



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/10/97)

Agency: Agriculture

- Permanent Rule
- Emergency Rule
- Expedited Adoption
- Expedited Repeal

(1) Date of adoption: September 6, 2000

(2) Purpose: Allows for the exemption of biosolids from fertilizer regulation if they meet the requirements for biosolids in Ecology's Biosolids Rules. However, if a biosolid product does not meet the exemption requirements the biosolids may be registered as a fertilizer.

(3) Citation of existing rules affected by this order:

Repealed: WAC 16-200-705

Amended: WAC 16-200-695

Suspended:

(4) Statutory authority for adoption: RCW 15.54.270(4) and RCW 15.54.800

Other Authority:

PERMANENT RULE ONLY (Including EXPEDITED ADOPTION)

Adopted under notice filed as WSR 00-15-065 on 7/18/00 (date).

Describe any changes other than editing from proposed to adopted version: None

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

EXPEDITED REPEAL ONLY

Under Preproposal Statement of Inquiry filed as WSR _____ on _____ (date)

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?:

- Yes
 - No
- If Yes, explain:

(6) Effective date of rule:

Permanent Rules
or Expedited Repeal

Emergency Rules

- 31 days after filing
- Other (specify) _____*

- Immediately
- Later (specify) _____

*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

Name (Type or Print)

Jim Jesernig

Signature

Title
Director

Date
9/18/00

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON

SEP 18 2000

TIME

2:02

AM

WSR

00-19-058

PM

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

NEW SECTION

WAC 16-200-600 Purpose. The following sections concerning the protection of ground water, labeling requirements and examination of fertilizer minerals and limes (WAC 16-200-708 through 16-200-742) are established in this chapter under the authority of the Commercial Fertilizer Act, chapter 15.54 RCW.

This chapter also describes the requirements for registration of commercial fertilizers, including the information which must be submitted as part of the registration application, the sample preparation and analysis methods which must be used, the maximum application rates the department will use to determine whether a commercial fertilizer may be registered, the Washington standards for metals (in pounds per acre per year), and the acts which are unlawful under this chapter.

AMENDATORY SECTION (Amending WSR 99-08-037, filed 3/31/99, effective 5/1/99)

WAC 16-200-695 Definitions. The definitions set forth in this section shall apply throughout this chapter unless context otherwise requires:

(1) "Organic" means a material containing carbon and one or more elements (other than hydrogen and oxygen) essential for plant growth. When the term "organic" is utilized in the label or labeling of any commercial fertilizer, it shall be qualified as either "synthetic organic" or "natural organic," with the percentage of each specified.

(2) "Natural organic" means a material derived from either plant or animal products containing carbon and one or more elements (other than hydrogen and oxygen) essential for plant growth.

(3) "Synthetic organic" means a material that is manufactured chemically (by synthesis) from its elements and other chemicals, containing carbon and one or more elements (other than hydrogen and oxygen) essential for plant growth.

(4) "Unit" means one percent (by weight) of a ton.

(5) "AOAC" means the association of official analytical chemists.

(6) "Commercial fertilizer" means a substance containing one or more recognized plant nutrients and that is used for its plant nutrient content or that is designated for use or claimed to have value in promoting plant growth, and shall include limes, gypsum, and manipulated animal and vegetable manures. It does not include

unmanipulated animal and vegetable manures, organic waste-derived material, and other products exempted by the department by rule.

(7) "Fertigation" means a method of applying commercial fertilizers with irrigation water to fertilize land or plants.

(8) "Fertilizer component" means a commercial fertilizer ingredient containing one or more recognized plant nutrients which is incorporated in the commercial fertilizer for its plant nutrient value.

(9) "Maximum acceptable cumulative metals additions to soil" means the amount of total metals that can be added to soil over a forty-five-year period of time without exceeding the Canadian standards which have been adopted in RCW 15.54.800(3) as Washington standards for metals.

(10) "Organic waste-derived material" means grass clippings, leaves, weeds, bark, plantings, prunings, and other vegetative wastes, uncontaminated wood waste from logging and milling operations, food wastes, food processing wastes, and materials derived from these wastes through composting. "Organic waste-derived material" does not include products that include biosolids.

(11) "Maximum application rate" means the maximum amount of commercial fertilizer expressed by weight (such as: pounds, ounces, kilograms, or milligrams) or volume (such as: gallons, quarts, fluid ounces, liters, or milliliters) to be applied to an area of a specified size (such as: acres, square feet, hectares, or square meters) in a period of time stated in years.

(12) "Biosolids" means municipal sewage sludge that is a primarily organic, semisolid product resulting from the wastewater treatment process that can be beneficially recycled, including material derived from biosolids, and septic tank sludge, also known as septage. For the purposes of this rule, semisolid products include biosolids or products derived from biosolids ranging in character from mostly liquid to fully dried solids.

(13) "Unpackaged biosolids" means biosolids distributed in a loose, unpackaged form such as, but not limited to, tote bags, tote tanks, bins, tanks, trailers, spreader trucks, railcars, and pick-up truckloads or other containers provided by the final user solely for transport of the material.

(14) "Packaged biosolids" means biosolids distributed in a container provided by the distributor of the material.

NEW SECTION

WAC 16-200-701 What products are exempt from the definition of commercial fertilizer? In addition to unmanipulated animal and vegetable manures and organic waste-derived materials, the following materials are exempt from the definition of commercial fertilizer:

(1) Unpackaged biosolids if they comply with biosolids

regulation under Chapter 173-308 WAC, and they do not use the term "fertilizer" in the labeling of the biosolids, except to disclaim them as commercial fertilizer;

(2) Packaged biosolids if they do not meet the definition for commercial fertilizer, do not use the term "fertilizer" in the labeling of the biosolids, except to disclaim them as commercial fertilizer, and comply with biosolids regulation under chapter 173-308 WAC.

NEW SECTION

WAC 16-200-703 How are biosolids regulated under the Commercial Fertilizer Act? (1) Unpackaged biosolids and packaged biosolids that do not meet the definition for commercial fertilizer must include a legible and conspicuous disclaimer on their labeling. The disclaimer must specifically state that the product is not a commercial fertilizer, and that any nutrient claims are estimates or averages and are not guaranteed.

(2) Packaged biosolids that meet the definition for commercial fertilizer must be registered as commercial fertilizer.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-200-705

Purpose.