

IC 15-16

ARTICLE 16. HORTICULTURE CONTROL

IC 15-16-1

Chapter 1. Agricultural Ammonia

IC 15-16-1-1

Application of chapter

Sec. 1. Except as provided in this chapter, this chapter applies to all facilities for the distribution of ammonia or ammonia solutions that are located in Indiana.

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

IC 15-16-1-2

"Ammonia"

Sec. 2. As used in this chapter, "ammonia" means agricultural anhydrous ammonia (NH₃) fertilizer.

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

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.

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.

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

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).

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.

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.

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

IC 15-16-1-8

Ammonia distribution facilities; approval of location; existing facilities

Sec. 8. (a) Before installing facilities for the distribution of ammonia or ammonia solutions, a person shall, on forms provided by the state chemist, apply for approval of the location of the proposed distribution facilities. 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) Distribution facilities installed before December 30, 1965, are exempt from the requirements for location approval.

(d) A public way may not be placed closer to an existing distribution facility than the distance required by rules adopted under this chapter.

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

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 distribution facilities and operating procedures at reasonable times and to the extent reasonably necessary to determine whether the distribution facility complies 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.

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

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.

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.

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.

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

IC 15-16-1-13

Violations

Sec. 13. A person may not:

- (1) install facilities for distribution of ammonia or ammonia solutions without first obtaining written approval of the state chemist for the location;
- (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 this chapter or 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.

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

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.

(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.

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

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.

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.

As added by P.L.99-2012, SEC.3.