

## **IC 15-16-4**

### Chapter 4. Pesticides

#### **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.  
*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.

*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 falls below 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.

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

**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.

*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.

*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.

*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.

*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.

*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.

*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 insects or rodents or 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.

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

**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.

*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.

*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.

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

**IC 15-16-4-14****"Fungi"**

Sec. 14. As used in this chapter, "fungi" means all

nonchlorophyll-bearing thallophytes (all nonchlorophyll-bearing plants of a lower order than mosses and liverworts), including:

- (1) rusts;
- (2) smuts;
- (3) mildews;
- (4) molds;
- (5) yeasts;
- (6) bacteria; and
- (7) viruses;

except those on or in a living human or other animal.

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

#### **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.

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

#### **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.

*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.

*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 product.

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

#### **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.

*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.

*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.

*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.

*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.

*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.

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

#### **IC 15-16-4-25**

##### **"Misbrand"**

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) 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.

*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.  
*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.

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

**IC 15-16-4-28**

**"Person"**

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

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

whether incorporated or not.

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

**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.

*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.

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

**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.

*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.

*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.

*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 to the extent they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

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

**IC 15-16-4-35**

**"Produce"**

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

- (1) manufacture;
- (2) prepare;
- (3) compound;
- (4) process; or
- (5) change;

the container of a pesticide product or an active ingredient. 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.

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

**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.

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

**IC 15-16-4-37****"Restricted use pesticide"**

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

- (1) any pesticide classified as a restricted use pesticide by the administrator of the United States Environmental Protection Agency; or
- (2) 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.

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

**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.

*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.

*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.

*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.

*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 state 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 with earned doctorate degrees:
  - (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 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 nonagronomic crops.

- (10) One (1) public representative from conservation organizations.
- (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.

*As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.63.*

#### **IC 15-16-4-43**

##### **Vacancies**

Sec. 43. A vacancy on the board 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.

*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.

*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.

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

#### **IC 15-16-4-46**

##### **Board; quorum**

Sec. 46. (a) Nine (9) 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.

*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.  
*As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.65.*

#### **IC 15-16-4-48**

##### **Board; information concerning pesticides**

Sec. 48. The board shall:

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

information on matters relating to the use of pesticides.

*As added by P.L.2-2008, 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.

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

#### **IC 15-16-4-50**

##### **Rules**

Sec. 50. (a) The board may adopt rules under IC 4-22-2 to do the following:

- (1) Establish a list of restricted use pesticides and pesticides for use by prescription only for all of Indiana or designated areas within Indiana, if the board finds that the characteristics of a pesticide require that rules restricting the:

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

- (2) Provide for the:
  - (A) safe handling;
  - (B) transportation;
  - (C) storage;

- (D) display;
  - (E) distribution; and
  - (F) disposal;
- of pesticides and pesticide containers.
- (3) 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.
- (b) The board may adopt by reference the restricted use classification of a pesticide that is maintained by the United States Environmental Protection Agency.
- (c) The board may do the following:
- (1) Include in a rule adopted under subsection (a)(1) the time and conditions of the:
    - (A) sale;
    - (B) distribution; or
    - (C) use;of pesticides designated as restricted use pesticides and pesticides for use by prescription only.
  - (2) Require in a rule under subsection (a)(1) that any or all materials 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.
- (d) The state chemist may require all persons issued:
- (1) permits;
  - (2) certificates;
  - (3) licenses; or
  - (4) registrations;
- under subsection (c) to maintain records as to the use of the restricted use pesticides and pesticides for use by prescription only.
- As added by P.L.2-2008, SEC.7.*

#### **IC 15-16-4-51**

##### **Administration; state chemist**

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

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

#### **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" and "pesticides for use by prescription only".

(4) Determining standards of coloring or discoloring for pesticide products and to subject pesticide products to the requirements of section 57 of this chapter.

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

#### **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.

*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.

*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 and the rules adopted under this chapter.

(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.

*As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.67.*

#### **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; and
- (4) labeling.

*As added by P.L.2-2008, 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 (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 in containers violating rules adopted under section 50(a)(3) 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).

*As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.68.*

#### **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.

*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; or

(5) use a highly volatile herbicide except on written permission by the state chemist.

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

#### **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.

*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 must be made on a form provided by the state chemist that includes the following information:

- (1) The name and address of the:
  - (A) applicant; and
  - (B) person whose name will appear on the label, if a person other than the applicant.
- (2) The complete brand name of the pesticide.
- (3) A complete copy of the labeling accompanying the pesticide.
- (4) A statement of all claims to be made for it, including directions for use.
- (5) If requested by the state chemist, a full description of the tests made and the results of the tests upon which the claims are based. In the case of renewal of registration, a statement shall be required only with respect to information that is different from that furnished when the pesticide was registered or last reregistered.

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

#### **IC 15-16-4-62**

##### **Fees; disposition**

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

(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 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.

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

#### **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.

*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 shall require the submission of the complete formula of any pesticide product, including the:

- (1) confidential statement of formula;
- (2) analytical methods for the analysis of the pesticide formulation and the analysis of residues of the pesticide product in environmental media; and
- (3) analytical standards of the pesticide product.

In the case of a federally registered product, this requirement 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 has complied with the requirements 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.

(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.

(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.

*As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.69.*

## **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. The state chemist may, by rule, declare that information required under this chapter is confidential.

*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.

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

#### **IC 15-16-4-67**

##### **Handling and storage**

Sec. 67. A person may not 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.

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

#### **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.

*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 only in accordance with the schedule of civil penalties adopted by the board. The board shall establish a schedule of the civil penalties that may be imposed under subsection (a) by rule adopted under IC 4-22-2. The rule adopted under this subsection may not provide for a civil penalty that exceeds the following:

- (1) Two hundred fifty dollars (\$250) for a person's first violation.
- (2) Five hundred dollars (\$500) for a person's second violation.
- (3) One thousand dollars (\$1,000) for a person's third violation and each subsequent violation.

(c) If a violation is of a continuing nature, the state chemist may impose a civil penalty for each day that the violation occurred.

(d) 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.

(e) 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.

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

#### **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.

*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.

*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.

*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 immediately issue a notification to the dealer or registrant of the pesticide product 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 approval before the sale of the pesticide device.

*As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.72.*

#### **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.

*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.

*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.

*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.

*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.

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