



**Office of Indiana
State Chemist**



SEA #216 Farmers & Private Applicators

Indiana Pesticide Review Board

April 3, 2024

-Dave Scott-

Overview of Today's Discussion

- 2023-2024 Legislative Changes
- Storage & Containment of Bulk Pesticides
- Direct Supervision of Noncertified Applicators Using RUPs
- Worker Protection Standard (WPS) & Direct Supervision Overlap

2023-2024 Legislative Changes

- House Enrolled Act # 1623
 - Effective July 1, 2023
 - No GUP requirements more stringent than those imposed by EPA
 - Repeal some, if not all, state GUP requirements & rules
 - lacked specificity
 - created uncertainty
- Senate Enrolled Act # 216
 - Effective July 1, 2024
 - Clarified which state GUP requirements should remain
 - Moved most requirements from rule into law (General Assembly approval)
 - Replaced some state rules with less stringent federal rules
 - Placed legal requirements & restrictions on some OISC activities

State Requirements Replaced by Federal Rules in Law

- Agricultural Pesticide Worker Protection Standard (WPS)
- Storage & Containment of Bulk Pesticides
- Direct Supervision of Noncertified Applicators Using RUPs

Storage & Containment of Bulk Pesticides

- Previously in Indiana rule 355 IAC 5
- Bulk was defined as greater than 55 gal. capacity container
- Previously applied to all bulk pesticides
- Previously both stationary bulk & portable minibulk required:
 - Secondary containment (dikes)
 - Operational pads (mix/load)
- Replaced by less stringent federal rule 40 CFR 165
- <https://www.epa.gov/sites/default/files/2015-05/documents/regulations-glance-table-7.pdf>

Storage & Containment of Bulk Pesticides

- All previous requirements basically remain, EXCEPT...
- New dike & mix/load pad requirements apply to only:
 - Tanks capable of storing 500 gal. or greater (*refillable minibulks no longer included*)
 - 4,000 pounds or greater of dry storage
 - Agricultural pesticides (*non-agricultural pesticides no longer included*)
 - Refilling establishments (*refill minibulks & portable containers*)
 - Commercial applicator locations
 - Custom blender locations
- New requirements also include:
 - At least monthly inspection of dikes & pads
 - Initiate same day repairs of cracks, leaks, etc.
 - Keep records of inspections & repairs for 3 years

Direct Supervision of Noncertified Applicators Using RUPs

- Previously in Indiana rule 355 IAC 4-1, prohibiting direct supervision.
- Replaced by less stringent 40 CFR 171.201, allowing direct supervision
- Applies to RUP use only, not use of GUPs.
- Applies to both Private Applicators & Commercial Applicators.
- Supervisor's responsibility to ensure compliance by noncertified applicator.
- <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-E/part-171/subpart-C/section-171.201>

“Use” of RUPs includes:

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.

Direct Supervision of Noncertified Applicators Using RUPs

- Supervisor must ensure noncertified applicator:
 - Has been trained within last 12 months on WPS agricultural handler training
 - Has been trained within last 12 months on specific equipment use
 - Has continuous access to the label(s)
 - Has label required PPE & is wearing it correctly
 - Has product-specific & **site-specific use directions** for each application site
 - Has equipment that has been determined to be properly operating, daily
 - Has means for immediate communication with supervisor
 - Supervisor is physically present, if label requires it
 - Is aware of noncertified applicator training records

Annual Training for Noncertified RUP Users

- Annual noncertified applicator training:
 - Federal Worker Protection Standard (WPS) ag handler training
 - <https://www.pesticideresources.org/wps-resources/worker-protection-standard-wps-for-pesticide-handlers/>
- Annual training records must include:
 - Trainee's printed name & signature
 - Date training provided
 - Name of the trainer (*certified applicator or trained trainer*)
 - Title or description of training (*see above*)

Site-Specific Use Directions May Include (DRAFT):

- Search for nearby sensitive fields or sites...<https://driftwatch.org/>
- Search for ESA restrictions... <https://www.epa.gov/endangered-species/bulletins-live-two-view-bulletins>
 - Pesticide Use Limitation Areas (PULAs)
 - No spray restrictions
 - Mandatory buffers
 - Mandatory conservation practices
- Waterbody or well location restrictions
- Sensitive neighbor agreements
- Others?????

WPS & Direct Supervision Overlap

- Supervisor (RUP use)/ Employer (WPS products) must ensure:
 - training within last 12 months on ag WPS/supervision ag handler training
 - is keeping the noncertified applicator WPS/supervision training records
 - training within last 12 months on specific equipment use
 - use equipment & PPE determined properly operating, daily
 - continuous access to the label(s)
 - label required PPE is available & is being worn correctly
 - product-specific & site-specific use directions for each application site
 - means for immediate communication with supervisor
 - certified supervisor is physically present, if label requires it
 - no one except trained & protected persons contacts pesticide(s)

OISC Pesticide Home Page

<https://oisc.purdue.edu/pesticide/index.html>

News:

- **NEW** - [The Scoop](#) - (Pesticide Section Newsletter) - Winter 2024 Edition (pdf, 181kb)
- **NEW** - [Applicator Training, Certification and Licensing Requirements Summary](#) (pdf, 303kb)
- **NEW** - [Direct Supervision of Noncertified Applicators Using Restricted Use Pesticides](#) (pdf, 321kb)
- **NEW** - [Pesticide Recordkeeping](#) (pdf, 345kb)
- **NEW** - [Bulk Storage & Containment Requirements Summary](#) (pdf, 280 kb)
- [Dicamba Herbicide Updates](#)

Comments

Questions

Discussion ?

Thank you !

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