Estimated Number of Businesses Subject to this Rule:
The State Chemist currently licenses approximately 2,800 for-hire pesticide businesses annually. Approximately 2,500 of those businesses apply pesticides and approximately 300 apply no pesticides but perform wood infesting pest inspections for-hire. These businesses range in size from one to about fifty employees, with the majority having fewer than ten employees. Each business is currently required to maintain liability insurance to qualify for the pesticide business license. The proposed revisions will neither increase nor decrease the number of businesses or individuals already subject to this rule.

Estimated Average Annual Administrative Costs:
The proposed amendments to this rule will not change the frequency or number of insurance verifications required to be performed by State Chemist when processing license applications. Therefore, administrative costs to both the licensee and the State Chemist should remain unchanged. Because the type of insurance coverage required has been simplified to straight-forward general liability insurance, the administrative burden for both applicants and the State Chemist may actually be reduced some.

Estimated Total Annual Economic Impact:
The administrative burden and related costs would be static or reduced as the result of the simplified paperwork filing requirements. It is difficult to assign a specific dollar value to that reduction. In addition, because the minimum level of coverage has been reduced from $500,000 to $300,000, with no requirements for special endorsements or exemptions, the cost to license applicants will go down.

Supporting Data, Studies, and Analyses:
The State Chemist examined the following data sets and heard the following testimony in analyzing the need for these rule amendments:
1) The minimum pesticide liability insurance coverage levels had remained virtually unchanged since they were created in 1977.
2) Many current business owners and managers testified during developmental meetings that the level of coverage should reflect the current cost of doing business and should be commensurate with the times. A minimum general liability coverage level of $500,000 to $1,000,000 was discussed and strongly supported by several current business licensees. However, because licensed businesses cover such a broad range of company sizes ranging from one part-time employee to tens or hundreds of employees it was ultimately decided to reduce the regulatory minimum from $500,000 to $300,000 and allow businesses with greater liability exposure to increase their coverage based on a business decision.
3) State Chemist files for pesticide businesses from the last five years were reviewed to determine the prevalent levels of liability insurance coverage being issued. Over 85% of the businesses have aggregate general liability insurance coverage levels of $500,000; $1,000,000; or $2,000,000 with per occurrence levels of at least $300,000.

4) Several industry members testified that they had communicated with their insurance providers regarding the difference in the cost of insurance coverage for current level of $300,000 versus the proposed level of $500,000 aggregate. Many insurance providers no longer offered coverage levels as low as $300,000, but there are a few types of pesticide application businesses that can not currently get liability insurance coverage greater than $300,000.

Regulatory Flexibility Analysis of Alternative Methods:
There is no true alternative to financial responsibility coverage as a condition for the State Chemist issuing a pesticide business license, since it is currently mandated in IC 15-16-5-58. Options for a business to demonstrate financial responsibility by a mechanism other than liability insurance, such as a surety bond, has been maintained in the rule. However, according to State Chemist records covering the last thirty years, not one business has utilized the surety bond option to apply for a license.

Explanation of Preliminary Determination:
The State Chemist made a determination that the decreased and simplified liability insurance coverage levels were still necessary to maintain a certain level of consumer safety, but the amount of coverage should not be an impediment to small or specialty companies entering the for-hire pesticide application industry. Although all that testified agreed that general liability coverage makes sense, the low to non-existent number of claims filed against the licensees historically, makes this licensing provision less of an environmental safeguard and more of a good business requirement.