

2 **SSB 5701** - H COMM AMD **NOT ADOPTED 4-15-97**
3 By Committee on Agriculture & Ecology

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 15.54.270 and 1993 c 183 s 1 are each amended to read
8 as follows:

9 Terms used in this chapter have the meaning given to them in this
10 chapter unless the context clearly indicates otherwise.

11 (1) "Brand" means a term, design, or trademark used in connection
12 with the distribution and sale of one or more grades of commercial
13 fertilizers.

14 (2) "Bulk fertilizer" means commercial fertilizer distributed in a
15 nonpackage form such as, but not limited to, tote bags, tote tanks,
16 bins, tanks, trailers, spreader trucks, and railcars.

17 (3) "Calcium carbonate equivalent" means the acid-neutralizing
18 capacity of an agricultural liming material expressed as a weight
19 percentage of calcium carbonate.

20 (4) "Commercial fertilizer" means a substance containing one or
21 more recognized plant nutrients and that is used for its plant nutrient
22 content or that is designated for use or claimed to have value in
23 promoting plant growth, and shall include limes, gypsum, and
24 manipulated animal and vegetable manures. It also means a substance
25 that is generated as a by-product from the manufacturing of wood
26 products and that is intended to improve the physical characteristics
27 of the soil. It does not include unmanipulated animal and vegetable
28 manures and other products exempted by the department by rule.

29 (5) "Customer-formula fertilizer" means a mixture of commercial
30 fertilizer or materials of which each batch is mixed according to the
31 specifications of the final purchaser.

32 (6) "Department" means the department of agriculture of the state
33 of Washington or its duly authorized representative.

34 (7) "Director" means the director of the department of agriculture.

35 (8) "Distribute" means to import, consign, manufacture, produce,
36 compound, mix, or blend commercial fertilizer, or to offer for sale,

1 sell, barter, exchange, or otherwise supply commercial fertilizer in
2 this state.

3 (9) "Distributor" means a person who distributes.

4 (10) "Grade" means the percentage of total nitrogen, available
5 phosphoric acid, and soluble potash stated in whole numbers in the same
6 terms, order, and percentages as in the "guaranteed analysis," unless
7 otherwise allowed by a rule adopted by the department. Specialty
8 fertilizers may be guaranteed in fractional units of less than one
9 percent of total nitrogen, available phosphorus or phosphoric acid, and
10 soluble potassium or potash. Fertilizer materials, bone meal, manures,
11 and similar materials may be guaranteed in fractional units.

12 (11) "Guaranteed analysis."

13 (a) Until the director prescribes an alternative form of
14 "guaranteed analysis" by rule the term "guaranteed analysis" shall mean
15 the minimum percentage of plant nutrients claimed in the following
16 order and form:

17	Total nitrogen (N)	percent
18	Available phosphoric acid (P ₂ O ₅)	.	percent
19	Soluble potash (K ₂ O)	percent

20 The percentage shall be stated in whole numbers unless otherwise
21 allowed by the department by rule.

22 The "guaranteed analysis" may also include elemental guarantees for
23 phosphorus (P) and potassium (K).

24 (b) For unacidulated mineral phosphatic material and basic slag,
25 bone, tankage, and other organic phosphatic materials, the total
26 phosphoric acid or degree of fineness may also be guaranteed.

27 (c) Guarantees for plant nutrients other than nitrogen, phosphorus,
28 and potassium shall be as allowed or required by rule of the
29 department. The guarantees for such other nutrients shall be expressed
30 in the form of the element.

31 (d) The guaranteed analysis for limes shall include the percentage
32 of calcium or magnesium expressed as their carbonate; the calcium
33 carbonate equivalent as determined by methods prescribed by the
34 association of official analytical chemists; and the minimum percentage
35 of material that will pass respectively a one hundred mesh, sixty mesh,
36 and ten mesh sieve. The mesh size declaration may also include the
37 percentage of material that will pass additional mesh sizes.

1 (e) In commercial fertilizer, the principal constituent of which is
2 calcium sulfate (gypsum), the percentage of calcium sulfate
3 (CaSO₄.2H₂O) shall be given along with the percentage of total sulfur.

4 (f) The guaranteed analysis for wood by-products must include the
5 name and percentage of each soil amending ingredient and the total
6 percentage of all other ingredients.

7 (12) "Label" means the display of all written, printed, or graphic
8 matter, upon the immediate container, or a statement accompanying a
9 fertilizer.

10 (13) "Labeling" includes all written, printed, or graphic matter,
11 upon or accompanying a commercial fertilizer, or advertisement,
12 brochures, posters, television, and radio announcements used in
13 promoting the sale of such fertilizer.

14 (14) "Licensee" means the person who receives a license to
15 distribute a fertilizer under the provisions of this chapter.

16 (15) "Lime" means a substance or a mixture of substances, the
17 principal constituent of which is calcium or magnesium carbonate,
18 hydroxide, or oxide, singly or combined.

19 (16) "Manipulation" means processed or treated in any manner,
20 including drying to a moisture content less than thirty percent.

21 (17) "Manufacture" means to compound, produce, granulate, mix,
22 blend, repackage, or otherwise alter the composition of fertilizer
23 materials.

24 (18) "Official sample" means a sample of commercial fertilizer
25 taken by the department and designated as "official" by the department.

26 (19) "Packaged fertilizer" means commercial fertilizers, either
27 agricultural or specialty, distributed in nonbulk form.

28 (20) "Person" means an individual, firm, brokerage, partnership,
29 corporation, company, society, or association.

30 (21) "Percent" or "percentage" means the percentage by weight.

31 (22) "Registrant" means the person who registers commercial
32 fertilizer under the provisions of this chapter.

33 (23) "Specialty fertilizer" means a commercial fertilizer
34 distributed primarily for nonfarm use, such as, but not limited to, use
35 on home gardens, lawns, shrubbery, flowers, golf courses, municipal
36 parks, cemeteries, greenhouses, and nurseries.

37 (24) "Ton" means the net weight of two thousand pounds avoirdupois.

1 (25) "Total nutrients" means the sum of the percentages of total
2 nitrogen, available phosphoric acid, and soluble potash as guaranteed
3 and as determined by analysis.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 15.54 RCW
5 to read as follows:

6 No person may distribute as a commercial fertilizer a material that
7 is defined as solid waste under RCW 70.95.030 for which written
8 approval has not been received by the department of agriculture from
9 the department of ecology under section 8 of this act prior to the
10 distribution, or for which distribution as a commercial fertilizer is
11 prohibited by the department under section 5 of this act.

12 **Sec. 3.** RCW 15.54.325 and 1993 c 183 s 3 are each amended to read
13 as follows:

14 (1) No person may distribute in this state a packaged fertilizer
15 until it is registered with the department by the distributor whose
16 name appears on the label. An application for each packaged fertilizer
17 product shall be made on a form furnished by the department and shall
18 be accompanied by an initial fee of twenty-five dollars for the first
19 product and ten dollars for each additional product. Labels for each
20 product shall accompany the application. All companies planning to mix
21 packaged customer-formula fertilizers shall include the statement
22 "customer-formula grade mixes" under the column headed "product name"
23 on the product registration application form. All customer-formula
24 fertilizers sold under one brand name shall be considered one product.
25 Upon the approval of an application by the department, a copy of the
26 registration shall be furnished to the applicant. All registrations
27 expire on June 30th of each year except that for the period beginning
28 January 1, 1994, the registration shall expire on June 30, 1995.

29 (2) An application for registration shall include the following:

- 30 (a) The product name;
- 31 (b) The brand and grade;
- 32 (c) The guaranteed analysis;
- 33 (d) Name and address of the registrant;
- 34 (e) Labels for each product being registered;
- 35 (f) Any other information required by the department by rule.

36 (3) Prior to the registration of a commercial fertilizer that is
37 defined as solid waste under RCW 70.95.030, the department shall obtain

1 written approval from the department of ecology. The department of
2 ecology shall issue written approval, as provided in section 8 of this
3 act, when it finds that the material characteristics and management
4 methods will not pose unacceptable hazards to human health and the
5 environment.

6 (4) If an application for renewal of the product registration
7 provided for in this section is not filed prior to July 1st of any one
8 year, a penalty of ten dollars per product shall be assessed and added
9 to the original fee and shall be paid by the applicant before the
10 renewal registration shall be issued. The assessment of this late
11 collection fee shall not prevent the department from taking any other
12 action as provided for in this chapter. The penalty shall not apply if
13 the applicant furnishes an affidavit that he or she has not distributed
14 this commercial fertilizer subsequent to the expiration of his or her
15 prior registration.

16 **Sec. 4.** RCW 15.54.340 and 1993 c 183 s 5 are each amended to read
17 as follows:

18 (1) Any packaged fertilizer distributed in this state in containers
19 shall have placed on or affixed to the package a label setting forth in
20 clearly legible and conspicuous form the following information:

21 (a) The net weight;

22 (b) The product name, brand, and grade. The grade is not required
23 if no primary nutrients are claimed;

24 (c) The guaranteed analysis;

25 (d) The name and address of the registrant or licensee. The name
26 and address of the manufacturer, if different from the registrant or
27 licensee, may also be stated; (~~and~~)

28 (e) For wood by-products intended to improve the physical
29 characteristics of the soil, the label must include the purpose of the
30 product and directions for application; and

31 (f) Other information as required by the department by rule.

32 (2) If a commercial fertilizer is distributed in bulk, a written or
33 printed statement of the information required by subsection (1) above
34 shall accompany delivery and be supplied to the purchaser at the time
35 of delivery.

36 (3) Each delivery of a customer-formula fertilizer shall be subject
37 to containing those ingredients specified by the purchaser, which
38 ingredients shall be shown on the statement or invoice with the amount

1 contained therein, and a record of all invoices of customer-formula
2 grade mixes shall be kept by the registrant or licensee for a period of
3 twelve months and shall be available to the department upon request:
4 PROVIDED, That each such delivery shall be accompanied by either a
5 statement, invoice, a delivery slip, or a label if bagged, containing
6 the following information: The net weight; the brand; the guaranteed
7 analysis which may be stated to the nearest tenth of a percent or to
8 the next lower whole number; the name and address of the registrant or
9 licensee, or manufacturer, or both; and the name and address of the
10 purchaser.

11 NEW SECTION. **Sec. 5.** A new section is added to chapter 15.54 RCW
12 to read as follows:

13 (1) The department may cancel the registration of any packaged
14 commercial fertilizer or refuse to register such a packaged commercial
15 fertilizer that is a material defined as a solid waste under RCW
16 70.95.030 for evidence that use of the material as a commercial
17 fertilizer poses unacceptable hazards to human health or the
18 environment that were not known during the approval process specified
19 in section 8 of this act.

20 (2) With regard to any material defined as solid waste under RCW
21 70.95.030, the department may prohibit the distribution of the material
22 as a commercial fertilizer under this chapter for evidence that use of
23 the material as a commercial fertilizer poses unacceptable hazards to
24 human health or the environment that were not known during the approval
25 process specified in section 8 of this act.

26 **Sec. 6.** RCW 15.54.800 and 1993 c 183 s 14 are each amended to read
27 as follows:

28 (1) The director shall administer and enforce the provisions of
29 this chapter and any rules adopted under this chapter. All authority
30 and requirements provided for in chapter 34.05 RCW apply to this
31 chapter in the adoption of rules.

32 (2) The director may adopt appropriate rules for carrying out the
33 purpose and provisions of this chapter, including but not limited to
34 rules providing for:

35 (a) Definitions of terms;

36 (b) Determining standards for labeling and registration of
37 commercial fertilizers (~~(and agricultural minerals and limes)~~);

1 (c) The collection and examination of commercial fertilizers (~~and~~
2 ~~agricultural mineral and limes~~);

3 (d) Recordkeeping by registrants and licensees;

4 (e) Regulation of the use and disposal of commercial fertilizers
5 for the protection of ground water and surface water; and

6 (f) The safe handling, transportation, storage, display, and
7 distribution of commercial fertilizers.

8 **Sec. 7.** RCW 70.95.240 and 1993 c 292 s 3 are each amended to read
9 as follows:

10 (1) After the adoption of regulations or ordinances by any county,
11 city, or jurisdictional board of health providing for the issuance of
12 permits as provided in RCW 70.95.160, it shall be unlawful for any
13 person to dump or deposit or permit the dumping or depositing of any
14 solid waste onto or under the surface of the ground or into the waters
15 of this state except at a solid waste disposal site for which there is
16 a valid permit. This section shall not:

17 (a) Prohibit a person from dumping or depositing solid waste
18 resulting from his own activities onto or under the surface of ground
19 owned or leased by him when such action does not violate statutes or
20 ordinances, or create a nuisance; or

21 (b) Apply to a person using solid wastes on the land as a
22 commercial fertilizer if (i) the department of ecology has issued
23 written approval for the use of the solid waste as a commercial
24 fertilizer as provided in section 8 of this act, and (ii) the solid
25 waste is a commercial fertilizer registered under chapter 15.54 RCW or
26 a commercial fertilizer distributed under the licensing requirements of
27 chapter 15.54 RCW and that registration has not been canceled and the
28 distribution of the material as a commercial fertilizer is not
29 prohibited under section 5 of this act.

30 (2)(a) It is a class 3 civil infraction as defined in RCW 7.80.120
31 for a person to litter in an amount less than or equal to one cubic
32 foot.

33 (b) It is a class 1 civil infraction as defined in RCW 7.80.120 for
34 a person to litter in an amount greater than one cubic foot. Unless
35 suspended or modified by a court, the person shall also pay a litter
36 cleanup fee of twenty-five dollars per cubic foot of litter. The court
37 may, in addition to or in lieu of part or all of the cleanup fee, order
38 the person to pick up and remove litter from the property, with prior

1 permission of the legal owner or, in the case of public property, of
2 the agency managing the property.

3 NEW SECTION. **Sec. 8.** A new section is added to chapter 70.95 RCW
4 to read as follows:

5 (1) The department shall issue written approval to the department
6 of agriculture that a material defined as solid waste in RCW 70.95.030
7 should be used as a commercial fertilizer distributed under a
8 commercial fertilizer license under RCW 15.54.275, or registered as
9 packaged fertilizer under RCW 15.54.325, if the material
10 characteristics and management methods will not pose unacceptable
11 hazards to human health and the environment. The written approval must
12 certify, to the degree practicable, that the use of the material as a
13 commercial fertilizer is consistent with the following:

14 (a) The biosolids standards set forth in rule or guidance under
15 chapter 70.95J RCW, municipal sewage sludge;

16 (b) Chapter 70.105D RCW, model toxics control act;

17 (c) Chapter 90.48 RCW, water pollution control;

18 (d) Chapter 70.94 RCW, Washington clean air act;

19 (e) Chapter 70.105 RCW, hazardous waste management act; and

20 (f) Other factors intended to protect human health and the
21 environment.

22 (2) The only solid waste materials that may be approved by the
23 department under this section for use as commercial fertilizer are
24 substances generated as byproducts from the manufacturing of wood
25 products.

26 (3) A party aggrieved by a decision of the department to issue a
27 written approval under this section or to deny the issuance of such an
28 approval may appeal the decision to the pollution control hearings
29 board within thirty days of the decision. Review of such a decision
30 shall be conducted in accordance with chapter 43.21B RCW. Any
31 subsequent appeal of a decision of the hearings board shall be obtained
32 in accordance with RCW 43.21B.180."

33 Correct the title.

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