



**Office of Indiana
State Chemist**



Senate Bill No. 216 Summary To Date

Indiana Pesticide Review Board Meeting
January 17, 2024

-Dave Scott-
Pesticide Administrator

2023 Law Changes...House Enrolled Act 1623

- **SYNOPSIS**

- Establishes the government reform task force.
- Prohibits the consideration of the number or level of fines or civil penalties imposed on regulated entities by an employee in an agency's evaluation or compensation of the employee.
- Makes various procedural changes concerning the adoption of rules.
- Prohibits state standards for disposal of coal combustion residuals to be more stringent than federal standards.
- Permits a person to recover attorney's fees if an agency issues an order that is based on an invalid rule or issued without legal authority.
- Prohibits pesticide rules for GUPs that are more stringent than federal law (FIFRA).

What federal requirements does EPA have for GUPs?

User must follow label use directions
(*FIFRA Sec. 12(a)(2)(G)*)

- Applies to all RUPs & GUPs
- Required for all users, licensed (certified) or not

Bulk pesticide storage & containment
(*40 CFR 165*)

- Applies to all ag RUPs & GUPs

Agricultural pesticide worker & handler standard (WPS) rule (*40 CFR 170*)

- Applies to all ag RUPs & GUPs
- Applies to all users, licensed (certified) or not

What was Definitely Eliminated by HEA 1623?

- Advance notice to OISC of planned GUP preconstruction termite treatments.
- Applicator certification required to apply GUPs:
 - *at schools,*
 - *at golf courses,*
 - *for community-wide mosquito control.*
- Hands-on training, experience, or post high school turf degree required for 3b certification.
- Posting (flagging) lawns treated for hire.
- Customer notification of lawns treated for hire.
- Record keeping for GUP applications:
 - *for hire,*
 - *at schools,*
 - *at golf courses.*
- Off-target drift of a GUP causing an adverse effect to a non-target site.

What GUP Requirements are Still in Place?

- 2-day hands-on training for 7b certification.
- Customer disclosure of less-than-label termiticide applications.
- Applicator must have access to labels when applying GUPs.
- Applicators & school employees must:
 - Do not apply when students are present
 - Keep students & staff out of treated area until spray dries
 - Do not apply rodenticide baits in areas accessible to students
 - Store pesticides safely
 - Facilitate a notification registry for students & staff (*requirement for school*)

What May Be Eliminated if Not Clarified by 2024 Law Change?

- Business license required to apply GUPs for hire.
- Certification & license of applicator required to apply GUPs for hire.
- Direct supervision of non-certified applicators required to apply GUPs.
- Technician registration required to apply GUPs without on-site supervision.
- *IN NPDES Pesticide General Permit* coverage for applications in or near waters of the U.S. (WOTUS).

Objective of 2024 legislation?

Either

Clearly repeal all GUP requirements meant to be de-regulated,

OR

Clearly incorporate some acceptable GUP requirements into law.

Introduction of Senate Bill No. 216



SYNOPSIS



Limits certain rulemaking authorities for the Indiana pesticide review board to restricted use pesticides only.



Specifically identifies and eliminates state rules and requirements that are more restrictive than federal rules or requirements.



Replaces more stringent state rules and requirements with federal rules and requirements.

Previous Requirements to be Repealed by SB # 216

Repeal	All certification & licensing requirements for all GUP businesses & applicators.
Repeal	All technician registration requirements for all GUP users.
Repeal	Supervision requirements for non-certified GUP applicators.
Repeal	All record keeping requirements for all GUP applications.
Repeal	All certification & licensing requirements for commercial lawn care fertilizer applicators referenced in pesticide rules.

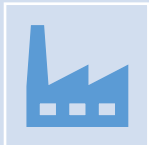
Repeal & Replace with Federal Requirements



Repeal requirement for full certification of every RUP user & replace it with option for “direct supervision” of non-certified applicators (40 CFR 171.201).



Repeal bulk pesticide storage & secondary containment requirements & replace them with less stringent federal requirements (40 CFR 165).



Adopt federal agricultural worker protection standard (WPS) requirements (40 CFR 170) as state standards.

Repeal from Rule & Move into Law



Definition of “nontarget site”.



Definition of “pesticide notification registry” for schools.



Definition of “school”.



Definition of “wellhead protection area zone”.



Requirements for record keeping for RUP applications.



Requirements for record keeping for RUP sales & distribution.

Repeal from Rule & Move into Law



Requirements for storage & handling in a wellhead protection area.



Requirements to prohibit open burning of pesticide containers.



Requirements to prohibit off-target drift that causes an adverse effect.



Requirements for pesticide use in schools:

Do not apply when students are present

Keep students & staff out of treated area until spray dries

Apply rodenticide baits in areas inaccessible to students

Store pesticides safely

Facilitate a notification registry for students & staff

Add New Provisions to Law



Definition of “material damage”.



Include “material damage” in the definition of “adverse effect”.



Cap civil penalty assessment at five(5) counts for same repeat violations in a single proceeding.



Require OISC to have reasonable suspicion of a violation before conducting an inspection or investigation.

Current Actions on SB # 216

- Authors... Sen. Walker (K); Garten; Niemeyer
- First reading on January 9, 2024.
- Referred to Senate Committee on Environmental Affairs.
- No committee hearings scheduled yet....*January 22nd OR January 29th ?*
- Available at <https://iga.in.gov/legislative/2024/bills/senate/216/details>

40 CFR 171.201 Direct Supervision of Noncertified Applicators

- Applies to RUP use only.
- Supervisor must be certified in the right category.
- Supervisor's responsibility to ensure compliance by noncertified applicator.

40 CFR 171.201 Direct Supervision of Noncertified Applicators

- Annual noncertified applicator training must include either:
 - Federal WPS ag handler training; OR
 - Specific 25-point list of training items; OR
 - State equivalent of 25-point list of training items; OR
 - Applicator is certified in a different category from the work being performed
- Annual training records must include:
 - Trainees printed name & signature
 - Date training provided
 - Name of the trainer
 - Title or description of training
 - *Certification # of noncertified applicator, if operating in a different category*
 - *Certification expiration date of noncertified applicator*
 - *Agency that issued the certification.*



Questions or Comments?

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