

Final Rule

LSA Document #10-565(F)

DIGEST

Adds [355 IAC 4-0.5-1.7](#) to establish a definition of fertilizer material. Amends [355 IAC 4-1-3](#) to expand the scope of certification and licensing in category 3b to include commercial applicators who apply fertilizer material and to create a category for commercial applicators of agricultural fertilizer materials. Amends [355 IAC 4-6-1](#) to add a definition of fertilizer material and to expand the definition of category 3b licensed applicator for hire to include fertilizer material application. Effective 30 days after filing with the Publisher.

[355 IAC 4-0.5-1.7](#); [355 IAC 4-1-3](#); [355 IAC 4-6-1](#)

SECTION 1. [355 IAC 4-0.5-1.7](#) IS ADDED TO READ AS FOLLOWS:

[355 IAC 4-0.5-1.7](#) "Fertilizer material" defined

Authority: [IC 15-16](#)

Affected: [IC 15-16-2-11](#)

Sec. 1.7. "Fertilizer material", as defined in [IC 15-16-2-11](#), 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.

(State Chemist of the State of Indiana; [355 IAC 4-0.5-1.7](#); filed Dec 10, 2010, 10:32 a.m.:
[20110105-IR-355100565FRA](#))

SECTION 2. [355 IAC 4-1-3](#) IS AMENDED TO READ AS FOLLOWS:

[355 IAC 4-1-3](#) Commercial applicators; categories of certification and licenses

Authority: [IC 15-16](#)

Affected: [IC 15-16-2](#); [IC 15-16-5](#)

Sec. 3. Commercial applicators shall be certified and licensed in one (1) or more of the following categories:

(1) Category 1. Agricultural pest management. This category includes individuals using or supervising the use of pesticides on noncrop agricultural lands such as pastures, or in production of agricultural crops, including, but not limited to, the following:

(A) Grains.

(B) Soybeans and oil seed.

(C) Forage.

(D) Vegetables.

(E) Fruits.

(F) Nuts.

(2) Category 2. Forest pest management. This category includes individuals using or supervising the use of pesticides in forests or forest nurseries.

(3) Category 3a. Ornamental pest management. This category includes individuals using or supervising the use of pesticides on ornamental plants and related areas such as the following:

(A) Driveways.

(B) Sidewalks.

(C) Residential parking areas.

(D) Landscape beds.

(E) Fence lines.

(4) Category 3b. Turf pest management. This category includes individuals using or supervising the use of:

(A) pesticides on turf and related areas such as: ~~the following:~~

- ~~(A)~~ (i) driveways;
- ~~(B)~~ (ii) sidewalks;
- ~~(C)~~ (iii) residential parking areas;
- ~~(D)~~ (iv) landscape beds but not ornamental plantings within the beds;
- ~~(E)~~ (v) fence lines; **and**
- ~~(F)~~ (vi) riprap; **or**
- (B) fertilizer materials on turf.**

This category does not include the use of pesticides applied for the purpose of managing pests to prevent infestation of a structure.

(5) Category 4. Seed treatment. This category includes individuals using or supervising the use of pesticides on seed stocks for the purpose of managing pest organisms that are anticipated to attack the plant or germinating seed.

(6) Category 5. Aquatic pest management. This category includes individuals using or supervising the use of pesticides purposefully applied to any of the following:

- (A) Standing or running water.
- (B) Wetlands.
- (C) Related areas such as riprap.

(7) Category 6. Industrial weed management. This category includes individuals using or supervising the use of pesticides in the maintenance of public or private:

- (A) roads;
- (B) utility rights-of-way;
- (C) pipelines;
- (D) railway rights-of-way;
- (E) parking lots;
- (F) ditch banks;
- (G) riprap;
- (H) fence lines;
- (I) restoration areas; and
- (J) substations;

and other similar areas.

(8) Category 7a. Industrial, institutional, structural, and health related pest management. This category includes individuals using or supervising the use of pesticides for management of pests other than termites in or around structures such as any of the following:

- (A) Human dwellings.
- (B) Offices.
- (C) Retail establishments.
- (D) Farm structures.
- (E) Restaurants.
- (F) Warehouses.
- (G) Institutional establishments.
- (H) Industrial facilities.
- (I) Food processing facilities.

(9) Category 7b. Termite control. This category includes individuals using or supervising the use of pesticides for the management of termites and other wood destroying organisms. Certification in this category also qualifies individuals to inspect structures for the purpose of determining the presence or absence of evidence of termites or other wood destroying organisms.

(10) Category 7d. Fumigation. Certification in this category is required for all individuals using or supervising the use of pesticides that in the gaseous state are designed to kill or repel pests.

(11) Category 8. Community-wide mosquito management. This category includes governmental employees or other individuals using or supervising the use of pesticides for community-wide mosquito abatement as defined in [357 IAC 1-11-1](#)(3).

(12) Category 11. Aerial application. Certification in this category is required for all individuals who apply pesticides by means of:

- (A) fixed wing;
- (B) rotary wing;
- (C) ultralight aircraft; or
- (D) lighter-than-air aircraft.

(13) Category 12. Wood destroying pest inspection. Certification in this category limits individuals to the inspection of structures for the purpose of determining evidence of the presence or absence of termites or other wood destroying organisms. It does not permit these individuals to use or supervise the use of pesticides for hire. The certification requirements for this category shall be determined by the state chemist.

(14) Category 13. Limited certification. This category includes individuals using or supervising the use of a very limited number of specialized pesticides in or on a very limited number of types of sites and situations not adequately covered by other categories listed in this section. The requirements for these limited certifications shall be determined by the state chemist.

(15) Category 14. Agricultural fertilizer material application. This category includes individuals using or supervising the use of fertilizer material for purposes of producing an agricultural crop on the property of another person.

(State Chemist of the State of Indiana; [355 IAC 4-1-3](#); Pesticide Use & Application Reg 1, Sec. 3; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 440; filed Nov 21, 1984, 3:33 p.m.: 8 IR 332; filed Nov 22, 1999, 3:39 p.m.: 23 IR 778; errata filed Dec 9, 1999, 12:31 p.m.: 23 IR 814; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Jan 30, 2007, 9:49 a.m.: [20070228-IR-355060063FRA](#); readopted filed Sep 20, 2007, 1:46 p.m.: [20071010-IR-355070484RFA](#); filed Dec 10, 2010, 10:32 a.m.: [20110105-IR-355100565FRA](#))

SECTION 3. [355 IAC 4-6-1](#) IS AMENDED TO READ AS FOLLOWS:

[355 IAC 4-6-1](#) Definitions

Authority: [IC 15-16](#)

Affected: [IC 15-16-2-11](#)

Sec. 1. The following definitions apply throughout this rule:

(1) "Category 3b licensed applicator for hire" means any licensed certified individual who is:

(A) employed by a licensed pesticide business to use or to supervise the use of any:

(i) pesticide intended to ~~control~~ **manage** turf pests; or

(ii) **fertilizer material on turf**;

by the business; and

(B) for purposes of this rule, certified in Category 3b.

(2) "Fertilizer material", as defined in [IC 15-16-2-11](#), means any substance containing nitrogen, phosphate, potash, or any recognized plant nutrient that:

(A) is used for the plant nutrient content; and

(B) has nutrient value in promoting plant growth.

The term includes unmanipulated animal and vegetable manures.

~~(2)~~ (3) "Turf pest" means any organism that inhabits or feeds upon the turf layer and root zone created by growing plants (usually grasses) and their matted roots and by so doing alters the vigor or appearance of the turf.

(State Chemist of the State of Indiana; [355 IAC 4-6-1](#); filed Jan 13, 1988, 4:47 p.m.: 11 IR 1760; filed Jan 9, 1992, 3:00 p.m.: 15 IR 702; filed Jan 5, 2000, 3:54 p.m.: 23 IR 1100; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; filed Aug 18, 2005, 4:30 p.m.: 29 IR 8; filed Dec 10, 2010, 10:32 a.m.: [20110105-IR-355100565FRA](#))

LSA Document #10-565(F)

Notice of Intent: [20100908-IR-355100565NIA](#)

Proposed Rule: [20101013-IR-355100565PRA](#)

Hearing Held: November 15, 2010

Approved by Attorney General: December 6, 2010

Approved by Governor: December 10, 2010

Filed with Publisher: December 10, 2010, 10:32 a.m.

Documents Incorporated by Reference: None Received by Publisher

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Posted: 01/05/2011 by Legislative Services Agency

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