

## ● PESTICIDE USE AND APPLICATION LAW

*STATUTORY CITATION:* Ind. Code §§ 15-16-5-1 – 15-16-5-71

*RELATED REGULATIONS:* 355 Ind. Admin. Code §§ 4-0.5-1 – 4-7-7

*GENERAL SUMMARY:* Chapter 5 of the state horticultural control laws makes state certification and licensing of the applicator a prerequisite for the lawful use of most agricultural pesticides in Indiana, defines various prohibited acts and practices involving pesticide products, and authorizes administrative adoption of additional restrictions and safeguards in the use of pesticides.

### *SPECIFIC TERMS AND CONDITIONS*

#### CERTIFICATION AND LICENSING —

**Pesticide Businesses** — Anyone who owns, operates or manages a business engaged in using any pesticide for hire must obtain a license to do so. Among other requirements, licensed pesticide businesses generally must post a bond or have liability insurance with a coverage limit of at least \$300,000 for bodily injury and property damage, to protect persons who may suffer legal damages as a result of their pesticide operations.

**Commercial Applicators** — No one may apply or supervise the application of restricted-use pesticides, or any pesticide when applied for hire, without a license to do so. Such a license may not be issued until the applicant has paid an annual license fee and met the competency certification requirements applicable to that class of license.

**Private Applicators** — No one may use or supervise the use of any restricted-use pesticide on his or her own farm, or on the farm of the person's employer, without a private applicator's permit and without first being certified as competent to do so.

**PROHIBITED ACTS** — The state may deny, suspend, modify or revoke, or may refuse to renew, any pesticide license or permit — and may assess a civil penalty — if it is determined that the applicant, licensee or permit-holder has committed any of the following acts, among others:

- (1) Used any registered pesticide in a manner inconsistent with its labeling, or in violation of federal or state restrictions on its use.
- (2) Operated faulty or unsafe equipment.
- (3) Operated in a careless or negligent manner.
- (4) Failed or refused to maintain required records or to make required reports, or maintained false or fraudulent records.
- (5) Used or applied pesticides without the appropriate class of license or permit, if required.
- (6) Refused to comply with regulations adopted under authority of the pesticide use and application law, or with a lawful order of the enforcement agency.
- (7) Made false or fraudulent claims misrepresenting the effect of pesticide products or methods of application.
- (8) Used pesticides known to be ineffective, or used them in amounts known to be ineffective.
- (9) Made false or misleading statements in applying for a license, or during or after an inspection.

In addition, it is illegal to transport, store or dispose of any pesticide or pesticide container in such a manner as to cause injury to humans, beneficial vegetation, crops, livestock or beneficial insects.

**RECORDKEEPING** — All commercial applicators or their employees are required to keep records of all applications of restricted-use pesticides and preserve such records for at least 2 years. Among other information, each record must include the name and address of the customer, the name and certification number of the applicator, the date and site of the pesticide application, the crop and pest involved, the name of the product used, and the amount applied. Private applicators are subject to comparable recordkeeping requirements.

### *SPECIAL NOTES OR ADVISORIES*

**EFFECT OF FEDERAL RULE CHANGES ON STATE APPLICATOR CERTIFICATION REQUIREMENTS** — Effective March 6, 2017, amendments to the U.S. Environmental Protection Agency's regulations governing the certification of pesticide applicators (*see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards*) may require state pesticide regulatory agencies to strengthen their requirements for the certification of commercial and private applicators of restricted-use pesticides. In general, existing state rules approved by EPA before the effective date of the new federal regulations will remain in effect until March 6, 2020. If, however, the state agency submits an amended certification plan before that date, the existing state rules will remain in effect until EPA has reviewed and responded to the plan, but generally no longer than two more years.

### *ADMINISTRATION AND ENFORCEMENT*

**PRIMARY ENFORCEMENT AGENCY** — *Pesticide Section, Office of Indiana State Chemist, Purdue University, Lafayette, Indiana 47907 (765-494-1492)*. This office is responsible for testing, certification and licensing of commercial pesticide businesses and commercial and private applicators in Indiana, and for monitoring compliance by licensees with these provisions. The state chemist's office may warn or cite an applicator for any violation of this law and,

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after opportunity for hearing, may assess a civil penalty and may deny, suspend, revoke or modify any provision of a license, permit or certification. The office may also take appropriate court action to enjoin a violation or threatened violation of the law or the associated regulations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *None.*