

Document: Proposed Rule

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**TITLE 355 STATE CHEMIST OF THE STATE
OF INDIANA**

Proposed Rule
LSA Document #01-71

DIGEST

Amends 355 IAC 4-2 to add a definition of registered technician and written instructions for a registered technician, clarify that a noncertified person using pesticides under the off-site supervision of a certified applicator must be a registered technician, establish a limit on the number of register technicians to be supervised by a certified applicator, and establish the requirements to become registered and reregistered as a technician. Effective 30 days after filing with the secretary of state.

355 IAC 4-2-1	355 IAC 4-2-5
355 IAC 4-2-2	355 IAC 4-2-6
355 IAC 4-2-3	355 IAC 4-2-7
355 IAC 4-2-4	355 IAC 4-2-8

SECTION 1. 355 IAC 4-2-1 IS AMENDED TO READ AS FOLLOWS:

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:**

(a) ~~The term (1) "Competent person" shall mean~~ **(1) means** a person **with who:**

(A) has the ability to read and comprehend written instructions, including the text of pesticide labels; ~~and~~

(2) A person (B) is sixteen (16) years of age or over; and

(C) is a registered technician.

(b) ~~The term (2) "Direct supervision" shall mean:~~ **means either of the following:**

(1) (A) The physical presence of the supervising certified applicator at the work site under circumstances which that permit continuous direct voice contact with the noncertified applicator; or individual.

(2) (B) The supervising certified applicator has provided the noncertified competent person the following:

(i) Written or otherwise verifiable instructions covering (A) General and site specific precautions to prevent injury to persons or the environment or damage to property.

(B) The mixing, handling, application and disposal and onsite storage of the pesticide:

(ii) A copy of the labels of all pesticide products to be used.

(3) (iii) The establishment of means and instructions to establish direct voice communication during the use of the pesticide with the supervising certified applicator. while the application of the pesticide is in progress:

(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.

(c) ~~The term (4) "Work site" shall mean and include means~~ any location at which pesticides are handled; mixed; stored; disposed; applied or 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 must 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)

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

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

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

Affected: IC 15-3-3.6-7

Sec. 2. Pesticides may be **applied used** by a noncertified person if that person is a competent person working under the direct supervision of a certified applicator. ~~as defined herein. Since it is not considered practicable to supervise an unaccompanied agricultural aircraft pilot;~~ All such persons engaged in the business **conducting use of applying** 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)*

SECTION 3. 355 IAC 4-2-3 IS AMENDED TO READ AS FOLLOWS:

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(b)(1)~~ **1(2)(A) of this rule** if:

~~(a) (1) the label of the pesticide being applied used so stipulates; or~~

~~(b) (2) the noncertified applicator 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)

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

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 ~~site awareness and~~ direct supervision of noncertified applicators ~~as defined herein~~ **individuals** shall apply to **the following:**

~~All applications~~ **(1) Use of all pesticides to the property of another by licensed and certified operators and/or licensed for hire applicators and to 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.

~~All applications~~ **(2) Use of restricted use pesticides. for restricted uses by licensed not for hire applicators; licensed public applicators and private applicators:**

(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)

SECTION 5. 355 IAC 4-2-6 IS AMENDED TO READ AS FOLLOWS:

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 applicator ~~written or otherwise verifiable instructions as defined in Section 1(b)(2):~~ **individual.**

(2) A noncertified applicator ~~individual~~ shall: follow the label directions and

(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; ~~while at the work site: 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)

SECTION 6. 355 IAC 4-2-7 IS ADDED TO READ AS FOLLOWS:

357 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)*

SECTION 7. 355 IAC 4-2-8 IS ADDED TO READ AS FOLLOWS:

355 IAC 4-2-8 Technician registration requirements

Authority: IC 15-3-3.5-11; 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(b) or, if a turf technician, pass either the core examination or the registered technician examination described in 355 IAC 4-6-4.

(2) Submit an applicator on a form provided by the state chemist. This form must be signed by both the application and the responsible certified applicator employed at the applicant's business location.

(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)*

SECTION 8. 355 IAC 4-2-4 IS REPEALED.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on June 29, 2001 at 9:00 a.m., at the Office of the Indiana State Chemist, Purdue University, 1154 Biochemistry, Room A151, West Lafayette, Indiana the State Chemist of the State of Indiana will hold a public hearing on proposed amendments to add a definition of registered technician and written instructions for a registered technician, clarify that a noncertified person using pesticides under the off-site supervision of a certified applicator must be a registered technician, establish a limit on the number of register technicians to be supervised by a certified applicator, and establish the requirements to become registered and reregistered as a technician. Copies of these rules are now on file at the State Chemist of the State of Indiana, Purdue University, 1154 Biochemistry Building, West Lafayette and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

David Scott
Pesticide Administrator
State Chemist of the State of Indiana