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**TITLE 357 INDIANA PESTICIDE REVIEW  
BOARD**

LSA Document #02-332

December 12, 2003

Chairman  
c/o George Angelone  
Administrative Rules Oversight Committee  
302 Statehouse  
Indianapolis, Indiana 46204

**RE: 357 IAC 1-11**

Dear Mr. Chairman:

In 1975 Ind. Code 15-3-3.6-6.3 and Ind. Code 15-3-3.6-4 became law. These sections provided that a person required to be certified or registered under this chapter may not use or supervise the use of any pesticide, unless that person complies with the certification or registration requirements under this chapter and the Indiana Pesticide Review Board may adopt rules prescribing policies and procedures relating to the use and application of pesticides. A variety of rules regarding pesticide use and application and certification and registration of applicators have been adopted and amended by the board since that time.

During 2002 it was determined that there is a need to extend the applicator certification and competency requirements to all individuals who apply insecticides to large publicly accessible areas. Community-wide mosquito control, by its very nature, involves the intentional application of pesticides to both public and private property on a frequent basis. These applications are often made in a manner in which the public can be exposed directly to the pesticide. The recent increase in the spread of West Nile Virus by mosquitoes has caused more individuals of uncertain competency to become involved in area wide pesticide application activities. The Indiana Pesticide Review Board worked cooperatively with the Indiana Department of Health, representative county health departments involved in mosquito control activities, and citizen groups to develop 357 IAC 1-11 to address this issue of public safety and effective mosquito control.

The Indiana Pesticide Review Board adopted 357 IAC 1-11, a rule to extend certification and licensing requirements to all pesticide applicators engaged in area wide mosquito abatement operations on September 10, 2003. Currently the rule is being reviewed by the Attorney General's office and is being considered for final rule promulgation.

Under Ind. Code 4-22-2-19 an agency that adopts a rule must begin the rulemaking process not later than sixty (60) days after the effective date of the statute that authorizes the rule. In the case of this rule we could not comply with this statute because the general rulemaking statute that authorizes this rule was effective many, many years ago. The necessity for this rule did not arise until this past year when the board became aware of the need for it and took immediate action.

While the board believes that the circumstances of the adoption of this rule do not fall within the intent of Ind. Code 4-22-2-19, the board is providing this written notification to the committee explaining why this rule could not be adopted within the time frame specified in Ind. Code 4-22-19.

If you need additional information please contact David Scott at (765) 494-1587 or [scottde@purdue.edu](mailto:scottde@purdue.edu).

Sincerely,  
David E. Scott, Secretary  
Indiana Pesticide Review Board

Cc: Gordon White, Office of the Indiana Attorney General