



Sen. Michael W. Frerichs

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09700SB2010sam002

LRB097 08213 CEL 53092 a

1 AMENDMENT TO SENATE BILL 2010

2 AMENDMENT NO. _____. Amend Senate Bill 2010, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Fertilizer Act of 1961 is amended
6 by changing Sections 2, 3, 4, 5, 6, 6a, 7, 8, 9, 10, 11, 12, 13,
7 14, 15, 16, 17, 18, 18a, 19, 20, and 21 and by adding Section
8 21.5 as follows:

9 (505 ILCS 80/2) (from Ch. 5, par. 55.2)

10 Sec. 2. Enforcing official. The Director of the Department
11 of Agriculture, hereinafter referred to as the "Director",
12 shall administer this Act. ~~This Act shall be administered by~~
13 ~~the Director of the Department of Agriculture, hereinafter~~
14 ~~referred to as the "Director".~~

15 (Source: Laws 1961, p. 3085.)

1 (505 ILCS 80/3) (from Ch. 5, par. 55.3)

2 Sec. 3. Definitions of words and terms. When used in this
3 Act unless the context otherwise requires:

4 "AAPFCO" means the Association of American Plant Food
5 Control Officials.

6 "Anhydrous ammonia" means the compound formed by the
7 combination of 2 gaseous elements, nitrogen and hydrogen, in
8 the proportion of one part of nitrogen to 3 parts of hydrogen
9 (NH₃) by volume. Anhydrous ammonia is a fertilizer of ammonia
10 gas in compressed and liquified form. It is not aqueous ammonia
11 which is a solution of ammonia gas in water and which is
12 considered a low-pressure nitrogen solution.

13 "Blender" means any person or system engaged in the
14 business of blending fertilizer. This includes both mobile and
15 fixed equipment, excluding application equipment, used to
16 achieve this function.

17 "Blending" means the physical mixing or combining of: one
18 or more fertilizer materials and one or more filler materials;
19 2 or more fertilizer materials; 2 or more fertilizer materials
20 and filler materials, including mixing through the
21 simultaneous or sequential application of any of the outlined
22 combinations listed in this definition, to produce a uniform
23 mixture.

24 "Brand" means a term, design, or trademark used in
25 connection with one or several grades of commercial
26 fertilizers.

1 "Bulk" means any fertilizer distributed in a non-packaged
2 form.

3 "Custom blend" means a fertilizer blended according to
4 specifications provided to a blender in a soil test nutrient
5 recommendation or to meet the specific consumer request prior
6 to blending.

7 ~~(a) The term "fertilizer material" means any substance~~
8 ~~containing nitrogen, phosphorus, potash or any other~~
9 ~~recognized plant nutrient element or compound which is used~~
10 ~~primarily for its plant nutrient content or for compounding~~
11 ~~mixed fertilizers except unmanipulated animal and vegetable~~
12 ~~manures.~~

13 ~~(b) The term "mixed fertilizer" means any combination or~~
14 ~~mixture of fertilizer materials designed for use or claimed to~~
15 ~~have value in promoting plant growth.~~

16 ~~(c) The term "commercial fertilizer" means mixed~~
17 ~~fertilizer and/or fertilizer materials except the following~~
18 ~~natural products: agricultural limestone, marl, sea solids and~~
19 ~~unprocessed animal manure, which have not been manipulated so~~
20 ~~as to alter or change them chemically and burnt or hydrated~~
21 ~~lime, and sewage sludge produced by any sanitary district shall~~
22 ~~not be subject to the provisions of this Act. Such term does~~
23 ~~not include "custom mixes" as defined herein.~~

24 ~~(d) The term "anhydrous ammonia" means the compound formed~~
25 ~~by the combination of two gaseous elements, nitrogen and~~
26 ~~hydrogen, in the proportion of one part of nitrogen to three~~

1 ~~parts of hydrogen (NH₃) by volume. Anhydrous ammonia is a~~
2 ~~commercial fertilizer of ammonia gas in compressed and~~
3 ~~liquified form. It is not aqueous ammonia which is a solution~~
4 ~~of ammonia gas in water and which is considered a low pressure~~
5 ~~nitrogen solution.~~

6 ~~(e) The term "specialty fertilizer" means a commercial~~
7 ~~fertilizer distributed primarily for nonfarm use, such as home~~
8 ~~gardens, lawns, shrubbery, flowers, golf courses, municipal~~
9 ~~parks, cemeteries, green houses and nurseries, and may include~~
10 ~~commercial fertilizer used for research or experimental~~
11 ~~purposes.~~

12 ~~(f) The term "bulk fertilizers" means commercial~~
13 ~~fertilizer or custom mix distributed in a non-packaged form.~~

14 ~~(g) The term "custom mix" means a mixture of 2 or more~~
15 ~~commercial fertilizers mixed at time of shipment to the~~
16 ~~specific order of the consumer.~~

17 "Custom blender" ~~(h) The term "custom mixer" means a person~~
18 ~~who produces and sells custom blends mixes.~~

19 "Deficiency" means the amount of nutrient found by analysis
20 less than that guaranteed that may result from a lack of
21 nutrient ingredients or from lack of uniformity.

22 "Department" means the Illinois Department of Agriculture.

23 "Department rules or regulations" means any rule or
24 regulation implemented by the Department as authorized under
25 Section 14 of this Act.

26 "Director" means the Director of Agriculture or a duly

1 authorized representative.

2 "Distribute" means to import, consign, manufacture,
3 produce, store, transport, custom blend, compound, or blend
4 fertilizer or to transfer from one container to another for the
5 purpose of selling, giving away, bartering, or otherwise
6 supplying fertilizer in this State.

7 "Distributor" means any person who distributes.

8 "Fertilizer" means any substance containing one or more of
9 the recognized plant nutrient nitrogen, phosphate, potash, or
10 those defined under 8 Ill. Adm. Code 210.20 that is used for
11 its plant nutrient content and that is designed for use or
12 claimed to have value in promoting plant growth, except
13 unmanipulated animal and vegetable manures, sea solids, marl,
14 lime, limestone, wood ashes, and other products exempted by
15 regulation by the Director.

16 "Fertilizer material" means a fertilizer that either:

17 (A) contains important quantities of no more than one
18 of the primary plant nutrients: nitrogen (N), phosphate
19 (P2O5), and potash (K2O);

20 (B) has 85% or more of its plant nutrient content
21 present in the form of a single chemical compound; or

22 (C) is derived from a plant or animal residue or
23 by-product or natural material deposit that has been
24 processed in such a way that its content of plant nutrients
25 has not been materially changed except by purification and
26 concentration.

1 ~~(i) The term "brand" means a term, design, or trade mark used~~
2 ~~in connection with one or several grades of commercial~~
3 ~~fertilizers.~~

4 ~~(j) The term "guaranteed analysis" means the minimum~~
5 ~~percentages of plant nutrients claimed in the following order~~
6 ~~and form:~~

- 7 ~~A. Total Nitrogen (N)..... %~~
- 8 ~~Available Phosphoric Acid (P2O5) %~~
- 9 ~~Soluble Potash (K2O) %~~

10 ~~B. For unacidulated mineral phosphatic materials and basic~~
11 ~~slag, both total and available phosphoric acid and the degree~~
12 ~~of fineness. For bone, tankage, and other organic phosphatic~~
13 ~~materials, total phosphoric acid.~~

14 ~~C. Additional plant nutrients expressed as the elements,~~
15 ~~when permitted by regulation.~~

16 ~~D. Potential basicity or acidity expressed in terms of~~
17 ~~calcium carbonate equivalent in multiples of 100 pounds per~~
18 ~~ton, when required by regulation.~~

19 "Grade" ~~(k) The term "grade" means the minimum percentage~~
20 ~~of total nitrogen, available phosphoric phosphate acid (P2O5)~~
21 ~~and soluble potash (K2O) stated in the whole numbers in the~~
22 ~~same terms, order, and percentages as in the guaranteed~~
23 ~~analysis, provided that specialty fertilizers may be~~
24 ~~guaranteed in fractional units of less than 1% of total~~
25 ~~nitrogen, available phosphate, and soluble potash and that~~
26 ~~fertilizer materials, bone meal, manures, and similar~~

1 materials may be guaranteed in fractional units ~~order given in~~
2 ~~this definition.~~

3 "Guaranteed analysis" means the minimum percentages of
4 plant nutrients claimed in the following order and form:

- 5 A. Total Nitrogen (N) %
- 6 Available Phosphate (P2O5) %
- 7 Soluble Potash (K2O) %

8 B. For unacidulated mineral phosphatic materials and
9 basic slag, both total and available phosphate and the
10 degree of fineness. For bone, tankage, and other organic
11 phosphatic materials, total phosphate.

12 C. Guarantees for plant nutrients other than nitrogen,
13 phosphate, and potash may be permitted or required by
14 regulation by the Director. The guarantees for such other
15 nutrients shall be expressed in the form of the element.

16 "Investigational allowance" means an allowance for
17 variations inherent in the taking, preparation, and analysis of
18 an official sample of fertilizer.

19 "Label" means the display of all written, printed, or
20 graphic matter upon the immediate container or a statement
21 accompanying a fertilizer.

22 "Labeling" means all (i) written, printed, or graphic
23 matter upon or accompanying any fertilizer or (ii)
24 advertisements, Internet, brochures, posters, and television
25 and radio announcements used in promoting the sale of
26 fertilizer.

1 "Lot" means an identifiable quantity of fertilizer that can
2 be sampled according to AOAC International procedures, such as
3 the amount contained in a single vehicle, the amount delivered
4 under a single invoice, or in the case of bagged fertilizer,
5 not more than 25 tons.

6 ~~(l) The term "official sample" means any sample of~~
7 ~~commercial fertilizer or custom mix taken by the Director or~~
8 ~~his agent and designated as "official" by the Director.~~

9 ~~(m) The term "ton" means a net weight of 2000 pounds~~
10 ~~avoirdupois.~~

11 ~~(n) The term "per cent" or "percentage" means the~~
12 ~~percentage by weight.~~

13 ~~(o) The term "person" means any individual, partnership,~~
14 ~~association, firm and corporation.~~

15 ~~(p) The term "distribute" means to offer for sale, sell,~~
16 ~~barter, store, handle, transport or otherwise supply~~
17 ~~commercial fertilizers or custom mix. The term "distributor"~~
18 ~~means any person who distributes.~~

19 ~~(q) Words importing the singular number may extend and be~~
20 ~~applied to several persons or things and words importing the~~
21 ~~plural number may include the singular.~~

22 ~~(r) The term "registrant" means the person who registers~~
23 ~~commercial fertilizer or custom mix under the provisions of~~
24 ~~this Act.~~

25 ~~(s) The term "Low-pressure nitrogen solution" means a low~~
26 ~~pressure~~ solution containing 2 per cent or more by weight of

1 free ammonia and/or having vapor pressure of 5 pounds or more
2 per square inch gauge at 104° F.

3 "Mixed fertilizer" means any combination or mixture of
4 fertilizer materials designed for use or claimed to have value
5 in promoting plant growth.

6 "Official sample" means any sample of fertilizer taken by
7 the Director or his agent and designated as official by the
8 Director.

9 "Per cent" or "percentage" means the percentage by weight.

10 "Person" means any individual, partnership, association,
11 firm and corporation.

12 "Registrant" means the person who registers fertilizer and
13 obtains a license under the provisions of this Act.

14 "Specialty fertilizer" means a fertilizer distributed
15 primarily for nonfarm use, such as home gardens, lawns,
16 shrubbery, flowers, golf courses, municipal parks, cemeteries,
17 green houses and nurseries, and may include fertilizer used for
18 research or experimental purposes.

19 "Ton" means a net weight of 2,000 pounds avoirdupois.

20 "Unit" means 20 pounds or 1% of a ton of plant nutrient.

21 ~~(t) The term "Department" means the Illinois Department of~~
22 ~~Agriculture.~~

23 ~~(u) The term "Director" means the Director of the Illinois~~
24 ~~Department of Agriculture or a duly authorized representative.~~

25 (Source: P.A. 83-586.)

1 (505 ILCS 80/4) (from Ch. 5, par. 55.4)

2 Sec. 4. License and product registration ~~Registration~~.

3 (a) Each brand and grade of ~~commercial~~ fertilizer shall be
4 registered in the name of that person whose name appears upon
5 the label before being distributed in this State. The
6 application for registration shall be submitted with a label or
7 facsimile of same to the Director on form furnished by the
8 Director, and shall be accompanied by a fee of \$20 ~~\$10~~ per
9 grade within a brand. Upon approval by the Director a copy of
10 the registration shall be furnished to the applicant. All
11 registrations expire on December 31 of each year.

12 The application shall include the following information:

13 (1) The net weight

14 (2) The brand and grade

15 (3) The guaranteed analysis

16 (4) The name and address of the registrant.

17 (a-5) No person whose name appears on the label shall
18 distribute a fertilizer in the State unless the person has
19 secured a license under this Act on forms provided by the
20 Director. The license application shall be accompanied by a fee
21 of \$100. Persons who store anhydrous ammonia as a fertilizer,
22 store bulk fertilizer, or custom blend fertilizer at more than
23 one site under the same distributor's name shall identify each
24 additional site with a complete address and remit a license fee
25 of \$50 for each additional site. Persons performing lawn care
26 applications for hire are exempt from obtaining a license under

1 this Act.

2 (b) A distributor shall not be required to register any
3 brand of ~~commercial~~ fertilizer ~~or custom mix~~ which is already
4 registered under this Act by another person.

5 (c) The plant nutrient content of each and every ~~commercial~~
6 fertilizer must remain uniform for the period of registration
7 and, in no case, shall the percentage of any guaranteed plant
8 nutrient element be changed in such a manner that the
9 crop-producing quality of the ~~commercial~~ fertilizer is
10 lowered.

11 (d) (Blank) ~~Each custom mixer shall register annually with~~
12 ~~the Director on forms furnished by the Director. The~~
13 ~~application for registration shall be accompanied by a fee of~~
14 ~~\$50, unless the custom mixer elects to register each mixture,~~
15 ~~paying a fee of \$10 per mixture. Upon approval by the Director,~~
16 ~~a copy of the registration shall be furnished to the applicant.~~
17 ~~All registrations expire on December 31 of each year.~~

18 (e) A custom blend ~~mix~~ as defined in Section 3 ~~section~~
19 ~~3(f)~~, prepared for one consumer shall not be co-mingled with
20 the custom blended ~~mixed~~ fertilizer prepared for another
21 consumer.

22 (f) All fees collected pursuant to this Section shall be
23 paid to the Fertilizer Control Fund for activities related to
24 the administration and enforcement of this Act ~~paid into the~~
25 ~~State treasury.~~

26 (Source: P.A. 93-32, eff. 7-1-03.)

1 (505 ILCS 80/5) (from Ch. 5, par. 55.5)

2 Sec. 5. Labeling.

3 (a) Any ~~commercial~~ fertilizer ~~or custom mix~~ distributed in
4 this State in non-bulk containers shall have placed on or
5 affixed to the container a label setting forth in clearly
6 legible form the following information: ~~required by Items (1),~~
7 ~~(2), (3), and (4) of paragraph (a) of Section 4.~~

8 (1) net weight;

9 (2) brand and grade; provided, that the grade shall not
10 be required when no primary nutrients are claimed;

11 (3) guaranteed analysis;

12 (4) directions for use for the fertilizer distributed
13 to the consumer; and

14 (5) name and address of the registrant.

15 In the case of bulk shipments as a brand or grade of
16 fertilizer, information required by items (1), (2), (3), and
17 (5) of this subsection (a) in a written or printed form shall
18 accompany delivery of each load and be supplied to the
19 purchaser at the time of delivery.

20 (b) (Blank). ~~If distributed in bulk as a brand or grade of~~
21 ~~fertilizer, a written or printed statement of the information~~
22 ~~required by items (1), (2), (3), and (4) of paragraph (a) of~~
23 ~~Section 4 shall accompany delivery of each load and be supplied~~
24 ~~to the purchaser at time of delivery.~~

25 (c) If distributed in bulk as a custom blend ~~mixed~~

1 fertilizer, a written or printed statement shall accompany
2 delivery of each load and be supplied to the purchaser at time
3 of delivery and must carry information as follows:

4 1. Weight of each ~~commercial~~ fertilizer used in the custom
5 blend mixing.

6 2. The guaranteed analysis of each ~~commercial~~ fertilizer
7 used in the custom blend mixing.

8 3. Total weight of fertilizer delivered in each load.

9 4. Name and address of the person selling the fertilizer.

10 (d) A custom blend mixed fertilizer shall be intimately and
11 uniformly mixed. The Director, in determining for
12 administrative purposes whether a custom blend mix is
13 intimately and uniformly mixed, shall compute the analysis of
14 the load of custom blend mixed fertilizer from the information
15 required by Items (1), (2), and (3) of paragraph (c) of this
16 section.

17 (e) Each lot of fertilizer shall display identification in
18 a manner that includes, but is not limited to, numerical,
19 alphabetical, date of manufacture, or a combination that
20 distinguishes it from that of other lots distributed.

21 (f) Fertilizer materials not defined by AAPFCO may be used
22 if the registrant furnishes an acceptable definition, AOAC
23 International or other appropriate method of analysis, heavy
24 metal analysis, and agronomic data when deemed necessary.

25 (Source: Laws 1963, p. 2240.)

1 (505 ILCS 80/6) (from Ch. 5, par. 55.6)

2 Sec. 6. Inspection fees.

3 (a) There shall be paid to the Director for all ~~commercial~~
4 fertilizers ~~or custom mix~~ distributed in this State an
5 inspection fee at the rate of 15¢ ~~25¢~~ per ton. Sales ~~to~~
6 ~~manufacturers~~ or exchanges between registrants ~~them~~ are hereby
7 exempted from the inspection fee.

8 On individual packages of ~~commercial or custom mix or~~
9 ~~specialty~~ fertilizers containing 5 pounds or less, or if in
10 liquid form containers of 4,000 cubic centimeters or less,
11 there shall be paid instead of the 15¢ ~~25¢~~ per ton inspection
12 fee, an annual inspection fee of \$50 ~~\$25~~ for each grade within
13 a brand sold or distributed. Where a person sells ~~commercial or~~
14 ~~custom mix or specialty~~ fertilizers in packages of 5 pounds or
15 less, or 4,000 cubic centimeters or less if in liquid form, and
16 also sells in larger packages than 5 pounds or liquid
17 containers larger than 4,000 cubic centimeters, this annual
18 inspection fee of \$50 ~~\$25~~ applies only to that portion sold in
19 packages of 5 pounds or less or 4,000 cubic centimeters or
20 less, and that portion sold in larger packages or containers
21 shall be subject to the same inspection fee of 15¢ ~~25¢~~ per ton
22 as provided in this Act. ~~The increased fees shall be effective~~
23 ~~after June 30, 1989.~~

24 (b) Every person who distributes a ~~commercial~~ fertilizer ~~or~~
25 ~~custom mix~~ in this State shall file with the Director, on forms
26 furnished by the Director, a semi-annual statement for the

1 periods ending June 30 and December 31, setting forth the
2 number of net tons of each grade of ~~commercial~~ fertilizers
3 within a brand or the net tons of custom blend mix distributed.
4 The report shall be due on or before the 30th ~~15th~~ day of the
5 month following the close of each semi-annual period and upon
6 the statement shall pay the inspection fee at the rate stated
7 in paragraph (a) of this Section.

8 ~~One half of the 25¢ per ton inspection fee shall be paid~~
9 ~~into the Fertilizer Control Fund and all other fees collected~~
10 ~~under this Section shall be paid into the State treasury.~~

11 If the tonnage report is not filed and the payment of
12 inspection fee is not made within 30 days after the end of the
13 semi-annual period, a collection fee amounting to 15% ~~10%~~
14 (minimum \$15 ~~\$10~~) of the amount shall be assessed against the
15 registrant. The amount of fees due shall constitute a debt and
16 become the basis of a judgment against the registrant. Upon the
17 written request to the Director additional time may be granted
18 past the normal date of filing the semi-annual statement.

19 (c) When more than one person is involved in the
20 distribution of a ~~commercial~~ fertilizer, the last registrant
21 who distributes to the consumer or end-user ~~non-registrant~~
22 ~~(dealer or consumer)~~ is responsible for reporting the tonnage
23 and paying the inspection fee.

24 (d) All fees collected under this Section shall be paid to
25 the Fertilizer Control Fund for activities related to the
26 administration and enforcement of this Act.

1 (Source: P.A. 93-32, eff. 7-1-03.)

2 (505 ILCS 80/6a) (from Ch. 5, par. 55.6a)

3 Sec. 6a. Nutrient Research and Education Council. The
4 Director is hereby authorized to ensure that distributors remit
5 a designated fertilizer tonnage assessment to the Nutrient
6 Research and Education Council (NREC) for the purpose of
7 pursuing nutrient research and providing educational programs
8 to ensure the adoption and implementation of practices that
9 optimize nutrient use efficiency, ensure soil fertility, and
10 address environmental concerns with regard to fertilizer use.
11 The NREC may also participate in relevant demonstration and
12 cost-share programs to enhance adoption and meet objectives of
13 nutrient efficiency and stewardship programs supported by the
14 NREC.

15 The NREC shall be comprised of 9 persons, 3 representing
16 the fertilizer industry, 3 persons representing grower
17 organizations, to include at least one member of the State's
18 largest farm organization, one person representing the
19 specialty fertilizer industry, one person representing a
20 certified agronomy organization, and the Director or his or her
21 designee and 4 non-voting members: 2 persons representing
22 environmental organizations, one person representing a State
23 or federal agriculture experiment station and the Director of
24 the Illinois Environmental Protection Agency or his or her
25 designee. In the appointment of persons to the NREC, the

1 organizations designated in this Section shall nominate, and
2 the Director shall select from these nominations,
3 representatives to this Council. Members of the Council shall
4 receive no compensation for their services, and the terms of
5 the Council members, appointment process, and conduct of the
6 meetings shall be outlined in the bylaws established by this
7 Council on their initial appointment by the Director and made
8 available to the industry organizations.

9 The responsibilities of the NREC are to:

10 (1) prioritize nutrient research needs and solicit
11 research proposals to generate findings and make
12 recommendations to the Council based on the findings;

13 (2) evaluate the proposed budget for each research
14 project and make recommendations as necessary;

15 (3) arrange for peer review of all research proposals
16 for scientific merit and methods;

17 (4) report the findings of all research projects at
18 industry conferences, publish the findings and implement
19 educational programs to apply the research recommendations
20 in agricultural production systems and in consumer use
21 markets where appropriate;

22 (5) engage in outreach and field level trials and
23 educational programs with growers and consumers and
24 publicize these events; and

25 (6) where practical, cooperate with other programs
26 with similar goals.

1 The Council shall recommend, and the Director shall set,
2 the fertilizer tonnage assessment for the purpose of funding
3 the NREC at no less than 50 cents per ton and no greater than \$3
4 per ton to fund, administer, publish, and implement the
5 research, education, and outreach programs designated each
6 year by the Council. A minimum of 20% of the funds shall be
7 designated for cost-share programs and on-farm demonstration
8 programs to study and address water quality issues. The Council
9 shall report to the Director by December 31 of each year the
10 recommended amount of annual tonnage assessment to be collected
11 the following year from distributors.

12 Assessments collected from distributors are payable
13 directly to the NREC on a semi-annual basis. This payment shall
14 coincide with the reporting of the tonnage data and the
15 remittance of the inspection fee to the Department. If the NREC
16 assessment is not made to the Council under this Section, then
17 the Director may rescind the license of the distributor. The
18 Council may enter into an agreement with the Director to
19 establish random audits of distributors to assure accurate
20 remittance of the NREC assessment. The NREC may also enter into
21 contracts with other entities approved by the Council for the
22 purposes of fulfilling the objectives of the NREC.

23 The NREC shall publish annually an activity and financial
24 report of its activities, funds collected, and expenditures for
25 nutrient programs shall be audited at least annually by a
26 certified public accountant and made available within 30 days

1 after its completion to the Director and each Council member
2 for dissemination to their respective organizations. ~~The~~
3 ~~Department is hereby authorized to establish a program and~~
4 ~~expend appropriations for a fertilizer research and education~~
5 ~~program dealing with the relationship of fertilizer use to soil~~
6 ~~management, soil fertility, plant nutrition problems, and for~~
7 ~~research on environmental concerns which may be related to~~
8 ~~fertilizer usage; for the dissemination of the results of such~~
9 ~~research; and for other designated activities including~~
10 ~~educational programs to promote the correct and effective usage~~
11 ~~of fertilizer materials.~~

12 ~~To assist in the development and administration of the~~
13 ~~fertilizer research and education program, the Director is~~
14 ~~authorized to establish a Fertilizer Research and Education~~
15 ~~Council consisting of 9 persons. This council shall be~~
16 ~~comprised of 3 persons representing the fertilizer industry, 3~~
17 ~~persons representing crop production, and 2 persons~~
18 ~~representing the public at large. In the appointment of persons~~
19 ~~to the council, the Director shall consult with representative~~
20 ~~persons and recognized organizations in the respective fields~~
21 ~~concerning such appointments. The Director or his~~
22 ~~representative from the Department shall act as chairman of the~~
23 ~~council. The Director shall call meetings thereof from time to~~
24 ~~time or when requested by 3 or more appointed members of the~~
25 ~~council.~~

26 ~~The responsibilities of the Fertilizer Research and~~

1 ~~Education Council are to:~~

2 ~~(a) solicit research and education projects consistent~~
3 ~~with the scope of the established fertilizer research and~~
4 ~~education program;~~

5 ~~(b) review and arrange for peer review of all research~~
6 ~~proposals for scientific merit and methods, and review or~~
7 ~~arrange for the review of all proposals for their merit,~~
8 ~~objective, methods and procedures;~~

9 ~~(c) evaluate the proposed budget for the projects and~~
10 ~~make recommendations as necessary; and~~

11 ~~(d) monitor the progress of projects and report at~~
12 ~~least once each 6 months on each project's accomplishments~~
13 ~~to the Director and Board of Agricultural Advisors.~~

14 ~~The Fertilizer Research and Education Council shall at~~
15 ~~least annually recommend projects to be approved and funded~~
16 ~~including recommendations on continuation or cancellation of~~
17 ~~authorized and ongoing projects to the Board of Agricultural~~
18 ~~Advisors, which is created in Section 5-525 of the Departments~~
19 ~~of State Government Law (20 ILCS 5/5-525). The Board of~~
20 ~~Agricultural Advisors shall review the proposed projects and~~
21 ~~recommendations of the Fertilizer Research and Education~~
22 ~~Council and recommend to the Director what projects shall be~~
23 ~~approved and their priority. In the case of authorized and~~
24 ~~ongoing projects, the Board of Agricultural Advisors shall~~
25 ~~recommend to the Director the continuation or cancellation of~~
26 ~~such projects.~~

1 ~~When the Director, the Board of Agricultural Advisors, and~~
2 ~~the Fertilizer Research and Education Council approve a project~~
3 ~~and subject to available appropriations, the Director shall~~
4 ~~grant funds to the person originating the proposal.~~

5 (Source: P.A. 91-239, eff. 1-1-00.)

6 (505 ILCS 80/7) (from Ch. 5, par. 55.7)

7 Sec. 7. Inspection, sampling, analysis.

8 (a) It is the duty of the Director, who may act through his
9 authorized agent, to sample, inspect, make analysis of, and
10 test ~~commercial~~ fertilizers ~~and custom mixes~~ distributed
11 within this State at a time and place and to such an extent as
12 the Director ~~he~~ considers necessary to determine whether such
13 ~~commercial~~ fertilizers ~~or custom mixes~~ are in compliance with
14 the provisions of this Act. The Director, individually or
15 through his agent, is authorized to enter upon any public or
16 private premises during regular business hours in order to have
17 access to ~~commercial~~ fertilizers ~~or custom mixes~~ and to records
18 relating to their distribution subject to the provisions of
19 this Act and the rules and regulations pertaining thereto.

20 (b) The methods of analysis and sampling shall be those
21 adopted by the official agency from sources such as those of
22 the Association of Official Analytical ~~Agricultural~~ Chemists.

23 (c) The Director, in determining for administrative
24 purposes whether any ~~commercial~~ fertilizer ~~or custom mix~~ is
25 deficient in plant food, shall be guided solely by the official

1 sample as defined in ~~paragraph (k) of~~ Section 3, and obtained
2 and analyzed as provided for in this Section ~~paragraph (b) of~~
3 ~~Section 7.~~

4 (d) The results of official analysis of any ~~commercial~~
5 fertilizer ~~or custom mix~~ which has been found to be subject to
6 penalty or other legal action shall be forwarded by the
7 Director to the registrant at least 10 days before the report
8 is submitted to the purchaser. If during that period no
9 adequate evidence to the contrary is made available to the
10 Director, the report shall become official. Upon request the
11 Director shall furnish to the registrant a portion of any
12 sample found subject to penalty or other legal action.

13 (Source: P.A. 77-106.)

14 (505 ILCS 80/8) (from Ch. 5, par. 55.8)

15 Sec. 8. Plant food deficiency.

16 If any ~~commercial~~ fertilizer ~~or custom mix~~ offered for sale
17 in this State proves, upon official analysis, to be deficient
18 from its guaranteed analysis, penalty shall be assessed against
19 the manufacturer or custom blender ~~mixer~~ in accordance with the
20 following provisions:

21 (1) When the value for a single ingredient fertilizer
22 containing nitrogen, available phosphate, or soluble potash is
23 found to be deficient from the guarantee to the extent of 3% to
24 5% of the total value ~~For a single ingredient fertilizer~~
25 ~~containing nitrogen or phosphate or potash: when the value of~~

1 ~~this ingredient is found to be deficient from the guarantee to~~
2 ~~the extent of 3% and not over 5% of the total value,~~ the
3 registrant shall be liable for the actual deficiency in value.
4 When the deficiency exceeds 5% of the total value, the penalty
5 shall be 3 times the actual value of the shortage.

6 (2) For multiple ingredient fertilizers containing 2 or
7 more of the single ingredients: nitrogen or phosphate or
8 potash, penalties shall be assessed according to (a) or (b) as
9 herein stated. When a multiple ingredient fertilizer is subject
10 to a penalty under both (a) and (b) only the larger penalty
11 shall be assessed.

12 (a) When the total combined values of the nitrogen or
13 available phosphate ~~phosphoric acid~~ or potash is found to be
14 deficient to the extent of 3% to 5% ~~3% and not over 5%~~, the
15 registrant shall be liable for the actual deficiency in total
16 value. When the deficiency exceeds 5% of the total value, the
17 penalty shall be 3 times the actual value of the shortage.

18 (b) When either the nitrogen, available phosphate
19 ~~phosphoric acid~~, or potash value is found deficient from the
20 guarantee to the extent of 20% up to the maximum of 4 units (4%
21 plant food), the registrant shall be liable for the value of
22 such shortages.

23 (3) Deficiencies in any other constituent or constituents
24 covered under Section 3, ~~paragraph (i), items B, C, and D~~ of
25 this Act which the registrant is required to or may guarantee
26 shall be evaluated by the Director and penalties therefor shall

1 be prescribed by the Director.

2 (a) Nothing contained in this Section shall prevent any
3 person from appealing to a court of competent jurisdiction for
4 judgment as to the justification of such penalties.

5 (b) All penalties assessed under this Section shall be paid
6 to the consumer of the lot of ~~commercial~~ fertilizer ~~or custom~~
7 ~~mix~~ purchased, and which is represented by the sample analyzed,
8 within 3 months after the date of notice from the Director to
9 the registrant. Receipts shall be taken therefor and promptly
10 forwarded to the Director. If such consumers cannot be found,
11 the amount of the penalty shall be paid to the Director who
12 shall deposit the same in the General Revenue Fund in the State
13 Treasury.

14 (Source: Laws 1963, p. 2240.)

15 (505 ILCS 80/9) (from Ch. 5, par. 55.9)

16 Sec. 9. Commercial value. On the basis of information
17 secured from persons holding registrant's permit to sell
18 fertilizers in Illinois, the following values will be used for
19 purposes of assessing penalties as provided by Section 8 of
20 this Act:

21 Nitrogen	<u>\$6.00</u> \$3.00 per unit (<u>30¢</u> 15¢ per pound)
22 Total P2O5 in Rock	
23 Phosphate	<u>1.44</u> .72 per unit (<u>7.2¢</u> 3.6¢ per pound)
24 Available P2O5	<u>4.00</u> 2.00 per unit (<u>20¢</u> 10¢ per pound)
25 Potash	<u>2.00</u> 1.00 per unit (<u>10¢</u> 5¢ per pound).

1 In the event that the actual retail price is substantially
2 greater than the value as calculated at the above rates, the
3 penalty shall be based on the retail price. In addition, the
4 Director may require that any lot subject to penalty be
5 returned to the registrant and all costs involved in the return
6 of such goods shall be borne by the registrant. However, in the
7 case of bulk fertilizers, the person offering fertilizer for
8 sale in bulk shall be responsible for guaranteeing such
9 fertilizer and shall be liable for all penalties assessed under
10 the provisions of Section 8.

11 (Source: P.A. 89-626, eff. 8-9-96.)

12 (505 ILCS 80/10) (from Ch. 5, par. 55.10)

13 Sec. 10. Minimum plant food content.

14 No superphosphate containing less than 18% available
15 phosphate ~~phosphoric acid~~ nor any mixed fertilizer or custom
16 blend mix, other than a custom blend mix consisting in part of
17 unacidulated mineral phosphatic materials, in which the sum of
18 the guarantees for the nitrogen, available phosphate
19 ~~phosphoric acid~~, and soluble potash totals less than 20% shall
20 be distributed in this State. Specialty fertilizers are exempt
21 from minimum plant food requirements for mixed fertilizers and
22 custom blends mixes.

23 (Source: Laws 1961, p. 3085.)

24 (505 ILCS 80/11) (from Ch. 5, par. 55.11)

1 Sec. 11. Misbranding or adulteration. ~~False or misleading~~
2 ~~statements.~~

3 (a) It is unlawful for any person to distribute a
4 fertilizer that is misbranded or adulterated within this State.

5 A fertilizer shall be deemed misbranded if:

6 (1) its labeling is false or misleading in any
7 particular;

8 (2) it is distributed under the name of another
9 fertilizer product;

10 (3) it is not labeled as required by this Act or its
11 rules; or

12 (4) it purports to be or is represented as a
13 fertilizer, or is represented as containing a plant
14 nutrient or fertilizer, unless such plant nutrient or
15 fertilizer conforms to the definition of identity, if any,
16 prescribed by regulation of the Director; in adopting such
17 regulations the Director shall give due regard to commonly
18 accepted definitions and official fertilizer terms such as
19 those issued by the Association of American Plant Food
20 Control Officials.

21 (b) A fertilizer shall be deemed adulterated if:

22 (1) it contains any deleterious or harmful substance,
23 defined under the provisions of this Act or its rules or
24 regulations, in sufficient amount to render it injurious to
25 beneficial plant life, animals, humans, aquatic life,
26 soil, or water when applied in accordance with directions

1 for use on the label;

2 (2) its composition falls below or differs from that
3 which it is purported to possess by its labeling; or

4 (3) it contains unwanted crop seed or weed seed. A
5 ~~commercial fertilizer or custom mix is misbranded if it~~
6 ~~carries any false or misleading statement upon or attached~~
7 ~~to the container, or if false or misleading statements~~
8 ~~concerning its agricultural value are made on the container~~
9 ~~or in any advertising matter accompanying or associated~~
10 ~~with the commercial fertilizer or custom mix. It is~~
11 ~~unlawful to distribute a misbranded commercial fertilizer~~
12 ~~or custom mix only after a notice of hearing has been~~
13 ~~issued, served, a hearing held, and opportunity is given~~
14 ~~for the defendant to appeal to a court of competent~~
15 ~~jurisdiction from the decision of the hearing, if he so~~
16 ~~elects, within a period of 10 days after such hearing.~~

17 (Source: Laws 1961, p. 3085.)

18 (505 ILCS 80/12) (from Ch. 5, par. 55.12)

19 Sec. 12. Tonnage reports; records.

20 (a) Any person distributing fertilizer to a consumer or
21 end-user non-registrant in this State shall provide the
22 Director with a summary report on or before the 10th day of
23 each month covering the shipments made during the preceding
24 month of tonnage on a form, provided by the Director, for that
25 purpose. If requested by the NREC, the distributor who supplies

1 fertilizer to the consumer or end user shall also provide to
2 the NREC additional information relevant to general fertilizer
3 use, practices or sales of products that enhance the
4 stabilization, or efficiency of fertilizer.

5 Specialty fertilizer sold in packages weighing 5 pounds or
6 less or in container of 4000 cubic centimeters or less, shall
7 be reported but no inspection fee will be charged. No
8 information furnished under this Section shall be disclosed by
9 the Department in such a way as to divulge the operation of any
10 person.

11 (b) Persons engaged in the sale of ammonium nitrate shall
12 obtain the following information upon its distribution:

13 (1) the date of distribution;

14 (2) the quantity purchased;

15 (3) the license number of the purchaser's valid State
16 or federal driver's license, or an equivalent number taken
17 from another form of picture identification approved for
18 purchaser identification by the Director; and

19 (4) the purchaser's name, current physical address,
20 and telephone number.

21 Any retailer of ammonium nitrate may refuse to sell
22 ammonium nitrate to any person attempting to purchase ammonium
23 nitrate (i) out of season, (ii) in unusual quantities, or (iii)
24 under suspect purchase patterns.

25 (c) Records created under subsection (b) of this Section
26 shall be maintained for a minimum of 2 years. Such records

1 shall be available for inspection, copying, and audit by the
2 Department as provided under this Act.

3 (Source: P.A. 95-219, eff. 8-16-07.)

4 (505 ILCS 80/13) (from Ch. 5, par. 55.13)

5 Sec. 13. Publications.

6 The Director shall publish at least semi-annually and in
7 such forms as he may deem proper:

8 (a) Information concerning the distribution of ~~commercial~~
9 fertilizers ~~and custom mixes~~ by counties.

10 (b) Results of analysis based on official samples of
11 ~~commercial~~ fertilizers ~~and custom mixes~~ distributed within the
12 state as compared with the analysis guaranteed under Sections 4
13 and 5.

14 (Source: Laws 1961, p. 3085.)

15 (505 ILCS 80/14) (from Ch. 5, par. 55.14)

16 Sec. 14. Rules and regulations.

17 (a) For the enforcement of this Act, the Director is
18 authorized, after due notice and public hearing, to prescribe
19 and to enforce such rules and regulations relating to the
20 distribution of fertilizers, the equipment, containers, and
21 storage pertaining to anhydrous ammonia, and low-pressure
22 nitrogen solutions ~~commercial fertilizer or custom mix~~ as he
23 may be find necessary to carry into effect the full intent and
24 meaning of this Act.

1 (b) The official definitions of fertilizers and official
2 fertilizer terms as adopted and published by the Association of
3 American Plant Food Control Officials and any amendments or
4 supplements thereto are the official definitions of
5 fertilizers and official fertilizer terms, except insofar as
6 specifically defined in Section 3 or amended, modified, or
7 rejected by a rule adopted by the Director.

8 (Source: Laws 1961, p. 3085.)

9 (505 ILCS 80/15) (from Ch. 5, par. 55.15)

10 Sec. 15. Short weight. If any ~~commercial~~ fertilizer ~~or~~
11 ~~custom mix~~ in the possession of the consumer is found by the
12 Director to be short in weight, the registrant of such
13 ~~commercial~~ fertilizer ~~or custom mix~~ shall, within 30 days after
14 official notice from the Director, pay to the consumer a
15 penalty equal to 4 times the value of the actual shortage.

16 (Source: Laws 1961, p. 3085.)

17 (505 ILCS 80/16) (from Ch. 5, par. 55.16)

18 Sec. 16. Cancellation, suspension, or refusal of
19 registrations and licenses. ~~Cancellation of registrations.~~

20 The Director may refuse to register a fertilizer or cancel
21 or suspend a fertilizer registration, custom blend, or
22 fertilizer license if:

23 (1) the composition of the fertilizer does not warrant
24 the claims made;

1 (2) the fertilizer does not comply with the provisions
2 of this Act or its rules;

3 (3) the labeling or other materials required for
4 registration do not comply with the provisions of this Act
5 or its rules;

6 (4) the registrant used fraudulent or deceptive
7 practices to secure registration;

8 (5) it is determined that a fertilizer poses a risk of
9 unreasonable adverse effects to man or the environment
10 under the provisions of this Act or its rules; or

11 (6) the registrant does not comply with the provisions
12 of this Act or its rules.

13 ~~The Director is authorized and empowered to cancel the~~
14 ~~registration of any brand of commercial fertilizer or custom~~
15 ~~mix or to refuse to register any brand of commercial fertilizer~~
16 ~~or custom mix as herein provided, upon satisfactory evidence~~
17 ~~that the registrant has used fraudulent or deceptive practices~~
18 ~~in the evasions or attempted evasions of the provisions of this~~
19 ~~Act or any rules and regulations promulgated thereunder;~~
20 ~~however, no registration shall be revoked or refused until the~~
21 ~~registrant has been given the opportunity to appear for a~~
22 ~~hearing by the Director.~~

23 (Source: Laws 1961, p. 3085.)

24 (505 ILCS 80/17) (from Ch. 5, par. 55.17)

25 Sec. 17. Stop sale; use or removal order.

1 (a) Whenever the Director finds that a fertilizer is being
2 distributed in violation of this Act or its rules, he or she
3 may issue and serve a written order to stop sale, stop use, or
4 regulate removal upon an owner, operator, manager, or agent in
5 charge of the fertilizer.

6 (b) The Director shall provide the registrant, if different
7 from the person served under subsection (a), with a copy of any
8 order when corrective action appears to be the responsibility
9 of the registrant.

10 (c) If an owner, operator, manager, or agent is not
11 available for service of an order upon him or her, the Director
12 shall attach the order to the fertilizer and notify the
13 registrant.

14 (d) The Director shall remove or vacate an order by written
15 notice when the violated provisions of this Act or its rules
16 have been complied with, the conditions specified have been
17 met, or the violation has been otherwise disposed of by either
18 administrative or judicial action and all costs and expenses
19 incurred in connection with the withdrawal have been paid.

20 (e) When the Director finds, under the provisions of this
21 Act or its rules, that a fertilizer being distributed in this
22 State is injurious to plants, animals, or man when used in
23 accordance with label directions, he or she may issue an order
24 to remove the fertilizer from the State and establish
25 requirements to effect the expeditious removal of the
26 fertilizer without adverse effects to man or the environment.

1 ~~"Stop sale" orders.~~

2 ~~The Director or his authorized agent may issue and enforce~~
3 ~~a written or printed "stop sale, use, or removal" order to the~~
4 ~~owner or custodian of any lot of commercial fertilizer or~~
5 ~~custom mix and to hold such lot at a designated place when the~~
6 ~~Director finds such commercial fertilizer or custom mix is~~
7 ~~being offered or exposed for sale in violation of any of the~~
8 ~~provisions of this Act until the law has been complied with and~~
9 ~~such commercial fertilizer or custom mix is released in writing~~
10 ~~by the Director or such violation has been otherwise legally~~
11 ~~disposed of by written authority.~~

12 ~~The Director shall release the commercial fertilizer or~~
13 ~~custom mix so withdrawn when the requirements of the provisions~~
14 ~~of this Act have been complied with and all costs and expenses~~
15 ~~incurred in connection with the withdrawal have been paid.~~

16 (Source: P.A. 77-106.)

17 (505 ILCS 80/18) (from Ch. 5, par. 55.18)

18 Sec. 18. Seizure, condemnation and sale.

19 Any lot of ~~commercial~~ fertilizer ~~or custom mix~~ not in
20 compliance with the provisions of this Act shall be subject to
21 seizure on complaint of the Director or his authorized agent to
22 the circuit court of the county in which such ~~commercial~~
23 fertilizer ~~or custom mix~~ is located. In the event the court
24 finds such ~~commercial~~ fertilizer ~~or custom mix~~ to be in
25 violation of this Act and orders the condemnation of such

1 ~~commercial~~ fertilizer ~~or custom mix~~, it shall be disposed of in
2 any manner consistent with the quality of the ~~commercial~~
3 fertilizer ~~or custom mix~~ and the laws of the State. However, in
4 no instance shall the disposition of such ~~commercial~~ fertilizer
5 ~~or custom mix~~ be ordered by the court without first giving the
6 claimant an opportunity to apply to the court for release of
7 such ~~commercial~~ fertilizer ~~or custom mix~~ or for permission to
8 process or re-label the ~~commercial~~ fertilizer ~~or custom mix~~ to
9 bring it into compliance with this Act.

10 (Source: P.A. 77-106.)

11 (505 ILCS 80/18a) (from Ch. 5, par. 55.18a)

12 Sec. 18a. Location and operation.

13 (a) Before installing ~~commercial~~ fertilizer facilities for
14 the distribution or storage of anhydrous ammonia or
15 low-pressure nitrogen solutions, the owner shall apply to the
16 Department for approval of the location of the facilities.
17 Distribution and storage facilities shall be in compliance with
18 local zoning ordinances and the minimum distance requirements
19 for safe storage of anhydrous ammonia or low-pressure nitrogen
20 solutions as established by Department rule. Existing storage
21 tanks installed prior to the effective date of this amendatory
22 Act of 1983 shall be exempt from the requirements for location
23 approval. Prior to any expansion or modification of such
24 existing storage tanks, written approval shall be obtained from
25 the Department and such tanks shall meet current requirements

1 as established by Department rule.

2 (b) Authorized Department personnel may enter upon any
3 public or private premises during reasonable business hours and
4 inspect facilities, equipment and vehicles used in the storage,
5 application, and distribution of anhydrous ammonia and
6 low-pressure nitrogen solutions and observe operations as
7 necessary to determine compliance with the provisions of this
8 Act and the rules promulgated hereunder. Department personnel
9 may enter the premises at any time when the health, safety or
10 welfare of the public is threatened by escaping gas, spills,
11 fire, damaged or faulty equipment, accident or act of God.

12 (c) The Department shall adopt rules and regulations
13 setting forth minimum safety standards covering the design,
14 construction, location, installation and operation of
15 equipment for storage, handling, use and transportation of
16 anhydrous ammonia and low-pressure ~~low-pressure~~ nitrogen
17 solutions. Such rules and regulations shall consist of those
18 reasonably necessary for the safety of the public, including
19 persons handling or using such materials, and shall be in
20 substantial conformity with the current nationally accepted
21 safety standards.

22 (d) The Director or his authorized agent may issue and
23 enforce a written stop use order to the owner or custodian of
24 the facility upon a violation of this Act or the rules and
25 regulations. The Director shall terminate the stop use order
26 upon compliance with the requirements of this Act and rules and

1 regulations.

2 (e) The Department may adopt rules and regulations setting
3 forth the requirements for the containment of fertilizer
4 products at commercial facilities, which may include, but would
5 not be limited to, the design, inspection, construction,
6 location, installation, and operation for the storage and
7 handling use of bulk liquid fertilizer, bulk dry fertilizer,
8 and low-pressure nitrogen solutions as may be necessary for the
9 protection of ground water, the environment, and public safety.
10 The Department may establish fees for the inspection of such
11 containment facilities.

12 (f) Nothing in this Section shall apply to facilities that
13 manufacture anhydrous ammonia subject to the OSHA Process
14 Safety Management regulations cited under 29 CFR 1910.119.

15 (Source: P.A. 85-1327.)

16 (505 ILCS 80/19) (from Ch. 5, par. 55.19)

17 Sec. 19. Violations and prosecutions. ~~Violations.~~

18 (a) If it appears from the examination of any ~~commercial~~
19 fertilizer or custom blend ~~mix~~ that any of the provisions of
20 this Act or the rules and regulations issued thereunder have
21 been violated, the Director or his or her authorized agent
22 shall cause notice of the violations to be given to the
23 registrant, distributor or possessor from whom the sample was
24 taken. Any person so notified shall be given opportunity to be
25 heard under such rules and regulations as may be prescribed by

1 the Director. If it appears after such hearing, either in the
2 presence or absence of the person so notified, that any of the
3 provisions of this Act or rules and regulations issued
4 thereunder have been violated, the Director may certify the
5 facts to the proper prosecuting attorney.

6 It shall be unlawful for any person to distribute, store,
7 transport or use anhydrous ammonia or low-pressure nitrogen
8 solutions in violation of this Act or the rules and regulations
9 promulgated thereunder or to violate a stop use order issued by
10 the Director.

11 (b) Any person convicted of violating any provisions of
12 this Act or any of the rules or regulations issued thereunder,
13 or who impedes, obstructs, hinders or otherwise prevents or
14 attempts to prevent the Director, or his or her duly authorized
15 agent, in the performance of his or her duty in connection with
16 the provisions of this Act, shall be guilty of a business
17 offense punishable by a fine not less than \$1,000 plus all
18 costs for each violation under Section 20 of this Act ~~to exceed~~
19 ~~\$1,000~~. In all prosecutions under this Act involving the
20 composition of a ~~commercial~~ fertilizer or custom blend mix, a
21 certified copy of the official analysis signed by the Director
22 shall be accepted as prima facie evidence of the composition.

23 (c) Nothing in this Act shall be construed as requiring the
24 Director or his or her representative to report for prosecution
25 or for the institution of seizure proceedings as a result of
26 minor violations of the Act if he or she believes that a

1 suitable notice of warning in writing will serve the public
2 interests ~~that the public interests will be served by a~~
3 ~~suitable notice of warning in writing.~~

4 (d) It shall be the duty of each State's attorney to whom
5 any violation is reported to cause appropriate proceedings to
6 be instituted and prosecuted in the circuit court without
7 delay.

8 (e) (Blank). ~~The Director is authorized to apply for and~~
9 ~~the court is authorized to grant a temporary restraining order~~
10 ~~or a preliminary or permanent injunction restraining any person~~
11 ~~from violating or continuing to violate any of the provisions~~
12 ~~of this Act or any rule or regulation promulgated under the Act~~
13 ~~notwithstanding the existence of other remedies. The~~
14 ~~injunction shall be entered without bond.~~

15 (Source: P.A. 83-1362.)

16 (505 ILCS 80/20) (from Ch. 5, par. 55.20)

17 Sec. 20. Hearing; notice; injunction.

18 (a) The Department, over the signature of the Director, is
19 authorized to issue subpoenas and bring before the Department
20 any person or persons in this State to take testimony orally,
21 by deposition, or by exhibit, in the same manner prescribed by
22 law in judicial proceedings and civil cases in the circuit
23 courts of this State. The Director is authorized to issue
24 subpoenas duces tecum for records relating to a fertilizer
25 distributor's or registrant's business.

1 (b) The Department, over the signature of the Director, may
2 apply to any court for a temporary restraining order or a
3 preliminary or permanent injunction restraining any person
4 from violating or continuing to violate any provision of this
5 Act or its rules. An injunction issued under this Section shall
6 be issued without bond.

7 (c) When an administrative hearing is held, the hearing
8 officer, upon determination of a violation of this Act, shall
9 levy and the Department shall collect administrative penalties
10 in addition to any initial penalty levied by this Act on a per
11 occurrence basis as follows:

12 (1) A penalty of \$1000 shall be imposed for the
13 following violations:

14 (A) neglect or refusal, after notice in writing, to
15 comply with provisions of this Act or its rules or any
16 lawful order of the Director; or

17 (B) sale, transport, disposal, or distribution of
18 a fertilizer that has been placed under stop-sale
19 order.

20 (2) A penalty of \$500 shall be imposed for the
21 following violations:

22 (A) thwarting or hindering the Director in the
23 performance of his or her duties by misrepresenting or
24 concealing facts or conditions; or

25 (B) distribution of a fertilizer that is
26 mislabeled or adulterated.

1 (3) A penalty of \$200 shall be imposed for the
2 following violations:

3 (A) distribution of a fertilizer that does not have
4 an accompanying label attached or displayed;

5 (B) failure to comply with any provisions of this
6 Act or its rules; or

7 (C) distribution in this State of any fertilizer
8 containing noxious weed seed.

9 When a fertilizer-soil amendment combination labeled in
10 accordance with 8 Ill. Adm. Code 211.40 Subpart (b) is subject
11 to penalties, the larger penalty shall be assessed.

12 All penalties collected by the Department under this
13 Section shall be deposited into the Fertilizer Control Fund.
14 Any penalty not paid within 60 days after receiving the notice
15 from the Department shall be submitted to the Attorney
16 General's office for collection. Exchanges between
17 manufacturers.

18 ~~Nothing in this Act shall be construed to restrict or avoid~~
19 ~~sales or exchanges of commercial fertilizers to each other by~~
20 ~~importers, manufacturers or manipulators who mix fertilizer~~
21 ~~materials for sale or as preventing the free and unrestricted~~
22 ~~shipments of commercial fertilizer to manufacturers or~~
23 ~~manipulators who have registered their brands as required by~~
24 ~~the provisions of this Act.~~

25 (Source: Laws 1961, p. 3085.)

1 (505 ILCS 80/21) (from Ch. 5, par. 55.21)

2 Sec. 21. Exchanges between manufacturers
3 Constitutionality. Nothing in this Act shall be construed to
4 restrict or avoid sales or exchanges of fertilizers to each
5 other by importers, manufacturers, or blenders who mix
6 fertilizer materials for sale or as preventing the free and
7 unrestricted shipments of fertilizer to manufacturers or
8 manipulators who have registered their brands as required by
9 the provisions of this Act.

10 ~~If any clause, sentence, paragraph or part of this Act~~
11 ~~shall for any reason be adjudged invalid by any court of~~
12 ~~competent jurisdiction, such judgment shall not affect, impair~~
13 ~~or invalidate the remainder thereof but shall be confined in~~
14 ~~its operation to the clause, sentence, paragraph or part~~
15 ~~thereof directly involved in the controversy in which such~~
16 ~~judgment shall have been rendered.~~

17 (Source: Laws 1961, p. 3085.)

18 (505 ILCS 80/21.5 new)

19 Sec. 21.5. Constitutionality. If any clause, sentence,
20 paragraph, or part of this Act shall for any reason be adjudged
21 invalid by any court of competent jurisdiction, the judgment
22 shall not affect, impair, or invalidate the remainder thereof
23 but shall be confined in its operation to the clause, sentence,
24 paragraph, or part thereof directly involved in the controversy
25 in which the judgment shall have been rendered.

1 (505 ILCS 80/6b rep.)

2 Section 10. The Illinois Fertilizer Act of 1961 is amended
3 by repealing Section 6b.

4 Section 99. Effective date. This Act takes effect January
5 1, 2012.".