

September 11, 2023 (DRAFT)

Recommendations from the Office of Indiana State Chemist and the Indiana Pesticide Review Board for Amendments to the Indiana Pesticide Laws (IC 15-16-4 and IC 15-16-5)

HEA 1623 (“the Act”)—which went into effect on July 1, 2023—has major implications for the State Chemist and the Indiana Pesticide Review Board (“Board”). Following is a summary of the legal counsel and guidance that has been provided to the State Chemist and the Board by the Office of the Indiana Attorney General (OAG). This summary addresses relevant changes imposed by the Act for the State Chemist and the Board, then evaluates the remaining powers of the Board and the State Chemist, as described in the updated Indiana Code.

First, under the Act, the Board loses its power to designate a pesticide as “restricted use” through the regular rulemaking process. Instead, the Board must recommend a pesticide to the General Assembly for “restricted use” status. Additionally, the Act eliminates “pesticide for use by prescription only” status.

Second, the Act reduces the powers of the Pesticide Review Board and State Chemist to regulate pesticides under IC § 15-16-4 (“Chapter Four”) and IC § 15-16-5 (“Chapter Five”). The Pesticide Review Board loses some of its regulatory powers granted under Chapter Four, and due to IC § 15-16-4-52.5 (“Section 52.5”), the Board can no longer promulgate rules restricting the “storage, distribution, use, application, or record keeping of a general use pesticide” by an applicator that are more stringent than the requirements and limitations under federal law or Indiana statutory law. Section 52.5 partially—but not completely—preempts the Board’s powers to regulate “general use pesticides” among applicators.

Third, the Act adds IC § 15-16-5-72 (“Section 72”), which proscribes all rulemaking “concerning pesticides” except for rulemaking in ten narrow categories. The Board and the State Chemist, therefore, lose nearly all rulemaking power under Chapter Five, and only retain rulemaking authority regarding the narrow, enumerated exceptions in Section 72 under the Act.

Lastly, Section 52.5 of the Act also requires that a rule of the board in effect on June 30, 2023, that does not comply with the above referenced rulemaking restrictions is voided on July 1, 2023, to the extent it conflicts with this section. However, the Act does not list by legal citation which specific existing rules, or parts thereof, are required to be made void. As a result, the State Chemist and the Board are uncertain as to which current regulatory and public safety requirements, as they apply to general use pesticides, are intended to remain and which are no longer effective.

In consideration of the referenced uncertainty, the State Chemist and the Board are recommending that the attached amendments be considered for adoption into the pesticide statute to more clearly and more specifically identify the desired scope and detail of pesticide regulation intended by the General Assembly.

The recommended amendments have been categorized and prioritized based on the following justifications, intended purposes, and level of urgency.

Priority #1 (green) ... These recommendations include public safety regulatory requirements for general use pesticides that have existed in Board or State Chemist rules for decades but may, or may not, have been targeted to be voided by HEA 1623. It is currently unclear to state regulators if all general use pesticide requirements were intended to be deregulated. These requirements that were created by rule are proposed to be moved from rule into statute to clarify legislative intent and support.

Most of these rules include provisions addressing both restricted use pesticides (RUPs) and general use pesticides (GUPs). There is largely no clear delineation within the current rules regarding applicability to

RUPs versus GUPs. It should be noted that over 90% of the pesticide misuse complaints investigated by the State Chemist alleging human harm, environmental harm, or pesticide damage to personal property involve the use of GUPs. Likewise, over 90% of the incidents that originally gave rise to the need to create most of these regulatory requirements in rule involved the use of GUPs. Just as with RUPs, GUP product use is associated with a certain level of risk and uncertainty.

The provisions in all these rules were developed with broad support from both the public and the regulated applicator communities through a very deliberative and public rulemaking process. Loss or suspension of the public safety provisions in these rules will be widely and immediately noticed by the public. It will also be very disruptive to regulated industries that have come to expect a certain level of regulatory oversight from the State Chemist. No additional regulatory requirements, beyond those that were already established in rule, are being created in the priority #1 recommendations.

In summary, the Board and the State Chemist believe that the GUP requirements developed over the last several decades by rule have created a regulatory landscape that is clear to the pesticide user, focuses on education and communication with regulated communities, and has resulted in a compliance and enforcement scheme that is equitable for all pesticide users, including state penalties that are considerably less stringent than recommended Federal (EPA) fines, i.e. maximum \$1000 versus \$23,000 per incident.

Priority # 2 (yellow) ... These recommendations include provisions that will further implement the spirit and intent of the directives of HEA 1623, specifically, no requirement or limitation more stringent than federal requirements. Including these provisions in state statute will ensure compliance options by the State Chemist at a state level rather than being considered for referral to EPA at a federal level. No additional regulatory provisions are being created.

Priority #3 (red) ... These recommendations include technical corrections that will make previously existing sections of Indiana statute consistent with the regulatory guidelines introduced in HEA 1623.

Priority #4 (grey) ... These recommendations include technical corrections and items that will add clarity, specificity, and detail to current regulatory provisions in statute. No additional regulatory requirements are being created.

Justifications for Retaining Some GUP Regulatory Requirements in Statute (priority category #1)

1. **Commercial applicators must be certified to apply GUPs for area-wide mosquito control.** This rule was originally adopted in 2004 in response to public pressure to ensure the competency of government applicators applying GUPs over wide publicly accessible areas and to increase the awareness of these applicators to the issues associated with human exposure to these GUPs.
2. **Commercial applicators must be certified to apply GUPs to golf courses.** This rule was originally adopted in 2009 in response to several environmental exposure incidents (public waters) and human exposure incidents to patrons at golf courses. Ensured competency and continual training of the applicators through the certification and recertification processes has reduced those reported incidents to zero.
3. **Commercial applicators must be certified to apply GUPs at schools.** This rule was originally adopted in 2010 in response to public pressure to ensure school staff and commercial applicators were competent to apply GUPs around schools and young developing children. Similar federal requirements were being proposed at the time by U.S. EPA, but those efforts were halted when EPA determined that most states were

effectively moving forward with implementing safeguards at the state level. In addition, OISC had responded to several incidents of gross GUP misuse and human exposure resulting from applications by untrained school staff.

4. **Noncertified commercial technicians applying GUPs under the supervision of licensed applicators must be minimally trained and competent.** This rule was originally adopted in 2001 in response to public pressure to ensure some level of standardized training of GUP applicators applying GUPs commercially. An amendment requiring that OISC create a registered technician program was added to Indiana law, but that amendment did not specifically mandate that commercial GUP technicians become trained and registered. That was implemented through rule.
5. **Commercial applicators applying GUPs on other person's property for hire, at schools, and at golf courses must keep records of those applications.** This rule was originally adopted in 2010 to mimic the Federal record keeping requirements for RUPs in response to public pressure to ensure the legality of GUP applications being made commercially around humans. Commercial applicators routinely vary their GUP product applications based on the target site. The public and their customers have demanded some reassurances that variable applications can be accurately tracked, if necessary.
6. **Applicators must not apply GUPs in a manner to result in a level of off-target drift sufficient to cause an adverse effect to a protected nontarget site or personal property.** This rule was originally adopted in 2006 in response to public pressure from drift exposure complainants and applicators to create a consistent regulatory safeguard for incidents involving both GUPs and RUPs, even when outdated federal product labels did not have enforceable drift standards incorporated into them. It should be noted that current EPA-accepted product labels, even those with identical active ingredients, can have significantly different drift restrictions on them, based on when the products were initially registered or re-registered. While U.S. EPA has attempted to universally rectify this labeling loophole on at least three separate occasions, those efforts continue to be unsuccessful. Indiana's rule makes compliance and enforcement fair and equitable for all products, both RUPs and GUPs.
7. **Commercial applicators applying GUPs must renew their certification to assure that the person maintains a level of competence and ability to use GUPs safely and properly.** This rule was originally adopted in 2009 in response to encouragement from regulated industries to establish the certification renewal requirements clearly and definitively for all certified applicators through negotiated rulemaking rather than just by State Chemist requirement, as provided in IC 15-16-5-45(c). It did not distinguish between RUP users and GUP users. Federal requirements in 40 CFR 165 mandate the provisions established in 355 IAC 4-7, as it applies to RUP use only, must remain.

(Bill - EFFECTIVE UPON PASSAGE)**[ADDED 2023] IC 15-16-4-0.3 Definitions**

Sec. 0.3. The definitions in [IC 15-16-5](#) apply throughout this chapter.

As added by P.L.249-2023, SEC.70.

IC 15-16-4-1 Application of chapter; exported pesticides

Sec. 1. A pesticide product is not in violation of this chapter when the product is:

- (1) intended solely for export to a foreign country; and
- (2) prepared or packed according to the specifications or directions of the purchaser.

However, this chapter applies if the pesticide product is not exported.

[Pre-2008 Recodification Citation: 15-3-3.5-31.]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-2 "Active ingredient"

Sec. 2. As used in this chapter, "active ingredient" means:

- (1) in the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient that will:
 - (A) prevent;
 - (B) destroy;
 - (C) repel; or
 - (D) mitigate;

insects, nematodes, fungi, rodents, weeds, or other pests;

- (2) in the case of a plant regulator, an ingredient that, through physiological action, will accelerate or retard the rate of growth or rate of maturation or alter the behavior of:
 - (A) ornamental or crop plants; or
 - (B) the produce of ornamental or crop plants;

- (3) in the case of a defoliant, an ingredient that will cause the leaves or foliage to drop from a plant;

- (4) in the case of a desiccant, an ingredient that will artificially accelerate the drying of plant tissue; and

- (5) in the case of a nitrogen stabilizer, an ingredient that will prevent or hinder the process of nitrification, denitrification, ammonia volatilization, or urease production through an action affecting soil bacteria.

[Pre-2008 Recodification Citation: 15-3-3.5-2(1).]

As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.60.

IC 15-16-4-3 "Adulterated"

Sec. 3. As used in this chapter, "adulterated" refers to a pesticide or pesticide product if:

- (1) the strength or purity of the pesticide does not meet the professed standard or quality as expressed on its labeling under which it is sold;
- (2) any substance has been substituted wholly or in part for the pesticide product; or
- (3) any valuable constituent of the pesticide product has been wholly or in part removed.

[Pre-2008 Recodification Citation: 15-3-3.5-2(2).]

As added by P.L.2-2008, SEC.7. Amended by P.L.91-2020, SEC.1.

IC 15-16-4-3.5 "Adverse effect"

Sec. 3.5. As used in this chapter, "adverse effect" means a pesticide exposure to a nontarget site ~~(as defined in 357 IAC 1-12-1)~~ that results in:

- (1) pesticide residues in excess of established food or feed tolerances established by the United States Environmental Protection Agency;
- (2) pesticide residues in excess of environmental media standards or benchmarks for pesticides established by a federal or state agency; or
- (3) visible, measurable, or documented:
 - (A) death;

- (B) illness;
- (C) stunting;
- (D) deformation;
- (E) discoloration; or
- (F) other effects;

that are detrimental to the nontarget site.

As added by P.L.76-2021, SEC.1.

IC 15-16-4-4 "Antidote"

Sec. 4. As used in this chapter, "antidote" means the most practical immediate treatment in case of poisoning, including first aid treatment.

[Pre-2008 Recodification Citation: 15-3-3.5-2(3).]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-5 "Aquatic ecologist"

Sec. 5. As used in this chapter, "aquatic ecologist" means a scientist with a degree in, extensive training in, or experience in at least one (1) of the following:

- (1) Aquatic ecology.
- (2) Limnology.
- (3) Invertebrate zoology.
- (4) Invertebrate ecology.
- (5) Ichthyology.
- (6) Aquatic botany.
- (7) Algology.
- (8) Primary production ecology.

[Pre-2008 Recodification Citation: 15-3-3.5-2(30).]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-6 "Board"

Sec. 6. As used in this chapter, "board" means the Indiana pesticide review board established by section 42 of this chapter.

[Pre-2008 Recodification Citation: 15-3-3.5-2(4) part.]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-7 "Bulk pesticide"

Sec. 7. As used in this chapter, "bulk pesticide" means any pesticide or mixture of pesticides that is transported or held in a reusable immediate container in undivided quantities greater than:

- (1) one hundred (100) pounds net dry weight; or
- (2) fifty-five (55) U.S. gallons liquid measure.

The term does not include a pesticide that is in the custody of the ultimate user and has been prepared for application by the ultimate user by diluting the pesticide according to the label directions for that pesticide.

[Pre-2008 Recodification Citation: 15-3-3.5-2(32).]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-8 "Defoliant"

Sec. 8. As used in this chapter, "defoliant" means any:

- (1) substance; or
- (2) mixture of substances;

intended to cause leaves or foliage to drop from a plant with or without causing abscission.

[Pre-2008 Recodification Citation: 15-3-3.5-2(5).]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-9 "Desiccant"

Sec. 9. As used in this chapter, "desiccant" means any:

(1) substance; or
 (2) mixture of substances;
 intended for artificially accelerating the drying of plant tissues.
 [Pre-2008 Recodification Citation: 15-3-3.5-2(6).]
As added by P.L.2-2008, SEC.7.

IC 15-16-4-10 "Device"

Sec. 10. As used in this chapter, "device" means any instrument or contrivance intended for trapping, destroying, repelling, or mitigating any pest. The term does not include:
 (1) equipment used for the application of pesticides when sold separately from the pesticides;
 (2) firearms; or
 (3) simple mechanical devices, including barriers, traps, or adhesives, or other simple contrivances that are not subject to this chapter as determined by the pesticide review board.
 [Pre-2008 Recodification Citation: 15-3-3.5-2(7).]
As added by P.L.2-2008, SEC.7. Amended by P.L.91-2020, SEC.2.

IC 15-16-4-11 "Distribute"

Sec. 11. As used in this chapter, "distribute" means to:
 (1) offer for sale;
 (2) sell;
 (3) exchange;
 (4) barter; or
 (5) supply or offer to supply;
 a pesticide product.
 [Pre-2008 Recodification Citation: 15-3-3.5-2(8).]
As added by P.L.2-2008, SEC.7.

IC 15-16-4-12 "Final printed labeling"

Sec. 12. As used in this chapter, "final printed labeling" means the printed label or other labeling that will appear on or accompany a pesticide product.
 [Pre-2008 Recodification Citation: 15-3-3.5-2(33).]
As added by P.L.2-2008, SEC.7.

IC 15-16-4-13 "Front panel"

Sec. 13. As used in this chapter, "front panel" means the part of a label that is visible to a purchaser under normal conditions of sales displays.
 [Pre-2008 Recodification Citation: 15-3-3.5-2(34).]
As added by P.L.2-2008, SEC.7.

IC 15-16-4-14 "Fungus"

Sec. 14. As used in this chapter, "fungus" has the meaning set forth in [IC 15-16-5-14](#).
 [Pre-2008 Recodification Citation: 15-3-3.5-2(9).]
As added by P.L.2-2008, SEC.7. Amended by P.L.91-2020, SEC.3.

IC 15-16-4-15 "Fungicide"

Sec. 15. As used in this chapter, "fungicide" means any substance or mixture of substances intended for:
 (1) preventing;
 (2) destroying;
 (3) repelling; or
 (4) mitigating;
 any fungi.
 [Pre-2008 Recodification Citation: 15-3-3.5-2(10).]
As added by P.L.2-2008, SEC.7.

[ADDED 2023] IC 15-16-4-15.5 "General use pesticide"

Sec. 15.5. As used in this chapter, "general use pesticide" means a pesticide that is not a restricted use pesticide.
As added by P.L.249-2023, SEC.71.

IC 15-16-4-16 "Herbicide"

Sec. 16. As used in this chapter, "herbicide" means any substance or mixture of substances intended for:

- (1) preventing;
- (2) destroying;
- (3) repelling; or
- (4) mitigating;

any weed.

[Pre-2008 Recodification Citation: 15-3-3.5-2(11).]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-17 "Highly volatile herbicide"

Sec. 17. As used in this chapter, "highly volatile herbicide" means a herbicide that the board has determined to be capable of emitting vapors that may cause serious injury to desired plants by reason of movement of the vapors from the area of application of the herbicide to areas inhabited by the desired plants.

[Pre-2008 Recodification Citation: 15-3-3.5-2(12).]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-18 "Immediate container"

Sec. 18. As used in this chapter, "immediate container" means the part of a container that is in direct contact with a pesticide. In the case of a pesticide product that is a device, the term includes the device itself.

[Pre-2008 Recodification Citation: 15-3-3.5-2(35).]

As added by P.L.2-2008, SEC.7. Amended by P.L.91-2020, SEC.4.

IC 15-16-4-19 "Inert ingredient"

Sec. 19. As used in this chapter, "inert ingredient" means an ingredient that is not an active ingredient.

[Pre-2008 Recodification Citation: 15-3-3.5-2(13).]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-20 "Ingredient statement"

Sec. 20. As used in this chapter, "ingredient statement" means any of the following:

- (1) A statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the pesticide.
- (2) A statement of the name of each active ingredient in decreasing order of abundance and the total percentage of active ingredients, together with the name of each and total percentage of the inert ingredients, if any, in the pesticide.

[Pre-2008 Recodification Citation: 15-3-3.5-2(14).]

As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.61.

IC 15-16-4-21 "Insect"

Sec. 21. As used in this chapter, "insect" means any small invertebrate animal:

- (1) generally having the body more or less obviously segmented;
- (2) for the most part belonging to the class Insecta; and
- (3) comprising:
 - (A) six (6) legged usually winged forms, including beetles, bugs, bees, flies; or
 - (B) other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, including spiders, mites, ticks, centipedes, and wood lice.

[Pre-2008 Recodification Citation: 15-3-3.5-2(15).]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-22 "Insecticide"

Sec. 22. As used in this chapter, "insecticide" means any substance or mixture of substances intended for:

- (1) preventing;
- (2) destroying;
- (3) repelling; or
- (4) mitigating;

any insects.

[Pre-2008 Recodification Citation: 15-3-3.5-2(16).]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-23 "Label"

Sec. 23. As used in this chapter, "label" means:

- (1) the:
 - (A) written;
 - (B) printed; or
 - (C) graphic;

matter on, or attached to, a pesticide product or the immediate container of the pesticide product; and

- (2) any outside container or wrapper of the retail package of the pesticide product.

[Pre-2008 Recodification Citation: 15-3-3.5-2(17).]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-24 "Labeling"

Sec. 24. As used in this chapter, "labeling" means all labels and other written, printed, or graphic matter:

- (1) upon the pesticide product or any of its containers or wrappers;
- (2) accompanying the pesticide product at any time; or
- (3) to which reference is made on the label or in literature accompanying the pesticide product, except when accurate, nonmisleading reference is made to current official publications of:
 - (A) the United States Department of Agriculture;
 - (B) the United States Department of Interior;
 - (C) the United States Department of Health and Human Services;
 - (D) the United States Environmental Protection Agency;
 - (E) state experiment stations;
 - (F) state agricultural colleges; or
 - (G) other similar federal institutions or official agencies of Indiana or other states authorized by law to conduct research in the field of pesticides.

[Pre-2008 Recodification Citation: 15-3-3.5-2(18).]

As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.62.

IC 15-16-4-25 "Misbranded"

Sec. 25. As used in this chapter, "misbranded" refers to any of the following:

- (1) Any pesticide product if its labeling bears any:
 - (A) statement;
 - (B) design; or
 - (C) graphic representation;

relative to the pesticide product or to its ingredients that is false or misleading.

- (2) Any pesticide product if any of the following apply:
 - (A) It is an imitation of or is offered for sale under the name of another pesticide product.
 - (B) Its labeling bears any reference to registration under this chapter.
 - (C) The labeling accompanying it does not contain instructions for use that are necessary and, if complied with, adequate for the protection of the public.
 - (D) The label does not contain a warning or caution statement that may be necessary and, if complied with, adequate to prevent injury to humans and other vertebrate animals.
 - (E) The label does not bear an ingredient statement on that part of the immediate container and on any outside container or wrapper through which the ingredient statement on the immediate container cannot be clearly read of the retail package that is presented or displayed under customary conditions of purchase.

However, a pesticide product is not misbranded under this definition if the size or form of the immediate container or the outside container or wrapper of the retail package makes it impracticable to place the ingredient statement on the part that is presented or displayed under customary conditions of purchase and the ingredient statement appears prominently on another part of the immediate container, outside container or wrapping, or labeling, as permitted by the state chemist.

(F) Any word, statement, or other information required under this chapter or the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) to appear on the labeling is not prominently placed on the labeling with conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in terms that make it likely to be read and understood by the average individual under customary conditions of purchase and use.

(G) In the case of an insecticide, nematocide, fungicide, or herbicide, when used as directed or in accordance with commonly recognized practice, it is injurious to humans or other vertebrate animals, vegetation, except weeds to which it is applied, or the individual applying the pesticide.

(H) In the case of a plant regulator, defoliant, or desiccant when used as directed, it is injurious to humans or other vertebrate animals, vegetation to which it is applied, or the individual applying the pesticide. However, physical or physiological effects on plants or parts of plants are not considered to be injurious, if that is the purpose for which the plant regulator, defoliant, or desiccant was applied, in accordance with the label claims and recommendations.

(I) **If required by federal regulations**, the immediate container does not clearly display the United States Environmental Protection Agency establishment number indicating the specific location where the pesticide product was produced.

[Pre-2008 Recodification Citation: 15-3-3.5-2(19).]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-26 "Nematocide"

Sec. 26. As used in this chapter, "nematocide" means any substance or mixture of substances intended for:

- (1) preventing;
- (2) destroying;
- (3) repelling; or
- (4) mitigating;

nematodes.

[Pre-2008 Recodification Citation: 15-3-3.5-2(20).]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-27 "Nematode"

Sec. 27. As used in this chapter, "nematode", commonly known as a nema or an eelworm, means an invertebrate animal of the phylum nemathelminthes and class Nematoda that is an unsegmented roundworm:

- (1) with an elongated, fusiform, or saclike body covered with cuticle; and
- (2) that inhabits soil, water, plants, or plant parts.

[Pre-2008 Recodification Citation: 15-3-3.5-2(21).]

As added by P.L.2-2008, SEC.7.

ADDED IC 15-16-4-28 "Nontarget site"

Sec. 27.5. As used in this chapter, "nontarget site" means any location, thing, or organism that is not the intended target site of the pesticide application, including the following:

- (A) Personal property.
- (B) Public property.
- (C) A body of water.
- (D) An individual.
- (E) An animal that is not a pest, including managed pollinators.
- (F) Livestock.
- (G) A commodity.
- (H) A plant that is not a weed.

IC 15-16-4-28 "Person"

Sec. 28. As used in this chapter, "person" means:

- (1) an individual;
- (2) a partnership;
- (3) an association;
- (4) a fiduciary;
- (5) a corporation; or
- (6) an organized group of persons;

whether incorporated or not.

[Pre-2008 Recodification Citation: 15-3-3.5-2(22).]

As added by P.L.2-2008, SEC.7. Amended by P.L.91-2020, SEC.5.

IC 15-16-4-29 "Pest"

Sec. 29. As used in this chapter, "pest" has the meaning set forth in [IC 15-16-5-24](#).

[Pre-2008 Recodification Citation: 15-3-3.5-2(36).]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-30 "Pesticide"

Sec. 30. As used in this chapter, "pesticide" means:

- (1) any substance or mixture of substances intended for:
 - (A) preventing;
 - (B) destroying;
 - (C) repelling; or
 - (D) mitigating;

a pest; and

- (2) any substance or mixture of substances intended for use as a:
 - (A) plant regulator;
 - (B) defoliant; or
 - (C) desiccant.

[Pre-2008 Recodification Citation: 15-3-3.5-2(23).]

As added by P.L.2-2008, SEC.7.

[REPEALED 2023] - IC 15-16-4-31 "Pesticide for use by prescription only"

~~Sec. 31. As used in this chapter, "pesticide for use by prescription only" means any pesticide that the board has found to be more hazardous than a restricted use pesticide so that any specific use and application must be determined and prescribed by a qualified pest management specialist approved by the state chemist.~~

[Pre-2008 Recodification Citation: 15-3-3.5-2(24).]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-32 "Pesticide formulation"

Sec. 32. As used in this chapter, "pesticide formulation" means a pesticide product comprised of all active ingredients and inert ingredients.

[Pre-2008 Recodification Citation: 15-3-3.5-2(37).]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-33 "Pesticide product"

Sec. 33. As used in this chapter, "pesticide product" means a pesticide or device offered for distribution or use, including any labeling.

[Pre-2008 Recodification Citation: 15-3-3.5-2(38).]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-34 "Plant regulator"

Sec. 34. As used in this chapter, "plant regulator" means any substance or mixture of substances, intended through physiological action, for:

- (1) accelerating or retarding the rate of growth or rate of maturation; or
- (2) altering the behavior of ornamental or crop plants or the produce of ornamental or crop plants.

The term does not include substances that are intended solely as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

[Pre-2008 Recodification Citation: 15-3-3.5-2(25).]

As added by P.L.2-2008, SEC.7. Amended by P.L.91-2020, SEC.6.

IC 15-16-4-35 "Produce"

Sec. 35. As used in this chapter, "produce" means:

- (1) to:
 - (A) manufacture;
 - (B) prepare;
 - (C) compound;
 - (D) process;
 - (E) formulate; or
 - (F) change;

a pesticide product or an active ingredient that is used in producing a pesticide product; or

- (2) to:
 - (A) package;
 - (B) repackage;
 - (C) label;
 - (D) relabel; or
 - (E) otherwise change;

the container of a pesticide product.

The term does not include the dilution of formulated pesticides by an individual for the individual's use done according to the directions on the pesticide label.

[Pre-2008 Recodification Citation: 15-3-3.5-2(39).]

As added by P.L.2-2008, SEC.7. Amended by P.L.99-2012, SEC.5.

IC 15-16-4-36 "Registrant"

Sec. 36. As used in this chapter, "registrant" means a person who registers a pesticide product under this chapter.

[Pre-2008 Recodification Citation: 15-3-3.5-2(26).]

As added by P.L.2-2008, SEC.7.

[AMENDED 2023] IC 15-16-4-37 "Restricted use pesticide"

Sec. 37. As used in this chapter, "restricted use pesticide" means the following:

- (1) Any pesticide classified as a restricted use pesticide by the administrator of the United States Environmental Protection Agency.
- (2) A pesticide designated as a restricted use pesticide in a law enacted by the general assembly.
- (3) Subject to section 50 of this chapter, a pesticide that the board has determined to be unduly hazardous to persons, animals, plants, wildlife, waters, or lands other than the pests it is intended to prevent, destroy, control, or mitigate.
- (4) All formulations containing methomyl (Chemical Abstracts Service Reg. No. 16752-77-5).
- (5) Any dicamba containing pesticide product that:
 - (A) contains a dicamba active ingredient concentration greater than or equal to six and one-half percent (6.5%); and
 - (B) is intended for agricultural production uses but is not labeled solely for use on turf or other nonagricultural use sites.

[Pre-2008 Recodification Citation: 15-3-3.5-2(27).]

As added by P.L.2-2008, SEC.7. Amended by P.L.249-2023, SEC.73.

IC 15-16-4-38 "Rodenticide"

Sec. 38. As used in this chapter, "rodenticide" means any substance or mixture of substances intended for:

- (1) preventing;

- (2) destroying;
- (3) repelling; or
- (4) mitigating;

rodents or any other vertebrate animal that the board declares to be a pest.

[Pre-2008 Recodification Citation: 15-3-3.5-2(28).]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-39 "Terrestrial ecologist"

Sec. 39. As used in this chapter, "terrestrial ecologist" means a scientist with a degree in, extensive training in, or experience in at least one (1) of the following:

- (1) Animal ecology.
- (2) Plant ecology.
- (3) Vertebrate natural history.
- (4) Herpetology.
- (5) Ornithology.
- (6) Mammalogy.
- (7) Field zoology.

[Pre-2008 Recodification Citation: 15-3-3.5-2(31).]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-40 "Weed"

Sec. 40. As used in this chapter, "weed" means any plant that grows where the plant is not wanted.

[Pre-2008 Recodification Citation: 15-3-3.5-2(29).]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-41 "Wildlife"

Sec. 41. As used in this chapter, "wildlife" has the meaning set forth in [IC 15-16-5-38](#).

[Pre-2008 Recodification Citation: 15-3-3.5-2(40).]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-42 Pesticide review board; establishment; membership; terms

Sec. 42. (a) The Indiana pesticide review board is established. The board consists of the following members:

- (1) One (1) representative of the Indiana department of health.
- (2) One (1) representative of the department of natural resources.
- (3) One (1) representative of the department of environmental management.
- (4) One (1) representative of the Purdue University office of agricultural research programs.
- (5) One (1) representative of the Purdue University cooperative extension service.
- (6) Two (2) ecologists:
 - (A) one (1) a terrestrial ecologist; and
 - (B) one (1) an aquatic ecologist.

Not more than one (1) ecologist may be a plant ecologist.

- (7) One (1) public representative.
- (8) One (1) representative of the pesticide producing or manufacturing industry.
- (9) Two (2) representatives of producers of agricultural crops or products on which pesticides are applied or that may be affected by the application of pesticides:
 - (A) one (1) of whom represents producers of agronomic crops; and
 - (B) one (1) of whom represents producers of specialty crops.
- (10) One (1) public representative from a conservation organization.
- (11) Three (3) qualified scientists, one (1) each in the fields of entomology, plant pathology, and weed science. One (1) scientist must be the representative of either the Purdue University office of agricultural research programs or the Purdue University cooperative extension service.
- (12) Three (3) certified and licensed commercial applicators of pesticides who must represent three (3) different certificate or license categories established under [IC 15-16-5-45](#).

(13) The state chemist, who is an ex officio member and shall serve as a nonvoting member.

(14) The pesticide administrator for the office of the state chemist, who shall serve as a nonvoting member.

(15) The pesticide training coordinator, who shall serve as a nonvoting member.

(b) The voting members shall be appointed by the governor for terms of four (4) years and, subject to subsection (d), continue until the member's successor is approved and qualified. Appointments shall be made so that not more than five (5) terms expire annually.

(c) Voting members may be appointed for successive terms at the discretion of the governor.

(d) The governor may remove a voting member of the board prior to the expiration of the member's term for cause.

[Pre-2008 Recodification Citation: 15-3-3.5-12.]

As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.63; P.L.99-2012, SEC.6; P.L.56-2023, SEC.135.

IC 15-16-4-43 Vacancies

Sec. 43. A vacancy on the board **by a voting member** created by death, resignation, or removal for cause of a member shall be filled by the governor not later than thirty (30) days after the occurrence. The new member serves for the remainder of the vacated term and must meet the qualifications to be appointed to the board.

[Pre-2008 Recodification Citation: 15-3-3.5-13.]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-44 Chairperson

Sec. 44. The board shall elect a member to serve as chairperson for a term of two (2) years. However, if the chairperson's appointment ends before the expiration of the term, the term is for the duration of the chairperson's appointment.

[Pre-2008 Recodification Citation: 15-3-3.5-14.]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-45 Meetings

Sec. 45. (a) The board shall meet at least annually.

(b) The board may meet at other times and at a location specified by the chairperson or a majority of the board.

[Pre-2008 Recodification Citation: 15-3-3.5-15.]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-46 Board; quorum

Sec. 46. (a) Nine (9) **voting** members of the board constitute a quorum.

(b) Official actions are subject to approval by a simple majority of board members present at a called meeting.

(c) The chairperson shall actively participate in all decisions of the board.

[Pre-2008 Recodification Citation: 15-3-3.5-16.]

As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.64.

IC 15-16-4-47 Board; per diem and travel expenses

Sec. 47. The following individuals appointed to the board shall serve without compensation but are entitled to receive per diem payments at rates and under conditions incident to these positions:

- (1) State officials.
- (2) Staff members of state offices.
- (3) Staff members of the Purdue University office of agricultural research programs.
- (4) Cooperative extension service staff members.

Other members are entitled to reimbursement for traveling and other expenses as provided in the Purdue University travel policies and procedures, established by the Purdue University department of transportation and approved by the Purdue University vice president of business services.

(HEA 1443-2019)

IC 15-16-4-48 Board; information concerning pesticides

Sec. 48. The board may:

- (1) collect;
- (2) analyze; and
- (3) interpret;

information on matters relating to the registration and use of pesticides.

[Pre-2008 Recodification Citation: 15-3-3.5-2(4) part.]

As added by P.L.2-2008, SEC.7. Amended by P.L.99-2012, SEC.7.

IC 15-16-4-49 Declaration of injurious pests

Sec. 49. (a) The board may, after notice and public hearing as provided in [IC 4-22-2](#), declare as a pest any form of:

- (1) plant;
- (2) animal life; or
- (3) virus;

that is injurious to plants, humans, domestic animals, articles, or substances.

(b) When a hearing is held by the board, the board may designate one (1) or more persons as the board's agent or representative to conduct the hearing.

[Pre-2008 Recodification Citation: 15-3-3.5-9.]

As added by P.L.2-2008, SEC.7.

[AMENDED 2023] IC 15-16-4-50 Pesticide classification; rules; publication requirements

Sec. 50. (a) The board may recommend to the general assembly the addition, deletion, or reclassification of pesticides by submitting in an electronic format under [IC 5-14-6](#) a report of the recommendations to the legislative council. In making a determination to add or reclassify a pesticide as a restricted use pesticide for all of Indiana or designated areas within Indiana, the board must find that the characteristics of a pesticide require that rules restricting the:

- (1) sale;
- (2) distribution; or
- (3) use;

of the pesticide by any person are necessary to prevent undue hazards to persons, animals, wildlife, lands, or waters, other than the pests that they are intended to prevent, destroy, control, or mitigate. The board shall publish the board's findings in the Indiana Register.

(b) The board may adopt rules under [IC 4-22-2](#) to do the following:

- (1) Provide for the safe:
 - (A) handling;
 - (B) transportation;
 - (C) storage;
 - (D) display;
 - (E) distribution;
 - (F) disposal; and
 - (G) production;

of pesticide products and pesticide containers.

(2) Restrict or prohibit the use of certain types of containers or packages for specific pesticides. The restrictions may apply to the:

- (A) type of construction;
- (B) strength; or
- (C) size;

to alleviate danger of spillage, breakage, or misuse.

(3) Determine the time and conditions of the:

- (A) sale;
- (B) distribution; or
- (C) use;

of pesticide products.

(4) Require that any or all pesticide products be purchased, possessed, or used only under:

- (A) permit;
- (B) certificate;

(C) license; or
 (D) registration;
 of the state chemist or under certain conditions or in certain quantities or concentrations.

(5) Require all persons issued:

- (A) permits;
- (B) certificates;
- (C) licenses; or
- (D) registrations;

under this subsection to maintain records as to the use of the pesticide products.

(c) The state chemist shall maintain a list of each class of pesticides adopted by Indiana law or board rule on the website for the state chemist. Failure to include a pesticide on the list does not exempt a person from compliance with a law or rule for a pesticide designated by law or rule.

[Pre-2008 Recodification Citation: 15-3-3.5-10.]

As added by P.L.2-2008, SEC.7. Amended by P.L.99-2012, SEC.8; P.L.249-2023, SEC.74.

IC 15-16-4-51 Administration; state chemist

Sec. 51. The state chemist shall administer this chapter.

[Pre-2008 Recodification Citation: 15-3-3.5-1.]

As added by P.L.2-2008, SEC.7.

[AMENDED 2023] IC 15-16-4-52 Rules

Sec. 52. The state chemist may adopt rules under [IC 4-22-2](#) to administer this chapter, including rules providing for the following:

- (1) The collection and examination of samples of pesticide products.
- (2) Determining whether a pesticide product is highly toxic to humans or wildlife.
- (3) The issuance of permits to purchase, possess, or use "restricted use pesticides".
- (4) Determining standards of coloring or discoloring for pesticide products and to subject pesticide products to the requirements of section 57 of this chapter.

[Pre-2008 Recodification Citation: 15-3-3.5-11.]

As added by P.L.2-2008, SEC.7. Amended by P.L.249-2023, SEC.75.

[ADDED 2023] IC 15-16-4-52.5 Restrictions on rules governing general use pesticide

Sec. 52.5. (a) Neither the board nor the state chemist may by rule or otherwise impose a requirement or limitation on the storage, distribution, use, application, or record keeping of a general use pesticide by:

- (1) a certified applicator;
- (2) a commercial applicator;
- (3) a licensed applicator for hire;
- (4) a licensed applicator not for hire;
- (5) a licensed pesticide business;
- (6) a licensed public applicator; or
- (7) a private applicator;

that is more stringent than the requirements and limitations applicable under federal law, federal regulations, or Indiana statutory law to the general use pesticide or a pesticide product containing a general use pesticide and no restricted use pesticide.

(b) A rule or other requirement or limitation of the board in effect on June 30, 2023, that does not comply with this section is voided on July 1, 2023, to the extent it conflicts with this section.

As added by P.L.249-2023, SEC.76.

IC 15-16-4-53 Delegation of duties

Sec. 53. The state chemist may delegate to an employee or agent any function that is vested in the state chemist by this chapter.

[Pre-2008 Recodification Citation: 15-3-3.5-35.]

As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.66.

IC 15-16-4-54 Agreements with other agencies

Sec. 54. The state chemist may cooperate with and enter into agreements with:

- (1) any other agency of this state;
- (2) any federal agency; and
- (3) any other state or agency of another state;

to carry out this chapter and apply uniform rules.

[Pre-2008 Recodification Citation: 15-3-3.5-36.]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-55 Access to pesticide products

Sec. 55. The state chemist or the state chemist's agent may do the following:

- (1) Enter any public or private premises, including any vehicle of transport during regular business hours:

(A) to:

- (i) have access to; and
- (ii) obtain samples of;

pesticide products; and

(B) to:

- (i) examine; and
- (ii) copy;

records relating to the production, use, transportation, and sale of pesticide products, subject to this chapter, the rules adopted under this chapter, and the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

- (2) Enter at a reasonable time in or upon any:

(A) private; or

(B) public;

property for the purpose of inspection and investigating conditions possibly resulting from the use or misuse of a pesticide product.

[Pre-2008 Recodification Citation: 15-3-3.5-18.]

As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.67; P.L.99-2012, SEC.9.

IC 15-16-4-56 Pesticide products that are considered to be the same

Sec. 56. For more than one (1) pesticide product to be considered the same pesticide product, each pesticide product must exhibit the same:

- (1) product name;
- (2) registrant name;
- (3) United States Environmental Protection Agency registration number, if applicable;
- (4) labeling, claims, and branding; and
- (5) ingredient statement.

[Pre-2008 Recodification Citation: 15-3-3.5-2.3.]

As added by P.L.2-2008, SEC.7. Amended by P.L.91-2020, SEC.7.

IC 15-16-4-57 Prohibited acts; production, distribution, display, and sale

Sec. 57. Except as provided in section 58 of this chapter, a person may not produce, distribute, display, sell, or offer for sale within Indiana or deliver for transportation or transport in intrastate commerce or between points within Indiana through any point outside Indiana any of the following:

- (1) Any pesticide product that has not been registered under section 61 of this chapter.
- (2) Any pesticide product if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration.
- (3) A pesticide product if the composition of the product differs from the composition as represented in connection with its registration. However, at the discretion of the state chemist, a change in the labeling or formula of a pesticide may be made within a registration period without requiring reregistration of the product.
- (4) Any pesticide product (except a bulk pesticide or a pesticide in a container designed and constructed to accommodate the return and refill of the container) unless it is in the registrant's or the manufacturer's

unbroken immediate container, and there is affixed to that container, and to any outside container or wrapper of the retail package through which the required information on the immediate container cannot be clearly read, a label bearing:

- (A) the name and address of the manufacturer, registrant, or person for whom manufactured;
 - (B) the name, brand, or trademark under which the pesticide product is sold; and
 - (C) the net weight or measure of the content, subject, however, to reasonable variations as the state chemist may permit.
- (5) Any pesticide product that is adulterated or misbranded.
- (6) Any pesticide product in containers violating rules adopted under section 50(b)(2) of this chapter. Pesticides found in containers that are unsafe due to damage may be seized and impounded.
- (7) A highly volatile herbicide except on written permission by the state chemist.
- (8) Any ~~bulk~~ pesticide unless it is accompanied in all transfers of custody or ownership by or held in storage vessels to which is affixed a label bearing the information specified in subdivision (4).
- (9) Any pesticide that violates the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) or regulations adopted under the Act.

[Pre-2008 Recodification Citation: 15-3-3.5-3.]

As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.68; P.L.99-2012, SEC.10; P.L.249-2023, SEC.77.

IC 15-16-4-58 Exemptions; transporting; public officials

Sec. 58. Section 57 of this chapter does not apply to:

- (1) any carrier while lawfully engaged in transporting a pesticide product in Indiana if the carrier, upon request, permits the state chemist or the state chemist's designated agent to copy all records showing the transactions in and movement of the pesticide products; or
- (2) public officials of Indiana and the federal government engaged in the performance of their official duties.

[Pre-2008 Recodification Citation: 15-3-3.5-29.]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-59 Prohibited acts; use

Sec. 59. A person may not:

- (1) detach, alter, deface, or destroy, in whole or in part, any label or labeling provided for in this chapter or rules adopted under this chapter;
- (2) add any substance to, or take any substance from, a pesticide in a manner that may defeat the purpose of this chapter;
- (3) use for the person's own advantage or reveal, other than to:
 - (A) the state chemist;
 - (B) proper officials;
 - (C) employees of the state;
 - (D) the courts of this state in response to a subpoena;
 - (E) physicians; or
 - (F) pharmacists and other qualified persons for use in emergencies in the preparation of antidotes;
 any information relative to formulas of products acquired by authority of section 61 or 64 of this chapter;
- (4) use or cause to be used any pesticide contrary to section 50 of this chapter;
- (5) use a highly volatile herbicide except on written permission by the state chemist; or
- (6) neglect, or after notice, refuse to comply with this chapter, the rules adopted under this chapter, or a lawful order of the state chemist or board.

[Pre-2008 Recodification Citation: 15-3-3.5-4.]

As added by P.L.2-2008, SEC.7. Amended by P.L.99-2012, SEC.11.

IC 15-16-4-60 Exemptions; used for research

Sec. 60. Section 59(4) of this chapter does not apply to pesticides used in research by:

- (1) the United States Department of Agriculture;
- (2) the United States Department of Interior;
- (3) the Purdue University agricultural research programs; or

(4) other persons who are qualified researchers as approved by the board.

[Pre-2008 Recodification Citation: 15-3-3.5-30.]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-61 Pesticide registration

Sec. 61. (a) Each pesticide product that is:

- (1) produced, distributed, sold, displayed, or offered for sale within Indiana; or
- (2) delivered for transportation or transported:
 - (A) in intrastate commerce; or
 - (B) between points within Indiana through any point outside Indiana;

must be registered in the office of the state chemist.

(b) The application for registration ~~or reregistration must be made on~~ **include the following:**

(1) A form provided by the state chemist that includes the following information:

~~(A)~~ **(A) The name and address of the:**

~~(A) (i) applicant and (B) person whose name will appear on the label, if a person other than the applicant.~~

~~(B)~~ **(B) The complete brand name of the pesticide product.**

~~(2)~~ **(2) Except as provided in subsection (c), a complete copy of the labeling accompanying the pesticide product.**

(3) Any of the submissions specified in section 64(a) of this chapter that have been specifically requested by the state chemist.

(4) The fees required by section 62(a) of this chapter and section 62(e), if applicable.

(c) **The requirement in subsection (b) may be waived by the state chemist if:**

(1) the application is for reregistration of the pesticide product; and

(2) the labeling for the pesticide product has not been revised or modified since the previous registration or reregistration year.

[Pre-2008 Recodification Citation: 15-3-3.5-5.]

As added by P.L.2-2008, SEC.7. Amended by P.L.91-2020, SEC.8.

IC 15-16-4-62 Fees; disposition

Sec. 62. (a) Each registrant shall pay an annual, nonrefundable application fee of one hundred seventy dollars (\$170) for each application for each pesticide product submitted for registration or reregistration.

(b) Each registration expires January 1 of each year.

(c) All fees collected by the state chemist under this chapter shall be paid to the treasurer of Purdue University, who shall deposit the fees in a special restricted account designated by the treasurer of the board of trustees of Purdue University.

(d) From the account described in subsection (c), the treasurer shall pay all expenses incurred in administering this chapter, including expenses for the following:

(1) The employment of:

- (A) inspectors;
- (B) investigators;
- (C) researchers;
- (D) analysts;
- (E) administrators; and
- (F) clerical and service staff.

(2) Expenses in procuring samples and ~~printing~~ **publishing the results of inspections.**

(3) Purchasing:

- (A) supplies;
- (B) equipment; and
- (C) services.

(4) Necessary remodeling.

(5) Other expenses of the office of the state chemist.

(6) The transfer of ten dollars (\$10) from each fee paid under subsection (a) on an annual basis to the office of Purdue pesticide programs to provide education about the safe and effective use of pesticides.

The treasurer is not required to use any other funds, except those collected as registration fees, to pay any expenses incurred in the administration of this chapter. The dean of agriculture shall make an annual financial report to the governor showing total receipts and expenditures of all fees received under this chapter.

(e) A registrant who registers or pays an annual fee after December 31 of any year shall pay a late fee of one hundred seventy dollars (\$170) as well as the annual fee.

(f) Excess funds from the collection of fees under this chapter are subject to [IC 15-16-2-36](#).

[Pre-2008 Recodification Citation: 15-3-3.5-6.]

As added by P.L.2-2008, SEC.7. Amended by P.L.99-2012, SEC.12; P.L.91-2020, SEC.9.

IC 15-16-4-63 Registration fees apply to commercial fertilizers that contain pesticides

Sec. 63. The registration fee provisions of section 62 of this chapter apply to commercial fertilizers containing pesticides.

[Pre-2008 Recodification Citation: 15-3-3.5-32.]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-64 Submission of pesticide formula; registration; notification; penalties

Sec. 64. (a) The state chemist may require the submission of the complete formula of any pesticide product, including:

- (1) the confidential statement of formula;
- (2) the analytical methods for the analysis of the pesticide formulation and the analysis of residues of the pesticide product in environmental media;
- (3) the analytical standards of the pesticide product;
- (4) the safety data sheet;
- (5) the physical sample of the pesticide product; ~~and~~
- (6) a statement of all claims to be made for the pesticide product, including a full description of the tests made and the results of the tests upon which the claims are based; ~~and~~
- (7) evidence of compliance with applicable pesticide registration and labeling standards and requirements established by the Federal Insecticide Fungicide and Rodenticide Act (7 U.S.C. 136 et seq.) and regulations adopted under the Act.**

If the case of pesticide product is a federally registered product, this requirement the requirements in this section may be waived.

(b) The state chemist shall register a pesticide product if:

- (1) the state chemist determines that the composition of the pesticide product warrants the proposed claims for the pesticide product;
- (2) the pesticide product, its labeling, and other material required to be submitted comply with the requirements of section 61 of this chapter; and
- (3) the state chemist determines that the person submitting the application for registration **or reregistration** has complied with the requirements of this chapter, including satisfying all outstanding judgments resulting from a violation of this chapter, after any action has been finalized under section 64.5 of this chapter.

(c) The state chemist shall notify the applicant that the pesticide product, labeling, or other material required to be submitted fails to comply with the law if the state chemist determines:

- (1) that the proposed claims for the pesticide product; or
- (2) the pesticide product, its labeling, and other material required to be submitted;

does not comply with this chapter, including satisfying all outstanding judgments resulting from a violation of this chapter, after any action has been finalized under section 64.5 of this chapter.

(d) If the state chemist notifies an applicant under subsection (c), the state chemist shall give the applicant an opportunity to make the necessary corrections. If upon receipt of notice, the applicant does not make the corrections, the state chemist may refuse to register the pesticide product.

(e) The state chemist, in accordance with the procedures specified in this section, may deny, suspend, or cancel the registration of a pesticide whenever the state chemist determines that:

- (1) the pesticide product;
- (2) the pesticide product's labeling; or
- (3) the person submitting the application for registration of the pesticide product;

does not comply with this chapter, including satisfying all outstanding judgments resulting from a violation of this chapter, after any action has been finalized under section 64.5 of this chapter.

(f) If:

- (1) an application for registration is refused; or
- (2) the state chemist proposes to deny, suspend, or cancel a registration;

notice of the action and information concerning the person's right to obtain a review under section 64.5 of this chapter must be given to the applicant or registrant.

[Pre-2008 Recodification Citation: 15-3-3.5-7.]

As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.69; P.L.91-2020, SEC.10.

IC 15-16-4-64.5 Appeals

Sec. 64.5. (a) A person who is:

- (1) regulated under this chapter; and
- (2) aggrieved by any decision of the state chemist;

may obtain a review by the board if the person files a written petition with the board not later than thirty (30) days after the state chemist's decision.

(b) The board shall provide a copy of a petition filed under subsection (a) to the state chemist not later than seven (7) days after receiving the petition.

(c) Not more than fifteen (15) days after receiving a petition under subsection (b), the state chemist shall certify and file with the board a transcript of any record related to the petition, including a transcript of any evidence received.

(d) Whenever a hearing is held under this section, the board may designate one (1) or more persons as the board's agent or representative to conduct the hearing. The agent or representative shall conduct the hearing in the manner provided by [IC 4-21.5-3](#).

(e) After hearing the appeal, the board shall affirm, set aside, or modify the action of the state chemist. However, the state chemist's finding of facts that are supported by the substantial evidence is considered conclusive.

(f) A person aggrieved by any action of the board may obtain judicial review under [IC 4-21.5-5](#).

As added by P.L.120-2008, SEC.70.

IC 15-16-4-65 Confidential information

Sec. 65. (a) Except as provided in subsection (b), the state chemist may, by rule, declare that following information required under this chapter that is in possession of the state chemist is confidential:

- (1) A confidential statement of formula that is required by [IC 15-16-4-64\(1\)](#);
- (2) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with the state chemist that are:
 - (A) expressions of opinion or are of a speculative nature; and
 - (B) communicated for the purpose of decision making;
- (3) Records that are considered a part of an active inspection or investigation that has not been finalized under section 64.5 of this chapter.

(b) The state chemist may release confidential information only in response to a subpoena issued by a court.

[Pre-2008 Recodification Citation: 15-3-3.5-22.1.]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-66 Distribution of unregistered, adulterated, and misbranded products prohibited

Sec. 66. A person may not distribute:

- (1) an unregistered pesticide product;
- (2) an adulterated pesticide product; or
- (3) a misbranded pesticide product.

[Pre-2008 Recodification Citation: 15-3-3.5-18.1.]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-67 Handling and storage

Sec. 67. A person may not produce, handle, transport, store, display, or distribute pesticide products in a manner as to endanger:

- (1) humans;
- (2) the environment;
- (3) food;
- (4) feed; or
- (5) any other products that may be:
 - (A) transported;
 - (B) stored;
 - (C) displayed; or
 - (D) distributed;
 with pesticide products.

[Pre-2008 Recodification Citation: 15-3-3.5-33.]

As added by P.L.2-2008, SEC.7. Amended by P.L.99-2012, SEC.13.

IC 15-16-4-68 Disposal and storage

Sec. 68. A person may not dispose of, discard, or store any pesticide products or pesticide containers in a manner that may cause injury to:

- (1) humans;
- (2) plants;
- (3) animals;
- (4) wildlife;
- (5) lands; or
- (6) waters;

except the pests that pesticide products are intended to prevent, destroy, control, or mitigate.

[Pre-2008 Recodification Citation: 15-3-3.5-34.]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-69 Violations; penalties; disposition of penalties

Sec. 69. (a) Subject to this section, if a person violates this chapter or a rule adopted under this chapter, the state chemist under [IC 4-21.5-3-6](#) may warn, cite, or impose a civil penalty on the person or:

- (1) deny;
- (2) suspend;
- (3) revoke; or
- (4) amend;

the person's registration under this chapter.

(b) The state chemist may impose civil penalties under this section only in accordance with subsections (c) through (e). However, this section does not require the state chemist to impose a civil penalty on a person for any violation of this chapter or a rule adopted under this chapter.

(c) Except for a violation described in subsection (d) or (e), the state chemist may impose a civil penalty not exceeding two hundred fifty dollars (\$250) for a violation of this chapter or any rule adopted under this chapter. A civil penalty imposed under this subsection may be adjusted for mitigating actions described in subsection (f). A civil penalty under this subsection may not be imposed unless a warning for a violation has previously been issued to the person for the same violation within the previous five (5) years.

(d) Subject to adjustment under subsection (f) for mitigating actions, the state chemist may impose a civil penalty not exceeding five hundred dollars (\$500) if the state chemist finds that a person has done any of the following:

- (1) Unknowingly committed an act described in section 57(1) of this chapter.
- (2) Committed an act described in section 57(2) through 57(5) of this chapter.
- (3) Unknowingly committed an act described in section 66(1) of this chapter.
- (4) Committed an act described in section 66(2) or 66(3) of this chapter.
- (5) Unknowingly committed an act described in 357 IAC 1-3-3.
- (6) Stored a nonrestricted use pesticide in a minibulk pesticide storage container outside of secondary containment, or dispensed a general use pesticide in a manner inconsistent with 40 CFR 165.

(e) The state chemist may impose a civil penalty of one thousand dollars (\$1,000) if the state chemist finds that a person has done any of the following:

- (1) Knowingly committed an act described in section 57(1) of this chapter.
- (2) Committed an act described in section 57(9) of this chapter.
- (3) Knowingly committed an act described in section 66(1) of this chapter.
- (4) Committed an act described in section 67, 68, 73(c), or 77 of this chapter.
- ~~(5) Committed an act described in 357 IAC 1-3-2.~~
- ~~(6) Knowingly committed an act described in 357 IAC 1-3-3.~~

~~(7) (5) Stored or dispensed a restricted use pesticide in a manner inconsistent with 40 CFR 165. (A) any pesticide in a bulk pesticide storage container; or (B) a restricted use pesticide in a minibulk pesticide storage container; outside of secondary containment.~~

~~(8) (6) After notice, refused to comply with this chapter, the rules adopted under this chapter, or a lawful order of the state chemist or board.~~

(f) The state chemist may not adjust the amount of the civil penalty for a violation listed in subsection (e). The state chemist may reduce the amount of the civil penalty for a violation listed in subsection (c) or (d) if the state chemist finds that the person responsible for the violation has taken any of the following mitigating actions:

- (1) Cooperated with the state chemist during the investigation or inspection process.
- (2) Took corrective action to prevent future similar violations.
- (3) Compensated a victim for any adverse effects that resulted from the violation.

The state chemist may reduce the amount of the civil penalty by twenty percent (20%) for each mitigating action taken by the person responsible for the violation.

(g) A proceeding under [IC 4-21.5-3](#) that involves the imposition of a civil penalty may be consolidated with any other proceeding commenced under [IC 4-21.5](#) to enforce this chapter or the rules adopted under this chapter.

(h) The state chemist may limit the imposition of a civil penalty in a proceeding involving multiple counts of repeated incidents of the same violation to five (5) counts.

~~(i) (i) Money collected for civil penalties imposed under this section shall be credited to the office of Purdue pesticide programs. The money may be used only to provide education about pesticides.~~

[Pre-2008 Recodification Citation: 15-3-3.5-18.3.]

As added by P.L.2-2008, SEC.7. Amended by P.L.91-2020, SEC.11; P.L.76-2021, SEC.2.

IC 15-16-4-70 Examination of pesticide products; proceedings; prosecution

Sec. 70. (a) The examination of pesticide products shall be made under the direction of the state chemist to determine whether the pesticide products comply with this chapter.

(b) If it appears after an examination that a pesticide product fails to comply with this chapter and the state chemist contemplates instituting proceedings against any person, the state chemist shall give appropriate notice to the person.

(c) A person notified under subsection (b) shall be given an opportunity to present the person's views, either orally or in writing, with regard to the contemplated proceedings to the state chemist.

(d) Subject to subsection (e), if the state chemist determines that a person violated this chapter, the state chemist may refer the facts to the prosecuting attorney for the county in which the violation occurred with a copy of the results of the analysis or the examination of the pesticide product.

(e) This chapter may not be construed to require the state chemist to report for prosecution or for the institution of other proceedings minor violations of this chapter whenever the state chemist believes that the public interests will be best served by other action.

[Pre-2008 Recodification Citation: 15-3-3.5-19.]

As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.71.

IC 15-16-4-71 Injunctions

Sec. 71. (a) The state chemist may apply for a:

- (1) temporary; or
- (2) permanent;

injunction restraining any person from violating or continuing to violate this chapter or any rule adopted under the chapter notwithstanding the existence of other remedies at law.

(b) A court may grant a:

- (1) temporary; or
- (2) permanent;

injunction that the state chemist applies for under subsection (a).

(c) An injunction granted under this section shall be issued without bond.

[Pre-2008 Recodification Citation: 15-3-3.5-23.]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-72 Publication of judgments

Sec. 72. The state chemist shall publish, in a form the state chemist considers proper, notice of all the judgments entered in actions instituted under the authority of this chapter.

[Pre-2008 Recodification Citation: 15-3-3.5-24.]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-73 Stop sale orders; notification

Sec. 73. (a) Except as provided in subsection (f), if the state chemist:

(1) finds any pesticide product:

- (A) upon any premises; or
- (B) in any means of conveyance;

where it is held for purposes of, or during or after, distribution or sale; and

(2) determines that the pesticide product:

- (A) is in violation of this chapter; or
- (B) has been or is intended to be:

- (i) distributed;
- (ii) sold; or
- (iii) used;

in violation of this chapter;

the state chemist may issue an order under subsection (b).

(b) The state chemist may issue a written or printed:

- (1) stop sale;
- (2) use; or
- (3) removal;

order to the owner or custodian of a pesticide product.

(c) Except as provided in subsection (d), after receiving an order under subsection (b), the owner or custodian of a pesticide product may not:

- (1) sell;
- (2) use; or
- (3) remove;

the pesticide product described in the order.

(d) The owner or custodian of a pesticide product who receives an order under subsection (b) may:

- (1) sell;
- (2) use; or
- (3) remove;

the pesticide product only in accordance with the order or until the pesticide product is released in writing by the state chemist or by order of a court.

(e) When a stop sale order is issued under subsection (b), the state chemist shall issue a notification to the dealer or registrant of the pesticide product within thirty (30) days that states the following:

- (1) A stop sale order has been issued on the pesticide product.
- (2) A reference to the specific language of the law or rule that is believed to have been violated.

(f) Labels of pesticide devices may be submitted to the state chemist for evaluation of the need for registration under this chapter before the sale of the pesticide device.

[Pre-2008 Recodification Citation: 15-3-3.5-25.]

As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.72; P.L.91-2020, SEC.12.

IC 15-16-4-74 Condemnation and confiscation

Sec. 74. (a) The state chemist may file a claim in accordance with subsection (b) to condemn any pesticide product that is:

- (1) distributed, sold, or offered for sale in Indiana; or
- (2) delivered for transportation or transported:
 - (A) in intrastate commerce; or
 - (B) between points;

within Indiana through any point outside Indiana;

in any court with jurisdiction in any county of the state where the product is found and seized.

(b) A claim may be filed under subsection (a) if:

- (1) the pesticide product is adulterated or misbranded;
 - (2) the pesticide product has not been registered under section 61 or 62 of this chapter;
 - (3) the pesticide product fails to bear on its label the information required by this chapter;
 - (4) the pesticide product is a white powder pesticide product and is not colored as required under this chapter;
- or
- (5) any of the claims made for the pesticide product or any of the directions for its use differ in substance from the representations made in connection with its registration.

[Pre-2008 Recodification Citation: 15-3-3.5-26.]

As added by P.L. 2-2008, SEC. 7.

IC 15-16-4-75 Condemned pesticides disposal

Sec. 75. (a) If a pesticide product is condemned under this chapter, the court shall enter a decree ordering the:

- (1) disposal;
- (2) destruction; or
- (3) sale;

as the court may direct.

(b) If the pesticide product is sold under subsection (a), the proceeds, less legal costs, shall be paid to the state chemist.

(c) A pesticide product described in subsection (a) may not be sold except as provided for in this chapter.

(d) After:

- (1) payment of costs; and
- (2) execution and delivery of a good and sufficient bond that stipulates that the pesticide product may not be disposed of unlawfully;

the court may direct that the pesticide product be delivered to the owner of the pesticide product for relabeling or reprocessing.

[Pre-2008 Recodification Citation: 15-3-3.5-27.]

As added by P.L. 2-2008, SEC. 7.

IC 15-16-4-76 Condemnation costs

Sec. 76. Whenever a decree of condemnation is entered under section 75(a) of this chapter against a pesticide product:

- (1) court costs;
- (2) fees;
- (3) storage costs; and
- (4) other proper expenses;

shall be awarded against the person, if any, intervening as claimant of the pesticide product.

[Pre-2008 Recodification Citation: 15-3-3.5-28.]

As added by P.L. 2-2008, SEC. 7.

IC 15-16-4-77 Offenses

Sec. 77. A person who recklessly, knowingly, or intentionally:

- (1) violates this chapter; or

(2) impedes or prevents the state chemist or the state chemist's authorized agent in performance of the state chemist's duty in connection with this chapter;
commits a Class C misdemeanor, except as provided in section 78 of this chapter.

[Pre-2008 Recodification Citation: 15-3-3.5-21.]

As added by P.L.2-2008, SEC.7.

IC 15-16-4-78 Offenses; fraud

Sec. 78. A person who, with intent to defraud:

- (1) uses; or
- (2) reveals;

information relative to formulas of products acquired under authority of section 64 of this chapter commits a Class A misdemeanor.

DRAFT

IC 15-16-5-0.5 "Adverse effect"

Sec. 0.5. As used in this chapter, "adverse effect" has the meaning set forth in [IC 15-16-4-3.5](#).
As added by P.L.76-2021, SEC.3.

IC 15-16-5-1 "Agricultural commodity"

Sec. 1. As used in this chapter, "agricultural commodity" means any plant or part of a plant and animals or animal products produced primarily for sale, consumption, propagation, or other use by humans or animals.

[Pre-2008 Recodification Citation: 15-3-3.6-2(1).]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-2 "Animal"

Sec. 2. As used in this chapter, "animal" means all vertebrate and invertebrate species, including humans and other mammals, birds, fish, and shellfish.

[Pre-2008 Recodification Citation: 15-3-3.6-2(2).]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-3 "Beneficial insects"

Sec. 3. As used in this chapter, "beneficial insects" means insects that, during some part of their life cycles, are effective pollinators of plants, are parasites or predators of pests, or are useful to humans.

[Pre-2008 Recodification Citation: 15-3-3.6-2(3).]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-4 "Board"

Sec. 4. As used in this chapter, "board" means the Indiana pesticide review board established by [IC 15-16-4-42](#).

[Pre-2008 Recodification Citation: 15-3-3.6-2(4).]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-5 "Certificate of financial responsibility"

Sec. 5. As used in this chapter, "certificate of financial responsibility" means a notarized statement from an officer of a bank or other financial institution attesting to the fact that a licensee under this chapter has adequate financial resources equal to the amount of liability insurance or bonding required by rule under section 58 of this chapter to protect persons who may suffer legal damages as a result of the applicator's pesticide operations or the pest inspector's inspections.

[Pre-2008 Recodification Citation: 15-3-3.6-2(30).]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-6 "Certified applicator"

Sec. 6. As used in this chapter, "certified applicator" means any individual who is certified under this chapter as qualified to use or supervise the use of pesticides and has been issued a license or permit as evidence of the individual's qualifications.

[Pre-2008 Recodification Citation: 15-3-3.6-2(5).]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-7 "Commercial applicator"

Sec. 7. As used in this chapter, "commercial applicator" means a certified applicator, whether or not a private applicator with respect to some uses, who uses or supervises the use of pesticide products for any purpose or on any property other than as provided by section 30 of this chapter.

[Pre-2008 Recodification Citation: 15-3-3.6-2(7).]

As added by P.L.2-2008, SEC.7. Amended by P.L.91-2020, SEC.13.

NEW – IC 15-16-5-7.5 "Competent person"

Sec. 7.5. As used in this chapter, "competent person" means an individual who is at least eighteen (18) years of age and is allowed to use a general use pesticide product under the direct supervision of a licensed applicator.

IC 15-16-5-8 "Defoliant"

Sec. 8. As used in this chapter, "defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

[Pre-2008 Recodification Citation: 15-3-3.6-2(8).]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-9 "Desiccant"

Sec. 9. As used in this chapter, "desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

[Pre-2008 Recodification Citation: 15-3-3.6-2(9).]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-10 "Device"

Sec. 10. As used in this chapter, "device" has the meaning set forth in [IC 15-16-4-10](#).

[Pre-2008 Recodification Citation: 15-3-3.6-2(10).]

As added by P.L.2-2008, SEC.7. Amended by P.L.91-2020, SEC.14.

NEW – IC 15-16-5-10.5 "Direct supervision"

Sec. 10.5. As used in this chapter, "direct supervision" means a noncertified competent person that uses a general use pesticide product under the supervision of a licensed commercial applicator that is legally affiliated with the business or organization responsible for the use of the pesticide product. Direct supervision of for-hire applicator uses require the licensed commercial applicator to:

(1) identify the means to establish direct voice or text message contact with the competent person;

(2) provide the competent person with:

(i) a complete, legible copy of the pesticide product label being used; and

(ii) all equipment, including personal protective equipment, and instructions required by the label of the pesticide product to use the product safely and effectively; and

(3) unless the competent person is a registered technician under section 56 of this chapter, be continuously physically present with the competent person at the work site.

Direct supervision of not-for-hire and public applicator uses require compliance with subdivisions (1) and (2).

IC 15-16-5-11 "Distribute"

Sec. 11. As used in this chapter, "distribute" means to offer for sale, sell, exchange, or barter, or supply or offer to supply a pesticide.

[Pre-2008 Recodification Citation: 15-3-3.6-2(11).]

As added by P.L.2-2008, SEC.7.

NEW – IC 15-16-5-11.5 "Drift"

Sec. 11.5. As used in this chapter, "drift" means the physical movement of a pesticide through the air at the time of application from the target site to a nontarget site. The term does not include the movement of a pesticide, at a time after the application has been made, by any of the following:

(1) Erosion.

(2) Volatility after deposition on the target site.

(3) Windblown soil particles.

IC 15-16-5-12 "Environment"

Sec. 12. As used in this chapter, "environment" includes water, air, land, and all plants and humans and other animals living in water, air, or on land and the interrelationships that exist among these.

[Pre-2008 Recodification Citation: 15-3-3.6-2(12).]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-13 "Equipment"

Sec. 13. As used in this chapter, "equipment" means any type of ground, water, or aerial apparatus or contrivance using motorized, mechanical, or pressurized power to apply any pesticide.

[Pre-2008 Recodification Citation: 15-3-3.6-2(13).]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-14 "Fungus"

Sec. 14. As used in this chapter, "fungus" means any nonchlorophyll-bearing plant of a lower order than mosses and liverworts, including:

- (1) rust;
- (2) smut;
- (3) mildew;
- (4) mold;
- (5) yeast; and
- (6) bacteria;

except those on or in living humans or other animals, and those on or in processed food, beverages, or pharmaceuticals.

[Pre-2008 Recodification Citation: 15-3-3.6-2(14).]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-15 "Insect"

Sec. 15. As used in this chapter, "insect" means any small invertebrate animal:

- (1) generally having the body more or less obviously segmented;
- (2) for the most part belonging to the class Insecta; and
- (3) comprising:
 - (A) six (6) legged usually winged forms, including beetles, bugs, bees, flies; or
 - (B) other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, including spiders, mites, ticks, centipedes, and wood lice.

[Pre-2008 Recodification Citation: 15-3-3.6-2(15).]

As added by P.L.2-2008, SEC.7

NEW – IC 15-16-5-15.5 "Isolation area"

Sec. 15.5. As used in this chapter, "isolation area" means the area that:

- (1) is located within two hundred (200) feet of a community public water supply system production well that serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents; and**
- (2) is intended to protect groundwater from direct contamination by pesticides**

IC 15-16-5-16 "Licensed applicator for hire"

Sec. 16. As used in this chapter, "licensed applicator for hire" means any licensed certified commercial applicator who is employed by a licensed pesticide business to:

- (1) use or to supervise the use of any a restricted use pesticide product; or**
- (2) use or supervise the use of a general use pesticide product** on the property of another and who has assumed direct responsibility for the use or supervision of the use of pesticide products by the business.

[Pre-2008 Recodification Citation: 15-3-3.6-2(17).]

As added by P.L.2-2008, SEC.7. Amended by P.L.91-2020, SEC.15.

IC 15-16-5-17 "Licensed applicator not for hire"

Sec. 17. As used in this chapter, "licensed applicator not for hire" means a licensed certified commercial applicator who is employed by a private employer to use or supervise the use of a restricted use pesticide only on the property of the employer. The term includes a commercial applicator using or supervising the use of a general use pesticide: in a potentially hazardous situation or site as determined by the board.

- (1) on a golf course;**
- (2) at a school; or**
- (3) for community-wide mosquito abatement.**

[Pre-2008 Recodification Citation: 15-3-3.6-2(32).]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-18 "Licensed pest inspector"

Sec. 18. As used in this chapter, "licensed pest inspector" means an individual licensed under this chapter to make diagnostic inspections or reports to determine infestations of wood destroying pests on the property of another person and meets the requirements under section 58 of this chapter.

[Pre-2008 Recodification Citation: 15-3-3.6-2(38).]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-19 "Licensed pesticide business"

Sec. 19. As used in this chapter, "licensed pesticide business" means any licensed person that owns, operates, or manages a business that is engaged in or professes to be engaged in:

- (1) using any pesticide product, including restricted use pesticides; or
- (2) making diagnostic inspections or reports to determine infestations of wood destroying pests.

[Pre-2008 Recodification Citation: 15-3-3.6-2(16).]

As added by P.L.2-2008, SEC.7. Amended by P.L.91-2020, SEC.16.

IC 15-16-5-20 "Licensed public applicator"

Sec. 20. As used in this chapter, "licensed public applicator" means a licensed certified commercial applicator who uses or supervises the use of a restricted use pesticide as an employee of a state agency, municipal corporation, or other governmental agency. The term includes a commercial applicator using or supervising the use of a general use pesticide: in a potentially hazardous situation or site as determined by the board:

- (1) on a golf course;
- (2) at a public or private elementary or secondary school; or
- (3) for community-wide mosquito abatement.

[Pre-2008 Recodification Citation: 15-3-3.6-2(18).]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-21 "Nematode"

Sec. 21. As used in this chapter, "nematode", commonly known as a nema or an eelworm, means an invertebrate animal of the phylum nemathelminthes and class nematoda that is an unsegmented roundworm:

- (1) with an elongated, fusiform, or saclike body covered with cuticle; and
- (2) that inhabits soil, water, plants, or plant parts.

[Pre-2008 Recodification Citation: 15-3-3.6-2(19).]

As added by P.L.2-2008, SEC.7.

NEW - IC 15-16-5-21.5 "Nontarget site"

Sec. 27.5. As used in this chapter, "nontarget site" means any location, thing, or organism that is not the intended target site of the pesticide application, including the following:

- (A) Personal property.
- (B) Public property.
- (C) A body of water.
- (D) An individual.
- (E) An animal that is not a pest, including managed pollinators.
- (F) Livestock.
- (G) A commodity.
- (H) A plant that is not a weed.

IC 15-16-5-22 "Permit"

Sec. 22. As used in this chapter, "permit" means a written certificate issued by the state chemist or the state chemist's agent to a private applicator, authorizing the purchase, possession, or use of restricted use pesticides.

[Pre-2008 Recodification Citation: 15-3-3.6-2(20).]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-23 "Person"

Sec. 23. As used in this chapter, "person" means any individual, partnership, association, fiduciary, corporation, or any organized group of persons whether incorporated or not.

[Pre-2008 Recodification Citation: 15-3-3.6-2(21).]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-24 "Pest"

Sec. 24. As used in this chapter, "pest" means:

- (1) any insect, rodent, nematode, fungus, or weed; or
- (2) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism (except viruses, bacteria, or other microorganisms on or in living humans or other living animals) that is declared to be a pest by the administrator of the United States Environmental Protection Agency or by the board.

[Pre-2008 Recodification Citation: 15-3-3.6-2(22).]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-25 "Pesticide"

Sec. 25. As used in this chapter, "pesticide" means:

- (1) any substance or mixture of substances intended for:
 - (A) preventing;
 - (B) destroying;
 - (C) repelling; or
 - (D) mitigating;
 a pest; or
- (2) any substance or mixture of substances intended for use as a:
 - (A) plant regulator;
 - (B) defoliant; or
 - (C) desiccant.

[Pre-2008 Recodification Citation: 15-3-3.6-2(23).]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-26 "Pesticide consultant"

Sec. 26. As used in this chapter, "pesticide consultant" means a person engaged in the retail sale of pesticides who:

- (1) offers or supplies technical advice to;
- (2) aids; or
- (3) makes recommendations to;

another person concerning the use of a pesticide as part of business.

[Pre-2008 Recodification Citation: 15-3-3.6-2(33).]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-27 "Pesticide formulation"

Sec. 27. As used in this chapter, "pesticide formulation" means a pesticide product comprised of all active ingredients and inert ingredients.

[Pre-2008 Recodification Citation: 15-3-3.6-2(34).]

As added by P.L.2-2008, SEC.7.

NEW - IC 15-16-5-27.5 "Pesticide notification registry"

Sec. 27.5. As used in this chapter, "pesticide notification registry" means the registry created and maintained by a school listing the names and contact information of parents and guardians of children at the school and school staff who have requested to be notified of the details of pesticide applications at the school.

IC 15-16-5-28 "Pesticide product"

Sec. 28. As used in this chapter, "pesticide product" means a pesticide or device offered for distribution or use, including any labeling.

[Pre-2008 Recodification Citation: 15-3-3.6-2(35).]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-29 "Plant regulator"

Sec. 29. As used in this chapter, "plant regulator" has the meaning set forth in [IC 15-16-4-34](#).

[Pre-2008 Recodification Citation: 15-3-3.6-2(24).]

As added by P.L.2-2008, SEC.7. Amended by P.L.91-2020, SEC.17.

IC 15-16-5-30 "Private applicator"

Sec. 30. As used in this chapter, "private applicator" means a certified **and permitted** applicator who uses or supervises the **restricted** use of pesticides for purposes of producing any agricultural commodity on property owned, rented, or managed by the employer or the applicator, if applied without compensation on the property of another person.

[Pre-2008 Recodification Citation: 15-3-3.6-2(6).]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-31 "Property"

Sec. 31. As used in this chapter, "property" means all:

- (1) land and water areas, including airspace; and
- (2) plants, animals, structures, buildings, contrivances, vehicles, and machinery, appurtenant to or situated on land and water areas, fixed or mobile, including any used for transportation.

[Pre-2008 Recodification Citation: 15-3-3.6-2(25).]

As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.73.

IC 15-16-5-32 "Registered pesticide dealer"

Sec. 32. As used in this chapter, "registered pesticide dealer" means any person who distributes any restricted use pesticide **within or into Indiana to an end user of the restricted use pesticide.**

[Pre-2008 Recodification Citation: 15-3-3.6-2(31).]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-33 "Registered technician"

Sec. 33. As used in this chapter, "registered technician" means a person who:

- (1) is not licensed under this chapter;
- (2) has registered with the state chemist; and
- (3) is authorized to engage in pesticide use and related activities a general use pesticide under the direct supervision of a licensed and certified applicator for hire.

[Pre-2008 Recodification Citation: 15-3-3.6-2(36).]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-34 "Restricted use pesticide"

Sec. 34. As used in this chapter, "restricted use pesticide" has the meaning set forth in [IC 15-16-4-37](#).

[Pre-2008 Recodification Citation: 15-3-3.6-2(26).]

As added by P.L.2-2008, SEC.7. Amended by P.L.91-2020, SEC.18.

NEW - IC 15-16-5-34.5 "School"

Sec. 34.5. As used in this chapter, "school" means the physical buildings and grounds of an institution for the instruction of students, including the following:

- (1) An elementary school (as defined in IC 20-18-2-4).
- (2) A high school (as defined in IC 20-18-2-7).
- (3) A charter school (as defined in IC 20-24-1-4).
- (4) A nonpublic school (as defined in IC 20-18-2-12).
- (5) The Indiana School for the Blind and Visually Impaired established under IC 20-21.
- (6) The Indiana School for the Deaf established under IC 20-22.
- (7) A before or after school program that is located in a physical building or on the grounds of an institution listed in subdivision (1) through (6).

(b) The term does not include any of the following:

- (1) A Sunday school, a vacation Bible school, and any private religious school except those that are accredited by the Indiana department of education.**
- (2) A daycare center, including a child care center, child care home, or child care ministry.**
- (3) A home school.**
- (4) A post secondary school, including a college and university.**

IC 15-16-5-35 "Unreasonable adverse effects on the environment"

Sec. 35. As used in this chapter, "unreasonable adverse effects on the environment" means an unreasonable risk to humans or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

[Pre-2008 Recodification Citation: 15-3-3.6-2(27).]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-36 "Use"

Sec. 36. As used in this chapter, "use" means an act of handling, releasing, or exposing individuals or the environment to a pesticide. The term includes the following:

- (1) Application or supervision of an application of a pesticide, including mixing or loading the pesticide.
- (2) Storage of pesticides and pesticide containers by the intended applicator of the pesticides.
- (3) Transportation of pesticides and pesticide containers by the intended applicator of the pesticides.
- (4) Disposal of pesticides and pesticide containers by the intended applicator of the pesticides.

[Pre-2008 Recodification Citation: 15-3-3.6-2(37).]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-37 "Weed"

Sec. 37. As used in this chapter, "weed" means any plant that grows where the plant is not wanted.

[Pre-2008 Recodification Citation: 15-3-3.6-2(28).]

As added by P.L.2-2008, SEC.7.

NEW - IC 15-16-5-37.5 "Wellhead protection area"

Sec. 37.5. As used in this chapter, "wellhead protection area" means the surface and subsurface area of the wellhead protection area that is located within a three thousand (3,000) foot radius of a community public water supply system production well or wellfield and through which contaminants are likely to move through and reach the well.

IC 15-16-5-38 "Wildlife"

Sec. 38. As used in this chapter, "wildlife" means all living things that are not human, domesticated, or pests. This term includes mammals, birds, reptiles, and aquatic life.

[Pre-2008 Recodification Citation: 15-3-3.6-2(29).]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-39 Administration of chapter

Sec. 39. This chapter shall be administered by the state chemist.

[Pre-2008 Recodification Citation: 15-3-3.6-1.]

As added by P.L.2-2008, SEC.7.

REPEAL - IC 15-16-5-39.6 Working group; report

~~Sec. 39.6. The board shall establish a working group to review civil penalties. Before December 1, 2020, the working group shall make recommendations concerning civil penalties to the:~~

- ~~(1) board; and~~
- ~~(2) general assembly in an electronic format under IC 5-14-6.~~

As added by P.L.91-2020, SEC.19.

IC 15-16-5-40 Delegation of powers

Sec. 40. The state chemist may delegate to an employee or agent any function that is vested in the state chemist by this chapter.

[Pre-2008 Recodification Citation: 15-3-3.6-25.]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-41 Rules; confidentiality

Sec. 41. (a) Except as provided in subsection (b), the state chemist may, by rule, declare that following information required under this chapter that is in possession of the state chemist is confidential:

(1) A confidential statement of formula that is required by IC 15-16-4-64(1).

(2) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with the state chemist that are:

(A) expressions of opinion or are of a speculative nature; and

(B) communicated for the purpose of decision making.

(3) Records that are considered a part of an active inspection or investigation that has not been finalized under section 64.5 (?) of this chapter.

(4) Certification examinations developed and maintained by the state chemist under section 45 of this chapter.

(5) Numeric scores attained by examinees on certification examinations.

(b) The state chemist may release confidential information:

(1) in response to a subpoena issued by a court; or

(2) as part of an investigation by a law enforcement department, state agency, or federal agency.

[Pre-2008 Recodification Citation: 15-3-3.6-16.1.]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-42 Reciprocity; waiver of requirements

Sec. 42. The state chemist may waive all or part of the requirements provided for in sections 45, 46, 48, 49, 50, 51, 52, 54, 56, and 57 of this chapter on a reciprocal basis with any other state agency or federal agency that has substantially the same standards.

[Pre-2008 Recodification Citation: 15-3-3.6-22.]

As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.74; P.L.99-2012, SEC.14.

IC 15-16-5-43 Instruction and training in pesticide use

Sec. 43. In concurrence with the state chemist, the Purdue University cooperative extension service shall organize and conduct programs of instruction and training in areas of knowledge required in this chapter. Where appropriate and feasible, the Purdue University cooperative extension service shall draw upon the resources and expertise of other educational institutions and the private sector in this effort.

[Pre-2008 Recodification Citation: 15-3-3.6-23.]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-44 Rules; use; application; inspections

Sec. 44. (a) The board may adopt rules under IC 4-22-2 prescribing policies and procedures relating to:

(1) the use and application of pesticides; and

(2) diagnostic inspections and reports for wood destroying pests.

(b) For the purpose of uniformity and in order to enter into both cooperative and reciprocal agreements, the board may adopt restricted use pesticide classifications as determined by the United States Environmental Protection Agency. The state chemist may adopt additional rules under IC 4-22-2 as required to accomplish the purpose of this chapter.

(c) Rules adopted under this chapter may not permit any pesticide use that is prohibited by federal law and regulations or orders issued under federal law.

(d) Beginning July 1, 2024, the standards and requirements for the federal pesticide agricultural worker protection standard established in 40 CFR 170 are adopted as the state standards and requirements.

[Pre-2008 Recodification Citation: 15-3-3.6-4.]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-45 Rules; categories and classifications for certification and licensure; certification of applicators

Sec. 45. (a) The state chemist shall adopt rules to establish categories and qualifications to certify and license persons to use pesticides and to make diagnostic inspections and reports for wood destroying pests under this chapter. Each category is subject to separate testing procedures and requirements. A person is not required to pay an additional license fee if the person desires to be licensed in more than one (1) of the license categories provided for by the state chemist under this section.

(b) The state chemist, in adopting rules under this section, shall establish examination content and standards for the certification of persons who use pesticides or who make diagnostic inspections and reports for wood destroying pests. The examination content and standards must relate to the following:

- (1) The hazards involved in the use and handling of pesticides, or the use and handling of the pesticide or class of pesticides covered by the individual's certification.
- (2) The job responsibilities of the individual using pesticides that are covered by the individual's certification.
- (3) Any relevant information addressed in 40 CFR Part 171.

(c) **As required by 40 CFR 171.107,** the state chemist ~~may~~ **shall by rule** require a person certified under this chapter as a commercial applicator or a private applicator to renew the person's certification, under requirements and standards established by the state chemist, to assure that the person maintains a level of competence and ability to use pesticides safely and properly.

(d) An individual who is certified and licensed under this chapter must be at least eighteen (18) years of age, as proven by a valid government issued identification or an equivalent form of identification.

[Pre-2008 Recodification Citation: 15-3-3.6-5.]

As added by P.L.2-2008, SEC.7. Amended by P.L.91-2020, SEC.20.

IC 15-16-5-46 Certification and registration requirements; compliance

Sec. 46. A person required to be certified or registered under this chapter may not:

- (1) use or supervise the use of any pesticide; or
- (2) make diagnostic inspections or reports to determine infestations of wood destroying pests;

unless the person complies with the certification or registration requirements under this chapter and any other requirements determined by the state chemist to be necessary to prevent unreasonable adverse effects on the environment.

[Pre-2008 Recodification Citation: 15-3-3.6-3.]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-47 Licenses and certificates not transferable

Sec. 47. (a) A license issued under this chapter is not transferable except in the event of disability or death of the licensee. The state chemist may transfer a license to an individual who is a certified applicator by issuing a temporary permit to provide for the operation of the business until the expiration of the permanent license.

(b) A certification issued under this chapter is not transferable.

[Pre-2008 Recodification Citation: 15-3-3.6-26.]

As added by P.L.2-2008, SEC.7. Amended by P.L.91-2020, SEC.21.

IC 15-16-5-48 Pesticide business license

Sec. 48. (a) Subject to section 55 of this chapter, a person (a) may not engage in or profess to engage in the business of:

- (1) using a **restricted use pesticide or general use** pesticide; or
- (2) making diagnostic inspections or reports to determine infestations of wood destroying pests;

on the property of another for hire at any time without a pesticide business license issued by the state chemist. The state chemist shall require an annual license fee of forty-five dollars (\$45) for each pesticide business license that is issued.

(b) A pesticide business license must be obtained for each unique business location or business name from which pesticide use or application is conducted.

(c) The application for a license must be on a form provided by the state chemist. Each application must contain information necessary for the administration of this chapter.

(d) The state chemist may not issue a pesticide business license until the applicant or a pesticide applicator in the applicant's hire who uses or supervises the use of a pesticide on the property of another is certified by passing an examination to demonstrate to the state chemist the applicant's or applicator's knowledge of the:

- (1) use of pesticides under the category for which the applicant or applicator has applied; and

(2) nature and effect of pesticides the applicant or applicator may apply under the categories.

At least one (1) licensed applicator for hire must be associated with each location from which pesticides are used for hire.

(e) The state chemist may renew any pesticide business license.

(f) Subject to subsections (a), (b), (c), and (d) and section 65 of this chapter, if:

- (1) the state chemist finds the applicant qualified to engage in the business of using pesticides or making diagnostic inspections or reports to determine infestations of wood destroying pests on the property of another;
- (2) the applicant files evidence of financial responsibility required under section 58 of this chapter; and
- (3) the applicant applying for a license involving aerial application of pesticides has met all of the requirements of:

(A) the Federal Aviation Administration;

(B) the Indiana department of transportation; and

(C) any other applicable federal or state statutes or regulations to operate the equipment described in the application;

the state chemist may issue a pesticide business license limited to the categories for which the applicant or a pesticide applicator in the applicant's hire is qualified. The license expires January 1 of the year following issue unless it has been invalidated, revoked, or suspended earlier by the state chemist. A surety bond or certificate of liability insurance in force or certificate of financial responsibility required under section 58 of this chapter must be maintained and in effect on a continuing basis.

(g) The state chemist may limit a license or the operation of a business to the use of certain pesticides, or to certain areas, or to certain types of equipment if the applicant is only so qualified.

(h) If a license is not issued as applied for, the state chemist shall inform the applicant in writing of the reasons the license was not issued.

[Pre-2008 Recodification Citation: 15-3-3.6-6.]

As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.75; P.L.91-2020, SEC.22.

IC 15-16-5-49 Licensed applicators and pest inspectors; licensed applicator for hire and licensed pest inspector

Sec. 49. A person may not:

(1) act as an employee of a licensed pesticide business and:

(A) use or supervise the use of a restricted use pesticide; or

(B) use or supervise the use of a general use pesticide;

on another person's property; or

(2) make diagnostic inspections or reports to determine infestations of wood destroying pests on another person's property;

without having obtained a license to act as a licensed applicator for hire or a licensed pest inspector from the state chemist. However, a competent person who is not a licensed applicator for hire may use a general use pesticide under the direct supervision of a licensed applicator for hire. An applicator's license and a pest inspector's license does not relieve the person from the responsibility of obtaining any other license or permit required for the operation or use of any equipment.

[Pre-2008 Recodification Citation: 15-3-3.6-7.]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-50 Licensed applicators not for hire

Sec. 50. (a) Except as provided in subsection (b), a person may not act as a licensed applicator not for hire unless the person has obtained a license from the state chemist.

(b) A person who is not a licensed applicator not for hire may use a general use pesticide if the person is under the direct supervision of a licensed applicator not for hire.

[Pre-2008 Recodification Citation: 15-3-3.6-7.1.]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-51 Public employees; public applicator

Sec. 51. (a) All state agencies, municipal corporations, and other governmental agencies are subject to this chapter and rules adopted under this chapter concerning the application of pesticides.

(b) Except as provided in subsection (c), a person may not act as a licensed public applicator unless the person has obtained a license from the state chemist.

(c) A person who is not a licensed public applicator may use a **general use** pesticide if the person is under the direct supervision of a licensed public applicator.

(d) The public applicator's license is valid only when the applicator is using or supervising the use of pesticides by public agencies. Government research personnel are not exempt from the licensing requirement when using pesticides.

[Pre-2008 Recodification Citation: 15-3-3.6-8.]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-52 Applications for licensure; denials; expiration; renewal

Sec. 52. (a) A person applying for a license described under section 49, 50, or 51 of this chapter must:

- (1) submit an application to the state chemist on a form provided by the state chemist;
- (2) pass the appropriate examination provided under section 45 of this chapter;
- (3) except for a person who is:

(A) applying for a licensed public applicator's license; or

(B) an employee of a nonprofit organization;

submit a fee of forty-five dollars (\$45) to the state chemist; and

(4) if the person will engage in the aerial application of pesticides, submit proof to the state chemist that the person has satisfied aerial application requirements under applicable state and federal laws.

(b) Subject to section 65 of this chapter, if a person meets the requirements under subsection (a), the state chemist shall issue the appropriate license to the person.

(c) If the state chemist does not issue a license to a person who applied for a license described under subsection (a), the state chemist shall inform the person in writing of the reason the license was not issued.

(d) A person who has been issued a license under subsection (b):

(1) shall notify the state chemist in writing within ten (10) days after a change in or termination of the person's employment as a licensed applicator for hire, a licensed applicator not for hire, or a licensed public applicator, and

(2) may apply to the state chemist to transfer or amend the person's license by submitting an updated application form described under subsection (a)(1).

(e) A license issued under subsection (b):

(1) expires January 1 of each year; and

(2) subject to section 65 of this chapter, may be renewed by the person holding the license if the person:

(A) submits a renewal application on a form provided by the state chemist; and

(B) except for a person renewing a licensed public applicator's license or an employee of a nonprofit organization, pays a forty-five dollar (\$45) renewal fee;

before January 1.

[Pre-2008 Recodification Citation: 15-3-3.6-8.1.]

As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.76; P.L.99-2012, SEC.15.

IC 15-16-5-53 Repealed

[Pre-2008 Recodification Citation: 15-3-3.6-8.3.]

As added by P.L.2-2008, SEC.7. Repealed by P.L.99-2012, SEC.16.

IC 15-16-5-54 Private applicator; certification

Sec. 54. (a) A private applicator may not be issued a permit to use a restricted use pesticide without first complying with the certification requirements, including passing an examination, determined by the state chemist necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons.

(b) Certification standards to determine a person's competency with respect to the use and handling of the pesticide or class of pesticides that the private applicator is to be certified to use must be relative to hazards as described in section 45 of this chapter. In determining these standards, the state chemist shall observe those standards for private applicator certification provided by the U.S. Environmental Protection Agency.

(c) A fee of twenty dollars (\$20) must be paid to the state chemist by each person applying for a certification as a private applicator under this section.

(d) If the state chemist does not certify the private applicator under this section, the state chemist shall inform the applicant of the reasons the applicant was not certified and return the applicant's application fee.

(e) The state chemist may require additional knowledge to ensure that applicators continue to meet the requirements of changing technology and to assure a continuing level of competence and ability to use pesticides safely and properly.

[Pre-2008 Recodification Citation: 15-3-3.6-9.]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-55 Exemptions from licenses

Sec. 55. Section 48 of this chapter relating to pesticide business licenses and requirements for their issuance does not apply to the following:

(1) A farmer who applies pesticides for the farmer's own use or with ground equipment or manually for the farmer's neighbors if:

(A) the farmer operates farm property and operates and maintains pesticide application equipment primarily for the farmer's own use;

(B) the farmer is not engaged in the business of applying pesticides for hire and the farmer does not publicly profess to be a pesticide business;

(C) the farmer operates the farmer's pesticide application equipment only in the vicinity of the farmer's own property and for the accommodation of the farmer's neighbors without any compensation; and

(D) the farmer is certified as a private applicator if the farmer uses restricted use pesticides.

(2) A veterinarian who uses pesticides as an incidental part of the veterinarian's practice, if the veterinarian is not regularly engaged in or does not profess to be engaged in the business of using pesticides for hire.

(3) Research personnel applying general use pesticides only to bona fide experimental plots.

(4) A person who uses nonrestricted general use pesticides for purposes of disinfecting or sanitizing, unless a license is required by a rule established by the board.

[Pre-2008 Recodification Citation: 15-3-3.6-10.]

As added by P.L.2-2008, SEC.7. Amended by P.L.91-2020, SEC.23.

IC 15-16-5-56 Registration of registered technicians

Sec. 56. (a) The state chemist shall establish and administer a program to register individuals as registered technicians.

(b) A person who is registered technician is authorized to use a general use pesticide for hire if the individual is under the direct supervision of a licensed applicator for hire and is employed by the same business, as provided in section 49 of this chapter.

(c) A person applying for a technician registration must:

(1) pass the commercial applicator core examination described in 355 IAC 4-1-2.1; or

(2) complete an initial applicator training program that has been:

(A) developed and delivered by Purdue Pesticide Programs; and

(B) approved by the state chemist.

(3) submit an application to the state chemist on a form provided by the state chemist; and

(4) submit a nonrefundable application fee of forty-five dollars (\$45) to the state chemist.

(d) Subject to section 65 of this chapter, if a person meets the requirements under subsection (c), the state chemist shall issue the appropriate technician registration to the person.

(e) If the state chemist does not issue a technician registration to a person who applied for a technician registration, the state chemist shall inform the person in writing of the reason the registration was not issued.

(f) Registration eligibility shall remain in force from the date of passing the examination or attending the initial training described in subsection (c) through December 31 of the fourth year, unless the registration is revoked or suspended for cause.

(g) The registration eligibility period may be extended 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 individual's registration is in force. The individual's registration may be extended indefinitely by complying with the requirements of this subsection. (h) A registered technician's credentials expire on December 31 of each year, unless renewed by payment of the renewal application fee by December 31. To renew after December 31 the individual must include a late filing fee, as established by IC 15-16-5-60, in addition to the renewal application fee.

[Pre-2008 Recodification Citation: 15-3-3.6-10.1.]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-57 Restricted use pesticide dealer; registration; fees; exemptions

Sec. 57. (a) Each person who is a restricted use pesticide dealer shall register with the state chemist. Registration shall be required for each business location distributing restricted use pesticides into or within Indiana to a certified or licensed end user of the restricted use pesticide and shall be accomplished on a form to be provided by the state chemist. A registered pesticide dealer's registration expires January 1 following issuance unless the registration is renewed annually. A registration fee of forty-five dollars (\$45) must accompany the application.

(b) This section does not apply to:

- (1) a licensed pesticide business that sells pesticides only as an integral part of its pesticide application service when the pesticides are dispensed only through equipment used for this pesticide application; or
- (2) any federal, state, county, or municipal agency that provides pesticides only for its own programs; or person that distributes a restricted use pesticide to another registered dealer that is not the end user of that pesticide.
- (3) any person who is the final purchaser of a pesticide for application to property or property rights owned, leased, or acquired by the person.

(c) Each registered pesticide dealer is responsible for the acts of each person employed by the dealer in the solicitation and sale of restricted use pesticides and all claims and recommendations for use of pesticides. The dealer's registration is subject to sections 65 and 66 of this chapter for any violation of this chapter whether committed by the dealer or by the dealer's officer, agent, or employee.

(d) A registered pesticide dealer must keep and maintain a record for each transaction involving the distribution of a restricted use pesticide to a certified end user for at least two (2) years from the date of distribution. The records must include the following:

- (1) Name of the certified applicator for whom the purchase or distribution is being made.
- (2) Certification, license, or permit number of the certified applicator.
- (3) Except for a certification from the state chemist, the state, tribe, or federal agency that issued the certification.
- (4) Certification, license, or permit expiration date of the certified applicator.
- (5) Certification, license, or permit categories of the certified applicator.
- (6) Address of the certified applicator or application business that employs the certified applicator.
- (7) Date of distribution.
- (8) Brand name of the pesticide product.
- (9) Environmental Protection Agency registration number of the pesticide product.
- (10) Amount of pesticide product distributed.
- (11) Any applicable emergency exemption or state special local need registration number.
- (12) Signature or verifiable confirmation of the person presenting the certification credentials, ordering, or taking delivery of the product.

[Pre-2008 Recodification Citation: 15-3-3.6-12.]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-58 Pesticide business license and pest inspector license; financial responsibility

Sec. 58. (a) The state chemist may not issue a pesticide business license or a pest inspector license until the applicant for the license has furnished a surety bond, a certificate of liability insurance in force, or a certificate of financial responsibility to protect persons who may suffer legal damages as a result of the pesticide operations or pest inspections of the applicant. If the surety bond, liability insurance, or financial responsibility is not maintained

at all times during the licensing period, the pesticide business license, pest inspector license, and any associated commercial applicator licenses and technician registrations are invalid. The applicant may not engage in or profess to be engaged in the business of using pesticides or pest inspection until the financial responsibility is in compliance and the applicant's license is reinstated by the state chemist.

(b) This chapter does not relieve any person from liability for any damage to the person or property of another caused by the use of pesticides even though the use conforms to the rules adopted under this chapter.

[Pre-2008 Recodification Citation: 15-3-3.6-13.]

As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.77.

IC 15-16-5-59 Maintenance of records

Sec. 59. (a) Commercial applicators, private applicators, and licensed pest inspectors shall maintain records concerning:

- (1) the application of restricted use pesticides;
- (2) the application of general use pesticides for hire;
- (3) the application of general use pesticides on golf courses; and
- (4) the application of general use pesticides on school property;
- (5) diagnostic inspections to determine infestations of wood destroying pests; and
- (6) any relevant information that the state chemist determines by rule is necessary for purposes of this chapter.

(b) Records required under this section must be kept for

- (1) two (2) years after the date of the inspection or the application of the pesticide; or
- (2) the time specified by rule.

(c) Records required to be maintained under this section include the following:

- (1) Name of customer, property owner, or custodian of the site of application.
- (2) Address, geographic coordinates, or general location description of site of application.
- (3) Name of the person making the application.
- (4) Name of the commercial or private applicator responsible for the application, if different from the name in subdivision (3).
- (5) License number of the commercial or private applicator responsible for the application.
- (6) Date of application.
- (7) Start and stop times of the application.
- (8) Description of the plants, crop, animals, commodities, stored products, or sites treated.
- (9) Principal pests to be controlled.
- (10) Specific acreage, area, parts of a structure, parts of a property, or number of plants or animals treated, or other appropriate description.
- (11) Each brand name of each pesticide product applied.
- (12) United States Environmental Protection Agency registration number of each pesticide product applied.
- (13) Amount of each pesticide product used, expressed as either total quantity or volume of the:
 - (A) packaged product; or
 - (B) diluted mixture and active ingredient concentration (percentage).

(d) In addition to the information required in paragraph (c), the records for termite control pesticide applications for hire must include the following:

- (1) A copy of the contract, service agreement, or other similar written documentation for the treated structure. Any written documentation as it relates to pricing is confidential as provided for in IC 15-16-5-41.
- (2) A diagram of the treated structure with dimensions, including depth from soil grade to top of foundation footing if soil applied liquid pesticides are applied.
- (3) A copy of a form or document required to be issued to the customer to disclose any label required pesticide application procedures that were intentionally not performed.

(e) The state chemist shall be provided access to the records required to be maintained under this section.

[Pre-2008 Recodification Citation: 15-3-3.6-19.]

As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.78; P.L.91-2020, SEC.24.

NEW - IC 15-16-5-59.5 Medical information

Sec. 59.5. (a) If a licensed or certified health care professional determines that information required to be maintained as part of the records maintained in section 59 of this chapter are necessary to provide medical treatment to an individual who may have been exposed to a pesticide, the state chemist or the private or commercial applicator shall provide the requested information.

(b) A licensed or certified health care professional may not release any record or information from any record obtained under subsection (a) except as allowed under the federal Health Insurance Portability and Accountability Act (HIPAA).

IC 15-16-5-60 Late fees

Sec. 60. A person who:

- (1) is required to pay a fee under this chapter to the state chemist; and
- (2) does not pay the fee before the date the fee is due;

shall pay a penalty fee to the state chemist equal to one hundred percent (100%) of the required fee when the person pays the required fee.

[Pre-2008 Recodification Citation: 15-3-3.6-12.1.]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-61 Disposition of fees

Sec. 61. (a) All fees collected by the state chemist under this chapter shall be paid to Purdue University and deposited in a special restricted account designated by the treasurer of the board of trustees of Purdue University.

(b) From the account described in subsection (a), the treasurer shall pay from the special restricted account the expenses incurred in administering this chapter, including expenses for the following:

- (1) The employment of:
 - (A) inspectors;
 - (B) investigators;
 - (C) researchers;
 - (D) analysts;
 - (E) administrators; and
 - (F) clerical and service staff.
- (2) Conducting and reporting inspections and investigations.
- (3) Purchasing supplies and services.
- (4) Providing necessary facilities and remodeling.
- (5) Any other expense of the office of the state chemist.

The treasurer is not required to use any other funds, except those collected under this chapter, to defray any expenses incurred in the administration of this chapter.

(c) The dean of agriculture of Purdue University shall make an annual financial report to the governor showing total receipts and expenditures of all fees received under this chapter.

(d) Fee revenue remaining in the account described in subsection (a) after payment of the expenses described in subsection (b) is subject to [IC 15-16-2-36](#).

[Pre-2008 Recodification Citation: 15-3-3.6-11.]

As added by P.L.2-2008, SEC.7. Amended by P.L.141-2018, SEC.2.

IC 15-16-5-62 Pesticide accident reporting and claims

Sec. 62. (a) The state chemist may adopt rules to require the reporting of significant pesticide accidents or incidents.

(b) Any person:

- (1) claiming damages from a pesticide accident or incident; and
- (2) requesting an investigation of those damages by the state chemist;

must file a report with the state chemist. If a growing crop is alleged to have been damaged, the report must be filed before twenty-five percent (25%) of the crop has been harvested.

[Pre-2008 Recodification Citation: 15-3-3.6-20.]

As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.79.

IC 15-16-5-63 Agreements with other agencies

Sec. 63. (a) The state chemist may cooperate with, and enter into agreements with, any other agency of the state, any federal agency, or any other state agency or nongovernmental organization to carry out this chapter to:

- (1) secure uniformity of rules;
- (2) cooperate in the enforcement of the federal pesticide control laws through the use of state or federal personnel and facilities and to implement cooperative enforcement programs;
- (3) develop and administer state plans for certification of applicators consistent with federal standards;
- (4) contract or cooperate with agencies or organizations for the purpose of training applicators;
- (5) contract for monitoring pesticides;
- (6) prepare and submit state plans to meet federal certification standards;
- (7) administer and enforce requirements under this chapter; and
- (8) make reports to the United States Environmental Protection Agency as the agency requires.

(b) In accordance with 7 U.S.C. 136w-1, the state chemist shall have primary enforcement responsibility for pesticide use violations for any period for which:

(1) the United States Environmental Protection Agency determines that the State of Indiana:

(A) has adopted adequate pesticide use laws and rules;

(B) has adopted and is implementing adequate procedures for the enforcement of the pesticide laws and rules; and

(C) will keep records and make reports showing compliance with clauses (A) and (B); and

(2) the state chemist:

(A) enters into a cooperative agreement with the with the United States Environmental Protection Agency; and

(B) has a plan for the certification of pesticide applicators that has been approved by the United States Environmental Protection Agency.

[Pre-2008 Recodification Citation: 15-3-3.6-21.]

As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.80.

IC 15-16-5-64 Injury or pollution; rules

Sec. 64. (a) A person may not produce, transport, store, handle, or dispose of any pesticide product or pesticide product containers in a manner that may:

- (1) cause injury to:
 - (A) humans;
 - (B) beneficial vegetation;
 - (C) crops;
 - (D) livestock;
 - (E) wildlife; or
 - (F) beneficial insects; or
- (2) pollute any waterway in a way harmful to any wildlife in a waterway.

(b) The board may adopt rules governing the production, transportation, storage, handling, and disposal of pesticide products or pesticide containers. In determining these standards, the board shall take into consideration any regulations issued by the United States Environmental Protection Agency.

(c) Beginning July 1, 2024, the standards and requirements for pesticide containers, repackaging, and containment structures established in 40 CFR 165 are the state standards and requirements.

(d) Except for pesticides labeled for use in the treatment of drinking water, pesticide storage, mixing, and loading is prohibited within the isolation area of a wellhead protection area. Application of pesticides within the isolation area is permitted unless prohibited by the pesticide label.

(e) A pesticide storage container located within the wellhead protection area zone and outside of the isolation area must be stored:

(1) on an impervious surface designed to contain a discharge of the entire contents of the largest storage container plus the volume displaced by all the other items within the contained area; and

(2) in an area protected from precipitation.

(f) A pesticide spill or discharge within the wellhead protection area zone must be cleaned up immediately upon discovery and in a manner that prevents the pesticide from threatening waters of the state, dry wells, storm sewers, sanitary sewers, or septic systems.

(g) A person may not open burn a pesticide container in a manner that allows air contaminants resulting from combustion to be emitted directly into the air without passing through a stack or chimney from an enclosed chamber, as allowed under 326 IAC 4-1.

[Pre-2008 Recodification Citation: 15-3-3.6-24.]

As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.81; P.L.99-2012, SEC.17.

NEW - IC 15-16-5-64.5 Pesticide storage and use in schools

Sec. 64.5. (a) Except as provided in subsection (b), a pesticide may not be applied at a school during normal instructional hours when school is in session.

(b) A pesticide may be applied at a school during periods specified in subsection (a) if applied to:

- (1) control an observed pest that poses an immediate health threat situation to the students present; or
- (2) an area outside of and not immediately adjacent to student occupied buildings.

(c) Except as provided in subsection (d), the school corporation may not allow students to enter a pesticide treatment area after an application until the longer of the following time periods has elapsed:

- (1) The minimum reentry time specified on the pesticide label.
- (2) Four (4) hours.

(d) A rodenticide bait may be applied only in areas that are inaccessible to students.

(e) A pesticide stored at a school must be in:

- (1) the original pesticide container or a clearly labeled service container (as defined in 355 IAC 5-1-11.5);
- (2) a locked area or cabinet clearly marked as pesticide storage; and
- (3) an area separated by a solid wall from areas where:
 - (A) food is stored;
 - (B) food is served; or
 - (C) students have access.

NEW - IC 15-16-5-64.7 School pesticide notification

Sec. 64.7. (a) A school must send a notification to the parents and guardians of a student and the staff at the school that they may be added to a pesticide notification registry:

- (1) at the start of each school year; or
- (2) during the school year when a student:

- (A) enrolls in; or
- (B) transfers into;

the school.

(b) An individual may request to be added to the registry at any time during the school year.

(c) Except as provided in subsection (f), a school must, by whatever means the school determines to be appropriate, provide individuals on the registry with pesticide notice.

(d) The pesticide notice must include the following:

- (1) The name or address of the school.
- (2) The licensed commercial applicator responsible for the application including the applicator's:
 - (A) name;
 - (B) license number; and
 - (C) telephone number.
- (D) Designee for information about the pesticide application if different than the applicator.
- (3) The anticipated date and time of the application.
- (4) The principal target pest.
- (5) A description of the application area.
- (6) Each pesticide to be applied including the following:
 - (A) The name of the manufacturer.
 - (B) The United States Environmental Protection Agency registration number.

(C) The brand name.

(7) If forty-eight (48) hours advance notice is not provided, an explanation why it was not provided.

(e) The pesticide notice must be provided at least forty-eight (48) hours in advance of a pesticide application at the school. However, a pesticide notice is not required for a pesticide application:

(1) made more than forty-eight (48) hours before a scheduled school day; or

(2) described in section 64.5 (b) of this chapter.

IC 15-16-5-65 Penalty actions for violations

Sec. 65. Subject to section 66 of this chapter, the state chemist under [IC 4-21.5-3-6](#) may warn, cite, or impose a civil penalty on a person for a violation under this chapter. The state chemist may also deny, suspend, revoke, or modify any provision of any license, permit, registration, or certification issued under this chapter if the state chemist finds that the applicant or the holder of a license, permit, registration, or certification has **been issued a final civil order imposed under 7 U.S.C. 136 l(a), has a criminal conviction under 7 U.S.C. 136 l(b), or has** committed any of the following acts, each of which is a violation of this chapter:

- (1) Made false or fraudulent claims either verbally or through any media misrepresenting the effect of pesticide products or methods to be used.
- (2) Recommended, used, or supervised the use of any registered pesticide product in a manner inconsistent with its labeling approved by the United States Environmental Protection Agency or Indiana state registration for that pesticide, or in violation of the United States Environmental Protection Agency or Indiana state restrictions on the use of that pesticide product.
- (3) Used known ineffective or improper pesticide products or known ineffective amounts of pesticides.
- (4) Operated faulty or unsafe equipment.
- (5) Operated in a careless or negligent manner.
- (6) Neglected or, after notice, refused to comply with this chapter, the rules adopted under this chapter, or of any lawful order of the state chemist or the board.
- (7) Refused or neglected to:
 - (A) keep and maintain the records required by this chapter; or
 - (B) make reports and supply information when required or requested by the state chemist in the course of an investigation or inspection.
- (8) Made false or fraudulent records, invoices, or reports.
- (9) Engaged in or professed to be engaged in the business of:
 - (A) using a pesticide or any other product regulated under this chapter or by rules adopted under this chapter; or
 - (B) making a diagnostic inspection to determine infestations of a wood destroying pest; for hire on the property of another without having a business license issued by the state chemist.
- (10) Used or supervised the use of a pesticide product that is required to be used under this chapter by a person who is certified, licensed, or permitted without having a person who is certified, licensed, or permitted under this chapter conducting the use.
- (11) Used fraud or misrepresentation in the qualification or application for, or renewal of, a license, permit, registration, or certification.
- (12) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license, permit, registration, or certification.
- (13) Aided or abetted a person to evade this chapter, conspired with a person to evade this chapter, or allowed a license, permit, registration, or certification to be used by another person.
- (14) Made false or misleading statements during or after an inspection concerning any infestation or infection of pests.
- (15) Impersonated any federal, state, county, or city inspector, investigator, or official.
- (16) Knowingly purchased or used a pesticide product that was not registered under [IC 15-16-4](#).
- (17) Failed to continuously maintain financial responsibility required under section 58 of this chapter or to provide proof of financial responsibility to the state chemist when requested.
- (18) Intentionally altered a duly issued license, permit, registration, or certification.
- (19) Recklessly, knowingly, or intentionally impeded or prevented the state chemist or the state chemist's agent from performing a duty of the state chemist.

(20) Applied a pesticide in a manner that allowed it to drift from the target site in sufficient quantity to cause an adverse effect to a nontarget site.

(21) Distributed a restricted use pesticide without having a dealer registration issued by the state chemist.

(22) Distributed a restricted use pesticide to a noncertified end user of the pesticide.

(23) Stored or dispensed a pesticide in a manner inconsistent with 40 CFR 165, Subpart E.

(24) Failed to perform the notification requirements for a pesticide application in a school.

[Pre-2008 Recodification Citation: 15-3-3.6-14.]

As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.82; P.L.99-2012, SEC.18; P.L.91-2020, SEC.25.

IC 15-16-5-66 Violations; civil penalties; disposition of penalties

Sec. 66. (a) The state chemist may impose civil penalties under this section only in accordance with subsections (b) through (d). However, this section does not require the state chemist to impose a civil penalty on a person for any violation of this chapter or a rule adopted under this chapter.

(b) Except for a violation described in subsection (c) or (d), the state chemist may impose a civil penalty not exceeding two hundred fifty dollars (\$250) for a violation of this chapter or any rule adopted under this chapter. A civil penalty imposed under this subsection may be adjusted for mitigating actions described in subsection (e). A civil penalty under this subsection may not be imposed unless a warning for a violation has previously been issued to the person for the same violation within the previous five (5) years.

(c) Subject to adjustment under subsection (e) for mitigating actions, the state chemist may impose a civil penalty not exceeding five hundred dollars (\$500) if the state chemist finds that a person has done any of the following:

- (1) After written notice, neglected to:
 - (A) keep and maintain records; or
 - (B) make reports and supply information when required or requested by the state chemist in the course of an investigation or inspection;
 as described in section 65(7) of this chapter.
- (2) Committed an act as described in section 65(8) of this chapter.
- (3) Unknowingly committed an act described in section 65(9) or 65(10) of this chapter.
- (4) After written notice, neglected to comply with any limitations or restrictions on or in a duly issued license, permit, registration, or certification as described in section 65(12) of this chapter.
- (5) Committed an act described in section 65(14) or 65(16) of this chapter.
- (6) Recommended, used, or supervised the use of a nonrestricted general use pesticide product in a manner inconsistent with its labeling and resulting in an adverse effect.
- (7) Recommended, used, or supervised the use of a restricted use pesticide product in a manner inconsistent with its labeling and resulting in no adverse effect.
- (8) Applied a nonrestricted general use pesticide in a manner that allows it to drift from the target site in a sufficient quantity to cause an adverse effect to a nontarget site, as defined in 357 IAC 1-12-1.
- (9) Stored or dispensed a general use pesticide in a manner inconsistent with the requirements in 40 CFR 165, Subpart E.

(d) The state chemist may impose a civil penalty of one thousand dollars (\$1,000) if the state chemist finds that a person has done any of the following:

- (1) Committed an act Stored or dispensed a restricted use pesticide in a manner inconsistent with the requirements in 40 CFR 165, Subpart E, or as described in section 64(a) of this chapter.
- (2) Committed an act described in section 65(5) of this chapter.
- (3) After notice, refused to comply with this chapter, the rules adopted under this chapter, or any lawful order of the state chemist or the board as described in section 65(6) of this chapter.
- (4) Refused to:
 - (A) keep and maintain records; or
 - (B) make reports and supply information when required or requested by the state chemist in the course of an investigation or inspection;
 as described in section 65(7) of this chapter.
- (5) Intentionally committed an act described in section 65(8) of this chapter.
- (6) Knowingly committed an act described in section 65(9) or 65(10) of this chapter.
- (7) Committed an act described in section 65(11) of this chapter.

- (8) Refused to comply with any limitations or restrictions on or in a duly issued license, permit, registration, or certification as described in section 65(12) of this chapter.
- (9) Committed an act described in section 65(13), 65(15), 65(18), or 65(19) of this chapter.
- (10) Committed an act described in 355 IAC 4-7-7.
- (11) Recommended, used, or supervised the use of a restricted use pesticide product in a manner inconsistent with its labeling and resulting in an adverse effect.
- (12) Applied a restricted use pesticide in a manner that allows it to drift from the target site in a sufficient quantity to cause an adverse effect to a nontarget site, (as defined in 357 IAC 1-12-1).

(13) Distributed a restricted use pesticide without having a dealer registration issued by the state chemist, as described in section 65(21) of this chapter.

(14) Distributed a restricted use pesticide to a noncertified end user of the pesticide, as described in section 65(22) of this chapter.

(e) The state chemist may not adjust the amount of the civil penalty for a violation listed in subsection (d). The state chemist may reduce the amount of the civil penalty for a violation listed in subsection (b) or (c) if the state chemist finds that the person responsible for the violation has taken any of the following mitigating actions:

- (1) Cooperated with the state chemist during the investigation or inspection process.
- (2) Took corrective action to prevent future similar violations.
- (3) Compensated a victim for any adverse effects that resulted from the violation.

The state chemist may reduce the amount of the civil penalty by twenty percent (20%) for each mitigating action taken by the person responsible for the violation.

(f) A proceeding under [IC 4-21.5-3](#) that involves a civil penalty may be consolidated with any other proceeding commenced under [IC 4-21.5](#) to enforce this chapter or the rules adopted under this chapter.

(g) The state chemist may limit the imposition of a civil penalty in a proceeding involving multiple counts of repeated incidents of the same violation to five (5) counts.

~~(h)~~ (h) Money collected for civil penalties imposed under section 65 of this chapter shall be credited to the office of Purdue pesticide programs. The money may be used only to provide education about pesticides.

[Pre-2008 Recodification Citation: 15-3-3.6-14.5.]

As added by P.L.2-2008, SEC.7. Amended by P.L.91-2020, SEC.26; P.L.76-2021, SEC.4.

IC 15-16-5-67 Review of state chemist actions; hearing

Sec. 67. (a) A person who is:

- (1) subject to an action under section 65, 66, or 70 of this chapter; and
- (2) aggrieved by any decision by the state chemist;

may obtain a review by the board, if the person files a written petition with the board not later than thirty (30) days after the state chemist's decision.

(b) The board shall provide a copy of a petition filed under subsection (a) to the state chemist not later than seven (7) days after receiving the petition.

(c) Not more than fifteen (15) days after receiving a petition under subsection (b), the state chemist shall certify and file with the board a transcript of any record related to the petition, including a transcript of any evidence received.

(d) Whenever a hearing is held under this section, the board may designate one (1) or more persons as the board's agent or representative to conduct the hearing. The agent or representative shall conduct the hearing in the manner provided by [IC 4-21.5-3](#).

(e) After hearing the appeal, the board shall affirm, set aside, or modify the action of the state chemist. However, the state chemist's finding of facts that are supported by the substantial evidence is considered conclusive.

(f) A person aggrieved by any action of the board may obtain judicial review under [IC 4-21.5-5](#).

[Pre-2008 Recodification Citation: 15-3-3.6-15.]

As added by P.L.2-2008, SEC.7. Amended by P.L.109-2015, SEC.38.

IC 15-16-5-68 Subpoenas

Sec. 68. The state chemist may request a court to issue subpoenas to compel:

- (1) the attendance of witnesses; or
- (2) the production of books, documents, and records;

as part of an authorized investigation or a hearing located in Indiana affecting the authority or privilege granted by a license, certificate, registration, or permit issued under this chapter.

[Pre-2008 Recodification Citation: 15-3-3.6-17.]

As added by P.L.2-2008, SEC.7.

IC 15-16-5-69 Inspections; search warrant; prosecution; injunction

Sec. 69. (a) The state chemist may enter upon any public or private property at reasonable times to do the following:

- (1) Observe the use and application of a pesticide product.
- (2) Inspect equipment subject to this chapter.
- (3) Inspect and sample property actually or reported to be exposed to pesticide products.
- (4) Inspect storage or disposal areas.
- (5) Inspect or investigate complaints of injury to humans or property.
- (6) Sample pesticide products being produced, distributed, transported, stored, disposed, or used or to be used.
- (7) Inspect and obtain copies of pesticide product production, sale, distribution, purchase, use, storage, and disposal records, including confidential business information. Confidential business information obtained under this subdivision is confidential for purposes of [IC 5-14-3-4\(a\)](#).

(b) The state chemist may, upon showing a need, apply to any court with jurisdiction for a search warrant authorizing access to the property. The court may, after receiving the application and finding a need, issue the search warrant for the purposes requested.

(c) A prosecuting attorney to whom a violation of this chapter is reported may institute and prosecute the violation in a court with jurisdiction of that county without delay. The state chemist may apply for and the court may grant a temporary or permanent injunction restraining any person from violating or continuing to violate this chapter or any rule adopted under this chapter notwithstanding the existence of other remedies at law. The injunction may be issued without bond.

[Pre-2008 Recodification Citation: 15-3-3.6-18.]

As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.83; P.L.99-2012, SEC.19.

IC 15-16-5-70 Violations; penalty; injunction

Sec. 70. (a) A person who recklessly, knowingly, or intentionally:

- (1) violates this chapter, except as provided in subsection (b); or
- (2) impedes or prevents the state chemist or the state chemist's agent from performing a duty of the state chemist;

commits a Class C misdemeanor.

(b) A person who recklessly, knowingly, or intentionally violates section 65(9) of this chapter after the state chemist has issued written notification to that person regarding a previous violation of section 65(9) of this chapter commits a Class A misdemeanor.

(c) The state chemist may bring an action to enjoin the violation or threatened violation of this chapter or a rule under this chapter. A court may not allow the recovery of damages for an administrative action taken under this subsection if the court finds that there was probable cause for the action.

[Pre-2008 Recodification Citation: 15-3-3.6-16.]

As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.84.

IC 15-16-5-71 Political subdivision regulation of pesticides prohibited; hearing; variance

Sec. 71. (a) A political subdivision (as defined in [IC 36-1-2-13](#)) does not have authority to regulate by ordinance the use or application of pesticides.

(b) A political subdivision may, by resolution, petition the board for a hearing to allow a variance from a rule of the board because of special circumstances relating to the use or application of a pesticide. If a petition is received, the board shall hold a public hearing to consider allowing the variance requested. The public hearing shall be conducted in an informal manner. [IC 4-21.5](#) does not apply to the public hearing under this section.

(c) The board may grant a variance requested under this section with or without changes.

[ADDED 2023] IC 15-16-5-72 Restrictions on rules governing pesticides; exceptions

Sec. 72. (a) Except as provided in [IC 4-22-2.3-9](#), a rule adopted under this chapter that becomes effective after June 30, 2023, may not impose a restriction or requirement concerning pesticides more stringent than a restriction or requirement imposed under federal law unless the restriction or requirement is specifically authorized by Indiana law.

(b) Restrictions or requirements specifically authorized to be more stringent than a restriction or requirement imposed under federal law include the following:

- (1) Commercial termite control applicators (category 7b) must complete a practical hands-on training program to become certified.
- (2) Commercial applicators must have access to the pesticide label when applying pesticides.
- (3) Commercial for hire general use pesticide application businesses are required to show proof of having minimum liability insurance coverage.
- (4) Commercial for hire general use pesticide applicators (category 7b) must disclose to customers any omissions from label required termite control applications.
- (5) Commercial applicators and school employees applying general use pesticides at schools:
 - (A) may not apply when students are present;
 - (B) must notify students, parents, and staff of planned and conducted applications;
 - (C) must store pesticides safely;
 - (D) must keep students and staff out of treated areas until spray has dried; and
 - (E) may only apply rodenticide baits in areas inaccessible to students.
- (6) Commercial and private applicators must store and contain general use pesticide portable refillable containers (minibulks) safely to prevent releases to the environment.
- (7) Commercial and private applicators may not store, mix, or load general use pesticides within two hundred (200) feet of a community public drinking water well.
- (8) Commercial and private applicators must store general use pesticide containers on impervious surfaces within a wellhead protection area zone.
- (9) Commercial and private applicators must clean up general use pesticide spills within a wellhead protection area immediately upon discovery.
- (10) Commercial and private applicators may not open burn general use pesticide containers.

As added by P.L.249-2023, SEC. 78.

Provisions to be flushed out once we know what will be in the official draft:

SECTION X. [EFFECTIVE UPON PASSAGE] (a) 357 IAC x-x-x is void. The publisher of the Indiana Administrative Code and Indiana Register shall remove this rule from the Indiana Administrative Code. (b) This SECTION expires July 1, 2024.

SECTION X. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, “board” refers to the pesticide review board” established by IC 15-16-4-42.

(b) Not later than June 30, 2024, the board shall adopt provisional rules under IC 4-22-2-37.1 to amend 357 IAC x to:

- (1) conform 357 IAC x with this act; and ...**

SECTION. X. An emergency is declared for this act.