



**Office of Indiana
State Chemist**



New Civil Penalty Legislation & OISC Enforcement Response Policy

Indiana Pesticide Review Board

June 3, 2021

-Dave Scott-

New Civil Penalty Legislation

Senate Enrolled Act No.
227

Effective July 1, 2021

Creates transparent,
structured, & consistent
penalty assessment
requirements for OISC

Eliminates the previous
rule (357 IAC 1-6)
required for civil penalty
law implementation

Eliminates differing
penalties for private
applicators vs. all other
applicators/regulated
entities

Eliminates escalating
penalty schedule for 1st,
2nd, 3rd... violation within
5 years

Incorporates concepts of
higher penalties for
adverse effects, RUP vs.
GUP, intent, knowing or
fraudulent acts

New Civil Penalty Legislation

Written WARNING for 1st incident of violation of any requirement in state law or regulation that is not specifically included in the \$500 or \$1000 penalty categories.

\$250 for 2nd and subsequent incidents of violation within the 5 years of the date of the warning for the same violation type.

\$500 Civil Penalty Category

Unknowingly offered for sale or distribution an unregistered pesticide

Unknowingly distributed a RUP without an RUP dealer registration

Stored a GUP minibulk container outside of secondary containment after 30-day delivery date

Offered for sale or distributed a:

- Misbranded pesticide
- Adulterated pesticide
- Pesticide in a non-compliant container

\$500 Civil Penalty Category

After written notice neglected to:

- keep records or supply investigation information to OISC
- comply with limits and restrictions on licenses, permits, etc.

Made false or fraudulent records

Unknowingly operated without a license

Made false or misleading statements about infestations

Knowingly purchased or used a non-registered pesticide

Misused a RUP but no adverse effects

Misused a GUP resulting in an adverse effect

Drifted a GUP resulting in an adverse effect

\$1000 Civil Penalty Category

Knowingly:

- Produced, offered to sell or distribute a non-registered pesticide
- Distributed an RUP without an RUP dealer registration

Distributed an RUP to a noncertified person.

Produced, distributed, offered for sale, stored, handled or transported a pesticide in a container not in compliance with FIFRA or in a manner to cause injury to man or the environment.

After notice, refused to comply with the law, rules, or a lawful order of the IPRB or OISC.

Violated a stop sale or action order from OISC.

Impede or prevent OISC in performing its duty.

Store any (GUP or RUP) bulk container or any RUP minibulk container (after 30-day delivery date) outside of secondary containment.

\$1000 Civil Penalty Category



Operated in a careless or negligent manner

Refused to keep records or supply investigation or inspection information to OISC

Intentionally made false reports or records

Knowingly operated without a license

Refused to comply with limits or restrictions licenses or permits

Used fraud in getting or maintaining a license or altered a license

Impersonated any government official

Aided or abetted a person to evade or conspired to evade the law

Misused a RUP resulting in an adverse effect

Drifted a RUP resulting in an adverse effect

Old vs. New Drift Violation Comparison

Violation	Product	Adverse Effect	Old Penalty (PA)	Old Penalty (CA)	New Penalty (all)
Off-label	GUP	No	WRN	WRN	WRN; \$250 (5 years)
Off-label	GUP	Yes	\$100	\$250/ \$500/ \$1000	\$500
Off-label	RUP	No	\$100	\$250/ \$500/ \$1000	\$500
Off-label	RUP	Yes	\$100	\$250/ \$500/ \$1000	\$1000
Drift rule	GUP	No	NA	NA	NA
Drift rule	GUP	Yes	\$100	\$250/ \$500/ \$1000	\$500
Drift rule	RUP	No	NA	NA	NA
Drift rule	RUP	Yes	\$100	\$250/ \$500/ \$1000	\$1000

Civil Penalty Mitigation



No mitigation for \$1000 penalty category

Mitigation potential for \$250 and \$500 categories

OISC may reduce penalty 20% for each:

- Cooperated with OISC during investigation or inspection
- Took corrective action to prevent repeat of similar violation
- Compensated a victim for any adverse effect resulting from violation

Licensing Action Considerations for Drift Violations in Enforcement Response Policy

Old ERP

- 4 GUP drift violations within 5 years
- 3 RUP drift violations within 5 years
- 2 documented human exposure violations from drift within 5 years

Proposed ERP

- 3 drift violations with adverse effects within 2 years
- 2 documented human exposure violations from drift within 2 years

Comments or Questions ?

Thank you !

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