

Economic Impact Statement

LSA Document #22-329

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

Small businesses in Indiana are described as any business with fewer than 500 employees. Essentially, all the regulated businesses described in this analysis will be considered small businesses. Based on current and projected credentialing data maintained by the Office of the Indiana State Chemist (OISC), it is estimated that the following numbers of businesses and pesticide applicators could be subject to some portions of these rules: 3,633 commercial pesticide application businesses, 10,720 commercial pesticide applicators, 3,872 commercial pesticide technicians, 599 Restricted Use Pesticide (RUP) pesticide dealers, and 11,090 permitted farmers.

Justification for the Rules:

Same or similar definitions and terms used throughout [IC 15-16-4](#), [IC 15-16-5](#), and the rules thereunder are proposed to be consolidated, simplified, clarified, and made consistent to assist pesticide applicators, handlers, and distributors with regulatory compliance and implementation.

Many of the rules proposed to be repealed contain applicator certification and record keeping requirements that are to be consolidated into requirements in [355 IAC 4](#). This repeal and replace effort will assist with regulatory compliance and implementation, without creating any new regulatory requirements. It will also allow for easier entry of registered technicians into the commercial applicator workforce.

Civil penalty assessment and implementation for violations under the state pesticide statutes have previously been guided by a combination of provisions contained in both statute and rule. In 2020, amendments to [IC 15-16-4-69](#) and [IC 15-16-5-66](#) moved the entire civil penalty process into law. Therefore, the rules previously addressing the civil penalty assessment process have become unnecessary and are proposed for repeal.

Other rules containing elements of pesticide storage and handling have also been repealed from [357 IAC 1](#) and combined with storage and container handling requirements in proposed revisions to [355 IAC 5](#). Repealed and replaced rules from [357 IAC 1](#) include regulation of pesticides near community public water supply system wells ([357 IAC 1-10](#)), open burning of pesticide containers ([357 IAC 1-13](#)), and use of pesticide service containers ([357 IAC 1-14](#)).

Proposed revisions to [357 IAC 1-17-1](#) include the removal of an exception from RUP classification for dicamba-containing pesticides that also contain the active ingredient 2,4-D. The removal of this exception became necessary because the seed producing industry is now in the process of inserting both dicamba and 2,4-D tolerant traits into the same soybean seed. The RUP classification was previously not necessary for the dicamba and 2,4-D combination herbicides because intentional misuse of the combination products could not occur without damaging the target soybean crops. The safe use of the combination products was essentially self-regulating whether the applicator was trained and certified or not. Stacked dicamba and 2,4-D tolerance in the same seed would now allow access to and misuse of nonrestricted products by noncertified applicators.

Estimate of Compliance Costs for Regulated Entities:

There are no new or additional regulatory requirements created by these amendments, other than the removal of the exception from RUP classification for dicamba-containing pesticides that also contain the active ingredient 2,4-D. According to OISC data, there are currently 21 registered products in Indiana that contain at least 6.5% dicamba, contain some 2,4-D, are labeled for agricultural production uses, and would be impacted by this proposed rule revision. The annual product registration fee for selling or distributing pesticides under [IC 15-16-4](#) is the same for both general use pesticides and RUPs, so no additional costs would be incurred by product registrants or manufacturers of these 21 products. In addition, annual registration is required for dealers that distribute RUPs directly to certified end users and applicators in Indiana. OISC data suggests that these products are being distributed by dealers that are already registered to distribute other RUPs, so, no additional costs for dealer registration are anticipated.

Estimate of Administrative Expenses Imposed by the Rules:

There are no new or additional regulatory requirements created by these amendments, so there will be no new or added administrative expenses.

Estimate of any Costs Savings to Regulated Industries:

In consideration of requirements that have been standardized and simplified, potential consultation and legal expenses should be reduced. However, assessing the specific value of those potential savings is imprecise and beyond the capabilities of this analysis.

Examination of Alternatives:

Because there are no new or additional regulatory requirements created by the majority of these amendments and because impacted product dealers, manufacturers, and registrants of dicamba and 2,4-D combination products are already incurring the established costs of compliance, there is no apparent need to consider more cost effective alternatives.

Total Estimated Impacts on All Small Businesses:

Because there are no new or additional regulatory requirements created by the majority of these amendments and because impacted product dealers, manufacturers, and registrants of dicamba and 2,4-D combination products are already incurring the established costs of compliance, there are no foreseeable economic impacts to small businesses associated with these proposed rule revisions.

Contact information for the IPRB staff to answer substantive questions:

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