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

Proposed Rule
LSA Document #04-310

DIGEST

Amends 355 IAC 4-5-1 through 355 IAC 4-5-3 to clarify activities authorized to be performed by individuals holding a category 7b for hire applicator license or technician registration, to add a definition of termiticide, to clarify the type and scope of information required to be kept as part of the termiticide application records, and to add a requirement for applicators to file customer disclosure forms with the state chemist and deletes the one year experience and termiticide application record submission requirement for licensing, redundant technician registration procedures that are addressed more accurately in another rule, and redundant noncertified applicator supervision requirements that are addressed more accurately in another rule. Repeals 355 IAC 4-5-4, 355 IAC 4-5-5, 355 IAC 4-5-6, and 355 IAC 4-5-11. Effective 30 days after filing with the secretary of state.

355 IAC 4-5-1	355 IAC 4-5-5
355 IAC 4-5-2	355 IAC 4-5-6
355 IAC 4-5-3	355 IAC 4-5-11
355 IAC 4-5-4	

SECTION 1. 355 IAC 4-5-1 IS AMENDED TO READ AS FOLLOWS:

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:**

(a) ~~As used in 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 ~~to~~ supervise the use of any pesticide; **and**

(ii) **perform related activities, such as inspections** by the firm; and

(B) for purposes of this rule, ~~is~~ certified in Category 7b.

(b) ~~As used in this rule;~~ (2) “**Registered technician**” means an uncertified employee of a licensed business who, having met the requirements stated in ~~section 4 of this rule;~~ **355 IAC 4-2-8**, is registered by the state chemist ~~and thereby authorized to carry out responsibilities in the business 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)

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

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 termite 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. ~~The contract~~ **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) ~~Accurate structural~~ **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 ~~termite~~ **termicides** used.
 - (F) ~~The~~ dilution rate of the ~~termite~~ **termicides if soil applied or wood applied liquids are used.**
 - (G) ~~The total~~ volume of termite use ~~dilution~~ **dilutions if soil applied or wood applied liquids are used.**
 - ~~(H) Explanation for any label directed treatment procedures that were not performed.~~
 - (H) A copy of the termite control customer disclosure form signed by the customer.**
 - (I) ~~The name and registration number numbers of all of the technician: 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 ~~written site-specific treatment instructions that include the following:~~
 - ~~(A) A copy of the labels of all products to be used.~~
 - (A) Direct supervision as required in 355 IAC 4-2.**
 - (B) The information required in subdivision (2).
- ~~(5) Review and verify, by licensed applicators signature, the site-specific treatment instructions required in subdivision (4) prior to the treatment.~~
- (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 termite application; and**
 - (B) filed with the state chemist within thirty (30) days of the date the termite 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)

SECTION 3. 355 IAC 4-5-3 IS AMENDED TO READ AS FOLLOWS:

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 ~~eligible to take the a~~ **licensed applicator for hire in** Category 7b, ~~certification examination as described in 355 IAC 4-1,~~ an individual must ~~first~~ complete ~~one (1)~~ of 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) ~~One (1)~~ year of experience as an active ~~The~~ Category 7b certified applicator or registered technician in Indiana or another state having a comparable and verifiable program and completion of the record submission process described in section 5 of this rule. **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)

SECTION 4. THE FOLLOWING ARE REPEALED: 355 IAC 4-5-4; 355 IAC 4-5-5; 355 IAC 4-5-6; 355 IAC 4-5-11.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on April 12, 2005 at 10:00 a.m., at the Office of the Indiana State Chemist, 175 South University Street, Room A151, West Lafayette, Indiana the State Chemist of the State of Indiana will hold a public hearing on proposed amendments to clarify activities authorized to be performed by individuals holding a category 7b for hire applicator license or technician registration, to add a definition of termiticide, to clarify the type and scope of information required to be kept as part of the termiticide application records, to add a requirement for applicators to file customer disclosure forms with the state chemist, to delete the one year experience and termiticide application record submission requirement for licensing, to delete redundant technician registration procedures that are addressed more accurately in another rule, and to delete redundant noncertified applicator supervision requirements that are addressed more accurately in another rule. Copies of these rules are now on file at the State Chemist of the State of Indiana, 175 South University Street, West Lafayette, Indiana 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