University of Arkansas Division of Agriculture

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Application Restrictions Statutes & Regulations

Indiana

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Application Restrictions

STATE OF INDIANA

1) Ind. Code Ann. §§ 13-14-8-7, 13-15-2-1, 13-18-10-4, 13-13-5-1, 13-15-1-2; 327 Ind. Admin. Code 19-14 *et seq.*
2) Ind. Code Ann. § 15-16-2-44; 355 Ind. Admin. Code 8

The statutes and Constitution are current through the 2018 regular and special legislative sessions. The statutes are subject to changes by the Indiana Legislative Council.

1) Ind. Code Ann. §§ 13-14-8-7, 13-15-2-1, 13-18-10-4, 13-13-5-1, 13-15-1-2; 327 Ind. Admin. Code 19-14 *et seq.*

§ 13-14-8-7. Duties of board.

(a) Without limiting the generality of the regulatory authority of the board under this title, the board may adopt rules under IC 4-22-2 and IC 13-14-9 prescribing the following:

(1) Standards or requirements for discharge or emission specifying the maximum permissible short term and long-term concentrations of various contaminants of the air, water, or land.

(2) Procedures for the administration of a system of permits for:

(A) the discharge of any contaminants;

(B) the construction, installation, or modification of any:

(i) facility;

(ii) equipment; or

(iii) device;

that may be designed to control or prevent pollution; or

(C) the operation of any:

(i) facility;

(ii) equipment; or

(iii) device;

to control or to prevent pollution.

(3) Standards and conditions for the use of any fuel or vehicle determined to constitute an air pollution hazard.

(4) Standards for the filling or sealing of abandoned:

(A) water wells;

(B) water holes; and

(C) drainage holes;

to protect ground water against contamination.

(5) Alert criteria and abatement standards for pollution episodes or emergencies constituting an acute danger to health or to the environment, including priority lists for terminating activities that contribute to the hazard, whether or not the activities would meet all discharge requirements of the board under normal conditions.

(6) Requirements and procedures for the inspection of any equipment, facility, vehicle, vessel, or aircraft that may cause or contribute to pollution.

(7) Requirements and standards for equipment and procedures for:

(A) monitoring contaminant discharges at their sources;

(B) the collection of samples; and

(C) the collection, reporting, and retention, in accordance with record retention schedules adopted under IC 5-15-5.1, of data resulting from that monitoring.

(8) Standards or requirements to control:

(A) the discharge; or

(B) the pretreatment;

of contaminants introduced or discharged into publicly owned treatment works.

(b) If the board is required to adopt new rules or amend existing rules to implement an amendment to the federal Resource Conservation and Recovery Act or an amendment to

or addition of a National Emission Standard for Hazardous Air Pollutants under the federal Clean Air Act, the board shall adopt the new rules or amend the existing rules not more than nine (9) months after the date the federal law becomes effective. This subsection does not limit the board's authority to amend at any time the rules adopted under this subsection.

§ 13-15-2-1. Duty of board to adopt rules.

(a) The board shall adopt rules under IC 4-22-2 and IC 13-14-9 to establish requirements and procedures for the issuance of permits.

(b) In rules for the issuance of permits, the board may do the following:

(1) Prescribe standards for the discharge, emission, or disposal of contaminants and the operation of any facility, equipment, or device.

(2) Impose the conditions that are considered necessary to accomplish the purposes of this title.

§ 13-18-10-4. Rules, policies, and statements; uniform standards.

(a) The board may adopt rules under IC 4-22-2 and IC 13-14-9 and the department may adopt policies or statements under IC 13-14-1-11.5that are necessary for the proper administration of this chapter. The rules, policies, or statements may concern construction, expansion, and operation of confined feeding operations and may include uniform standards for:

(1) construction, expansion, and manure containment that are appropriate for a specific site; and

(2) manure application and handling that are consistent with best management practices:

(A) designed to reduce the potential for manure to be conveyed off a site by runoff or soil erosion; and

(B) that are appropriate for a specific site.

(b) Standards adopted in a rule, policy, or statement under subsection (a) must:

(1) consider confined feeding standards that are consistent with standards found in publications from:

(A) the United States Department of Agriculture;

(B) the Natural Resources Conservation Service of the United States Department of Agriculture;

(C) the Midwest Plan Service; and

(D) postsecondary educational institution extension bulletins; and

(2) be developed through technical review by the department, postsecondary educational institution specialists, and other animal industry specialists.

§ 13-13-5-1. Designation of department as agency.

Except as provided in IC 14-37, the department is designated as the following:

(1) The water pollution agency for Indiana for all purposes of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) in effect January 1, 1988, and the federal Safe Drinking Water Act (42 U.S.C. 300f through 300j) in effect January 1, 1988.

(2) The solid waste agency for Indiana for all purposes of the federal Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.) in effect January 1, 1988.

(3) The air pollution control agency for Indiana for all purposes of the federal Clean Air Act (42 U.S.C. 7401 et seq.), as amended by the federal Clean Air Act Amendments of 1990 (P.L.101-549).

(4) The state agency with responsibility concerning the Midwest Interstate Compact on Low-Level Radioactive Waste under IC 13-29-1.

(5) The state agency with responsibility concerning the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the federal Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 9601 through 9675) as in effect on January 1, 1993, and concerning 40 CFR 300.505, Subpart F of the National Oil and Hazardous Substances Pollution Contingency Plan.

(6) The state agency with responsibility concerning the federal Defense Environmental Restoration Program (10 U.S.C. 2701 through 2708) as in effect on January 1, 1993.

§ 13-15-1-2. Water pollution and atomic radiation.

The board shall establish requirements for the issuance of permits to control water pollution and atomic radiation, including the following:

(1) Permits to control or limit the discharge of any contaminants into state waters or into a publicly owned treatment works.

(2) Permits for the construction, installation, or modification of facilities, equipment, or devices to control or limit any discharge, emission, or disposal of contaminants into the waters of Indiana or into a publicly owned treatment works.

(3) Permits for the operation of facilities, equipment, or devices to control or limit the discharge, emission, or disposal of any contaminants into the waters of Indiana or into a publicly owned treatment works.

However, the board may not require a permit under subdivision (2) for any facility, equipment, or device constructed, installed, or modified as part of a surface coal mining operation that is operated under a permit issued under IC 14-34.

19-14-1 Applicability

Sec. 1. Land application of manure, litter, or process wastewater to land that is:

(1) owned by the permittee;

(2) rented by the permittee; or

(3) utilized by the permittee under an agreement for land use;

shall be done in accordance with the requirements of this rule. (Water Pollution Control Division; 327 IAC 19-14-1; filed Feb 6,2012, 2:58 p.m.: 20120307-IR-327090615FRA, eff Jul 1, 2012; readopted filed Jun 6, 2018, 1:59 p.m.: 20180704-IR-327180171BFA)

19-14-2 Required acreage for manure application

Sec. 2.

(a) All CFOs must maintain a minimum number of acres for manure application based on manure application rates from section 3 of this rule. This must be:

(1) documented in the operating record at all times; and

(2) included in all applications required under IC 13-18-10-1(2).

(b) Any acreage identified as part of the minimum required acreage for the application of manure, litter, or process wastewater that is not owned by the owner or operator of the CFO must be documented in the operating record by land use agreements signed by the property owners on whose property the manure, litter, or process wastewater will or may be applied. If the property is held under a

lease or managed by someone other than the property owner, such person in responsible control of the property with authority to approve the application of manure on the land may sign the land use agreement. The land use agreement shall specify the location of each parcel of land upon which manure may be applied and the available acreage on each parcel after calculation of setbacks.

(c) If the applicant can demonstrate to the satisfaction of the commissioner that a smaller amount of acreage can be used and is equally protective of human health and the environment, the commissioner may approve the different amount of acreage based on site-specific criteria submitted with the application package, including:

(1) type of manure generated;

(2) alternate methods of managing manure;

(3) innovative technology;

(4) the marketing and distribution of manure as described in section 7 of this rule; or

(5) other criteria related to protection of human health or the environment.

(d) Copies of any written waivers related to reduction of the property line setback distances must be kept in the operating record. (Water Pollution Control Division; 327 IAC 19-14-2; filed Feb 6, 2012, 2:58 p.m.: 20120307-IR-327090615FRA, eff Jul1, 2012; readopted filed Jun 6, 2018, 1:59 p.m.: 20180704-IR-327180171BFA)

19-14-3 Manure application rates

Sec. 3.

(a) The owner/operator of a CFO shall have the results of a soil test prior to any land application events, as well as a manure test. Soil and manure tests must be conducted in accordance with the manure management plan that is submitted to the commissioner to meet the requirement in 327 IAC 19-7-1(c)(5).

(b) The application rate of nitrogen (N) must not exceed the N requirements based on the recommendations in the following documents for current or planned crops of the upcoming growing season as documented in the operating record:

(1) Purdue University Cooperative Extension Service publication ID-101: Animal Manure as a Plant Nutrient Resource, February 2001*.

(2) Tri-State Fertilizer Recommendations for Corn, Soybeans, Wheat and Alfalfa, Extension Bulletin E-2567 (New), July 1995**. Minimum N loss

estimates must be used unless otherwise justified. This justification must be kept in the operating record.

(c) For the first manure application only, nutrient content of manure from facilities constructed after the effective date of this article must be:

(1) based on either:

(A) manure test values as described in 327 IAC 19-7-5(d); or

(B) values in the NRCS Agricultural Waste Management Field Handbook (AWMFH) Chapter 4, March 2008***; and

(2) applied at fifty percent (50%) of the rate listed in subsection (b). For all subsequent manure application events, nutrient content values must be based on manure test values.

(d) As of the effective date of this article, the following must comply with the phosphorus application rates in Table 1:

(1) Large CAFOs, as defined in 40 CFR 122.23(b)****, that were approved for initial construction after February 13, 2003.

(2) CAFOs with a NPDES permit.

(3) CFOs approved for initial construction after the effective date of this article.

Table 1	
Phosphorus Application Rates for Large CAFOs Approved for Initial Construction After February 13, 2003, and CFOs Approved for Initial Construction After the Effective Date of this Article	
Soil test level (ppm)	Application rate
0-50	N based
51-100	1.5 x P crop removal
101-200	1.0 x P crop removal
201+	0

(e) Beginning with the effective date of this article, CFOs and CAFOs not listed in subsection (d) must comply with the phosphorus application rates in Table 2:

Table 2				
Phosphorus Application Rates for all Other CFOs and CAFOs				
Soil test level (ppm)	Year*			
	2012-2013	2014-2015	2016-2017	2018+
0-50	N based	N based	N based	N based
51-100	1.5 x P crop removal	1.5 x P crop removal	1.5 x P crop removal	1.5 x P crop removal

101-200	1.0 x P crop removal	1.0 x P crop removal	1.0 x P crop removal	1.0 x P crop removal
201-250	0.9 x P crop removal	0.75 x P crop removal	0.75 x P crop removal	0
251-275	0.9 x P crop removal	0.75 x P crop removal	0.5 x P crop removal	0
276-300	0.9 x P crop removal	0.75 x P crop removal	0.25 x P crop removal	0
301-350	0.7 x P crop removal	0.5 x P crop removal	0	0
351-400	0.7 x P crop removal	0.25 x P crop removal	0	0
401+	0	0	0	0
* Multiple years of phosphorus may be applied as long as the net average of phosphorus does not exceed the amounts indicated in Table 2.				

(f) The following land application information must be added to the operating record as needed in accordance with required time frames established in this article and IC 13-18-10 and must be maintained and updated in the operating record:

(1) Expected crop yields.

(2) The date or dates manure, litter, or process wastewater is applied to each field.

(3) Precipitation events at the time of application and for twenty-four (24) hours prior to and following application.

(4) Test methods used to sample and analyze manure, litter, process wastewater, and soil.

(5) Results from manure, litter, process wastewater, and soil sampling.

(6) An explanation of the basis for determining manure, litter, and process wastewater application rates.

(7) Calculations showing the manure nitrogen and phosphorus to be applied to each field.

(8) Total amount of nitrogen and phosphorus actually applied to each field, including documentation of calculations for the total amount applied.

(9) The method used to apply the manure, litter, or process wastewater.

(10) The date or dates of manure, litter, and process wastewater application equipment inspection.

(11) USDA soil survey maps of currently available land application sites.

(12) The type of manure applied.

(13) A written conservation plan with an explanation of conservation practices used must be completed and implemented prior to land application on highly erodible land, if required in section 4(j) of this rule. CAFOs with a NPDES permit must have a nutrient management plan prior to land application on highly erodible land.

*These documents are incorporated by reference. Copies may be obtained from the Cooperative Extension Service, Purdue University, West Lafayette, IN 47907, online at https://www.extension.purdue.edu/extmedia/id/id-101.html, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, Thirteenth Floor, 100 North Senate Avenue, Indianapolis, IN 46204.

**This document is incorporated by reference. Copies may be obtained from the Cooperative Extension Service, Purdue University, West Lafayette, IN 47907, online at https://www.extension.purdue.edu/extmedia/AY/AY-9-32.pdf, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, Thirteenth Floor, 100 North Senate Avenue, Indianapolis, IN 46204.

***This document is incorporated by reference. Copies may be obtained from the Natural Resources Conservation Service, West National Technology Support Center, 1201 NE Lloyd Boulevard, Suite 1000, Portland, OR 97232, online at http://www.nrcs.usda.gov/, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, Thirteenth Floor, 100 North Senate Avenue, Indianapolis, IN 46204.

****This document is incorporated by reference. Copies may be obtained from Government Publishing Office, www.gpo.gov or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, Thirteenth Floor, 100 North Senate Avenue, Indianapolis, IN 46204. (Water Pollution Control Division;327 IAC 19-14-3; filed Feb 6, 2012, 2:58 p.m.: 20120307-IR-327090615FRA, eff Jul 1, 2012; errata filed Nov 9, 2012, 11:09 a.m.: 20121128-IR-327120607ACA; filed Jul 12, 2017, 8:47 a.m.: 20170809-IR-327160003FRA; readopted filed Jun 6, 2018, 1:59 p.m.: 20180704-IR-327180171BFA)

19-14-4 Manure application activities

Sec. 4.

(a) Manure that is staged at the manure application site for more than seventy-two (72) hours must be:

(1) covered or adequately bermed to prevent run-on or runoff;

(2) applied to the site within ninety (90) days;

(3) set back from property lines and public roads one hundred (100) feet; and

(4) set back from residential buildings four hundred (400) feet.

(b) Staging of manure at the manure application site is prohibited:

(1) within three hundred (300) feet of surface water, drainage inlets, including water and sediment control basins, or water wells unless there is a:

(A) barrier; or

(B) surface gradient that contains or directs any contaminated runoff away from the waters of the state, drainage inlets, including water and sediment control basins, or water wells;

(2) on any area with a slope greater than six percent (6%), unless run-on and runoff is controlled;

(3) on any standing water or waterway; or

(4) in any flood plain for more than seventy-two (72) hours.

(c) Solid manure, litter, or contaminated bedding may not be placed outside of any approved manure storage facility at the CFO overnight for more than twenty-four (24) hours or during inclement weather.

(d) The application of manure is prohibited in the following conditions:

(1) Saturated ground.

(2) Manure applied from manure application equipment operating on a public road.

(e) For large CAFOs, as defined in 40 CFR 122.23(b)*, and CAFOs with a NPDES permit, surface application of manure, litter, or process wastewater to frozen or snow covered ground is prohibited, unless allowed under a NPDES permit obtained by the CAFO. Injection or incorporation of manure into the soil on the same day is allowed.

(f) CFOs not described in subsection (e) may surface apply manure on frozen or snow covered ground in accordance with subsections (g) through (i). Injection or incorporation of manure into the soil on the same day is allowed.

(g) For purposes of this section, an emergency application is only allowed when there is an immediate need to apply manure to comply with the manure storage requirement of 327 IAC 19-12-4 due to unforeseen circumstances affecting the storage of the liquid manure as follows:

(1) The unforeseen circumstances must be beyond the control of the owner of the CFO, including:

(A) natural disaster;

(B) extreme weather conditions;

(C) equipment failure; or

(D) structural failure.

(2) The need to apply manure to maintain required storage capacity due to improper design or management of the manure storage facility, including a failure to properly account for the volume of manure to be stored is not considered an emergency.

(h) The following requirements apply to all emergency land application of manure on frozen or snow covered ground:

(1) The person must notify the appropriate department field office by telephone prior to the application.

(2) The following information must be provided or the notification is not considered complete:

(A) The CFO owner's name.

(B) The facility name.

(C) The facility ID number.

(D) The reason for emergency application.

(E) The date of land application.

(F) The estimated number of gallons of manure to be applied.

(G) The location of the application fields.

The owner must document the emergency as well as actions taken to abate it and keep that information in the CFO's operating record.

(3) The manure must be applied in accordance with all land application requirements of this rule and additionally, may only be applied on a field where the following conditions are met:

(A) No application to land with a slope greater than two percent (2%), unless there is forty percent (40%) crop residue or vegetated crop cover on the land application site.

(B) No application in a flood plain.

(C) Application may not be closer than two hundred (200) feet from any surface water.

(D) The application rate for all farms can be no more than a total of fifty percent (50%) of the agronomic rate, based on Table 1 of section 3 of this rule.

(4) Once the emergency is abated, land application of manure must cease to frozen or snow covered ground.

(i) For a CFO that is not a large CAFO with one hundred twenty (120) days or less of approved storage capacity, the commissioner may authorize application of manure to frozen or snow-covered ground on a case-by-case basis. The CFO must:

(1) provide proof of available storage capacity to the commissioner; and

(2) comply with subsection (h)(3).

This authorization terminates when a discharge to waters of the state or a water quality violation is documented.

(j) Manure must not be applied to highly erodible land unless:

(1) the land has forty percent (40%) residue protection or crop cover; or

(2) it is applied in accordance with a conservation plan described in section 3(f)(13) of this rule.

(k) Any manure application, except those described in subsection (l), that causes a water quality violation:

(1) is a violation of this article; and

(2) may result in enforcement action.

(l) Subsection (k) does not apply to organic or inorganic matter that consists of fertilizer material that:

(1) is contained in:

(A) runoff from a storm event; or

(B) irrigation return flow; and

(2) enters waters of the state as a result of land application of the fertilizer material that is:

(A) for agricultural purposes;

(B) done at appropriate agronomic rates for proper nutrient uptake in the field;

(C) applied in accordance with this rule; and

(D) documented.

*This document is incorporated by reference. Copies may be obtained from Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, Thirteenth Floor, 100 North Senate Avenue, Indianapolis, IN 46204. (Water Pollution Control Division;327 IAC 19-14-4; filed Feb 6, 2012, 2:58 p.m.: 20120307-IR-327090615FRA, eff Jul 1, 2012; filed Jul 12, 2017, 8:47 a.m.: 20170809-IR-327160003FRA; readopted filed Jun 6, 2018, 1:59 p.m.: 20180704-IR-327180171BFA)

19-14-5 Spray irrigation

Sec. 5.

(a) Spray irrigation of manure and process wastewater must be conducted to prevent equipment leaks and excessive application. Application is deemed excessive when the application rate exceeds the infiltration rate of the soil where the application is occurring.

(b) Application must be conducted:

(1) under the constant supervision of a person; or

(2) with devices to detect pressure loss due to leaks and devices to shut down the system if leaks are detected.

(c) Manure and process wastewater must not be applied by spray irrigation to any land that has less than twenty (20) inches of soil above the bedrock.

(d) Spray irrigation in a flood plain is prohibited unless the following conditions are met:

(1) The setback from surface water is increased to two hundred (200) feet.

(2) Spraying is only done during months that the NRCS soil data mart indicates have a low potential for flooding.

(3) There is no expectation of flooding, based on:

(A) available weather forecast information; and

(B) rainfall or flood conditions upstream of the land application area.

(4) A spray irrigation plan is completed, which must be kept in the operating record and includes the following:

(A) A map of the flood plain area.

(B) A timeline of when the spraying will occur.

(C) A description of the methods used in subsection (b).(Water Pollution Control Division; 327 IAC 19-14-5; filed Feb 6, 2012, 2:58 p.m.: 20120307-IR-327090615FRA, eff Jul 1, 2012; readopted filed Jun 6, 2018, 1:59 p.m.: 20180704-IR-327180171BFA)

19-14-6 Manure application setbacks

Sec. 6.

(a) Except as otherwise provided under this section, application of manure and process wastewater must be in accordance with the setbacks in Table 1: Manure Application Setback Distances, from Indiana NRCS Conservation Practice Standard 590: Nutrient Management, October 2013*, as follows:

(1) All setback distances must be measured from the edge of the area of actual placement of manure or process wastewater on the land.

(2) The property line setback distances in this subsection may be waived in writing by the owner of the adjoining property.

(3) The setback is the width of the filter strip if a properly designed and maintained filter strip of at least fifty (50) feet in width is located between the application site and any of the following:

(A) Surface water.

(B) Any known private well.

(C) The surface opening or lowest point of any sinkhole.

(D) Any drainage inlet, including water and sediment control basins.

(4) The setback is ten (10) feet if a gradient barrier is located between the application site and any of the following:

(A) Surface water.

(B) Any known well.

(C) The surface opening or lowest point of any sinkhole.

(D) Any drainage inlet, including water and sediment control basins.

(b) To ensure that manure and process wastewater are not applied before, during, or immediately following a rain event that, when combined with soil conditions, would likely result in runoff, the owner/operator must take into account the:

(1) weather forecast and likelihood of precipitation events for the twenty-four (24) hour period before and after the application; and

(2) site soil conditions.

(c) Land application sites must be inspected to identify any field tile outlets, grassed waterways, and surface water conveyance channels under or immediately bordering the land application site as follows:

(1) Monitoring of identified field tile outlets, waterways, and surface water conveyance channels must occur during and immediately following land application of the manure or process wastewater based on:

(A) color;

(B) flow;

(C) volume and volume change; and

(D) odor and change in odor.

(2) If there is evidence of manure or process wastewater discharging from the field tile outlet, the land application must cease immediately and the flow must be stopped or captured. Any flow that is captured must be either land applied or returned to an approved manure storage facility.

(d) The monitoring activities conducted in accordance with subsection (c) must be documented and placed in the operating record.

*This document is incorporated by reference. Copies may be obtained from the Indiana NRCS State Office, 6013 Lakeside Boulevard, Indianapolis, IN 46278, online at http://www.in.nrcs.usda.gov/, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, Thirteenth Floor, 100 North Senate Avenue, Indianapolis, IN 46204. (Water Pollution Control Division; 327 IAC 19-14-6; filed Feb 6, 2012, 2:58 p.m.: 20120307-IR-327090615FRA, eff Jul 1, 2012; filed Jul 12, 2017, 8:47 a.m.: 20170809-IR-327160003FRA; readopted filed Jun 6, 2018, 1:59 p.m.: 20180704-IR-327180171BFA)

19-14-7 Marketing and distribution of manure

Sec. 7.

(a) The owner/operator of the CFO shall provide an information sheet to any person that receives or purchases more than ten (10) cubic yards of dry manure or four thousand (4,000) gallons of liquid manure in a year from the CFO unless the owner/operator takes responsibility for applying the manure.

(b) The information sheet must contain, at a minimum, the following information:

(1) The name and address of the CFO providing the manure.

(2) A statement indicating that it is unlawful to allow the manure to enter any waters of the state.

(3) Information on the nutrient content of the manure.

(4) The manure application requirements of this rule.

(c) The operating record must contain and be maintained and updated with records of any person who receives or purchases more than ten (10) cubic yards of dry manure or four thousand (4,000) gallons of liquid manure in a year to include the following:

(1) The name and address of the person receiving or purchasing the manure.

(2) The amount of manure received or purchased by the person.

(3) A copy of the information sheet.

(d) If a manure distribution program is used, IDEM may allow for a waiver of some or all of a facility's total land application acreage requirements based on submittal of:

(1) the documentation as described in subsections (b) and (c) from the previous three (3) years showing the amount of manure produced and marketed at the facility; or

(2) contracts for the entire approval term for marketing the projected amount of manure produced at the facility.

(e) All records in this section must be made available to a representative of the department during an inspection. (Water Pollution Control Division; 327 IAC 19-14-7; filed Feb 6, 2012, 2:58 p.m.: 20120307-IR-327090615FRA, eff Jul 1, 2012; readopted filed Jun 6, 2018, 1:59 p.m.: 20180704-IR-327180171BFA)

2) Ind. Code Ann. § 15-16-2-44; 355 Ind. Admin. Code 8

§ 15-16-2-44. Rules; certification and education programs; fees; waivers.

(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 [IC 15-16-2-44.5] 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.

Article 8. Fertilizer Material Use, Distribution, and Record Keeping

Rule 1. General Provisions

8-1-1 Purpose

Sec. 1. The purpose of this article is to:

(1) ensure fertilizer materials are distributed and used effectively and safely:

(A) as plant nutrients; and

(B) in a manner that protects water quality; and

(2) complement authorities granted to the Indiana department of environmental management under IC 13-13-5-1(1).

8-1-2 Applicability

Sec. 2.

(a) Except as provided in subsection (b), this article applies to any person that:

(1) uses; or

(2) distributes;
fertilizer material for the purposes of producing an agricultural crop.

(b) This article does not apply to any person who uses or distributes less than ten (10) cubic yards or four thousand (4,000) gallons of fertilizer material in a calendar year.

(c) This article is in addition to rules passed by the water pollution control board regulating confined feeding operations. To the extent that provisions of those rules require conditions or actions that are more stringent than any of the provisions in this article, operations which have a confined feeding operation or NPDES permit approval must comply with the more stringent provision. Compliance with the more stringent provision will satisfy the similar requirement of this article.

Rule 2. Definitions

8-2-1 Applicability

Sec. 1. The definitions in this rule apply throughout this article.

8-2-2 "Agricultural crop" defined

Sec. 2. "Agricultural crop" means any plant or part of a plant produced primarily for sale, consumption, propagation, or other use by humans or animals. For purposes of this article, the term does not include turf, trees, or ornamental plantings.

8-2-3 "Agronomic rate" defined

Sec. 3. "Agronomic rate" means a rate of application of fertilizer material to the land based on the following:

(1) The nutrient content of the fertilizer material to be applied.

(2) The fertility level of the soil.

(3) The nutrient needs of the current or planned crops.

(4) The nutrient holding capacity of the soil.

(5) Additional sources of nutrients, including legume credits, process wastewater, or biosolids.

(6) Reasonable nitrogen losses.

(7) Reasonable phosphorus levels.

8-2-4 "Biosolid" defined

Sec. 4.

(a) "Biosolid", as defined in 327 IAC 6.1-2-7, means solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Examples of biosolid include, but are not limited to, the following:

(1) Scum or a solid removed in primary, secondary, or advanced wastewater treatment processes.

(2) A material derived from biosolid.

(3) An industrial waste product that contains domestic sewage or material under subdivision (1) or (2).

(b) The term does not include ash generated during the firing of biosolid in a biosolid incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.

8-2-5 "Certified applicator" defined

Sec. 5. "Certified applicator" means any individual who has been issued a certificate or licensing credential under 355 IAC 7 as evidence of the individual's qualifications to distribute or use fertilizer material.

8-2-6 "Drainage inlet"

Sec. 6. "Drainage inlet" means any surficial opening to an underground agricultural tile drainage system that drains surface waters. For purposes of this article, the term includes water and sediment control basins.

8-2-7 "Distribute" defined

Sec. 7. "Distribute" means to:

(1) offer for sale;

(2) sell;

(3) exchange;

(4) barter;

(5) supply; or

(6) offer to supply;
fertilizer material.

8-2-8 "Fertilizer application plan" defined

Sec. 8. "Fertilizer application plan" means a written annual or multi-year plan for nutrient application at agronomic rates for producing an agricultural crop.

8-2-9 "Fertilizer material" defined

Sec. 9. "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.

8-2-10 "Filter strip" defined

Sec. 10. "Filter strip" means a vegetative area between a surface water body and an agricultural production field with a minimum width of fifty (50) feet and designed and maintained to intercept surface water runoff.

8-2-11 "Floodway" defined

Sec. 11. "Floodway" means the channel of a river or stream and those portions of the floodplain adjoining the channel that are reasonably required to efficiently carry and discharge the peak flood flow of a one hundred (100) year flood as determined by 312 IAC 10.

8-2-12 "Gradient barrier" defined

Sec. 12. "Gradient barrier" means a structure or feature that prevents runoff from entering surface waters.

8-2-13 "Highly erodible land" defined

Sec. 13. "Highly erodible land" means soil that has a high potential to erode based on site-specific characteristics, such as:

(1) slope length and steepness;

(2) soil erodibility; and

(3) rainfall;

as defined by the United States Department of Agriculture Natural Resources Conservation Services and Farm Service Agency maps.

8-2-14 "Incorporation" defined

Sec. 14. "Incorporation" means the mixing of fertilizer material with the surface soil using standard agricultural practices, such as tillage.

8-2-15 "Injection" defined

Sec. 15. "Injection" means the placement of liquid fertilizer material beneath the surface of the soil in the crop root zone using equipment specifically designed for this purpose.

8-2-16 "Inorganic fertilizer" defined

Sec. 16. "Inorganic fertilizer" means any fertilizer material:

(1) manufactured by means of a man-made chemical reaction; and

(2) that does not contain any plant or animal products, manures, or renderings.

For purposes of this article, urea is considered to be an inorganic fertilizer, not an organic fertilizer.

8-2-17 "Manipulated organic fertilizer" defined

Sec. 17. "Manipulated organic fertilizer" means any organic fertilizer that is not included in the definition of manure as defined in 355 IAC 8-2-18 section 18 of this rule .

8-2-18 "Manure" defined

Sec. 18. "Manure" means any of the following:

(1) Liquid or solid animal excreta.

(2) Waste liquid generated at a livestock or poultry production area, including the following:

(A) Excess drinking water.

(B) Cleanup water.

(C) Contaminated livestock truck or trailer washwater.

(D) Milking parlor wastewater.

(E) Milk house washwater.

(F) Egg washwater.

(G) Silage leachate.

(3) Any precipitation or surface water that has come into contact with the following:

(A) Liquid or solid animal excreta.

(B) Used bedding.

(C) Litter.

(D) Liquid described in subdivision (4).

(4) Any other materials generated at a livestock or poultry production area commingled with the materials listed in subdivisions (1) through (3).

8-2-19 "Organic fertilizer" defined

Sec. 19. "Organic fertilizer" means any fertilizer material derived from either plant or animal products or manures containing one (1) or more nutrients that are essential for plant growth. For purposes of this article, the term does not include biosolids.

8-2-20 "Person" defined

Sec. 20. "Person", as defined in IC 15-16-2-17, means:

(1) an individual;

(2) a partnership;

(3) an association;

(4) a firm;

(5) a limited liability company; or

(6) a corporation.

8-2-21 "Public water supply surface intake structure" defined

Sec. 21. "Public water supply surface intake structure" means any structure used for the purpose of providing water through a public water supply system.

8-2-22 "Public water supply well" defined

Sec. 22. "Public water supply well" means any well that provides water to the public through a water distribution system that:

(1) serves at least twenty-five (25) persons per day for:

(A) drinking;

(B) domestic use; or

(C) other purposes; or

(2) has at least fifteen (15) service connections.

8-2-23 "Saturated ground" defined

Sec. 23. "Saturated ground" means soil soaked with moisture so that it cannot absorb any more liquid.

8-2-24 "Sinkhole" defined

Sec. 24. "Sinkhole" means a natural depression in the surface of the land caused by the collapse of the roof of a cavern or subterranean passage.

8-2-25 "Staging" defined

Sec. 25. "Staging" means the temporary placement of fertilizer material in a pile to be used for field application.

8-2-26 "State chemist" defined

Sec. 26. "State chemist" means the Indiana state chemist or an appointed agent.

8-2-27 "Surface application" defined

Sec. 27. "Surface application" means the placement of fertilizer material by spraying or spreading onto the land surface.

8-2-28 "Surface water" defined

Sec. 28.

(a) "Surface water" means waters of the state, as described in IC 13-11-2-265, present on the surface of the earth, including the following:

(1) Streams.

(2) Lakes.

(3) Ponds.

(4) Rivers.

(5) Swamps.

(6) Marshes.

(7) Wetlands.

(b) The term does not include the following:

(1) Temporary ponding in an agricultural crop growing area.

(2) Temporary puddles.

(3) Farmed wetlands.

(4) Private ponds that:

(A) are under the care, custody, and control of the person applying or ordering the application of fertilizer material;
and

(B) do not have an outfall to other surface waters.

8-2-29 "Use" defined

Sec. 29. "Use" means the:

(1) application of fertilizer material on an agricultural crop growing area;

(2) handling of fertilizer materials; or

(3) transportation of fertilizer materials.

Rule 3. Fertilizer Material Application

8-3-1 Application of fertilizer material

Sec. 1. A person applying fertilizer material for the purposes of producing an agricultural crop shall:

(1) develop a fertilizer application plan prior to application;

(2) apply fertilizer material in accordance with the fertilizer application plan for the target application site;

(3) not apply fertilizer material directly to surface water;

(4) not apply fertilizer material to saturated ground; and

(5) not apply fertilizer material from a public road.

8-3-2 Application of unmanipulated organic fertilizer

Sec. 2. Unless there is a gradient barrier and a minimum setback of ten (10) feet or a filter strip with a minimum width of fifty (50) feet located between the application site and any of the known features in Table 1, a person shall apply unmanipulated organic fertilizer according to the setback distances in the following table:

Table 1 - Unmanipulated Organic Fertilizer Application Setback Distances (in feet)

(1) All setback distances shall be measured from the edge of the area of actual application of unmanipulated organic fertilizer on the ground.

Table 1 – Unmanipulated Organic Fertilizer Application Setback Distances (in feet)				
Known Feature	Liquid – Injection or Single Pass Incorporation (liquid/solid)	Liquid – Incorporation; Surface Application (solid or compost); or	Liquid – Surface Application	
			< 6% Slope; or Residue Cover	> 6% Slope

		Surface Application to Pasture		
Public Water Supply Wells and Surface Intake	500	500	500	500
Surface Waters	25	50	100	200
Sinkholes	25	50	100	200
Water Wells	50	50	100	200
Drainage Inlets	5	50	100	200
Property Lines and Public Roads	0	10	50	50

(2) Liquid incorporation in Table 1 means only unmanipulated organic fertilizer that has been incorporated into the soil within twenty-four (24) hours of application.

8-3-3 Application of unmanipulated organic fertilizer to highly erodible land

Sec. 3. A person shall not apply unmanipulated organic fertilizer to highly erodible land, unless the land has:

(1) at least forty percent (40%) crop residue; or

(2) a vegetative cover crop.

8-3-4 Application of unmanipulated organic fertilizer to frozen or snow covered ground

Sec. 4.

(a) Except as provided in subsection (b), a person shall not apply unmanipulated organic fertilizer to frozen or snow covered ground as follows:

(1) Within two hundred (200) feet of surface water.

(2) Within a floodway.

(3) In an amount that exceeds fifty percent (50%) of the agronomic rate for the planned crop.

(4) With greater than two percent (2%) slope unless the ground has:

(A) at least forty percent (40%) crop residue; or

(B) a vegetative cover crop.

(b) Unmanipulated organic fertilizer applied by means of injection or same day incorporation means the ground is not considered frozen or snow covered.

8-3-5 Unmanipulated organic fertilizer application monitoring

Sec. 5. A person who applies unmanipulated organic fertilizer shall do the following:

(1) For the twenty-four (24) hour period immediately before the application, monitor application site soil conditions and the weather forecast for predicted rain events to ensure that fertilizer runoff does not occur.

(2) During and immediately following the application, monitor the application site effluent from field tile outlets and surface water conveyance channels for a change of:

(A) color;

(B) flow; or

(C) volume.

(3) If there is a change to the effluent caused by the application:

(A) stop the application immediately;

(B) stop or capture the effluent; and

(C) land apply or store the effluent.

Rule 4. Staging of Fertilizer Material

8-4-1 Staging restrictions for inorganic fertilizer

Sec. 1. A person shall not stage inorganic fertilizer as follows:

(1) Within three hundred (300) feet of:

(A) surface waters;

(B) drainage inlets; or

(C) water wells.

(2) In standing water, a waterway, or a floodway.

(3) For more than seventy-two (72) hours unless the fertilizer is as follows:

(A) Covered with a tarpaulin or other suitable covering.

(B) Applied to a target field within thirty (30) days.

8-4-2 Staging restrictions for organic fertilizer

Sec. 2.

(a) A person shall not stage organic fertilizer as follows:

(1) Within three hundred (300) feet of surface waters, drainage inlets, or water wells unless there is a:

(A) cover; or

(B) gradient barrier that contains or directs any organic fertilizer away from the surface waters, drainage inlets, or water wells.

(2) On an area with a slope greater than six percent (6%) unless run-on and runoff are controlled.

(3) On any standing water or waterway or floodway.

(b) Organic fertilizer that is staged for more than seventy-two (72) hours shall be as follows:

(1) Protected by a:

(A) cover; or

(B) gradient barrier.

(2) Applied within ninety (90) days.

(3) Set back from property lines one hundred (100) feet.

(4) Set back from public roads one hundred (100) feet.

(5) Set back from residential buildings four hundred (400) feet.

Rule 5. Fertilizer Material Use Record Keeping

8-5-1 Organic fertilizer distribution records

Sec. 1.

(a) All persons required to be licensed under 355 IAC 7 who distribute organic fertilizer material as described in 355 IAC 7-3-3 shall keep and maintain records of such distribution.

(b) The records required under subsection (a) shall include the following:

(1) The name of the certified applicator accepting receipt of the organic fertilizer.

(2) The certification number of the certified applicator.

(3) The amount of fertilizer distributed.

(4) The representative nutrient value or values of the organic fertilizer.

(5) The month, day, and year of distribution.

8-5-2 Fertilizer material application records

Sec. 2.

(a) All persons required to be licensed under 355 IAC 7 who apply:

(1) fertilizer material as described in 355 IAC 7-3-1; or

(2) organic fertilizer as described in 355 IAC 7-3-2; shall keep and maintain records of all such applications.

(b) The records required under subsection (a) shall include the following:

(1) The address or location description of the application site.

(2) The name of the certified applicator making or supervising the application.

(3) The certification number of the certified applicator.

(4) The rate applied.

(5) The representative nutrient value or values of the fertilizer material.

(6) The type of fertilizer material applied.

(7) The method of fertilizer application.

(8) The month, date, and year of application.

8-5-3 Record keeping period; inspection

Sec. 3. All records required under this rule shall be as follows:

(1) Kept and maintained for a period of two (2) years.

(2) Made available for inspection or copying within thirty (30) days of written or oral request by the state chemist.

Rule 6. Effective Date

8-6-1 Compliance with effective date of article

Sec. 1. Full compliance by persons affected by this article shall be required no later than one (1) year following adoption.