

2 SSB 5701 - H AMD 577 ADOPTED 4-15-97

3 By Representative Chandler

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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, and a material approved under
25 section 5 of this act. It does not include unmanipulated animal and
26 vegetable manures and other products exempted by the department by
27 rule.

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

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

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

34 (8) "Distribute" means to import, consign, manufacture, produce,
35 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 a material approved under section
5 5 of this act and to be used as a soil amendment shall include the name
6 and percentage of each soil amending ingredient and the total
7 percentage of all other ingredients.

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

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

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

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

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

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

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

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

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

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

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

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

38 (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 A material approved under section 5 of this act may be distributed
7 as a commercial fertilizer and may be registered as a packaged
8 commercial fertilizer. However, the department may refuse to register
9 such a material as a packaged commercial fertilizer, may cancel the
10 registration of the material as a packaged commercial fertilizer, and
11 may prohibit its distribution as a commercial fertilizer if the
12 department finds evidence that use of the material as a commercial
13 fertilizer poses unacceptable hazards to human health or the
14 environment that were not known during the approval process specified
15 in section 5 of this act.

16 **Sec. 3.** RCW 15.54.800 and 1993 c 183 s 14 are each amended to read
17 as follows:

18 (1) The director shall administer and enforce the provisions of
19 this chapter and any rules adopted under this chapter. All authority
20 and requirements provided for in chapter 34.05 RCW apply to this
21 chapter in the adoption of rules.

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

25 (a) Definitions of terms;

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

28 (c) The collection and examination of commercial fertilizers (~~(and~~
29 ~~agricultural mineral and limes)~~);

30 (d) Recordkeeping by registrants and licensees;

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

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

35 **Sec. 4.** RCW 70.95.240 and 1993 c 292 s 3 are each amended to read
36 as follows:

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

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

12 (b) Apply to a person using a material or materials on the land as
13 commercial fertilizer if (i) the department of ecology has issued
14 written approval for the use of the material or materials as
15 commercial fertilizer as provided in section 5 of this act, (ii) the
16 registration of the material or materials as a packaged commercial
17 fertilizer has not been canceled under section 2 of this act, and (iii)
18 the distribution of the material or materials as a commercial
19 fertilizer has not been prohibited by the department of agriculture
20 under section 2 of this act.

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

24 (b) It is a class 1 civil infraction as defined in RCW 7.80.120 for
25 a person to litter in an amount greater than one cubic foot. Unless
26 suspended or modified by a court, the person shall also pay a litter
27 cleanup fee of twenty-five dollars per cubic foot of litter. The court
28 may, in addition to or in lieu of part or all of the cleanup fee, order
29 the person to pick up and remove litter from the property, with prior
30 permission of the legal owner or, in the case of public property, of
31 the agency managing the property.

32 NEW SECTION. Sec. 5. A new section is added to chapter 70.95 RCW
33 to read as follows:

34 (1) The legislature finds that an optional procedure should be
35 established that provides certainty as to whether certain materials
36 generated as byproducts from the manufacturing of wood products may
37 clearly be distributed and used as commercial fertilizer. It is the
38 intent of the legislature in establishing such a procedure that it be

1 truly optional, and that the procedure or the legislature's
2 establishment of the procedure not be construed, except as provided in
3 subsection (3) of this section, as suggesting in any manner whatsoever
4 that a material submitted or not submitted for approval under the
5 procedure or generated or not generated as a byproduct from the
6 manufacturing of wood products is or is not to be regulated as a solid
7 waste.

8 (2) If a person desires to receive the express approval of the
9 department of ecology to distribute a material generated as a byproduct
10 from the manufacturing of wood products as a commercial fertilizer
11 under chapter 15.54 RCW for use as a commercial fertilizer, the person
12 may request in writing the department to provide such approval. The
13 department shall issue written approval to the person and to the
14 department of agriculture that the material may be used as a commercial
15 fertilizer, if the material characteristics and management methods will
16 not pose unacceptable hazards to human health and the environment. The
17 written approval shall certify, to the extent practicable, that the use
18 of the material as a commercial fertilizer is consistent with the
19 following:

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

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

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

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

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

26 (f) Other factors intended to protect human health and the
27 environment.

28 (3) A material generated as a byproduct from the manufacturing of
29 wood products that is approved by the department under this section for
30 use as commercial fertilizer and that is distributed and used as such
31 shall not be regulated as solid waste.

32 (4) A party aggrieved by a decision of the department to issue a
33 written approval under this section or to deny the issuance of such an
34 approval may appeal the decision to the pollution control hearings
35 board within thirty days of the decision. Review of such a decision
36 shall be conducted in accordance with chapter 43.21B RCW. Any
37 subsequent appeal of a decision of the hearings board shall be obtained
38 in accordance with RCW 43.21B.180."

1 Correct the title.

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