

IC 15-16 ARTICLE 16. HORTICULTURE CONTROL

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IC 15-16-1 Chapter 1. Agricultural Ammonia

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IC 15-16-1-1 Application of chapter

- Sec. 1. Except as otherwise provided in this chapter, this chapter applies to:
- (1) every facility for the distribution of ammonia or ammonia solutions; and
 - (2) every facility for the storage of ammonia or ammonia solutions;

that is located in Indiana.

[Pre-2008 Recodification Citation: 15-3-2-12.]

As added by P.L.2-2008, SEC.7. Amended by P.L.143-2017, SEC.1.

IC 15-16-1-2 "Ammonia"

Sec. 2. As used in this chapter, "ammonia" means anhydrous ammonia (NH₃) that is intended for use as a fertilizer for agricultural purposes.

[Pre-2008 Recodification Citation: 15-3-2-3(a).]

As added by P.L.2-2008, SEC.7. Amended by P.L.143-2017, SEC.2.

IC 15-16-1-3 "Ammonia solution"

Sec. 3. As used in this chapter, "ammonia solution" means an agricultural ammonia solution that:

- (1) contains by weight at least ten per cent (10%) free ammonia; or
- (2) has a vapor pressure of at least one (1) pound per square inch gauge (PSIG) at one hundred four (104) degrees Fahrenheit.

[Pre-2008 Recodification Citation: 15-3-2-3(b).]

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

IC 15-16-1-3.5 "Board"

Sec. 3.5. As used in this chapter, "board" refers to the Indiana fertilizer advisory board established by IC 15-16-2-25.
As added by P.L.99-2012, SEC.1.

IC 15-16-1-4 "Distribute"

Sec. 4. As used in this chapter, "distribute" means to:

- (1) offer for sale;
- (2) sell;
- (3) barter; or
- (4) supply;

ammonia or ammonia solutions to a person for agricultural purposes as a fertilizer. The term does not include a shipment made to a point or points outside Indiana.

[Pre-2008 Recodification Citation: 15-3-2-3(d).]

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

IC 15-16-1-4.5 "Facility for the storage of ammonia or ammonia solutions"

Sec. 4.5. As used in this chapter, "facility for the storage of ammonia or ammonia solutions" means a facility in which ammonia or ammonia solutions are:

- (1) stored by a person that manufacturers or distributes ammonia or ammonia solutions;
- (2) stored in stationary containers; or
- (3) stored in mobile containers for more than thirty (30) days in a calendar year.

As added by P.L.143-2017, SEC.3.

IC 15-16-1-5 "Person"

Sec. 5. As used in this chapter, "person" means:

- (1) an individual;
- (2) a firm;
- (3) a partnership;
- (4) an association;
- (5) a corporation;
- (6) a company;
- (7) a joint stock association;
- (8) a body politic;
- (9) an organized group of persons whether incorporated or not incorporated;
- (10) a trustee;
- (11) an assignee; or
- (12) any other representative of an entity described in subdivisions (1) through (11).

[Pre-2008 Recodification Citation: 15-3-2-3(c).]

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

IC 15-16-1-6 Administration of chapter

Sec. 6. The state chemist or the state chemist's agent shall administer this chapter.

[Pre-2008 Recodification Citation: 15-3-2-2.]

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

IC 15-16-1-7 Uniform rules; zoning regulations and building codes

Sec. 7. (a) The rules adopted under this chapter must be uniform in force and effect throughout Indiana.

(b) This chapter does not impair the power of a municipality or other political subdivision of this state to regulate the use of land by zoning regulations or building codes.

[Pre-2008 Recodification Citation: 15-3-2-10.]

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

IC 15-16-1-8 Ammonia distribution and storage facilities; approval of location; existing facilities

Sec. 8. (a) Before installing:

- (1) a facility for the distribution of ammonia or ammonia solutions; or
- (2) a facility for the storage of ammonia or ammonia solutions;

a person shall, on forms provided by the state chemist, apply for approval of the location of the proposed facility. The application must include a statement that the installation will comply with all local zoning regulations and building codes.

(b) If the state chemist determines that the location meets the requirements of this chapter and the rules adopted under this chapter, the state chemist shall issue written approval of the location not later than thirty (30) days after receipt of the application. If the state chemist determines that the location does not meet the requirements of this chapter and the rules adopted under this chapter, the state chemist shall issue written disapproval of the location not later than thirty (30) days after receipt of the application.

(c) A:

- (1) facility for the distribution of ammonia or ammonia solutions; or
- (2) facility for the storage of ammonia or ammonia solutions;

that was installed before December 30, 1965, is exempt from the requirements of this section for location approval.

(d) A public way may not be placed closer to an existing:

- (1) facility for the distribution of ammonia or ammonia solutions; or
- (2) facility for the storage of ammonia or ammonia solutions;

than the distance required by rules adopted under this chapter.

[Pre-2008 Recodification Citation: 15-3-2-5.]

As added by P.L.2-2008, SEC.7. Amended by P.L.143-2017, SEC.4.

IC 15-16-1-9 Inspection of facilities; entry onto premises

Sec. 9. (a) The state chemist or the state chemist's agent shall inspect:

- (1) facilities for the distribution of ammonia or ammonia solutions;
- (2) facilities for the storage of ammonia or ammonia solutions; and
- (3) operating procedures used at the inspected facilities;

at reasonable times and to the extent reasonably necessary to determine whether the facilities comply with this chapter and the rules adopted under this chapter.

(b) The state chemist or the state chemist's agent may enter any public or private premises at reasonable hours in order to:

- (1) have access to and inspect facilities, equipment, and vehicles of transport not principally engaged in interstate commerce; and
- (2) observe procedures used in the distribution, application, or use of ammonia or ammonia solutions.

[Pre-2008 Recodification Citation: 15-3-2-6.]

As added by P.L.2-2008, SEC.7. Amended by P.L.143-2017, SEC.5.

IC 15-16-1-10 Minimum safety standards

Sec. 10. (a) Except as provided in subsection (d), the state chemist shall adopt rules establishing the minimum safety standards for the design, construction, location, installation, and operation of equipment for storage, handling, use, and transportation (not otherwise regulated) of ammonia and ammonia solutions.

(b) The rules described in subsection (a) must be:

- (1) reasonably necessary to protect the safety of the public, including persons handling or using the materials; and
- (2) in substantial conformity with the current nationally accepted standards of safety that apply to the equipment described in subsection (a).

(c) The state chemist shall adopt the rules described in subsection (a) only after a notice

and public hearing.

(d) The state chemist may allow the use of technologies or methods other than those specified in rules adopted under subsection (a) if the technologies or methods provide similar protection to the public and persons handling or using ammonia or ammonia solutions.

[Pre-2008 Recodification Citation: 15-3-2-8.]

As added by P.L.2-2008, SEC.7. Amended by P.L.81-2009, SEC.3.

IC 15-16-1-11 Installation of equipment

Sec. 11. All equipment for the storage, handling, distribution, and use of ammonia or ammonia solutions must be installed and maintained:

- (1) in a safe operating condition; and
- (2) in conformity with the rules adopted under section 10 of this chapter.

[Pre-2008 Recodification Citation: 15-3-2-11.]

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

IC 15-16-1-12 Violations; order to correct; extension of time

Sec. 12. (a) If the state chemist or the state chemist's agent finds a violation of this chapter or the rules adopted under this chapter, the state chemist or the state chemist's agent may issue an order to the owner, the owner's agent, or the operator of the facility or equipment involved directing that the violation be corrected immediately.

(b) The state chemist or the state chemist's agent shall grant a request for a reasonable extension of time to comply with an order described in subsection (a) if:

- (1) there is practical difficulty in complying with the order; and
- (2) the time extension will not cause a safety hazard to the public, including persons who use the facility or equipment.

(c) An order issued under this section must be in writing.

[Pre-2008 Recodification Citation: 15-3-2-9.]

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

IC 15-16-1-13 Violations

Sec. 13. A person may not:

- (1) install:
 - (A) a facility for the distribution of ammonia or ammonia solutions; or
 - (B) a facility for the storage of ammonia or ammonia solutions;without first obtaining written approval of the state chemist for the location of the facility;
- (2) distribute ammonia or ammonia solutions from an unapproved location for which approval is required under this chapter;
- (3) distribute, store, transport, or use ammonia or ammonia solutions in violation of:
 - (A) this chapter; or
 - (B) the rules adopted under this chapter;
- (4) violate a correction order issued under section 12 of this chapter; or
- (5) use an ammonia or ammonia solutions container for any purpose without the prior authorization of the owner of the container.

[Pre-2008 Recodification Citation: 15-3-2-7.]

As added by P.L.2-2008, SEC.7. Amended by P.L.143-2017, SEC.6.

IC 15-16-1-14 Violations; penalties

Sec. 14. (a) If a person violates this chapter or a rule adopted under this chapter, the state chemist may:

- (1) warn, issue a citation to, or impose a civil penalty on the person; or
- (2) deny, suspend, revoke, or amend the person's license, certificate, registration, permit, or application under this chapter or IC 15-16-2.

(b) The state chemist may adopt by rule, under IC 4-22-2, a schedule of civil penalties that may be imposed under subsection (a). The state chemist may impose a civil penalty only according to a schedule of civil penalties recommended by the board.

(c) A person who knowingly or intentionally violates this chapter commits a Class C misdemeanor.

[Pre-2008 Recodification Citation: 15-3-2-13(a).]

As added by P.L.2-2008, SEC.7. Amended by P.L.81-2009, SEC.4; P.L.99-2012, SEC.2; P.L.143-2017, SEC.7.

IC 15-16-1-15 Injunctions

Sec. 15. In addition to any other remedy provided by law, the state chemist may apply for a temporary or permanent injunction restraining a person from violating or continuing to violate this chapter or any rule adopted under this chapter. An injunction shall be issued without bond.

[Pre-2008 Recodification Citation: 15-3-2-13(b).]

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

IC 15-16-1-16 Subpoenas

Sec. 16. The state chemist may request a court to issue subpoenas to compel:

- (1) the attendance of witnesses; or
- (2) the production of books, documents, and records;

as part of an authorized investigation or a hearing located in Indiana affecting the authority or privilege granted by a license, certificate, application, registration, or permit issued under this chapter or IC 15-16-2.

As added by P.L.99-2012, SEC.3. Amended by P.L.143-2017, SEC.8.