

TITLE 355 STATE CHEMIST OF THE STATE OF INDIANA

Proposed Rule
LSA Document #10-627

DIGEST

Amends [355 IAC 9-3-1](#) to add violations under [355 IAC 7](#) to the civil penalty schedule. Effective 30 days after filing with the Publisher.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)

[355 IAC 9-3-1](#)

SECTION 1. [355 IAC 9-3-1](#) IS AMENDED TO READ AS FOLLOWS:

[355 IAC 9-3-1](#) Schedule

Authority: [IC 15-16-2-49.5](#)

Affected: [IC 15-16-2-46](#)

Sec. 1. The schedule of civil penalties for violations of [IC 15-16-2](#), the Indiana commercial fertilizers law, and the rules adopted under this law are as follows:

(1) Each penalty for each violation, if the violation is of a continuing nature, shall not be imposed for more than one hundred eighty (180) days when assessed on a per day basis.

(2) Each penalty for each violation, if the violation is of an identical repetitive nature, shall not be imposed for more than one hundred eighty (180) incidents when assessed on a per incident basis.

Legal Citation	General Description of Violation	Violation Number			Violation Assessment
		1	2	3 and subsequent	
355 IAC 2-3-1 and 355 IAC 2-3-4	Store a fertilizer in a bulk container made of improper design or materials.	\$100	\$200	\$300	Per incident
355 IAC 2-3-1(e)	Operate storage containers or appurtenances with an improper design.	\$100	\$200	\$300	Per incident
355 IAC 2-3-2	Store a fertilizer in an underground bulk container.	\$250	\$500	\$1,000	Per day
355 IAC 2-3-3	Abandon a bulk storage container improperly.	\$250	\$500	\$1,000	Per incident
355 IAC 2-3-5(a)	Fail to anchor bulk storage containers properly.	\$100	\$250	\$500	Per incident
355 IAC 2-3-6	Fail to provide bulk container security.	\$100	\$250	\$500	Per incident
355 IAC 2-3-7	Fill bulk container beyond intended capacity.	\$100	\$200	\$300	Per incident
355 IAC 2-3-8	Fail to support or contain appurtenances.	\$50	\$50	\$50	Per day
355 IAC 2-3-9	Fail to provide a liquid level device or secure liquid level gauge.	\$50	\$100	\$150	Per incident
355 IAC 2-3-10	Fail to properly label bulk container.	\$25	\$50	\$100	Per incident
355 IAC 2-3-11	Fail to maintain bulk container or appurtenance.	\$100	\$200	\$300	Per day
355 IAC 2-4-1(a)	Fail to carry out operational area activities within contained area.	\$250	\$500	\$1,000	Per incident
355 IAC 2-4-1(b)	Operate operational area containment with improper design, construction, or capacity.	\$100	\$200	\$300	Per day
355 IAC 2-4-1(d)	Operate operational area with a relief outlet, valve, or improper pump.	\$100	\$200	\$300	Per day
355 IAC 2-4-1(e)	Fail to remove liquids promptly from operational area containment.	\$100	\$200	\$300	Per incident
355 IAC 2-4-1(f)	Fail to protect storage containers and	\$100	\$200	\$300	Per incident

	appurtenances from damage by vehicles.				
355 IAC 2-4-1(i)	Fail to maintain operational area containment.	\$100	\$200	\$300	Per day
355 IAC 2-5-1(a)	Store a bulk container outside of secondary containment.	\$250	\$500	\$1,000	Per day
355 IAC 2-5-1(b)	Fail to separate fertilizer secondary containment from other materials.	\$100	\$200	\$300	Per day
355 IAC 2-5-1(c) and 355 IAC 2-5-12.5(b)	Fail to maintain required capacity for secondary containment.	\$100	\$200	\$300	Per day
355 IAC 2-5-1(f)	Operate secondary containment with tile drainage within or under the containment.	\$100	\$200	\$300	Per day
355 IAC 2-5-2(a)	Operate secondary containment with improperly constructed or sealed walls.	\$100	\$200	\$300	Per day
355 IAC 2-5-3 , 355 IAC 2-5-4 , 355 IAC 2-5-5 , 355 IAC 2-5-6 , or 355 IAC 2-5-7	Operate secondary containment with improperly constructed or sealed base.	\$100	\$200	\$300	Per day
355 IAC 2-5-12	Operate an improperly designed, constructed, or maintained elephant ring.	\$100	\$200	\$300	Per day
355 IAC 2-5-12.5(a)	Operate secondary containment with a relief outlet, valve, or improper pump.	\$100	\$200	\$300	Per day
355 IAC 2-5-13(a)	Fail to maintain secondary containment.	\$100	\$200	\$300	Per day
355 IAC 2-5-13(b)	Fail to maintain secondary containment free of debris and foreign matter.	\$25	\$50	\$100	Per day
355 IAC 2-6-1.5(a)	Store dry bulk fertilizer in an unsound manner.	\$250	\$500	\$1,000	Per day
355 IAC 2-6-1.5(b)	Fail to provide a dry fertilizer operations pad.	\$250	\$500	\$1,000	Per incident
355 IAC 2-9-1	Fail to notify the state chemist annually of the bulk storage facility location and status.	\$50	\$100	\$150	Per year
IC 15-16-2-46	Sell, use, or remove without permission a product placed under a stop sale, use, or removal order.	\$250*	\$500*	\$1,000*	Per incident
355 IAC 7-3-1 and 355 IAC 7-3-2	Use fertilizer material without certification.	\$100	\$200	\$300	Per day
355 IAC 7-3-1	Engage in business for hire without a business license.	\$250	\$500	\$1,000	Per day
355 IAC 7-3-3	Distribute fertilizer material without a business license.	\$250	\$500	\$1,000	Per day
355 IAC 7-3-3	Distribute fertilizer material to an unlicensed user.	\$100	\$200	\$300	Per incident
355 IAC 7-3-4	Fail to train employees.	\$100	\$200	\$300	Per incident
355 IAC 7-3-4	Supervise more than 10 employees.	\$100	\$100	\$100	Per day and per person
355 IAC 7-3-4	Fail to properly supervise employee.	\$125	\$250	\$500	Per day
IC 15-16-2-43 and 355 IAC 7-4-4	Use fraud in applying for license, permit, or registration.	\$250	\$500	\$1,000	Per incident

*This penalty shall not be subject to the potential for mitigation listed in section 3 of this rule.

(State Chemist of the State of Indiana; [355 IAC 9-3-1](#); filed May 7, 2010, 9:48 a.m.: [20100602-IR-355090797FRA](#))

[Notice of Public Hearing](#)

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