

**IC 15-16-2****Chapter 2. Commercial Fertilizers**

15-16-2-1	State chemist; appointment
15-16-2-1.5	Manure based fertilizer; exceptions; rules
15-16-2-2	Construction of chapter
15-16-2-2.5	"Ammonium nitrate"
15-16-2-3	"Blender"
15-16-2-4	"Blending"
15-16-2-5	"Board"
15-16-2-6	"Brand"
15-16-2-7	"Bulk fertilizer"
15-16-2-8	"Commercial fertilizer"
15-16-2-9	"Custom blend"
15-16-2-10	"Distributor"
15-16-2-11	"Fertilizer material"
15-16-2-12	"Grade"
15-16-2-13	"Mixed fertilizer"
15-16-2-14	"Official sample"
15-16-2-15	"Permit"
15-16-2-16	"Percent"; "percentage"
15-16-2-17	"Person"
15-16-2-18	"Registrant"
15-16-2-19	"Sell"; "sale"
15-16-2-20	"Specialty fertilizer"
15-16-2-21	"Storage"
15-16-2-22	"Ton"
15-16-2-23	"Use"
15-16-2-24	Office of the state chemist established; appointment; administration
15-16-2-25	Fertilizer advisory board; establishment; membership
15-16-2-26	Members; removal; vacancies
15-16-2-27	Chairperson
15-16-2-28	Nonvoting members
15-16-2-29	Meetings; quorum
15-16-2-30	Per diem and travel expenses
15-16-2-31	Commercial fertilizer; label; application; fee; registration; information; analysis; exemptions
15-16-2-32	Labeling requirements
15-16-2-33	Inspection fee; exemptions
15-16-2-34	Permit to report commercial fertilizer sold; fee
15-16-2-35	Disposition of inspection fees
15-16-2-36	Excess funds from fees collected; disposition
15-16-2-37	Annual publication by state chemist; information required
15-16-2-38	Inspection, analysis, and tests; entry onto premises; subpoenas
15-16-2-39	Official commercial fertilizer analysis; report
15-16-2-40	Noncompliance with analysis; order for refund to purchaser; appeal
15-16-2-41	Storage of bulk fertilizers
15-16-2-42	Misbranded and adulterated commercial fertilizers; unlawful distribution
15-16-2-43	Fraudulent or deceptive practices; cancellation of registration; refusal to register; notice; hearing
15-16-2-44	Rules; certification and education programs; fees; waivers
15-16-2-44.5	Disposition of fees
15-16-2-45	Use of technologies to protect waters from release of bulk fertilizers
15-16-2-46	Stop sale, use, or removal orders
15-16-2-47	Seizure of commercial fertilizer; condemnation and disposal; release of commercial fertilizer
15-16-2-48	Repealed
15-16-2-49	Injunctions
15-16-2-49.5	Violations; penalties
15-16-2-50	Regulation by political subdivision prohibited; petition; hearing

**IC 15-16-2-1 State chemist; appointment**

Sec. 1. Because the department of biochemistry at Purdue University is particularly

conversant with the purpose and procedures provided by this chapter, the general assembly desires that the governor appoint a professor of biochemistry at Purdue University as the state chemist.

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

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

**IC 15-16-2-1.5 Manure based fertilizer; exceptions; rules**

Sec. 1.5. (a) As used in this section, "manure based fertilizer" means processed manure based commercial fertilizer with a manure content of at least seventy-five percent (75%).

(b) Except as provided in subsection (c) and sections 35 and 36 of this chapter, this chapter does not apply to manure based fertilizer.

(c) The state chemist shall adopt rules under IC 4-22-2:

- (1) regulating the distribution of manure based fertilizer; and
- (2) establishing fees for the distribution of manure based fertilizer.

*As added by P.L.144-2017, SEC.1.*

**IC 15-16-2-2 Construction of chapter**

Sec. 2. This chapter may not be construed:

- (1) to restrict or avoid sales or exchanges of commercial fertilizers among importers, manufacturers, or blenders who mix commercial fertilizer for sale; or
- (2) as preventing the free and unrestricted shipments of commercial fertilizers to manufacturers or blenders who have registered their brands as required by this chapter.

[Pre-2008 Recodification Citation: 15-3-3-16.]

*As added by P.L.2-2008, SEC.7. Amended by P.L.81-2009, SEC.5.*

**IC 15-16-2-2.5 "Ammonium nitrate"**

Sec. 2.5. As used in this chapter, "ammonium nitrate" means the ammonium salt of nitric acid, which must contain not less than thirty-three percent (33%) nitrogen, fifty percent (50%) of which is in the ammonium form and fifty percent (50%) of which is in the nitrate form.

*As added by P.L.120-2008, SEC.53.*

**IC 15-16-2-3 "Blender"**

Sec. 3. As used in this chapter, "blender" means a person or system engaged in the business of blending commercial fertilizer.

[Pre-2008 Recodification Citation: 15-3-3-3(17).]

*As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.54; P.L.81-2009, SEC.6.*

**IC 15-16-2-4 "Blending"**

Sec. 4. As used in this chapter, "blending" means the physical mixing or combining:

- (1) of one (1) or more commercial fertilizers and one (1) or more filler materials;
- (2) of two (2) or more commercial fertilizers; or
- (3) of two (2) or more commercial fertilizers and filler materials;

including mixing through the simultaneous or sequential application of any of the combinations referred to in subdivision (1), (2), or (3) to produce a uniform mixture.

[Pre-2008 Recodification Citation: 15-3-3-3(18).]

*As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.55; P.L.81-2009, SEC.7.*

**IC 15-16-2-5 "Board"**

Sec. 5. As used in this chapter, "board" refers to the Indiana fertilizer advisory board established by section 25 of this chapter.

[Pre-2008 Recodification Citation: 15-3-3-3(16).]

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

**IC 15-16-2-6 "Brand"**

Sec. 6. As used in this chapter, "brand" means a term, design, or trademark used in connection with at least one (1) grade of commercial fertilizer.

[Pre-2008 Recodification Citation: 15-3-3-3(4).]

*As added by P.L.2-2008, SEC.7. Amended by P.L.81-2009, SEC.8.*

**IC 15-16-2-7 "Bulk fertilizer"**

Sec. 7. As used in this chapter, "bulk fertilizer" means a commercial fertilizer distributed in nonpackaged form.

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

*As added by P.L.2-2008, SEC.7. Amended by P.L.81-2009, SEC.9.*

**IC 15-16-2-8 "Commercial fertilizer"**

Sec. 8. As used in this chapter, "commercial fertilizer" means mixed fertilizer or fertilizer materials. The term does not include nonprocessed manure, marl, lime, wood ashes, or plaster.

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

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

**IC 15-16-2-9 "Custom blend"**

Sec. 9. As used in this chapter, "custom blend" means a commercial fertilizer blended:

- (1) according to specifications provided to a blender in a soil test nutrient recommendation; or
- (2) to meet specific requests of a consumer (who is the end user) before blending.

[Pre-2008 Recodification Citation: 15-3-3-3(19).]

*As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.56; P.L.81-2009, SEC.10.*

**IC 15-16-2-10 "Distributor"**

Sec. 10. As used in this chapter, "distributor" means a person who:

- (1) offers for sale;
- (2) sells;
- (3) barter; or
- (4) supplies;

commercial fertilizers.

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

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

**IC 15-16-2-11 "Fertilizer material"**

Sec. 11. As used in this chapter, "fertilizer material" means any substance containing nitrogen, phosphate, potash, or any recognized plant nutrient that:

- (1) is used for the plant nutrient content; and
- (2) has nutrient value in promoting plant growth.

The term includes unmanipulated animal and vegetable manures.

[Pre-2008 Recodification Citation: 15-3-3-3(1).]

*As added by P.L.2-2008, SEC.7. Amended by P.L.81-2009, SEC.11.*

**IC 15-16-2-12 "Grade"**

Sec. 12. As used in this chapter, "grade" means the minimum percentages of the following elements stated in the following order:

- (1) Total nitrogen (N).
- (2) Available phosphate (P<sub>2</sub>O<sub>5</sub>).
- (3) Soluble potash (K<sub>2</sub>O).

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

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

**IC 15-16-2-13 "Mixed fertilizer"**

Sec. 13. As used in this chapter, "mixed fertilizer" means any combination or mixture of commercial fertilizers:

- (1) designed for use; or
- (2) claimed to have nutrient value;

in promoting plant growth.

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

*As added by P.L.2-2008, SEC.7. Amended by P.L.81-2009, SEC.12.*

**IC 15-16-2-14 "Official sample"**

Sec. 14. As used in this chapter, "official sample" means any sample of commercial fertilizer taken by the state chemist or the state chemist's agent.

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

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

**IC 15-16-2-15 "Permit"**

Sec. 15. As used in this chapter, "permit" refers to a permit issued under section 34 of this chapter to report the tonnage of commercial fertilizer sold.

[2008 Recodification Citation: New.]

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

**IC 15-16-2-16 "Percent"; "percentage"**

Sec. 16. As used in this chapter, "percent" or "percentage" means the percentage by weight.

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

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

**IC 15-16-2-17 "Person"**

Sec. 17. As used in this chapter, "person" means:

- (1) an individual;
- (2) a partnership;
- (3) an association;
- (4) a firm;
- (5) a limited liability company; or
- (6) a corporation.

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

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

**IC 15-16-2-18 "Registrant"**

Sec. 18. As used in this chapter, "registrant" means a person who registers commercial fertilizer under this chapter.

[Pre-2008 Recodification Citation: 15-3-3-3(14).]

*As added by P.L.2-2008, SEC.7. Amended by P.L.81-2009, SEC.13.*

**IC 15-16-2-19 "Sell"; "sale"**

Sec. 19. As used in this chapter, "sell" or "sale" includes exchange.

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

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

**IC 15-16-2-20 "Specialty fertilizer"**

Sec. 20. As used in this chapter, "specialty fertilizer" means a commercial fertilizer

distributed for nonfarm use.

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

*As added by P.L.2-2008, SEC.7. Amended by P.L.81-2009, SEC.14.*

**IC 15-16-2-21 "Storage"**

Sec. 21. As used in this chapter, "storage" means the storage of bulk fertilizer by a person who:

- (1) manufactures or distributes bulk fertilizer; or
- (2) stores bulk fertilizer for personal use.

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

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

**IC 15-16-2-22 "Ton"**

Sec. 22. As used in this chapter, "ton" means a net weight of two thousand (2,000) pounds avoirdupois.

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

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

**IC 15-16-2-23 "Use"**

Sec. 23. As used in this chapter, "use" means the placement or usage of fertilizer materials on a targeted growing area.

[Pre-2008 Recodification Citation: 15-3-3-3(20).]

*As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.57; P.L.81-2009, SEC.15.*

**IC 15-16-2-24 Office of the state chemist established; appointment; administration**

Sec. 24. (a) The office of state chemist is established.

(b) The governor shall appoint the state chemist, who serves at the pleasure of the governor.

(c) The state chemist shall administer this chapter.

(d) The state chemist may designate an agent to discharge duties imposed on the state chemist by law.

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

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

**IC 15-16-2-25 Fertilizer advisory board; establishment; membership**

Sec. 25. (a) The Indiana fertilizer advisory board is established to:

- (1) study the regulation of fertilizer material; and
- (2) advise the state chemist on the administration of this chapter.

(b) The board consists of the following members:

- (1) Two (2) representatives of the retail fertilizer industry.
- (2) One (1) representative of fertilizer manufacturing, distributing, or manufacturing and distributing.
- (3) Two (2) representatives of producers of agricultural crops.
- (4) One (1) representative of the lawn care industry.
- (5) One (1) representative of the Purdue School of Agriculture.
- (6) One (1) representative of a public conservation organization.
- (7) One (1) representative of the livestock industry.
- (8) The president of the Indiana Plant Food and Agricultural Chemicals Association, who serves as a nonvoting member.
- (9) One (1) representative of the department of environmental management, who serves as a nonvoting member.
- (10) The fertilizer administrator for the office of the state chemist, who serves as a

nonvoting member.

(11) The engineer specialist for the office of the state chemist, who serves as a nonvoting member.

(12) One (1) representative of the Indiana state department of agriculture, who shall serve as a nonvoting member.

(c) The state chemist shall appoint the voting members of the board, who serve for terms of four (4) years.

(d) Voting members of the board may be appointed for successive terms at the discretion of the state chemist.

[Pre-2008 Recodification Citations: subsection (a) formerly 15-3-3-17(a); subsection (b) formerly 15-3-3-17(b); subsection (c) formerly 15-3-3-17(c); subsection (d) formerly 15-3-3-17(d).]

*As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.58; P.L.81-2009, SEC.16.*

#### **IC 15-16-2-26 Members; removal; vacancies**

Sec. 26. (a) The state chemist may remove a voting member of the board for cause before the expiration of the member's term.

(b) Vacancies created by the death, resignation, or removal for cause of a member of the board must be filled in the manner prescribed for appointment to that board position. Vacancies must be filled not later than thirty (30) days after the death, resignation, or removal for cause.

[Pre-2008 Recodification Citations: subsection (a) formerly 15-3-3-17(e); subsection (b) formerly 15-3-3-17(f).]

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

#### **IC 15-16-2-27 Chairperson**

Sec. 27. The board shall elect one (1) of its voting members chairperson to serve for a term of two (2) years, unless the chairperson's appointment expires before the expiration of the term, in which case the term is for the duration of the chairperson's appointment.

[Pre-2008 Recodification Citation: 15-3-3-17(g).]

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

#### **IC 15-16-2-28 Nonvoting members**

Sec. 28. The board shall invite nonvoting members to serve at the pleasure of the board.

[Pre-2008 Recodification Citation: 15-3-3-17(k).]

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

#### **IC 15-16-2-29 Meetings; quorum**

Sec. 29. (a) The board may meet at times specified by the chairperson or by a majority of the board, but shall meet at least once a year.

(b) Five (5) voting members of the board constitutes a quorum. Official actions require a majority of the voting members. The chairperson may actively participate in all decisions of the board.

[Pre-2008 Recodification Citations: subsection (a) formerly 15-3-3-17(h); subsection (b) formerly 15-3-3-17(i).]

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

#### **IC 15-16-2-30 Per diem and travel expenses**

Sec. 30. (a) Each member of the board who is not a state employee is entitled to receive both:

(1) the minimum salary per diem; and

(2) reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties;

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.

(b) Each member of the board who is a state employee is entitled to reimbursement for travel expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

[Pre-2008 Recodification Citation: 15-3-3-17(j).]

*As added by P.L.2-2008, SEC.7. Amended by P.L.81-2009, SEC.17.*

**IC 15-16-2-31 Commercial fertilizer; label; application; fee; registration; information; analysis; exemptions**

Sec. 31. (a) Before distributing commercial fertilizer in Indiana, the person whose name appears on the label of each brand and grade of the commercial fertilizer must submit:

(1) an application for registration to the state chemist on a form furnished by the state chemist; and

(2) the appropriate filing fee set forth in subsection (b).

(b) The filing fee for commercial fertilizers sold in packages weighing more than twelve (12) pounds is twenty dollars (\$20) for each grade of each brand. The filing fee for commercial fertilizers sold in packages weighing not more than twelve (12) pounds is fifty dollars (\$50) for each grade of each brand.

(c) Upon approval of the application, the state chemist shall furnish a copy of the registration to the applicant.

(d) All registrations expire on June 30 each year.

(e) In addition to the appropriate filing fee set forth in subsection (b), a late filing fee equal to one hundred percent (100%) of the appropriate filing fee is assessed when:

(1) an application to renew the registration of a commercial fertilizer under this section is received after July 31; or

(2) a product that must be registered under this section is found to be in distribution before registration.

(f) An application under subsection (a) must include the following information:

(1) The name and address of the registrant.

(2) The brand and grade.

(3) The guaranteed analysis showing the minimum percentage of plant food claimed in the following order and form:

Total Nitrogen (N)	percent
Available Phosphate (P <sub>2</sub> O <sub>5</sub> )	percent
Soluble Potash (K <sub>2</sub> O)	percent

(g) The minimum percentage of plant food in mixed fertilizers under subsection (f)(3) must be given in whole numbers only. However, the state chemist may allow fractional numbers to be used under subsection (f)(3) for specialty fertilizers or if plant food elements or other additives are added.

(h) For unacidulated mineral phosphatic materials and basic slag:

(1) the total phosphate;

(2) the available phosphate; and

(3) the degree of fineness;

must be guaranteed. For bone, tankage, and other natural organic phosphate materials, only the total phosphate must be guaranteed.

(i) Additional plant food elements or other additives that are determinable by chemical methods may be guaranteed only by permission of the state chemist. The state chemist shall grant permission only if the state chemist determines, with the advice of the dean of agriculture of Purdue University or the dean's designee, that the guarantee would not

constitute a misrepresentation and is correct. Additional plant foods that are guaranteed:

- (1) must be included in the guarantee in the form of the element; and
- (2) are subject to inspection and analysis in accordance with the methods that the state chemist prescribes.

(j) A distributor is not required to register a brand of commercial fertilizer that is registered under this chapter by another person if the label used by the distributor does not differ in any respect from that used by the registrant.

(k) A distributor who acts as a blender is not required under subsection (a) to register a custom blend that the distributor produces if the commercial fertilizers blended together to produce the custom blend are registered under subsection (a). However, a distributor who acts as a blender shall provide the state chemist with the following information about each custom blend that the distributor produces:

- (1) The name and address of the distributor.
- (2) The brand and grade of the custom blend.
- (3) The guaranteed analysis of the custom blend showing the minimum percentage of plant food claimed in the following order and form:
  - (A) The percent of total nitrogen (N).
  - (B) The percent of available phosphate ( $P_2O_5$ ).
  - (C) The percent of soluble potash ( $K_2O$ ).

[Pre-2008 Recodification Citation: 15-3-3-4.]

*As added by P.L.2-2008, SEC.7. Amended by P.L.81-2009, SEC.18.*

#### **IC 15-16-2-32 Labeling requirements**

Sec. 32. (a) The bag or other container in which any commercial fertilizer is offered for sale, sold, or distributed in Indiana must have a written or printed statement of the net weight and the information required by section 31 of this chapter directly on or affixed to the package.

(b) If the commercial fertilizer is distributed in bulk, the written or printed statement required by section 31 of this chapter must:

- (1) accompany the commercial fertilizer at delivery; and
- (2) be supplied to the purchaser at time of delivery.

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

*As added by P.L.2-2008, SEC.7. Amended by P.L.81-2009, SEC.19.*

#### **IC 15-16-2-33 Inspection fee; exemptions**

Sec. 33. (a) Except as provided in subsection (c), a person who distributes commercial fertilizers:

- (1) in bulk; or
- (2) in packages weighing more than twelve (12) pounds;

in Indiana to a person who is not a registrant or permit holder under this chapter shall pay to the state chemist an inspection fee computed under subsection (b).

(b) The inspection fee charged under subsection (a) is forty-five cents (\$0.45) per ton for each ton of commercial fertilizer distributed. If a fertilizer tonnage report is required under this chapter, the minimum inspection fee is ten dollars (\$10) payable semiannually.

(c) Sales or exchanges between importers, manufacturers, distributors, or registrants are exempt from the inspection fee.

[Pre-2008 Recodification Citations: subsection (a) formerly 15-3-3-6(a); subsections (b), (c) formerly 15-3-3-6(b) part.]

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

#### **IC 15-16-2-34 Permit to report commercial fertilizer sold; fee**

Sec. 34. (a) Each registrant shall apply to the state chemist for a permit to report the tonnage of commercial fertilizer sold and pay the inspection fee of forty-five cents (\$0.45)



per ton on the basis of the report. In making the application, the registrant must agree to the following:

- (1) To keep records that the state chemist requires to indicate accurately the tonnage and kinds of commercial fertilizers sold in Indiana.
- (2) To grant the state chemist permission to examine those records and verify the statement of tonnage.
- (3) To report under oath to the state chemist on forms furnished by the state chemist the tonnage of commercial fertilizer sold during the period covered.

(b) The state chemist:

- (1) may grant the permit if the state chemist determines that the application of the permit to report tonnage of commercial fertilizer described in subsection (a) will lead to efficient enforcement of this chapter; and
- (2) may revoke the permit at any time if it appears to the state chemist that the registrant is not complying with:
  - (A) the terms of the agreement entered into at the time of the issuance of the permit; or
  - (B) this chapter.

(c) The report of tonnage is due and the inspection fees are payable semiannually on the last day of the month following the end of the semiannual period.

(d) If:

- (1) the report of tonnage is not filed and the inspection fee paid by the fifteenth day following the due date;
- (2) the report of tonnage is false; or
- (3) the permit holder has not complied with labeling requirements of this chapter;

the state chemist may revoke the permit.

(e) If the inspection fee is unpaid after the fifteen (15) day grace period described in subsection (d), a penalty shall be assessed in the amount of:

- (1) fifty dollars (\$50); or
- (2) ten percent (10%) of the amount due;

whichever is greater, in addition to the amount due.

[Pre-2008 Recodification Citations: subsection (a) formerly 15-3-3-6(c); subsections (b), (c), (d) formerly 15-3-3-6(d); subsection (e) formerly 15-3-3-6(e).]

*As added by P.L.2-2008, SEC.7. Amended by P.L.81-2009, SEC.20.*

### **IC 15-16-2-35 Disposition of inspection fees**

Sec. 35. (a) The state chemist shall pay to the treasurer of Purdue University all inspection fees collected under this chapter.

(b) Inspection fees collected under this chapter must be used to pay all necessary expenses incurred in carrying out this chapter, including the following:

- (1) Employing inspectors and chemists.
- (2) Procuring samples.
- (3) Printing bulletins.
- (4) Giving the results of inspections as provided for by this chapter.
- (5) Any other expenses incurred by Purdue University agricultural programs:
  - (A) authorized by law; and
  - (B) in support of the purposes of this chapter.

(c) The dean of agriculture of Purdue University shall make an annual classified report to the governor showing the total receipts and expenditures of all fees received under this chapter.

[Pre-2008 Recodification Citation: 15-3-3-6(b) part.]

*As added by P.L.2-2008, SEC.7. Amended by P.L.81-2009, SEC.21.*

### **IC 15-16-2-36 Excess funds from fees collected; disposition**

Sec. 36. (a) Notwithstanding any other law, all excess funds accumulated from the fees collected by:

- (1) the state chemist, under this chapter, IC 15-15-2, IC 15-16-4, and IC 15-19-7; and
- (2) the state seed commissioner under IC 15-15-1 and IC 15-15-13;

shall be paid to the treasurer of Purdue University. The funds shall be administered by the board of trustees of Purdue University.

(b) On approval of the governor and the budget agency, the board of trustees may spend the excess funds for the construction, operation, rehabilitation, and repair of buildings, structures, or other facilities used for:

- (1) carrying out the purposes of those chapters referred to in subsection (a) under which the fees are collected; or
- (2) the agricultural programs authorized by law and in support of the purposes of the chapters referred to in subsection (a).

[Pre-2008 Recodification Citation: 15-3-3-6.5.]

*As added by P.L.2-2008, SEC.7. Amended by P.L.165-2014, SEC.2.*

#### **IC 15-16-2-37 Annual publication by state chemist; information required**

Sec. 37. (a) The state chemist shall publish at least annually in a form that the state chemist considers proper, information concerning the following:

- (1) The sales of commercial fertilizers, including any data on sales that the state chemist considers advisable.
- (2) The results of the analyses conducted under section 38 of this chapter based on official samples of commercial fertilizers sold within the state compared with the analysis guaranteed under sections 31 and 32 of this chapter.

(b) The information published by the state chemist concerning the sale of commercial fertilizers:

- (1) must show separately the fall season and spring season of each year; and
- (2) may not disclose the operations of any person.

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

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

#### **IC 15-16-2-38 Inspection, analysis, and tests; entry onto premises; subpoenas**

Sec. 38. (a) The state chemist shall:

- (1) sample, inspect, make analysis of, and test commercial fertilizers distributed within Indiana; and
- (2) inspect the storage of bulk fertilizers in Indiana at a time and place and to such an extent as necessary to determine whether the bulk fertilizers and their storage are in compliance with this chapter.

(b) The state chemist may enter upon any public or private premises during regular business hours in order to have access to:

- (1) fertilizer materials; and
- (2) plans and records relating to the transportation, storage, sale, and use of fertilizer materials;

subject to this chapter and the rules adopted under this chapter.

(c) The state chemist shall adopt methods of sampling and analysis for commercial fertilizers from sources that may include AOAC International. In cases of dispute, AOAC International's methods prevail if AOAC International's methods are available.

(d) The state chemist shall determine for administrative purposes whether a commercial fertilizer is deficient in plant foods using only the official sample obtained and analyzed as provided in subsection (c).

(e) 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.

[Pre-2008 Recodification Citations: subsections (a), (b) formerly 15-3-3-7(a); subsection (c) formerly 15-3-3-7(b); subsection (d) formerly 15-3-3-7(c).]

*As added by P.L.2-2008, SEC.7. Amended by P.L.81-2009, SEC.22; P.L.99-2012, SEC.4.*

**IC 15-16-2-39 Official commercial fertilizer analysis; report**

Sec. 39. If an official commercial fertilizer analysis conducted by the state chemist under section 38 of this chapter results in a determination that the registrant of a commercial fertilizer is subject to a penalty or other legal action under this chapter, the state chemist shall forward a report of the results of the analysis to the registrant at least thirty (30) days before the report is submitted to the purchaser of the commercial fertilizer. If the analysis was requested by a person other than the state chemist, the results of the analysis shall be forwarded to the registrant and purchaser immediately. If, during the thirty (30) day period, the state chemist does not receive adequate evidence contesting the results in the report, the report becomes an official report at the expiration of the thirty (30) day period. Upon the registrant's request, the state chemist shall furnish to the registrant part of the commercial fertilizer sample analyzed by the state chemist to determine that the registrant is subject to a penalty or other legal action under this chapter.

[Pre-2008 Recodification Citation: 15-3-3-7(d).]

*As added by P.L.2-2008, SEC.7. Amended by P.L.81-2009, SEC.23.*

**IC 15-16-2-40 Noncompliance with analysis; order for refund to purchaser; appeal**

Sec. 40. (a) If an analysis conducted by the state chemist under section 38 of this chapter shows that a commercial fertilizer fails in any respect to meet the guaranteed analysis filed by a registrant under section 31 of this chapter, the state chemist may require the payment of a refund to the purchaser equal to the difference between:

- (1) the price the purchaser paid for the commercial fertilizer; and
- (2) the current value of the commercial fertilizer after the state chemist's analysis.

(b) The registrant must forward receipts for payment of refunds required under subsection (a) promptly to the state chemist. If the purchaser cannot be found, the registrant shall pay the refund to a local charitable or educational organization of the registrant's choice and forward the receipts promptly to the state chemist.

(c) This section does not prevent the appeal of the imposition of any penalty assessed by the state chemist under this chapter to a court with jurisdiction.

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

*As added by P.L.2-2008, SEC.7. Amended by P.L.81-2009, SEC.24.*

**IC 15-16-2-41 Storage of bulk fertilizers**

Sec. 41. Bulk fertilizers must be stored in a manner that:

- (1) minimizes the release of bulk fertilizer; and
- (2) protects the waters of the state.

[Pre-2008 Recodification Citation: 15-3-3-11.5.]

*As added by P.L.2-2008, SEC.7. Amended by P.L.81-2009, SEC.25.*

**IC 15-16-2-42 Misbranded and adulterated commercial fertilizers; unlawful distribution**

Sec. 42. (a) A commercial fertilizer is misbranded if:

- (1) the commercial fertilizer carries any false or misleading statement upon or attached to the container; or
- (2) false or misleading statements concerning the commercial fertilizer's nutrient value

are made:

- (A) on the container; or
- (B) in any advertising media accompanying or associated with the commercial fertilizer.

It is unlawful to distribute a misbranded commercial fertilizer.

(b) It is unlawful to distribute an adulterated commercial fertilizer. For purposes of this subsection, a commercial fertilizer is adulterated if:

- (1) the commercial fertilizer contains any deleterious or harmful substance in a sufficient amount to render the commercial fertilizer injurious to beneficial plant life, animals, humans, aquatic life, soil, or water when applied in accordance with directions for use on the label; or
- (2) the label does not include adequate warning statements or directions for use that may be necessary to protect plant life, animals, humans, aquatic life, soil, or water.

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

*As added by P.L.2-2008, SEC.7. Amended by P.L.81-2009, SEC.26.*

**IC 15-16-2-43      Fraudulent or deceptive practices; cancellation of registration; refusal to register; notice; hearing**

Sec. 43. (a) The state chemist may:

- (1) cancel the registration of any brand of commercial fertilizer; or
- (2) refuse to register any brand of commercial fertilizer in accordance with this chapter; if the state chemist receives satisfactory evidence that the registrant has used fraudulent or deceptive practices in the evasion or attempted evasion of this chapter or any rule adopted under this chapter.

(b) The state chemist may not revoke or refuse a registration under subsection (a) until the registrant receives notice and has the opportunity to appear for a hearing.

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

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

**IC 15-16-2-44      Rules; certification and education programs; fees; waivers**

Sec. 44. (a) The state chemist may adopt rules under IC 4-22-2 concerning the following:

- (1) The distribution and use of fertilizer material, including standards to protect waters of the state.
- (2) The distribution and storage of bulk fertilizers, including standards for the storage of bulk fertilizers to protect the waters of the state.

(b) The state chemist shall adopt rules under IC 4-22-2 concerning the following:

- (1) Subject to subsection (e), the establishment of certification and educational programs, as determined by the state chemist, relating to the application of fertilizer material, the transportation of fertilizer material, or both for the following:

- (A) Persons who apply fertilizer material for hire, transport fertilizer material for hire, or both.
- (B) Persons who apply fertilizer material, transport fertilizer material, or both from the following:

- (i) Confined feeding operations (as defined in IC 13-11-2-40).
- (ii) Operations outside Indiana that would be confined feeding operations (as defined in IC 13-11-2-40) if they were located in Indiana.

- (2) The establishment of fees for the certification and education programs established under subdivision (1).

(c) The state chemist shall adopt rules under IC 4-22-2 before July 1, 2012, concerning the staging, management, and land application of fertilizer material.

(d) Any fees collected for a certification and educational programs under subsection (b)(1) shall be collected by the state chemist and deposited and administered under section 44.5 of this chapter.

(e) The state chemist may waive all or part of the certification requirements established under subsection (b)(1) on a reciprocal basis with any state agency or federal agency that has substantially the same certification standards.

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

*As added by P.L.2-2008, SEC.7. Amended by P.L.81-2009, SEC.27; P.L.189-2011, SEC.14.*

**IC 15-16-2-44.5 Disposition of fees**

Sec. 44.5. (a) The state chemist shall pay to the treasurer of Purdue University all certification and educational program fees collected under section 44 of this chapter.

(b) Certification and educational program fees collected under section 44 of this chapter must be used to pay all necessary expenses incurred in carrying out and administering the certification and educational programs.

(c) The dean of agriculture of Purdue University shall make an annual classified report to the governor showing the total receipts and expenditures of all fees received under this section.

*As added by P.L.81-2009, SEC.28.*

**IC 15-16-2-45 Use of technologies to protect waters from release of bulk fertilizers**

Sec. 45. The state chemist may allow the use of technologies or methods other than those specified in the administrative rules adopted by the state chemist under section 44 of this chapter if the technologies or methods provide substantially similar protection to the waters of the state from the release of bulk fertilizer as provided by the rules.

[Pre-2008 Recodification Citation: 15-3-3-12.5(b).]

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

**IC 15-16-2-46 Stop sale, use, or removal orders**

Sec. 46. (a) If the state chemist determines that a commercial fertilizer is being offered for sale in violation of this chapter, the state chemist may issue to and enforce upon the owner or custodian:

- (1) a written or printed stop sale, use, or removal order; and
- (2) a written or printed order to hold the commercial fertilizer at a designated place until:
  - (A) the owner or custodian complies with this chapter;
  - (B) the state chemist releases the commercial fertilizer in writing; or
  - (C) the violation is legally disposed of by written authority.

(b) The state chemist shall release commercial fertilizer withdrawn under subsection (a) when:

- (1) the owner or custodian complies with this chapter; and
- (2) all costs and expenses incurred in connection with the withdrawal have been paid.

[Pre-2008 Recodification Citation: 15-3-3-13.]

*As added by P.L.2-2008, SEC.7. Amended by P.L.81-2009, SEC.29.*

**IC 15-16-2-47 Seizure of commercial fertilizer; condemnation and disposal; release of commercial fertilizer**

Sec. 47. (a) Any commercial fertilizer not in compliance with this chapter is subject to seizure based on a complaint of the state chemist filed in a court with jurisdiction in the area in which the commercial fertilizer is located.

(b) Subject to subsection (a), if the court finds the commercial fertilizer is in violation of this chapter and orders the condemnation of the commercial fertilizer, the commercial fertilizer must be disposed of in any manner consistent with the quality of the commercial fertilizer and the laws of the state.

(c) A court may not order the disposition of the commercial fertilizer without first giving

the claimant an opportunity to apply to the court for:

- (1) release of the commercial fertilizer; or
- (2) permission to process or relabel the commercial fertilizer to bring it into compliance with this chapter.

[Pre-2008 Recodification Citation: 15-3-3-14.]

*As added by P.L.2-2008, SEC.7. Amended by P.L.81-2009, SEC.30.*

#### **IC 15-16-2-48 Repealed**

[Pre-2008 Recodification Citations: subsection (a) formerly 15-3-3-15(a); subsection (b) formerly 15-3-3-15(b).]

*As added by P.L.2-2008, SEC.7. Repealed by P.L.81-2009, SEC.33.*

#### **IC 15-16-2-49 Injunctions**

Sec. 49. The state chemist may apply for a temporary or permanent injunction restraining any person from violating or continuing to violate this chapter or any rule adopted under this chapter. The injunction shall be issued without bond. The remedies under this subsection are supplemental to other remedies allowed under this section or other law.

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

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

#### **IC 15-16-2-49.5 Violations; penalties**

Sec. 49.5. (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 registration under this chapter.

(b) The state chemist shall 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 A misdemeanor.

*As added by P.L.120-2008, SEC.59. Amended by P.L.81-2009, SEC.31.*

#### **IC 15-16-2-50 Regulation by political subdivision prohibited; petition; hearing**

Sec. 50. (a) Except as provided in subsection (b), a political subdivision (as defined in IC 36-1-2-13) does not have authority to regulate by ordinance the storage or use of fertilizer material.

(b) A political subdivision may, by resolution, petition the state chemist for a hearing to allow a waiver to adopt an ordinance because of special circumstances relating to the storage or use of fertilizer material. If a petition is received, the state chemist shall hold a public hearing to consider allowing the waiver requested. The public hearing must be conducted in an informal manner. IC 4-21.5 does not apply to a public hearing under this section.

[Pre-2008 Recodification Citations: subsection (a) formerly 15-3-3-12.5(c); subsection (b) formerly 15-3-3-12.5(d).]

*As added by P.L.2-2008, SEC.7. Amended by P.L.81-2009, SEC.32.*