

## ARTICLE 4. PESTICIDE USE AND APPLICATION

### Rule 0.5. Definitions

#### 355 IAC 4-0.5-1 Applicability

Authority: IC 15-3-3.6-4; IC 15-3-3.6-5

Affected: IC 15-3-3.6

Sec. 1. The definitions in this rule 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*)

#### 355 IAC 4-0.5-2 “Licensed applicator for hire” defined

Authority: IC 15-3-3.6-4; IC 15-3-3.6-5

Affected: IC 15-3-3.6

Sec. 2. “Licensed applicator for hire” means any licensed certified commercial applicator who is employed by a licensed pesticide business and is directly responsible for the use or supervision of the use of any pesticide on the property of another. (*State Chemist of the State of Indiana; 355 IAC 4-0.5-2; filed Nov 22, 1999, 3:39 p.m.: 23 IR 776; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269*)

#### 355 IAC 4-0.5-3 “Licensed applicator not for hire” defined

Authority: IC 15-3-3.6-4; IC 15-3-3.6-5

Affected: IC 15-3-3.6

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

- (1) a restricted use pesticide on the property of the employer; or
  - (2) any pesticide on the property of the employer in a potentially hazardous situation or site as determined by the Indiana pesticide review board by rule.
- (b) The term does not include the following:
- (1) A doctor of veterinary medicine.
  - (2) A medical doctor.
  - (3) An applicator who uses only the following nonrestricted use pesticides:
    - (A) Germicides.
    - (B) Disinfectants.
    - (C) Bactericides.
    - (D) Sanitizers.
    - (E) Water purifiers.
    - (F) Swimming pool chemicals.

(*State Chemist of the State of Indiana; 355 IAC 4-0.5-3; filed Nov 22, 1999, 3:39 p.m.: 23 IR 776; errata filed Dec 9, 1999, 12:31 p.m.: 23 IR 813; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269*)

#### 355 IAC 4-0.5-4 “Licensed public applicator” defined

Authority: IC 15-3-3.6-4; IC 15-3-3.6-5

Affected: IC 15-3-3.6

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

- (1) a restricted use pesticide; or
  - (2) any pesticide in a potentially hazardous situation or site as determined by the Indiana pesticide review board by rule.
- (b) The term does not include the following:
- (1) A doctor of veterinary medicine.
  - (2) A medical doctor.

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

- (A) Germicides.
- (B) Disinfectants.
- (C) Bactericides.
- (D) Sanitizers.
- (E) Water purifiers.
- (F) Swimming pool chemicals.

*(State Chemist of the State of Indiana; 355 IAC 4-0.5-4; filed Nov 22, 1999, 3:39 p.m.: 23 IR 777; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)*

## **Rule 1. Categorization of Licenses and Certificates**

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

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

#### **355 IAC 4-1-1.1 Commercial applicators; licensing**

Authority: IC 15-3-3.6-4; IC 15-3-3.6-5

Affected: IC 15-3-3.6-2

Sec. 1.1. (a) An individual who is employed as a licensed applicator by more than one (1) business or agency at the same time shall hold separate and distinct licenses for each employer and shall pay all applicable license fees.

(b) Completing the certification requirements as a commercial applicator (IC 15-3-3.6-2(7)) shall be a qualifying requirement for each of the licenses defined in 355 IAC 4-0.5. *(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)*

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

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

#### **355 IAC 4-1-2.1 Commercial applicators; certification standards and procedures**

Authority: IC 15-3-3.6-3; IC 15-3-3.6-4; IC 15-3-3.6-5

Affected: IC 15-3-3.6-8.1

Sec. 2.1. (a) Initial certification of commercial applicators shall be by written examinations as set forth in subsections (b) and (c). The minimum passing score on all examinations administered by the state chemist shall be seventy-five percent (75%) unless another minimum passing score has been established by the state chemist after consideration of the recommendations of the standards committee described in subsection (d).

(b) Each certified commercial applicator shall have passed a core and category or combined core and category examination covering, at a minimum, subject matter and standards that have been identified to the state chemist by the standards committee described in subsection (d). These subject matter and standards shall be published as part of the state chemist's plan for certification of applicators that is filed with the United States Environmental Protection Agency.

(c) The state chemist shall develop the certification examinations covering subject matter and standards identified to the state chemist by the standards committee. Members of this committee shall be appointed by the state chemist and shall include, at a minimum, individuals representing the following:

- (1) The state chemist.
- (2) The Purdue University cooperative extension service.
- (3) The largest pesticide user groups covered by that category of commercial applicators who will take the examination.

A separate standards committee shall be assembled for each examination, but an individual shall be allowed to serve on more than one (1) committee.

(d) 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.

(e) 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 the first exam failure occurs.

(f) The individual taking the exam shall not consult notes, training materials, books, or any other prohibited materials during the examining period. There shall be no unauthorized talking during the examining period. All examination materials shall be turned in to the examination proctor following the examining session. Failure to comply with these or other specified examination 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. (*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*)

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

Authority: IC 15-3-3.6-4; IC 15-3-3.6-5

Affected: IC 15-2.1-2-15; IC 15-2.1-2-27; IC 15-3-3.6-10

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

(1) Category 1a. Agricultural pest control (plant). This category includes individuals using or supervising the use of pesticides in production of agricultural crops, including, but not limited to:

- (A) feed grains;
- (B) corn;
- (C) soybeans and oil seed; and
- (D) forage;

as well as on grasslands and noncrop agricultural lands.

(2) Category 1b. Agricultural pest control (animal). This category includes individuals using or supervising the use of pesticides other than fumigants and pesticides for the control of wood destroying pests on livestock as defined in IC 15-2.1-2-27 and IC 15-2.1-2-15, and poultry or structures on or in which these animals are confined.

(3) Category 1c. Vegetable, fruit, and nut production pest control. This category includes individuals using or supervising the use of pesticides in production of:

- (A) vegetables;
- (B) fruits; and
- (C) nuts.

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

(5) Category 3a. Ornamental pest control. This category includes individuals using or supervising the use of pesticides in the maintenance and production of ornamental plants.

(6) Category 3b. Turf pest control. This category includes individuals using or supervising the use of pesticides in the maintenance and production of turf and turf related areas, such as driveways and sidewalks.

(7) Category 4. Seed treatment. This category includes individuals using or supervising the use of pesticides on seed stocks for the purpose of controlling pest organisms that are anticipated to attack the plant or germinating seed.

(8) Category 5. Aquatic pest control. This category includes individuals using or supervising the use of pesticides purposefully applied to standing or running water or wetlands.

(9) Category 6. Right-of-way pest control. This category includes individuals using or supervising the use of pesticides in the maintenance of:

- (A) public roads;
- (B) utility rights-of-way;
- (C) pipelines;
- (D) railway rights-of-way;
- (E) parking lots;
- (F) ditch banks; or
- (G) other similar areas.

(10) Category 7a. Residential and institutional pest control. This category includes individuals using or supervising the use of pesticides, other than fumigants and pesticides for the control of wood destroying pests, in or around:

- (A) human dwellings;
- (B) farm structures;
- (C) restaurants;
- (D) warehouses;
- (E) institutional establishments; or
- (F) industrial plants;

except those engaged in the, manufacture or processing of food products or ingredients.

(11) Category 7b. Wood destroying pest control. This category includes individuals using or supervising the use of pesticides, other than fumigants, in or around structures for the prevention, suppression, or control of wood destroying organisms. This category can also include individuals who inspect structures for the purpose of determining the presence or absence of evidence of termites or other wood destroying organisms.

(12) Category 7c. Food processing industry pest control. This category includes individuals using or supervising the use of pesticides, other than fumigants, in or around structures or portions thereof in which food products are manufactured or processed.

(13) Category 7d. Fumigation. This category includes individuals using or supervising the use of pesticides in the gaseous state.

(14) Category 8. Public health pest control. This category includes governmental employees or other individuals using or supervising the use of pesticides in public health programs such as:

- (A) mosquito abatement operations;
- (B) area vertebrate control programs; and
- (C) similar area pest control activities;

having health or nuisance significance.

(15) Category 11. Aerial application. This category includes those individuals who apply pesticides by means of:

- (A) fixed wing;
- (B) rotary wing;
- (C) ultra light aircraft; or
- (D) lighter-than-air aircraft.

(16) Category LC. 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. This category also can include individuals who only inspect for the purpose of determining the presence or absence of a particular pest or group of pests and the damage caused by those pests, but who neither use nor supervise the use of pesticides nor prescribe or recommend steps for prevention or control of such pests. These limited certifications shall be determined by the state chemist as the state chemist determines to be necessary.

*(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)*

#### **355 IAC 4-1-4 Private applicators; certification standards and procedures**

Authority: IC 15-3-3.6-4; IC 15-3-3.6-5

Affected: IC 15-3-3.5-1; IC 15-3-3.6

Sec. 4. (a) Initial certification of private applicators (IC 15-3-3.5-1(6)) shall be by written examination as set forth in subsection (b). Minimum passing score on all examinations administered by the state chemist shall be seventy-five percent (75%) unless another minimum passing score has been established by the state chemist after consideration of the recommendations of the standards committee described in subsection (c).

(b) Each certified private applicator shall have passed a private applicator examination or an appropriate commercial applicator examination covering, at a minimum, subject matter and standards that have been identified to the state chemist by the standards committee described in subsection (c) or section 2.1(d) of this rule. The state chemist shall determine which commercial applicator examination will be considered appropriate for the private applicator's proposed use of pesticides.

(c) The state chemist shall develop the certification examinations covering subject matter and standards identified to the state chemist by the standards committee. Members of this committee shall be appointed by the state chemist and shall include, at a minimum, individuals representing the following:

- (1) The state chemist.
- (2) The Purdue University cooperative extension service.
- (3) The largest pesticide user groups covered by that category of private applicators who will take the examination.

(d) Certification and the permit for private applicators shall remain valid from the date of passing the examination and paying the permit fee through December 31 of the fourth year following the year during which the examination was passed. (*State Chemist of the State of Indiana; 355 IAC 4-1-4; filed Nov 21, 1984, 3:33 p.m.: 8 IR 334; filed Nov 22, 1999, 3:39 p.m.: 23 IR 780; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269*)

## **Rule 2. Site Awareness and Direct Supervision of Noncertified Applicators**

### **355 IAC 4-2-1 Definitions**

Authority: IC 15-3-3.5-11; IC 15-3-3.6-4; IC 15-3-3.6-10.1

Affected: IC 15-3-3.6-2

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

- (1) "Competent person" means a person who:
  - (A) has the ability to read and comprehend written instructions, including the text of pesticide labels;
  - (B) is sixteen (16) years of age or over; and
  - (C) is a registered technician.
- (2) "Direct supervision" means either of the following:
  - (A) The physical presence of the supervising certified applicator at the work site under circumstances that permit continuous direct voice contact with the noncertified individual.
  - (B) The supervising certified applicator has provided the noncertified competent person the following:
    - (i) Written instructions covering site-specific precautions to prevent injury to persons or the environment or damage to property.
    - (ii) A copy of the labels of all pesticide products to be used.
    - (iii) The means and instructions to establish direct voice communication during the use of the pesticide with the supervising certified applicator.
    - (iv) All personal protective equipment and instructions on proper use required by the labels of the pesticide products for the uses being performed.
- (3) "Registered technician" means a noncertified person who, having met the requirements of section 8 of this rule, is registered by the state chemist and thereby is authorized to engage in pesticide use and related activities while working under the direct supervision of a certified applicator.
- (4) "Work site" means any location at which pesticides are used as defined in IC 15-3-3.6-2(37).
- (5) "Written instructions" means a written or printed site assessment fact sheet or similar document that shall be reviewed by the noncertified applicator prior to each pesticide application. The required elements on the site assessment fact sheet shall be industry specific and developed by the state chemist in consultation with the appropriate certified applicator industry.

(*State Chemist of the State of Indiana; Pesticide Use & Application Reg 2, Sec 1; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 442; filed Apr 21, 1982, 3:45 p.m.: 5 IR 1191; filed Sep 20, 2001, 3:54 p.m.: 25 IR 376; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269*)

### **355 IAC 4-2-2 Pesticide use by noncertified persons**

Authority: IC 15-3-3.6-4

Affected: IC 15-3-3.6-7

Sec. 2. Pesticides may be used by a noncertified person working under the direct supervision of a certified applicator. All persons conducting use of pesticides for hire by aerial application shall be certified. (*State Chemist of the State of Indiana; Pesticide Use & Application Reg 2, Sec 2; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 443; filed Apr 21, 1982, 3:45 p.m.: 5 IR*

1192; filed Sep 20, 2001, 3:54 p.m.: 25 IR 376; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Aug 18, 2005, 4:30 p.m.: 29 IR 6)

**355 IAC 4-2-3 On-site supervision of use**

Authority: IC 15-3-3.5-11; IC 15-3-3.6-4

Affected: IC 15-3-3.6

Sec. 3. The supervising certified applicator shall be physically present as defined in section 1(2)(A) of this rule if:

(1) the label of the pesticide being used so stipulates;

(2) the noncertified individual has had no prior experience with either the pesticide or the application methodology in use; or

(3) the noncertified individual is not competent as defined in section 1(1) of this rule.

(State Chemist of the State of Indiana; Pesticide Use & Application Reg 2, Sec 3; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 443; filed Apr 21, 1982, 3:45 p.m.: 5 IR 1192; filed Sep 20, 2001, 3:54 p.m.: 25 IR 376; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)

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

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

**355 IAC 4-2-5 Applicability of supervision requirements**

Authority: IC 15-3-3.5-11; IC 15-3-3.6-4

Affected: IC 15-3-3.6

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

(1) Use of all pesticides by any person required by IC 15-3-3.6 to be licensed as one (1) of the following:

(A) A pesticide business.

(B) A for hire applicator.

(C) A not for hire applicator.

(D) A public applicator.

(2) Use of restricted use pesticides.

(State Chemist of the State of Indiana; Pesticide Use & Application Reg 2, Sec 5; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 443; filed Apr 21, 1982, 3:45 p.m.: 5 IR 1192; filed Sep 20, 2001, 3:54 p.m.: 25 IR 377; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)

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

Authority: IC 15-3-3.5-11; IC 15-3-3.6-4

Affected: IC 15-3-3.6

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.

(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)

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

Authority: IC 15-3-3.5-11; IC 15-3-3.6-4

Affected: IC 15-3-3.6

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

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

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

### **355 IAC 4-2-8 Technician registration requirements**

Authority: IC 15-3-3.6-4

Affected: IC 15-3-3.6-12.1

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

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

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

(3) Submit the thirty dollar (\$30) 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 a payment of a thirty dollar (\$30) renewal fee by that date. Renewal after December 31 shall include a late fee of thirty dollars (\$30) as established by IC 15-3-3.6-12.1 in addition to the thirty dollar (\$30) renewal fee.

(e) The registration credential shall be in the possession of the registered technician at all times the technician is at a work site as defined in section 1(4) of this rule. (*State Chemist of the State of Indiana; 355 IAC 4-2-8; filed Sep 20, 2001, 3:54 p.m.: 25 IR 377; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Aug 18, 2005, 4:30 p.m.: 29 IR 6*)

## **Rule 3. Financial Responsibility of Commercial Applicators**

### **355 IAC 4-3-1 Proof of financial responsibility; bond**

Authority: IC 15-3-3.6-4

Affected: IC 15-3-3.6-6; IC 15-3-3.6-13; IC 27-1-3-20

Sec. 1. Applicants for licensure as a pesticide business shall furnish evidence of financial responsibility acceptable to the state chemist prior to the issuance and upon annual renewal of such license or upon expiration of the proof of insurance on file with the state chemist. This requirement may be satisfied by:

(1) liability insurance or a surety bond issued by a company holding a certificate of authority issued by the Indiana department of insurance under IC 27-1-3-20; or

(2) certificate of financial responsibility issued by an institution licensed to do business in the state by the Indiana department of financial institutions.

(*State Chemist of the State of Indiana; Pesticide Use & Application Reg 3, Sec 1; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 443; filed Jan 10, 1995, 8:45 a.m.: 18 IR 1238; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269*)

### **355 IAC 4-3-2 Minimum coverage**

Authority: IC 15-3-3.6-4

Affected: IC 15-3-3.6-6; IC 15-3-3.6-13

Sec. 2. Minimum coverage requirements shall be as follows:

(1) General liability, three hundred thousand dollars (\$300,000) combined single limit of liability for bodily injury and property

damage. The limit is to apply to each occurrence.

(2) Vehicle liability, three hundred thousand dollars (\$300,000) limit per accident. This shall be required only if the insured owns, leases, rents, maintains, or uses any vehicle in connection with the use of pesticides. This type of coverage is not required if already covered by the general liability insurance.

(3) Watercraft liability, three hundred thousand dollars (\$300,000) limit per accident. This shall be required only if the insured owns, leases, rents, maintains, or uses any watercraft in connection with the use of pesticides. This type of coverage is not required if already covered by the general liability insurance.

(4) Aircraft liability, either of the following shall be required only if the insured owns, leases, rents, maintains, or uses any aircraft in connection with the use of pesticides:

(A) Three hundred thousand dollars (\$300,000) limit per accident.

(B) Both:

(i) one hundred thousand dollars (\$100,000) bodily injury per person and three hundred thousand dollars (\$300,000) per accident; and

(ii) one hundred thousand dollars (\$100,000) property damage per accident and one hundred thousand dollars (\$100,000) aggregate.

*(State Chemist of the State of Indiana; Pesticide Use & Application Reg 3, Sec 2; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 444; filed Jan 10, 1995, 8:45 a.m.: 18 IR 1239; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)*

### **355 IAC 4-3-3 Coverage**

Authority: IC 15-3-3.6-4

Affected: IC 15-3-3.6-6; IC 15-3-3.6-13

Sec. 3. General liability coverage shall be conditioned to provide coverage for damage to persons or property outside of the insured's care, custody, and control resulting from wind drift or overspray of pesticides. *(State Chemist of the State of Indiana; Pesticide Use & Application Reg 3, Sec 3; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 444; filed Jan 10, 1995, 8:45 a.m.: 18 IR 1239; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)*

### **355 IAC 4-3-4 Official form**

Authority: IC 15-3-3.6-4

Affected: IC 15-3-3.6-6; IC 15-3-3.6-13

Sec. 4. Proof of financial responsibility shall be provided by the issuing company or institution on forms determined to be acceptable by the state chemist. Acceptable forms shall include, but may not be limited to, a certificate of insurance. *(State Chemist of the State of Indiana; Pesticide Use & Application Reg 3, Sec 4; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 444; filed Jan 10, 1995, 8:45 a.m.: 18 IR 1239; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)*

## **Rule 4. Records**

### **355 IAC 4-4-1 Commercial applicator use records**

Authority: IC 15-3-3.6-4

Affected: IC 15-3-3.6-19

Sec. 1. (a) All commercial applicators or their employees shall keep and maintain records of all applications of pesticides classified for restricted use. Such records shall provide the following:

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

(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 the date of application and be kept and maintained for a period of 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 commercial applicator shall, within thirty (30) days of a restricted use pesticide application, provide a copy of records maintained under this section to the person for whom the restricted use pesticide was applied. Such person shall keep this copy for two (2) years after the date of the application. (*State Chemist of the State of Indiana; Pesticide Use & Application Reg 4, Sec 1; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 444; filed Nov 3, 1993, 9:00 a.m.: 17 IR 339; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269*)

### **355 IAC 4-4-1.5 Private applicator use records**

Authority: IC 15-3-3.6-4

Affected: IC 15-3-3.6

Sec. 1.5. (a) All private applicators or their employees shall keep and maintain records of all applications of pesticides classified for restricted use. Such records shall provide the following:

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

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

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

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

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

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

(7) Amount used, expressed as either:

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

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

(b) The records to be maintained under this section shall be recorded by the thirtieth day from 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*)

### **355 IAC 4-4-2 Record inspection; availability**

Authority: IC 15-3-3.6-4

Affected: IC 15-3-3.6

Sec. 2. (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 authorized agent. The person requesting the records must present his or her credentials prior to the release of records.

(b) 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.

(c) 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) 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) No licensed health care professional shall release any record or information from any record obtained under subsection (c) 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*)

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

Authority: IC 15-3-3.5-11; IC 15-3-3.6-4

Affected: IC 15-3-3.5-10; IC 15-3-3.6-12; IC 15-3-3.6-19

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 record for each transaction involving a restricted use pesticide the following:

- (a) Name, address and certificate number of the certified applicator for whom the purchase is being made.
- (b) Date
- (c) Identity of product (manufacturer, EPA registration number, and brand name).
- (d) Amount of product sold.
- (e) Signature of person presenting the certification credentials. 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*)

## **Rule 5.    Licensed Applicators (for Hire) and Registered Technicians; Qualifications, Training, and Supervision**

### **355 IAC 4-5-1    Definitions**

Authority: IC 15-3-3.6-4; IC 15-3-3.6-5

Affected: IC 15-3-3.6-6

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

- (1) “Category 7b licensed applicator for hire” means any licensed, certified individual who is:
  - (A) employed by a licensed pesticide business to:
    - (i) use or supervise the use of any pesticide; and
    - (ii) perform related activities such as inspections by the firm; and
  - (B) for purposes of this rule, certified in Category 7b.
- (2) “Registered technician” means an uncertified employee of a licensed business who, having met the requirements stated in 355 IAC 4-2-8, is registered by the state chemist to use pesticides and perform related activities, such as inspections, while working under the direct supervision of a licensed applicator for hire.
- (3) “Termite control customer disclosure form” means a form approved by the state chemist and issued by a Category 7b licensed applicator for hire to a termite control customer for the purpose of disclosing to the customer all termiticide label directed procedures that were not performed as part of that termiticide application. This form is not:
  - (A) required if all label directed procedures are performed as part of the initial termiticide use;
  - (B) required if the termiticide is applied only as part of a reapplication to a structure previously treated by the applicator; and
  - (C) valid unless signed by the termite control customer or his or her agent.
- (4) “Termiticide” means any pesticide product registered with the state chemist when used for control, suppression, or prevention of termites. The term includes, but is not limited to, the following:
  - (A) Liquid soil applied products.
  - (B) Liquid wood applied products.
  - (C) Bait products.
  - (D) Foam products.

(E) Granular products.

*(State Chemist of the State of Indiana; 355 IAC 4-5-1; filed Feb 17, 1986, 3:00 p.m.: 9 IR 1570, eff Apr 1, 1986; filed Sep 10, 1999, 4:41 p.m.: 23 IR 302; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Aug 18, 2005, 4:30 p.m.: 29 IR 7)*

**355 IAC 4-5-2 Record keeping and supervision requirements for licensed applicators for hire**

Authority: IC 15-3-3.6-4; IC 15-3-3.6-5

Affected: IC 15-3-3.6-16.1

Sec. 2. Licensed applicators for hire shall be required to do the following:

- (1) Develop records for all for hire termiticide applications performed by that licensed applicator or registered technician operating under that licensed applicator's direct supervision as described in 355 IAC 4-2.
- (2) Ensure that the records required under this section include the following:
  - (A) A copy of the contract, service agreement, or other similar written documentation for the treated structure. This written documentation as it relates to pricing shall be declared confidential as provided for in IC 15-3-3.6-16.1.
  - (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:
  - (A) issued to and signed by the customer or the customer's agent before making the termiticide application; and
  - (B) filed with the state chemist within thirty (30) days of the date the termiticide was applied.

*(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)*

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

Authority: IC 15-3-3.6-4; IC 15-3-3.6-5

Affected: IC 15-3-3.6

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

- (1) An approved program at the Purdue University Structural Pest Control Training Center or other program the state chemist has reviewed and determined to be of comparable quality and scope.
- (2) The Category 7b certification and licensing procedures established in 355 IAC 4-0.5 and 355 IAC 4-1.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**355 IAC 4-6-1 Definitions**

Authority: IC 15-3-3.6-5

Affected: IC 15-3-3.6

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

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

(A) employed by a licensed pesticide business to use or to supervise the use of any pesticide intended to control turf pests by the business; and

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

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

*(State Chemist of the State of Indiana; 355 IAC 4-6-1; filed Jan 13, 1988, 4:47 p.m.: 11 IR 1760; filed Jan 9, 1992, 3:00 p.m.: 15 IR 702; filed Jan 5, 2000, 3:54 p.m.: 23 IR 1100; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Aug 18, 2005, 4:30 p.m.: 29 IR 8)*

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

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

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

Authority: IC 15-3-3.6-5

Affected: IC 15-3-3.6

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

(1) One (1) of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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