rule**  
LSA Document #10-336

DIGEST

Adds [357 IAC 1-16](#) to establish requirements for those who apply pesticides at schools, to establish restrictions on the use and storage of pesticides at schools, to establish a record keeping requirement for pesticides applied at schools, and to establish a parent, guardian, and staff registry and notification requirement for pesticides applied at schools. Effective 30 days after filing with the Publisher.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)

[357 IAC 1-16](#)

SECTION 1. [357 IAC 1-16](#) IS ADDED TO READ AS FOLLOWS:

**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:

(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](#))*

[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; and

(2) schools administered or maintained by a school corporation, as defined in section 3(7) of this rule.

*(Indiana Pesticide Review Board; [357 IAC 1-16-2](#))*

[357 IAC 1-16-3 Definitions](#)

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](#))

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**[357 IAC 1-16-4](#) Applicator certification and licensing**

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](#))

**[357 IAC 1-16-5](#) Direct supervision of noncertified applicators**

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](#))

**[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](#))

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[357 IAC 1-16-7](#) Pesticide storage restrictions

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](#))

[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.

(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 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](#))

**[357 IAC 1-16-9](#) Pesticide record keeping**

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](#))

**[Notice of Public Hearing](#)**

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