



**Office of Indiana
State Chemist**




Rule Making Update

IPRB Meeting

August 9, 2022

-Dave Scott-

The background of the slide features a series of wide, light-colored stone steps leading up to a row of classical columns. The columns are fluted and have papyrus capitals, typical of neoclassical architecture. The lighting is soft, highlighting the texture of the stone and the fluting of the columns.

Proposed Rule Making in 2022-2023

Rules impacted by the original proposal

- 355 IAC 4... applicator certification, supervision, record keeping
- 355 IAC 5...pesticide storage & handling
- 357 IAC 4...pesticide use

Current Indiana Rule Making Process

*Get exception from ***Regulatory Moratorium*** from Office Management & Budget

- rigorous cost-benefit analysis

1. Publish ***Notice of Intent to Adopt a Rule*** in Indiana Register

- At least 28 days before publishing *Proposed Rule*
- Send *Notice of Intent to Adopt & Proposed Rule & Small Business Economic Impact Statement* to State Budget Agency/OMB
- Post & maintain all documents & events related to the rule making docket on OISC web site

2. Get approval from SBA/OMB (*we assume Reg. Mor. work will prevail*)

3. Submit all Reg. Mor. data to OMB & Legislative Council, min. 50 days before publishing proposed rule, if total economic impact exceeds \$500,000

Current Indiana Rule Making Process...cont.

4. a) Submit ***Proposed Rule & Small Business Economic Impact Statement*** to Indiana Register
- b) Get a publication date from Indiana Register
- c) Publish ***Notice of Public Hearing, Proposed Rule, Small Business Economic Impact Statement*** in Indiana Register
- d) Get ***Authorization to Proceed*** from Indiana Register
- e) Submit Reg. Mor. & IR package to Small Business Ombudsman
- d) Publish ***Notice of Public Hearing*** in Indy Star

Current Indiana Rule Making Process...cont.

5. Get written comments from SBO, min. 7 days before public hearing.
6. Determine by 250th day of *Notice of Intent to Adopt a Rule* if rule can be finalized within one year from original notice.
7. Hold public hearing...min. 21 days after publ. of notice in IR & Star.
8. Respond to SBO comments in writing.

Current Indiana Rule Making Process...cont.

9. Adopt the ***Final Rule*** with any revisions (*OISC/IPRB signature*).
10. Submit all documentation to Attorney General for approval.
11. AG submit to Governor for approval or disapproval (45 days).
12. Governor sends final rule to Indiana Register
13. IR publishes final rule, starting 30-day period until effective.

Rule Making Prompted by Revisions to 40 CFR 171

- Federal applicator certification & training rules...**March 6, 2017**
 - Requires states to adopt rules & requirements significantly comparable to federal rules to maintain primacy for certifying applicators.
- OISC & IPRB began first public rule making discussions... **Aug. 7, 2019**
- States required to submit plans to EPA... **March 6, 2020**
- OISC & IPRB rule drafting & stakeholder engagement...**2019-present**
- IPRB voted to start formal rule making...**Nov. 17, 2021**
- OISC & IPRB sent draft rule package OMB...**February 7, 2022**

Regulatory Moratorium

Governor Pence signed Executive Order 13-03 on his first day in office. Understanding that over several decades, government regulations had increased the complexity and expense of Hoosiers' lives, the Governor ordered a stop to new regulations and a thorough review of the ones already in place.

This "Regulatory Moratorium" will help promote Hoosiers' freedom to engage in individual, family, and business pursuits. Outmoded, ineffective, excessively burdensome, or unnecessary rules should be repealed so that private sector employment and new investment in Indiana increases the quality of our Hoosier workforce improves.

Exceptions to the Regulatory Moratorium

- Rules specifically required by federal law
- Rules specifically required by state law
- Rules that create jobs
- Rules that repeal or reduce existing rules
- Rules that implement a court order
- Rules that reduce waste fraud, or abuse in a state agency
- Rules that reduce state spending
- Rules that address emergency or health or safety

355 IAC 4 certification & licensing



Recognize definitions already existing in law.



Consolidate definitions from each rule to new “definitions” section.



Consolidate all commercial applicator activities requiring a license into one rule.



Consolidate for-hire category 3b, 7b & 12 initial training requirements into one rule.



Add “unmanned aerial vehicle” to Category 11 (aerial application) & eliminate need for concurrent certifications.

355 IAC 4 supervision of non- certified applicators

Combine	Combine both community-wide & private residence mosquito control certification into Category 8. "Community-wide mosquito abatement" inserted to continue distinction from single-family residential mosquito control (cat. 7a)
Require	Require all RUP users be fully certified, no supervision.
Allow on	Allow on-site supervision of commercial GUP applications without RT credential.
Maintain	Maintain RT credential requirement for off-site supervision of commercial for-hire GUP applications.
Expand	Expand RT qualification option to include passing core exam (current) OR attending PPP training (new).
Minimize or eliminate	Minimize or eliminate other supervision details including: <i>10 employee max.; Designated supervisor; Written site-specific instructions for each site; Daily equipment inspections</i>

355 IAC 4 record keeping



Expand application record keeping from just RUP, golf course, termiticide & school applications to all licensed applications.



Add wind speed, wind direction & air temperature to outdoor application records.



Simplify for-hire termiticide records.



Add to RUP sales records, as required by 40 CFR 171:

License # of purchaser
License expiration date
License categories of purchaser
Signature (current) OR verifiable confirmation (new) of person taking delivery

355 IAC 5 Storage & Handling of Pesticides

- ~~Add small package storage requirements~~
- Incorporate storage near public wells rules from 357 IAC 1-10
- Incorporate container open burning rules from 357 IAC 1-13
- Incorporate service container rules from 357 IAC 1-14
- Distinguish between bulk & minibulk storage & containment
- Relaxed some minibulk storage & containment requirements

357 IAC 1...Pesticide Use

- ~~Add requirement to remove fertilizer from hard surfaces following for hire turf applications.~~
- Repeal violator public listing rule (*made obsolete by OISC on-line case posting & search*).
- Repeal pesticide storage near public water supply wells rule (*incorporated into 355 IAC 5 storage & containment rules*).
- Repeal the community-wide mosquito abatement applicator rule (*“community-wide mosquito abatement” inserted into 355 IAC 4*).
- Repeal the open burning of pesticide container rule (*incorp. into 355 IAC 5 storage & cont.*).
- Repeal the pesticide service container rule (*incorporated into 355 IAC 5 storage & cont.*).
- Repeal the golf course applicator rule (*incorporated into 355 IAC 4 cert. & record keeping*).
- Repeal the applicator licensing, pesticide storage, & record keeping sections of the school rule (*incorporated into 355 IAC 4 & 355 IAC 5*).

Comments or Questions on
Proposed Rule Making?

Or Anything Else?

Comments or
Questions ?

Thank you !

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