

AN ACT concerning agriculture.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

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

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

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

(Source: Laws 1961, p. 3085.)

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

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

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

"Adulterated" shall apply to any fertilizer:

(i) that contains any deleterious or harmful substance, defined under the provisions of this Act or its

rules or regulations, in sufficient amount to render it injurious to beneficial plant life, animals, humans, aquatic life, soil, or water when applied in accordance with directions for use on the label;

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

(iii) contains unwanted crop seed or weed seed.

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

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

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

"Brand" means a term, design, or trademark used in

connection with one or several grades of fertilizers.

"Bulk" means any fertilizer distributed in a single container greater than 100 pounds.

"Consumer or end user" means the final purchaser prior to application.

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

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

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

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

~~(d) The term "anhydrous ammonia" means the compound formed by the combination of two gaseous elements, nitrogen and hydrogen, in the proportion of one part of nitrogen to three parts of hydrogen (NH₃) by volume. Anhydrous ammonia is a commercial fertilizer of ammonia gas in compressed and liquified form. It is not aqueous ammonia which is a solution of ammonia gas in water and which is considered a low pressure nitrogen solution.~~

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

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

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

"Custom blender" ~~(h) The term "custom mixer" means any entity a person who produces and sells custom blended fertilizers mixes.~~

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

"Department" means the Illinois Department of Agriculture.

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

"Director" means the Director of Agriculture or a duly authorized representative.

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

"Distributor" means any entity who distributes fertilizer.

"Entity" means any individual, partnership, association, firm, or corporation.

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

"Fertilizer material" means a fertilizer that either:

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

(B) has 85% or more of its plant nutrient content

present in the form of a single chemical compound; or

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

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

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

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

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

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

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

"Grade" ~~(k) The term "grade" means the minimum percentage of total nitrogen, available phosphoric phosphate acid~~

(~~P₂O₅~~~~P₂O₅~~) and soluble potash (~~K₂O~~~~K₂O~~) stated in the whole numbers in the same terms, order, and percentages as in the guaranteed analysis, provided that specialty fertilizers may be guaranteed in fractional units of less than 1% of total nitrogen, available phosphate, and soluble potash and that fertilizer materials, bone meal, manures, and similar materials may be guaranteed in fractional units ~~order given in this definition.~~

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

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

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

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

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

"Label" means the display of all written, printed, or graphic matter upon the immediate container or a statement

accompanying a fertilizer.

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

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

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

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

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

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

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

~~(q) Words importing the singular number may extend and be applied to several persons or things and words importing the~~

~~plural number may include the singular.~~

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

~~(s) The term "Low-pressure nitrogen solution" means a ~~low pressure~~ solution containing 2 per cent or more by weight of free ammonia and/or having vapor pressure of 5 pounds or more per square inch gauge at 104° F.~~

"Misbranded" shall apply to any fertilizer:

(i) with labeling that is false or misleading in any particular;

(ii) that is distributed under the name of another fertilizer product;

(iii) that is not labeled as required by this Act or its rules; or

(iv) which purports to be or is represented as a fertilizer, or is represented as containing a plant nutrient or fertilizer unless such plant nutrient or fertilizer conforms to the definition of identity, if any, prescribed by regulation.

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

"NREC" means the Nutrient Research and Education Council.

"Official sample" means any sample of fertilizer taken by the Director or his or her agent and designated as official by

the Director.

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

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

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

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

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

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

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

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

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

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

(a) Each brand and grade of ~~commercial~~ fertilizer shall be registered by the entity whose name appears upon the label before being distributed in this State. The application for registration shall be submitted with a label or facsimile of same to the Director on forms ~~form~~ furnished by the Director, and shall be accompanied by a fee of \$20 ~~\$10~~ per grade within a brand. Upon approval by the Director a copy of the registration

shall be furnished to the applicant. All registrations expire on December 31 of each year.

The application shall include the following information:

- (1) The net weight
- (2) The brand and grade
- (3) The guaranteed analysis
- (4) The name and address of the registrant.

(a-5) No entity whose name appears on the label shall distribute a fertilizer in the State unless the entity has secured a license under this Act on forms provided by the Director. The license application shall be accompanied by a fee of \$100. Entities who store anhydrous ammonia as a fertilizer, store bulk fertilizer, or custom blend a fertilizer at more than one site under the same entity's name shall list any and all additional sites with a complete address for each site and remit a license fee of \$50 for each site identified. Entities performing lawn care applications for hire are exempt from obtaining a license under this Act. All licenses expire on December 31 of each year.

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

(c) The plant nutrient content of each and every ~~commercial~~ fertilizer must remain uniform for the period of registration and, in no case, shall the percentage of any guaranteed plant nutrient element be changed in such a manner that the

crop-producing quality of the ~~commercial~~ fertilizer is lowered.

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

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

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

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

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

Sec. 5. Labeling.

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

- (1) net weight;
- (2) brand and grade; provided, that the grade shall not be required when no primary nutrients are claimed;
- (3) guaranteed analysis;
- (4) directions for use for the fertilizer distributed to the consumer or end user; and
- (5) name and address of the registrant.

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

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

(c) If distributed in bulk as a custom blend ~~mixed~~ fertilizer, a written or printed statement shall accompany delivery of each load and be supplied to the purchaser at time of delivery and must carry information as follows:

1. Weight of each ~~commercial~~ fertilizer used in the custom blend ~~mixing~~.
2. The guaranteed analysis of each ~~commercial~~ fertilizer used in the custom blend ~~mixing~~.
3. Total weight of fertilizer delivered in each load.

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

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

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

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

(Source: Laws 1963, p. 2240.)

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

Sec. 6. Inspection fees.

(a) There shall be paid to the Director for all ~~commercial~~ fertilizers ~~or custom mix~~ distributed in this State an inspection fee at the rate of 25¢ per ton with a minimum inspection fee of \$15. Sales ~~to manufacturers~~ or exchanges

between registrants ~~them~~ are hereby exempted from the inspection fee.

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

(b) Every entity ~~person~~ who distributes a ~~commercial~~ fertilizer, custom blend, or speciality fertilizer ~~or custom mix~~ in this State shall file with the Director, on forms furnished by the Director, a semi-annual statement for the periods ending June 30 and December 31, setting forth the number of net tons of each grade of ~~commercial~~ fertilizers within a brand or the net tons of custom blend ~~mix~~ distributed. The report shall be due on or before the 30th ~~15th~~ day of the

month following the close of each semi-annual period and upon the statement shall pay the inspection fee at the rate stated in paragraph (a) of this Section.

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

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

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

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

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

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

Sec. 6a. Nutrient Research and Education Council. The

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

The NREC shall be comprised of 9 voting members, 3 representing the fertilizer industry, 3 representing grower organizations, to include at least one member of the State's largest farm organization, one person representing the specialty fertilizer industry, one person representing a certified agronomy organization, and the Director or his or her designee and 4 non-voting members: 2 persons representing environmental organizations, one person representing a State or federal agriculture experiment station and the Director of the Illinois Environmental Protection Agency or his or her designee. In the appointment of persons to the NREC, the organizations designated in this Section shall nominate, and the Director shall select from these nominations, representatives to this Council. Members of the Council shall receive no compensation for their services, and the terms of

the Council members, appointment process, and conduct of the meetings shall be outlined in the bylaws established by this Council on their initial appointment by the Director and made available to the industry organizations.

The responsibilities of the NREC are to:

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

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

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

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

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

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

The Council shall recommend, and the Director shall set, the fertilizer tonnage assessment for the purpose of funding the NREC at no less than 50 cents per ton and no greater than \$3 per ton to fund, administer, publish, and implement the

research, education, and outreach programs designated each year by the Council. A minimum of 20% of the funds shall be designated for cost-share programs and on-farm demonstration programs to study and address water quality issues. The Council shall report to the Director by December 31 of each year the recommended amount of annual tonnage assessment to be collected the following year from distributors.

Assessments collected from distributors are payable directly to the NREC on a semi-annual basis. This payment shall coincide with the reporting of the tonnage data and the remittance of the inspection fee to the Department. If the NREC assessment is not made to the Council under this Section, then the Director may rescind the license of the distributor. The NREC may enter into contracts with other entities approved by the Council for the purposes of fulfilling the objectives of the NREC.

The NREC shall publish annually a financial and activities report, including amount of funds collected and expenditures for nutrient programs. The NREC shall be audited at least annually by a certified public accountant and the audit made available within 30 days after its completion to the Director and each Council member for dissemination to their respective organizations. ~~The Department is hereby authorized to establish a program and expend appropriations for a fertilizer research and education program dealing with the relationship of fertilizer use to soil management, soil fertility, plant~~

~~nutrition problems, and for research on environmental concerns which may be related to fertilizer usage; for the dissemination of the results of such research; and for other designated activities including educational programs to promote the correct and effective usage of fertilizer materials.~~

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

~~The responsibilities of the Fertilizer Research and Education Council are to:~~

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

~~(b) review and arrange for peer review of all research proposals for scientific merit and methods, and review or~~

~~arrange for the review of all proposals for their merit, objective, methods and procedures;~~

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

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

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

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

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

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

Sec. 7. Inspection, sampling, analysis.

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

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

(c) The Director, in determining for administrative purposes whether any ~~commercial~~ fertilizer ~~or custom mix~~ is deficient in plant food, shall be guided solely by the official sample as defined in ~~paragraph (k) of~~ Section 3, and obtained and analyzed as provided for in this Section ~~paragraph (b) of~~ ~~Section 7~~.

(d) The results of official analysis of any ~~commercial~~ fertilizer ~~or custom mix~~ which has been found to be subject to penalty or other legal action shall be forwarded by the

Director to the registrant at least 10 days before the report is submitted to the purchaser. If during that period no adequate evidence to the contrary is made available to the Director, the report shall become official. Upon request the Director shall furnish to the registrant a portion of any sample found subject to penalty or other legal action.

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

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

Sec. 8. Plant food deficiency. If any ~~commercial~~ fertilizer ~~or custom mix~~ offered for sale in this State proves, upon official analysis, to be deficient from its guaranteed analysis, penalty shall be assessed against the manufacturer or custom blender ~~mixer~~ in accordance with the following provisions:

(1) When the value for a single ingredient fertilizer containing nitrogen, available phosphate, or soluble potash is found to be deficient from the guarantee to the extent of 3% to 5% of the total value ~~For a single ingredient fertilizer containing nitrogen or phosphate or potash: when the value of this ingredient is found to be deficient from the guarantee to the extent of 3% and not over 5% of the total value,~~ the registrant shall be liable for the actual deficiency in value. When the deficiency exceeds 5% of the total value, the penalty shall be 3 times the actual value of the shortage.

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

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

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

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

~~(a)~~ Nothing contained in this Section shall prevent any entity ~~person~~ from appealing to a court of competent jurisdiction for judgment as to the justification of such

penalties.

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

(Source: Laws 1963, p. 2240.)

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

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

Nitrogen <u>(N)</u>	<u>\$6.00</u> \$3.00 per unit (<u>30¢</u> 15¢ per pound)
Total <u>P₂O₅</u> P₂O₅ in Rock	
Phosphate	<u>\$1.44</u> .72 per unit (<u>7.2¢</u> 3.6¢ per pound)
Available <u>P₂O₅</u> P₂O₅	<u>\$4.00</u> 2.00 per unit (<u>20¢</u> 10¢ per pound)
Potash <u>(K₂O)</u>	<u>\$2.00</u> 1.00 per unit (<u>10¢</u> 5¢ per pound).

In the event that the actual retail price is substantially

greater than the value as calculated at the above rates, the penalty shall be based on the retail price. In addition, the Director may require that any lot subject to penalty be returned to the registrant and all costs involved in the return of such goods shall be borne by the registrant. However, in the case of bulk fertilizers, the entity ~~person~~ offering fertilizer for sale in bulk shall be responsible for guaranteeing such fertilizer and shall be liable for all penalties assessed under the provisions of Section 8.

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

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

Sec. 10. Minimum plant food content. ~~Minimum plant food content.~~ No superphosphate containing less than 18% available phosphate ~~phosphoric acid~~ nor any mixed fertilizer or custom blend mix, other than a custom blend mix consisting in part of unacidulated mineral phosphatic materials, in which the sum of the guarantees for the nitrogen, available phosphate ~~phosphoric acid~~, and soluble potash totals less than 20% shall be distributed in this State. Specialty fertilizers are exempt from minimum plant food requirements for mixed fertilizers and custom blends mixes.

(Source: Laws 1961, p. 3085.)

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

Sec. 11. Misbranding or adulteration. ~~False or misleading~~

~~statements. It is unlawful for any entity to distribute a fertilizer in this State that is misbranded or adulterated within the meaning of Section 3 of this Act or the rules adopted by the Department. A commercial fertilizer or custom mix is misbranded if it carries any false or misleading statement upon or attached to the container, or if false or misleading statements concerning its agricultural value are made on the container or in any advertising matter accompanying or associated with the commercial fertilizer or custom mix. It is unlawful to distribute a misbranded commercial fertilizer or custom mix only after a notice of hearing has been issued, served, a hearing held, and opportunity is given for the defendant to appeal to a court of competent jurisdiction from the decision of the hearing, if he so elects, within a period of 10 days after such hearing.~~

(Source: Laws 1961, p. 3085.)

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

Sec. 12. Tonnage reports; records.

(a) Any entity ~~person~~ distributing fertilizer to a consumer or end-user ~~non-registrant~~ in this State shall provide the Director with a summary report on or before the 10th day of each month covering the shipments made during the preceding month of tonnage on a form, provided by the Director, for that purpose.

Specialty fertilizer sold in packages weighing 5 pounds or

less or in container of 4000 cubic centimeters or less, shall be reported but no inspection fee will be charged. No information furnished under this Section shall be disclosed by the Department in such a way as to divulge the operation of any entity person.

(b) Each entity location ~~Persons~~ engaged in the sale of ammonium nitrate shall obtain the following information upon its distribution:

(1) the date of distribution;

(2) the quantity purchased;

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

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

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

(c) Records created under subsection (b) of this Section shall be maintained for a minimum of 2 years. Such records shall be available for inspection, copying, and audit by the Department as provided under this Act.

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

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

Sec. 13. Publications.

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

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

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

(Source: Laws 1961, p. 3085.)

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

Sec. 14. Rules and regulations.

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

(b) The official definitions of fertilizers and official fertilizer terms as adopted and published by the Association of American Plant Food Control Officials and any amendments or supplements thereto are the official definitions of

fertilizers and official fertilizer terms, except insofar as specifically defined in Section 3 or amended, modified, or rejected by a rule adopted by the Director.

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

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

(Source: Laws 1961, p. 3085.)

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

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

(Source: Laws 1961, p. 3085.)

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

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

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

(1) the composition of the fertilizer does not warrant the claims made by the registrant;

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

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

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

(5) it is determined that a fertilizer poses a risk of unreasonable adverse effects to man or the environment

under the provisions of this Act or its rules; or

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

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

(Source: Laws 1961, p. 3085.)

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

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

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

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

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

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

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

~~"Stop sale" orders.~~

~~The Director or his authorized agent may issue and enforce a written or printed "stop sale, use, or removal" order to the owner or custodian of any lot of commercial fertilizer or custom mix and to hold such lot at a designated place when the Director finds such commercial fertilizer or custom mix is being offered or exposed for sale in violation of any of the provisions of this Act until the law has been complied with and such commercial fertilizer or custom mix is released in writing~~

~~by the Director or such violation has been otherwise legally disposed of by written authority.~~

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

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

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

Sec. 18a. Location and operation.

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

(b) Authorized Department personnel may enter upon any public or private premises during reasonable business hours and

inspect facilities, equipment and vehicles used in the storage, application, and distribution of anhydrous ammonia and low-pressure nitrogen solutions and observe operations as necessary to determine compliance with the provisions of this Act and the rules promulgated hereunder. Department personnel may enter the premises at any time when the health, safety or welfare of the public is threatened by escaping gas, spills, fire, damaged or faulty equipment, accident or act of God.

(c) It shall be unlawful for any entity to distribute, store, transport, or use anhydrous ammonia or low-pressure nitrogen solutions in violation of this Act or the rules adopted by the Department or to violate a stop use order issued by the Director. ~~The Department shall adopt rules and regulations setting forth minimum safety standards covering the design, construction, location, installation and operation of equipment for storage, handling, use and transportation of anhydrous ammonia and low pressure nitrogen solutions. Such rules and regulations shall consist of those reasonably necessary for the safety of the public, including persons handling or using such materials, and shall be in substantial conformity with the current nationally accepted safety standards.~~

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

upon compliance with the requirements of this Act and rules and regulations.

(e) (Blank). ~~The Department may adopt rules and regulations setting forth the requirements for the containment of fertilizer products at commercial facilities, which may include, but would not be limited to, the design, inspection, construction, location, installation, and operation for the storage and handling use of bulk liquid fertilizer, bulk dry fertilizer, and nitrogen solutions as may be necessary for the protection of ground water, the environment, and public safety. The Department may establish fees for the inspection of such containment facilities.~~

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

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

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

Sec. 19. Seizures, prosecutions, and injunctions
Violations.

(a) Any lot of fertilizer, custom blend, or speciality fertilizer not in compliance with the provisions of this Act may be subjected to seizure on complaint of the Director or his or her authorized agent to the circuit court of the county in which the fertilizer is located. In the event the court finds the fertilizer to be in violation of this Act and orders the

condemnation of the fertilizer, the fertilizer shall be disposed of in any manner consistent with the quality of the fertilizer or the laws of the State. However, in no instance shall the disposition of the fertilizer be ordered by the court without first giving the claimant an opportunity to apply to the court for release of the fertilizer or for permission to process or re-label the fertilizer to bring it into compliance with this Act.

(a-5) ~~(a)~~ If it appears after an administrative hearing, from the examination of any commercial fertilizer or custom mix that any of the provisions of this Act or the rules and regulations issued thereunder have been violated, the Director or his or her authorized agent shall cause notice of the violations to be given to the registrant, distributor or possessor from whom the sample was taken. Any person so notified shall be given opportunity to be heard under such rules and regulations as may be prescribed by the Director. If it appears after such hearing, either in the presence or absence of the entity ~~person~~ so notified, that any of the provisions of this Act or rules and regulations issued thereunder have been violated, or in seeking the institution of criminal charges against a violator, the Director may certify the facts to the proper prosecuting attorney.

~~It shall be unlawful for any person to distribute, store, transport or use anhydrous ammonia or nitrogen solutions in violation of this Act or the rules and regulations promulgated~~

~~thereunder or to violate a stop use order issued by the Director.~~

(b) The Department, over the signature of the Director, may apply to any court for a temporary restraining order or a preliminary or permanent injunction restraining any entity from violating or continuing to violate any provision of this Act or the rules adopted by the Department. An injunction issued under this Section shall be granted without bond. ~~Any person convicted of violating any provisions of this Act or any of the rules or regulations issued thereunder, or who impedes, obstructs, hinders or otherwise prevents or attempts to prevent the Director, or his or her duly authorized agent, in the performance of his or her duty in connection with the provisions of this Act, shall be guilty of a business offense punishable by a fine not to exceed \$1,000. In all prosecutions under this Act involving the composition of a commercial fertilizer or custom mix, a certified copy of the official analysis signed by the Director shall be accepted as prima facie evidence of the composition.~~

(b-5) In all prosecutions under this Act involving the composition of a fertilizer or custom blend, a certified copy of the official analysis signed by the Director shall be accepted as prima facie evidence of the composition.

(c) Nothing in this Act shall be construed as requiring the Director or his or her representative to report for prosecution or for the institution of seizure proceedings as a result of

minor violations of the Act if he or she believes that a suitable notice of warning in writing shall serve the public interests ~~will be served by a suitable notice of warning in writing.~~

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

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

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

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

Sec. 20. Administrative hearings; notice. Any entity so notified of violating this Act or its rules, shall be given the opportunity to be heard as may be prescribed by the Director. When an administrative hearing is held, the hearing officer, upon determination of a violation of this Act, shall levy and the Department shall collect administrative penalties in addition to any initial penalty levied by this Act as follows:

(1) A penalty of \$1,000 shall be imposed for:

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

(B) every sale, disposal, or distribution of a fertilizer that is under a stop-sale order; or

(C) concealing facts or conditions, impeding, obstructing, hindering, or otherwise preventing or attempting to prevent the Director, or his or her duly authorized agent, in the performance of his or her duty in connection with the provisions of this Act.

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

(A) distribution of a fertilizer that is misbranded or adulterated;

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

(C) failure to comply with any provisions of this Act or its rules other than described under this Section.

The Department, over the signature of the Director, is authorized to issue subpoenas and bring before the Department any entity in this State to take testimony orally, by deposition, or by exhibit, in the same manner prescribed by law in judicial proceedings or civil cases in the circuit courts of this State. The Director is authorized to issue subpoenas duces tecum for records relating to a fertilizer distributor's or

registrant's business.

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

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

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

(Source: Laws 1961, p. 3085.)

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

Sec. 21. Exchanges between manufacturers
~~Constitutionality.~~ Nothing in this Act shall be construed to restrict or avoid sales or exchanges of fertilizers to each other by importers, manufacturers, or blenders who mix fertilizer materials for sale or as preventing the free and unrestricted shipments of fertilizer to manufacturers or

blenders who have registered their brands as required by the provisions of this Act.

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

(Source: Laws 1961, p. 3085.)

(505 ILCS 80/21.5 new)

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

(505 ILCS 80/6b rep.)

(505 ILCS 80/18 rep.)

Section 10. The Illinois Fertilizer Act of 1961 is amended by repealing Sections 6b and 18.

Section 99. Effective date. This Act takes effect upon becoming law.

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Statutes amended in order of appearance

505 ILCS 80/2	from Ch. 5, par. 55.2
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505 ILCS 80/6a	from Ch. 5, par. 55.6a
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