



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: 6-5-98

(2) Purpose: To describe the requirements for registration for commercial fertilizers, including the methods to use for analysis for metals and specifying the metals information which must be submitted with the registration application; to describe the methods for determining maximum use rates for plant nutrients; to set the Washington application rates; to express the Washington standards for metals in pounds per acre per year; to describe how the department will determine if a commercial fertilizer meets or exceeds the metals standards; and to describe a violation of the rules.

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

Repealed:
 Amended: 16-200-695, 16-200-708
 Suspended:

(4) Statutory authority for adoption: RCW 15.54.325, 15.54.330, 15.54.370, 15.54.800

Other Authority:

PERMANENT RULE ONLY (Including EXPEDITED ADOPTION)

Adopted under notice filed as WSR _____ on _____ (date).
 Describe any changes other than editing from proposed to adopted version:

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: The 1998 Legislature passed SSB 6474 which amends RCW 15.54, the commercial fertilizer registration law, and adopts standards for maximum acceptable cumulative metals additions to soil. This new law requires persons who register commercial fertilizers in Washington to disclose the levels of nine metals which may be present in a commercial fertilizer. It takes effect on June 11, 1998. (Continued on attached sheet).

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:

Emergency Rules

Permanent Rules or Expedited Repeal

- 31 days after filing
- Other (specify) _____*
- Immediately
- Later (specify) 6-11-98

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

Name (Type or Print)
 James M. Jesernig

Signature

Title
 Director

Date
 6-5-98

CODE REVISER USE ONLY

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OFFICE OF THE CLERK
 STATE OF WASHINGTON
 FILE

JUN 5 1998

TIME 8:47 AM

WSR 98-13-013 PM

CR 103 – Emergency rules adopted under RCW 15.54. Reasons for this finding (continued):

Under RCW 15.54, the 1998 annual commercial fertilizer registration period begins on July 1, 1998. These emergency rules adopt the methods for metals analysis and reporting which will enable the fertilizer industry to analyze their products for these nine metals and report the results for the 1998 registration.

The emergency rules also set the Washington application rates and express the Washington standards for metals in pounds per acre per year to enable the industry and the department to determine if a commercial fertilizer meets or exceeds the Washington standards for metals.

These emergency rules are required for the preservation of the general welfare and are in the public interest because they will enable the department to implement and enforce the requirements in SSB 6474 in a timely manner against commercial fertilizer which do not meet Washington standards.

This emergency rule supercedes the emergency filed on 5-27-98 WSR Filing No. 98-012-018.

**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 <u>4</u>	Amended <u>3</u>	Repealed

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

New <u>4</u>	Amended <u>3</u>	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

AMENDATORY SECTION (Amending Order 2066, filed 12/7/90, effective 1/7/91)

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 any substance containing one or more recognized plant nutrients and which is used for its plant nutrient content and/or which 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 shall not include unmanipulated animal and vegetable manures and other products exempted by the department by rules.

(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 metals that can be added to soil over a 45-year period of time without exceeding the Canadian Standards which have been adopted in RCW 15.54.800(3) as Washington Standards for metals.

AMENDATORY SECTION (Amending Order 2066, filed 12/7/90, effective 1/7/91)

WAC 16-200-705 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 analysis methods which must be used, the maximum use rates the department will use to determine whether a commercial fertilizer may be registered, the Washington Standards for metals and the acts which are unlawful under this chapter.

NEW SECTION

WAC 16-200-7061 What Information Must I Include With My Registration Application Concerning Metals? (1) You are required to submit the following metals information with your registration application:

- (a) Total concentration of each metal reported in parts per million (PPM) which is equivalent to milligrams of metal per kilogram of fertilizer (mg/kg), or micrograms per gram;
 - (b) Copy of the laboratory report on metals analysis;
 - (c) Method of analysis;
 - (d) Method of sample preparation; and
 - (e) Minimum detection limits for each method used.
- (2) The department may request quality assurance and quality control documentation for analytical procedures and/or for the laboratory which performed the analyses.
- (3) The analytical data and maximum use rate will be used to determine if a commercial fertilizer meets or exceeds the Washington standards for metals.

NEW SECTION

WAC 16-200-7062 What Method Must I Use To Analyze The Metals Contained In My Commercial Fertilizer? (1) You must prepare and analyze your commercial fertilizer for the total concentration of each of the following nine metals using one or more of the EPA methods listed in Table 1. All methods are described in the U. S. Environmental Protection Agency's SW 846.

Table 1. Acceptable Analysis Methods for Metals Contained in SW-846.

Metal	Inductively Coupled Plasma (ICP)	Atomic Absorption	Inductively Coupled Plasma Mass Spectroscopy (ICP/MS)
Arsenic (As)	6010, 6010A, 6010B	7060A, 7061A	6020
Cadmium (Cd)	6010, 6010A, 6010B	7131A	6020
Cobalt (Co)	6010, 6010A, 6010B	7201	6020
Lead (Pb)	6010, 6010A, 6010B	7420, 7421	6020
Molybdenum (Mo)	6010, 6010A, 6010B	7480	6020
Nickel (Ni)	6010, 6010A, 6010B	7520,7521	6020
Selenium (Se)	6010, 6010A, 6010B	7740, 7741A	6020
Zinc (Zn)	6010, 6010A, 6010B	7951	6020
Mercury (Hg)		7470A,7471A	
Sample Preparation	3050B		3050B

(2) Other analysis methods for total concentration of each metal may be used only under the following conditions:

(a) You must submit a request to the department, in writing, detailing the sample preparation and analysis methods, minimum detection limits and quality assurance and quality control documentation.

(b) The department, after reviewing the request, may approve the analysis method only if the capability of the method meets or exceeds the sensitivity and accuracy of the applicable method listed in the Table 1.

NEW SECTION

WAC 16-200-7063 How Will the Department Determine the Maximum Use Rate for My Commercial Fertilizer? (1) To determine the maximum use rate for a commercial fertilizer, the department will use the commercial fertilizer label directions for use. If specific label directions for use are not available, the department will use the following Washington Application Rates to determine the maximum use rate of the commercial fertilizer.

<u>Nutrient</u>	<u>4 Yr. Cumulative Total (lbs./acre)</u>
Nitrogen (N)	1600
Phosphorous (as P2O5)	700
Potassium (as K2O)	1600
Boron (B)	12
Calcium (Ca)	800
Chlorine (Cl)	300
Copper (Cu)	10
Iron (Fe)	80
Magnesium (Mg)	400
Manganese (Mn)	40
Molybdenum (Mo)	4
Sulfur (S)	300
Zinc (Zn)	30
Lime (CaCO3 equivalent)	12,000
Gypsum (CaSO4)	12,000

(2) To ensure that the maximum acceptable cumulative metals additions to soil are not exceeded, the department will assume the commercial fertilizer will be applied at the maximum rate as stated on the label or established in this rule.

NEW SECTION

WAC 16-200-7064 What Are The Washington Standards For Metals? (1) The standards for metals in Washington are the maximum acceptable annual metals additions to soils adopted in RCW 15.54.800 and are presented in Table 2. Because the Canadian standards contained in the Canadian Trade Memorandum T-4-93 dated August 1996 are based on long-term (45-year) cumulative metals additions to soils, the maximum acceptable annual metals additions to soils are determined by dividing the Canadian standards by 45. The Washington standards are expressed as pounds per acre per year.

Table 2. Washington Standards For Metals.

Metals	Lbs./acre/yr.
Arsenic (As)	.297
Cadmium (Cd)	.079
Cobalt (Co)	.594
Mercury (Hg)	.019
Molybdenum (Mo)	.079
Nickel (Ni)	.713
Lead (Pb)	1.981
Selenium (Se)	.055
Zinc (Zn)	7.329

(2) To be registered with the department and distributed in Washington, a commercial fertilizer must not exceed the above standards. Because cobalt (Co), molybdenum (Mo), and zinc (Zn) are also plant nutrients, higher concentrations than those presented in the table may be permitted. Commercial fertilizers which contain cobalt (Co), molybdenum (Mo), and/or zinc (Zn) concentrations may be registered and distributed in Washington if those metals are used as plant nutrients and those metals meet all applicable minimum guarantees and labeling requirements of chapter 15.54 RCW and the rules adopted thereunder.

(3) If a commercial fertilizer contains cobalt (Co), molybdenum (Mo), or zinc (Zn) and any one or more of those metals are not intended to be used as a plant nutrient, then the non-plant nutrient metals must meet the Standards shown in Table 2.

AMENDATORY SECTION (Amending Order 2066, filed 12/7/90, effective 1/7/91)

WAC 16-200-708 Unlawful acts. (1) It shall be unlawful for any person to refuse or neglect to comply with the provisions of the applicable sections of chapter 15.54 RCW, the rules adopted thereunder, or any lawful order of the department.

(2) It is unlawful to distribute a commercial fertilizer in Washington that exceeds the standards for non-nutritive substances established in RCW 15.54.800(3). The department will determine if a commercial fertilizer exceeds the standards by using the maximum use rates and by either:

(a) Comparing data submitted by the registrant to the standards established in WAC 16-200-7064; or

(b) Comparing the results of the analysis of an official sample to the standards established in WAC 16-200-7064. Official samples will be analyzed by the methods set forth in these rules.