INDIANA PESTICIDE REVIEW BOARD

Sarah Caffery, *Secretary*

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SUBJECT: Highly Volatile Herbicide (HVH) Determination

NONRULE DETERMINATION DOCUMENT: Indiana Pesticide Review Board (IPRB)

DETERMINATION NUMBER: PESTICIDE-021-NDD

AUTHORIZED: *Ronald A. Hellenthal, IPRB Chair*

ORIGINALLY EFFECTIVE: March 2, 2021

RENEWED/REVISED:

Disclaimer: *This Nonrule Determination Document (NDD) is being established by the Indiana Pesticide Review Board (IPRB), consistent with its authority under IC 15-16-4-17 and IC 15-16-4-48. It is intended solely to provide guidance and shall be used in conjunction with applicable rules and laws, specifically IC 15-16-4-57(7) and IC 15-16-4-59(5).This determination and associated interpretation, implementation, and permitting documents will be available for public inspection at https://oisc.purdue.edu/pesticide/dicamba.html*

PURPOSE:

The purpose of this NDD is to establish the IPRB's determination under IC 15-16-4-17 that a herbicide containing at least 6.5% dicamba active ingredient and classified as a Restricted Use Pesticide (RUP) under IC 15-16-4-37 shall be a Highly Volatile Herbicide (HVH). The HVH determination is intended for herbicides 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.

Dicamba herbicides, when applied in air temperatures approaching or exceeding 85 degrees Fahrenheit, have an increased likelihood of volatilizing and moving off the application target. In addition, dicamba herbicides, when applied during periods when nearby non-target desirable plants are at a growth stage that make them vulnerable to low level herbicide exposure, can result in abnormally large numbers of off-target movement instances. Public complaint investigation data collected in Indiana and other major soybean producing states during the period 2017 through 2023 have confirmed the challenges associated with applying dicamba herbicides effectively and safely without causing a significant level of off-target adverse effects.

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The IPRB intends, with this determination and with provisions established in IC 15-16-4-57(7) and IC 15-16-4-59(5), to significantly reduce the incidence of off-target movement of dicamba HVHs to protect sensitive non-target plants. Specifically, the IPRB intends to:

1. Prohibit the sale or distribution of dicamba HVHs to an end user in Indiana, except on written permission provided by the Office of Indiana State Chemist (OISC);
2. Prohibit the application of dicamba HVHs in Indiana, except on written permission provided by the OISC; and
3. Advise the OISC to modify the permit conditions by eliminating the June 20th cutoff restriction for applications to sites and crops other than soybeans and replacing that with a requirement to mandate the inclusion of a volatility reduction adjuvant (VRA) in each application tank mix containing a dicamba HVH; and
4. Advise the OISC to modify the permit conditions for the requirements of the VRA. Inclusion of a VRA in the application tank mix containing a dicamba HVH is not required between the dates of October 1st – March 1st.

SCOPE:

This NDD and associated written permission from the OISC to sell and distribute dicamba HVHs shall be issued only to Registered Restricted Use Pesticide Dealers (IC 15-16-5-57). The written permission required from the OISC shall be issued through a Dicamba HVH General Permit for Sale or Distribution. All dealers registered with OISC shall be eligible for and covered by the general permit, without additional application or prenotification to OISC. Standard RUP sale, distribution, and recordkeeping requirements under IC 15-16-5-57 shall apply to HVHs.

This NDD and associated written permission from OISC to apply dicamba HVHs only with a volatility reduction agent (VRA) shall be issued only to licensed category 1 (agricultural pest management) commercial applicators (IC 15-16-5-7) and private applicators (IC 15-16-5-30). The written permission required from the OISC shall be issued through a Dicamba HVH General Permit for Application. All commercial and private applicators licensed with OISC shall be eligible for and covered by the general permit without additional application or prenotification to OISC. Standard RUP application and recordkeeping requirements under IC 15-16-5-57 shall apply to HVHs.

SUMMARY:

Implementing the dicamba HVH determination and the associated OISC dealer and applicator written permission procedures will result in the continued reduction in dicamba herbicide off-target movement incidents in Indiana. Reasonable management of dicamba herbicides through this determination will allow for the benefits of continued use of these valuable agricultural weed control tools, while providing a level of protection to off-target environments.

DEFINITIONS:

1. **"Dicamba Highly Volatile Herbicide (HVH)"** means any herbicide containing and least 6.5% dicamba active ingredient that is also classified as a Restricted Use Pesticide (RUP) by the Indiana Pesticide Review Board or the U.S. EPA. A current listing of HVHs is available at https://oisc.purdue.edu/pesticide/pdf/rup_listing.pdf .

2. **"Dicamba Highly Volatile Herbicide General Permit for Application"** means the general written permission provided by the Office of Indiana State Chemist (OISC) for the application of a dicamba Highly Volatile Herbicide. The general permit shall cover all category category1(agricultural pest

management) applicators and all private applicators licensed by OISC for the application of a dicamba Highly Volatile Herbicide. Coverage under the general permit does not require individual application to OISC.

3. **"Dicamba Highly Volatile Herbicide General Permit for Sale or Distribution"** means the general written permission provided by the Office of Indiana State Chemist (OISC) for the sale or distribution of any RUP, including any dicamba Highly Volatile Herbicide. The general permit shall cover all restricted use pesticide (RUP) dealers registered by OISC. Coverage under the general permit does not require individual application to OISC.

4. **"Indiana Pesticide Review Board (IPRB)** means the governor appointed board established under IC 15-16-4-42 to collect analyze, and interpret information on matters relating to the registration of pesticides, as authorized under IC 15-16-4-48; and to make a determination that a herbicide is a highly volatile herbicide, as defined in IC 15-16-4-17.

5. **"Office of Indiana State Chemist (OISC)"** means the pesticide state lead agency in Indiana required to issue written permission to sell or distribute highly volatile herbicides, under IC 15-16-4-57(7), and to use a highly volatile herbicide, under 15-16-4-59(5).

6. **"Nonrule Determination Document (NDD)"** means the term assigned by the IPRB to communicate the HVH determination and the associated compliance and implementation guidance. This determination by the IPRB does not require rule adoption under IC 4-22-2. Implementing the written permission process by OISC for sale, distribution, or use of a HVH does not require rule adoption under IC 4-22-2.

SIGNATURES:

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Ronald A. Hellenthal, Chair Date
Indiana Pesticide Review Board

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Mark R. LeBlanc, State Chemist & Seed Commissioner Date
Office of Indiana State Chemist

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Sarah K. Caffery, Pesticide Administrator Date
Office of Indiana State Chemist

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