

Document: Final Rule, **Register Page Number:** 27 IR 1877

Source: March 1, 2004, Indiana Register, Volume 27, Number 6

Disclaimer: This document was created from the files used to produce the official CD-ROM Indiana Register.

**TITLE 357 INDIANA PESTICIDE REVIEW
BOARD**

LSA Document #02-332(F)

DIGEST

Adds 357 IAC 1-11 to establish certification and licensing requirements for all applicators that use any pesticide as part of a mosquito abatement operation conducted on publicly accessible areas and to establish registration requirements for technicians using pesticides under the supervision of the certified and licensed applicators. Effective 30 days after filing with the secretary of state.

357 IAC 1-11

SECTION 1. 357 IAC 1-11 IS ADDED TO READ AS FOLLOWS:

Rule 11. Community-Wide Mosquito Abatement Pesticide Applicators and Technicians

357 IAC 1-11-1 Definitions

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

Affected: IC 15-3-3.6-8.1

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

- (1) "Category 8" means the public health pest control certification and license category referenced in 355 IAC 4-1-3(14), which includes pesticide applicators who use or supervise the use of pesticides in mosquito abatement operations.
- (2) "Commercial applicator license" means the license issued annually by the state chemist to an individual who has met the requirements established in IC 15-3-3.6-8.1, including the following licenses:
 - (A) Applicator for hire.
 - (B) Applicator not for hire.
 - (C) Public applicator.
- (3) "Community-wide mosquito abatement" means any pesticide application activities, including mosquito adulticiding and larviciding, conducted wholly or in part on publicly accessible property. The term does not include pesticide applications performed for the control of mosquitoes solely on a single-family residence.
- (4) "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 in close proximity to and within reasonable line of sight of the noncertified applicator; and
 - (ii) operating under conditions that permit direct voice contact with the noncertified applicator.
 - (C) For employees of a governmental agency, the supervising certified applicator:
 - (i) has provided the noncertified applicator with written instructions covering site-specific precautions to prevent injury to persons or the environment or damage to property at the pesticide application site; and
 - (ii) is operating under conditions that permit direct voice contact with the noncertified applicator.
- (5) "Publicly accessible property" means public or private property to which the public or patrons have a reasonable expectation of relatively unrestricted access.
- (6) "Registered technician" means a noncertified person who, having met the requirements of 355 IAC 4-2-8, 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 and licensed applicator.
- (7) "State chemist" means the Indiana state chemist or his appointed agent.

(Indiana Pesticide Review Board; 357 IAC 1-11-1; filed Jan 2, 2004, 2:00 p.m.: 27 IR 1878)

357 IAC 1-11-2 Applicator certification and licensing

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

Affected: IC 15-3-3.6-2

Sec. 2. (a) Except as provided in section 3 of this rule, a person may not use or supervise the use of any pesticide for community-wide mosquito abatement activities without having obtained a commercial applicator license in Category 8 from the state chemist.

(b) Completing the certification requirements as a commercial applicator (IC 15-3-3.6-6-2(7) [*sic.*, IC 15-3-3.6-2(7)]) in Category 8 shall be a qualifying requirement for each of the licenses referenced in section 1(2) of this rule.

(c) A person may satisfy the Category 8 certification requirements by either:

(1) completing the requirements established in 355 IAC 4-1 for a Category 8 applicator; or

(2) completing the requirements established in 355 IAC 4-1 for a Category 7a applicator and providing proof to the state chemist of practical community-wide mosquito abatement experience within the last five (5) years previous to the effective date of this rule.

(Indiana Pesticide Review Board; 357 IAC 1-11-2; filed Jan 2, 2004, 2:00 p.m.: 27 IR 1878)

357 IAC 1-11-3 Direct supervision of noncertified applicators

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

Affected: IC 15-3-3.6

Sec. 3. (a) A person who has not obtained a commercial applicator license may use a pesticide if the person is working under the direct supervision of a certified and licensed applicator employed by the business, agency, or organization that also employs the person.

(b) An applicator using pesticides for community-wide mosquito abatement activities is subject to all of the site awareness and direct supervision provisions of 355 IAC 4-2, except as described in section 1(4)(C) of this rule. *(Indiana Pesticide Review Board; 357 IAC 1-11-3; filed Jan 2, 2004, 2:00 p.m.: 27 IR 1878)*

LSA Document #02-332(F)

Notice of Intent Published: 26 IR 1115

Proposed Rule Published: June 1, 2003; 26 IR 3109

Hearing Held: September 9, 2003

Approved by Attorney General: December 18, 2003

Approved by Governor: December 31, 2003

Filed with Secretary of State: January 2, 2004, 2:00 p.m.

Incorporated Documents Filed with Secretary of State: None