

2 **SSB 6474** - H COMM AMD **ADOPTED 3-04-98**
3 By Committee on Agriculture & Ecology

4

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

7 "NEW SECTION. Sec. 1. (1) The legislature intends to strengthen
8 the state's fertilizer adulteration laws to protect human health and
9 the environment by:

10 (a) Ensuring that all fertilizers meet standards for allowable
11 metals;

12 (b) Allowing fertilizer purchasers and users to know about the
13 contents of fertilizer products; and

14 (c) Clarifying the department of ecology's oversight authority over
15 waste-derived fertilizers.

16 (2) The legislature intends to provide better information to the
17 public on fertilizers, soils, and potential health effects by
18 authorizing additional studies on plant uptake of metals and levels of
19 dioxins in soils and products.

20 **Sec. 2.** RCW 15.54.270 and 1997 c 427 s 1 are each amended to read
21 as follows:

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

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

27 (2) "Bulk fertilizer" means commercial fertilizer distributed in a
28 ((~~nonpackage~~)) nonpackaged form such as, but not limited to, tote bags,
29 tote tanks, bins, tanks, trailers, spreader trucks, and railcars.

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

33 (4) "Commercial fertilizer" means a substance containing one or
34 more recognized plant nutrients and that is used for its plant nutrient
35 content or that is designated for use or claimed to have value in

1 promoting plant growth, and shall include limes, gypsum, and
2 manipulated animal and vegetable manures(~~(, and a material approved~~
3 ~~under RCW 70.95.830)~~). It does not include unmanipulated animal and
4 vegetable manures, organic waste-derived material, and other products
5 exempted by the department by rule.

6 (5) "Composting" means the controlled aerobic degradation of
7 organic waste materials. Natural decay of organic waste under
8 uncontrolled conditions is not composting.

9 (6) "Customer-formula fertilizer" means a mixture of commercial
10 fertilizer or materials of which each batch is mixed according to the
11 specifications of the final purchaser.

12 (~~(+6)~~) (7) "Department" means the department of agriculture of the
13 state of Washington or its duly authorized representative.

14 (~~(+7)~~) (8) "Director" means the director of the department of
15 agriculture.

16 (~~(+8)~~) (9) "Distribute" means to import, consign, manufacture,
17 produce, compound, mix, or blend commercial fertilizer, or to offer for
18 sale, sell, barter, exchange, or otherwise supply commercial fertilizer
19 in this state.

20 (~~(+9)~~) (10) "Distributor" means a person who distributes.

21 (~~(+10)~~) (11) "Fertilizer material" means a commercial fertilizer
22 that either:

23 (a) Contains important quantities of no more than one of the
24 primary plant nutrients: Nitrogen, phosphate, and potash;

25 (b) Has eighty-five percent or more of its plant nutrient content
26 present in the form of a single chemical compound; or

27 (c) Is derived from a plant or animal residue or byproduct or
28 natural material deposit that has been processed in such a way that its
29 content of plant nutrients has not been materially changed except by
30 purification and concentration.

31 (12) "Grade" means the percentage of total nitrogen, available
32 phosphoric acid, and soluble potash stated in whole numbers in the same
33 terms, order, and percentages as in the "guaranteed analysis," unless
34 otherwise allowed by a rule adopted by the department. Specialty
35 fertilizers may be guaranteed in fractional units of less than one
36 percent of total nitrogen, available phosphorus or phosphoric acid, and
37 soluble potassium or potash. Fertilizer materials, bone meal, manures,
38 and similar materials may be guaranteed in fractional units.

39 (~~(+11)~~) (13) "Guaranteed analysis."

1 (a) Until the director prescribes an alternative form of
2 "guaranteed analysis" by rule the term "guaranteed analysis" shall mean
3 the minimum percentage of plant nutrients claimed in the following
4 order and form:

5 Total nitrogen (N) percent
6 Available phosphoric acid (P2O5) percent
7 Soluble potash (K2O) percent

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

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

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

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

19 (d) The guaranteed analysis for limes shall include the percentage
20 of calcium or magnesium expressed as their carbonate; the calcium
21 carbonate equivalent as determined by methods prescribed by the
22 association of official analytical chemists; and the minimum percentage
23 of material that will pass respectively a one hundred mesh, sixty mesh,
24 and ten mesh sieve. The mesh size declaration may also include the
25 percentage of material that will pass additional mesh sizes.

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

29 ~~((f) The guaranteed analysis for a material approved under RCW
30 70.95.830 and to be used as a soil amendment shall include the name and
31 percentage of each soil amending ingredient and the total percentage of
32 all other ingredients.~~

33 ~~(12))~~ (14) "Imported fertilizer" means any fertilizer distributed
34 into Washington from any other state, province, or country.

35 (15) "Label" means the display of all written, printed, or graphic
36 matter, upon the immediate container, or a statement accompanying a
37 fertilizer.

1 (~~(13)~~) (16) "Labeling" includes all written, printed, or graphic
2 matter, upon or accompanying a commercial fertilizer, or advertisement,
3 brochures, posters, television, and radio announcements used in
4 promoting the sale of such fertilizer.

5 (~~(14)~~) (17) "Licensee" means the person who receives a license to
6 distribute a commercial fertilizer under the provisions of this
7 chapter.

8 (~~(15)~~) (18) "Lime" means a substance or a mixture of substances,
9 the principal constituent of which is calcium or magnesium carbonate,
10 hydroxide, or oxide, singly or combined.

11 (~~(16)~~) (19) "Manipulation" means processed or treated in any
12 manner, including drying to a moisture content less than thirty
13 percent.

14 (~~(17)~~) (20) "Manufacture" means to compound, produce, granulate,
15 mix, blend, repackage, or otherwise alter the composition of fertilizer
16 materials.

17 (~~(18)~~) (21) "Micronutrients" are: Boron; chlorine; cobalt;
18 copper; iron; manganese; molybdenum; sodium; and zinc.

19 (22) "Micronutrient fertilizer" means a produced or imported
20 commercial fertilizer that contains commercially valuable
21 concentrations of micronutrients but does not contain commercially
22 valuable concentrations of nitrogen, phosphoric acid, available
23 phosphorus, potash, calcium, magnesium, or sulfur.

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

26 (~~(19)~~) (24) "Organic waste-derived material" means grass
27 clippings, leaves, weeds, bark, plantings, prunings, and other
28 vegetative wastes, uncontaminated wood waste from logging and milling
29 operations, food wastes, food processing wastes, and materials derived
30 from these wastes through composting. "Organic waste-derived material"
31 does not include products that include biosolids.

32 (25) "Packaged fertilizer" means commercial fertilizers, either
33 agricultural or specialty, distributed in nonbulk form.

34 (~~(20)~~) (26) "Person" means an individual, firm, brokerage,
35 partnership, corporation, company, society, or association.

36 (~~(21)~~) (27) "Percent" or "percentage" means the percentage by
37 weight.

38 (~~(22)~~) (28) "Produce" means to compound or fabricate a commercial
39 fertilizer through a physical or chemical process, or through mining.

1 "Produce" does not include mixing, blending, or repackaging commercial
2 fertilizer products.

3 (29) "Registrant" means the person who registers commercial
4 fertilizer under the provisions of this chapter.

5 ((23)) (30) "Specialty fertilizer" means a commercial fertilizer
6 distributed primarily for nonfarm use, such as, but not limited to, use
7 on home gardens, lawns, shrubbery, flowers, golf courses, municipal
8 parks, cemeteries, greenhouses, and nurseries.

9 ((24)) (31) "Ton" means the net weight of two thousand pounds
10 avoirdupois.

11 ((25)) (32) "Total nutrients" means the sum of the percentages of
12 total nitrogen, available phosphoric acid, and soluble potash as
13 guaranteed and as determined by analysis.

14 (33) "Washington application rate" is calculated by using an
15 averaging period of up to four consecutive years that incorporates
16 agronomic rates that are representative of soil, crop rotation, and
17 climatic conditions in Washington state.

18 (34) "Waste-derived fertilizer" means a commercial fertilizer that
19 is derived in whole or in part from solid waste as defined in chapter
20 70.95 or 70.105 RCW, or rules adopted thereunder, but does not include
21 fertilizers derived from biosolids or biosolids products regulated
22 under chapter 70.95J RCW or wastewaters regulated under chapter 90.48
23 RCW.

24 **Sec. 3.** RCW 15.54.275 and 1993 c 183 s 2 are each amended to read
25 as follows:

26 (1) No person may distribute a (~~commercial~~) bulk fertilizer in
27 this state(~~(, except packaged fertilizers,)~~) until a license to
28 distribute has been obtained by that person. An annual license is
29 required for each out-of-state or in-state location that distributes
30 (~~nonpackaged commercial~~) bulk fertilizer in Washington state. An
31 application for each location shall be filed on forms provided by the
32 master license system and shall be accompanied by an annual fee of
33 twenty-five dollars per location. The license shall expire on the
34 master license expiration date.

35 (2) An application for license shall include the following:

36 (a) The name and address of licensee.

37 (b) Any other information required by the department by rule.

1 (3) The name and address shown on the license shall be shown on all
2 labels, pertinent invoices, and storage facilities for fertilizer
3 distributed by the licensee in this state.

4 (4) If an application for license renewal provided for in this
5 section is not filed prior to ~~((the))~~ the master license expiration
6 date, a delinquency fee of twenty-five dollars shall be assessed and
7 added to the original fee and shall be paid by the applicant before the
8 renewal license shall be issued. The assessment of this delinquency
9 fee shall not prevent the department from taking any other action as
10 provided for in this chapter. The penalty shall not apply if the
11 applicant furnishes an affidavit that he or she has not distributed
12 this commercial fertilizer subsequent to the expiration of his or her
13 prior license.

14 **Sec. 4.** RCW 15.54.325 and 1993 c 183 s 3 are each amended to read
15 as follows:

16 (1) No person may distribute in this state a ~~((packaged))~~
17 commercial fertilizer until it ~~((is))~~ has been registered with the
18 department by the ~~((distributor whose name appears on the label))~~
19 producer, importer, or packager of that product. A bulk fertilizer
20 does not require registration if all commercial fertilizer products
21 contained in the final product are registered.

22 ~~((2))~~ (2) An application for ~~((each packaged fertilizer product))~~
23 registration shall be made on a form furnished by the department and
24 shall be accompanied by ~~((an initial))~~ a fee of twenty-five dollars for
25 ~~((the first))~~ each product ~~((and ten dollars for each additional~~
26 ~~product))~~. Labels for each product shall accompany the application.
27 All companies planning to mix ~~((packaged))~~ customer-formula fertilizers
28 shall include the statement "customer-formula grade mixes" under the
29 column headed "product name" on the product registration application
30 form. All customer-formula fertilizers sold under one brand name shall
31 be considered one product. ~~((Upon the approval of an application by~~
32 ~~the department, a copy of the registration shall be furnished to the~~
33 ~~applicant. All registrations expire on June 30th of each year except~~
34 ~~that for the period beginning January 1, 1994, the registration shall~~
35 ~~expire on June 30, 1995.~~

36 ~~((2))~~ (3) An application for registration shall include the
37 following:

38 (a) The product name;

- 1 (b) The brand and grade;
- 2 (c) The guaranteed analysis;
- 3 (d) Name (~~and~~), address, and phone number of the registrant;
- 4 (e) Labels for each product being registered;
- 5 (f) Identification of those products that are (i) waste-derived
6 fertilizers, (ii) micronutrient fertilizers, or (iii) fertilizer
7 materials containing phosphate;
- 8 (g) Identification of the fertilizer components in the commercial
9 fertilizer product and verification that all the components are
10 registered. If any of the components are not registered, then the
11 application must include the concentration of each metal in each
12 fertilizer component, for which standards are established under RCW
13 15.54.800;
- 14 (h) Waste-derived fertilizers and micronutrient fertilizers shall
15 include at a minimum, information to ensure the product complies with
16 chapter 70.105 RCW and the resource conservation and recovery act, 42
17 U.S.C. Sec. 6901 et seq.; and
- 18 (i) Any other information required by the department by rule.
- 19 ~~((+3+))~~ (4) If an application for renewal of the product
20 registration provided for in this section is not filed prior to July
21 1st of any one year, a penalty of ten dollars per product shall be
22 assessed and added to the original fee and shall be paid by the
23 applicant before the renewal registration shall be issued. The
24 assessment of this late collection fee shall not prevent the department
25 from taking any other action as provided for in this chapter. The
26 penalty shall not apply if the applicant furnishes an affidavit that he
27 or she has not distributed this commercial fertilizer subsequent to the
28 expiration of his or her prior registration.

29 **Sec. 5.** RCW 15.54.330 and 1993 c 183 s 4 are each amended to read
30 as follows:

31 (1) The department shall examine the (~~packaged~~) commercial
32 fertilizer product registration application form and labels for
33 conformance with the requirements of this chapter. If the application
34 and appropriate labels are in proper form and contain the required
35 information, the particular (~~packaged~~) commercial fertilizer products
36 shall be registered by the department and a certificate of registration
37 shall be issued to the applicant. All registrations expire June 30th
38 of each year.

1 (2) In reviewing the ((packaged)) commercial fertilizer product
2 registration application, the department may consider experimental
3 data, manufacturers' evaluations, data from agricultural experiment
4 stations, product review evaluations, or other authoritative sources to
5 substantiate labeling claims. The data shall be from statistically
6 designed and analyzed trials representative of the soil, crops, and
7 climatic conditions found in the northwestern area of the United
8 States.

9 (3) In determining whether approval of a labeling statement or
10 guarantee of an ingredient is appropriate, the department may require
11 the submission of a written statement describing the methodology of
12 laboratory analysis utilized, the source of the ingredient material,
13 and any reference material relied upon to support the label statement
14 or guarantee of ingredient.

15 (4) Before registering a waste-derived fertilizer or micronutrient
16 fertilizer, the department shall obtain written approval from the
17 department of ecology as provided in RCW 15.54.800. Once a waste-
18 derived fertilizer or micronutrient fertilizer has been approved by the
19 department of ecology, its subsequent use in another product during
20 that registration cycle shall not require department of ecology review.
21 This subsection shall apply to new and renewal registration
22 applications for periods beginning July 1, 1999, and thereafter.

23 **Sec. 6.** RCW 15.54.340 and 1993 c 183 s 5 are each amended to read
24 as follows:

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

29 (a) The net weight;

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

32 (c) The guaranteed analysis;

33 (d) The name and address of the registrant or licensee. The name
34 and address of the manufacturer, if different from the registrant or
35 licensee, may also be stated; ((and))

36 (e) Any information required under WAC 296-62-054;

37 (f) At a minimum the following labeling statement: "This product
38 has been registered with the Washington State Department of

1 Agriculture. When applied as directed, this fertilizer meets the
2 Washington standards for arsenic, cadmium, cobalt, mercury, molybdenum,
3 lead, nickel, selenium, and zinc. You have the right to receive
4 specific information about Washington standards from the distributor of
5 this product.";

6 (g) After July 1, 1999, the label must also state: "Information
7 received by the Washington State Department of Agriculture regarding
8 the components in this product is available on the internet at
9 http://www.wa.gov/agr/."; and

10 (h) Other information as required by the department by rule.

11 (2) If a commercial fertilizer is distributed in bulk, a written or
12 printed statement of the information required by subsection (1)
13 (~~above~~) of this section shall accompany delivery and be supplied to
14 the purchaser at the time of delivery.

15 (3) Each delivery of a customer-formula fertilizer shall be subject
16 to containing those ingredients specified by the purchaser, which
17 ingredients shall be shown on the statement or invoice with the amount
18 contained therein, and a record of all invoices of customer-formula
19 grade mixes shall be kept by the registrant or licensee for a period of
20 twelve months and shall be available to the department upon request:
21 PROVIDED, That each such delivery shall be accompanied by either a
22 statement, invoice, a delivery slip, or a label if bagged, containing
23 the following information: The net weight; the brand; the guaranteed
24 analysis which may be stated to the nearest tenth of a percent or to
25 the next lower whole number; the name and address of the registrant or
26 licensee, or manufacturer, or both; and the name and address of the
27 purchaser.

28 (4) Any person who distributes a commercial fertilizer in this
29 state shall make available to the purchaser on request, a copy of
30 standards for metals established in RCW 15.54.800.

31 **Sec. 7.** RCW 15.54.380 and 1993 c 183 s 9 are each amended to read
32 as follows:

33 (1) If the analysis shall show that any commercial fertilizer falls
34 short of the guaranteed analysis in any one plant nutrient or in total
35 nutrients, penalty shall be assessed in favor of the department in
36 accordance with the following provisions:

37 (a) A penalty of three times the commercial value of the
38 deficiency, if such deficiency in any one plant nutrient is more than

1 two percent under guarantee on any one commercial fertilizer in which
2 that plant nutrient is guaranteed up to and including ten percent; a
3 penalty of three times the commercial value of the deficiency, if such
4 deficiency in any one plant nutrient is more than three percent under
5 guarantee on any one commercial fertilizer in which that plant nutrient
6 is guaranteed from ten and one-tenth percent to twenty percent; a
7 penalty of three times the commercial value of the deficiency, if such
8 deficiency in any one plant nutrient is more than four percent under
9 guarantee on any one commercial fertilizer in which that plant nutrient
10 is guaranteed twenty and one-tenth percent and above.

11 (b) A penalty of three times the commercial value of the total
12 nutrient deficiency shall be assessed when such deficiency is more than
13 two percent under the calculated total nutrient guarantee.

14 (c) When a commercial fertilizer is subject to penalty under both
15 (a) and (b) (~~above~~) of this subsection, only the larger penalty shall
16 be assessed.

17 (2) All penalties assessed under this section on any one commercial
18 fertilizer, represented by the sample analyzed, shall be paid to the
19 department within three months after the date of notice from the
20 department to the registrant or licensee. The department shall deposit
21 the amount of the penalty into (~~the fertilizer, agricultural mineral
22 and lime account~~) an account with the agricultural local fund.

23 (3) Nothing contained in this section shall prevent any person from
24 appealing to a court of competent jurisdiction for a judgment as to the
25 justification of such penalties imposed under subsections (1) and (2)
26 (~~above~~) of this section.

27 (4) The civil penalties payable in subsections (1) and (2)
28 (~~above~~) of this section shall in no manner be construed as limiting
29 the consumer's right to bring a civil action in damage against the
30 registrant or licensee paying said civil penalties.

31 **Sec. 8.** RCW 15.54.414 and 1993 c 183 s 10 are each amended to read
32 as follows:

33 No person may distribute an adulterated commercial fertilizer. A
34 commercial fertilizer is adulterated:

35 (1) If it contains any deleterious or harmful (~~ingredient~~)
36 substance in sufficient amount to render it injurious to beneficial
37 plant life when applied in accordance with directions for use on the

1 label, or if adequate warning statements or directions for use which
2 may be necessary to protect plant life are not shown upon the label;

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

5 (3) If it contains unwanted viable seed; or

6 (4) If the concentration of any nonnutritive constituent in a
7 representative sample of commercial fertilizer exceeds the maximum
8 concentration stated on the registration application or on the label.

9 **Sec. 9.** RCW 15.54.420 and 1993 c 183 s 11 are each amended to read
10 as follows:

11 It shall be unlawful for any person to:

12 (1) Distribute an adulterated or misbranded commercial fertilizer;

13 (2) Fail, refuse, or neglect to place upon or attach to each
14 package of distributed commercial fertilizer a label containing all of
15 the information required by this chapter;

16 (3) Fail, refuse, or neglect to deliver to a purchaser of bulk
17 commercial fertilizer a statement containing the information required
18 by this chapter;

19 (4) Distribute a (~~(packaged)~~) commercial fertilizer product which
20 has not been registered with the department;

21 (5) Distribute bulk fertilizer without holding a license to do so;

22 (~~(6) (Distribute unregistered packaged fertilizer. It is the~~
23 ~~responsibility of the person who manufactures or subsequently packages~~
24 ~~that fertilizer to register it prior to distribution in this state;~~

25 ~~(7))~~) Refuse or neglect to keep and maintain records, or to make
26 reports when and as required; or

27 (~~(+8))~~) (7) Make false or fraudulent applications, records,
28 invoices, or reports.

29 **Sec. 10.** RCW 15.54.436 and 1993 c 183 s 12 are each amended to
30 read as follows:

31 The department may cancel the license to distribute commercial
32 fertilizer or registration of any (~~(packaged)~~) commercial fertilizer
33 product or refuse to license a distributor or register any (~~(packaged)~~)
34 commercial fertilizer product as provided in this chapter due to:

35 (1) An incomplete or insufficient license or registration
36 application;

37 (2) The misbranding or adulteration of a commercial fertilizer; or

1 (3) A violation of this chapter or rules adopted under this
2 chapter.

3 If the department cancels or refuses to renew an existing license
4 or registration due to the misbranding or adulteration of a commercial
5 fertilizer or due to a violation of this chapter or a rule adopted
6 hereunder, the licensee/registrant or applicant may request a hearing
7 as provided for in chapter 34.05 RCW.

8 **Sec. 11.** RCW 15.54.470 and 1993 c 183 s 13 are each amended to
9 read as follows:

10 (1) Any person who violates any provision of this chapter shall be
11 guilty of a misdemeanor, and the fines collected shall be disposed of
12 as provided under RCW 15.54.480.

13 (2) Nothing in this chapter shall be considered as requiring the
14 department to report for prosecution or to cancel the registration of
15 a (~~packaged~~) commercial fertilizer product or to stop the sale of
16 fertilizers for violations of this chapter, when violations are of a
17 minor character, and/or when the department believes that the public
18 interest will be served and protected by a suitable notice of the
19 violation in writing.

20 (3) It shall be the duty of each prosecuting attorney to whom any
21 violation of this chapter is reported, to cause appropriate proceedings
22 to be instituted and prosecuted in a court of competent jurisdiction
23 without delay. Before the department reports a violation of this
24 chapter for such prosecution, an opportunity shall be given the
25 distributor to present his or her view in writing or orally to the
26 department.

27 (4) The department is hereby authorized to apply for, and the court
28 authorized to grant, a temporary or permanent injunction restraining
29 any person from violating or continuing to violate any of the
30 provisions of this chapter or any rule adopted under this chapter,
31 notwithstanding the existence of any other remedy at law. Any such
32 injunction shall be issued without bond.

33 **Sec. 12.** RCW 15.54.474 and 1987 c 45 s 10 are each amended to read
34 as follows:

35 Every person who fails to comply with this chapter, or any rule
36 adopted under it, may be subjected to a civil penalty, as determined by
37 the director, in an amount of not more than (~~one~~) seven thousand five

1 hundred dollars for every such violation. Each and every such
2 violation shall be a separate and distinct offense. Every person, who,
3 through an act of commission or omission, procures, aids, or abets in
4 the violation shall be considered to have violated this chapter and may
5 be subject to the penalty provided for in this section.

6 **Sec. 13.** RCW 15.54.480 and 1988 c 254 s 3 are each amended to read
7 as follows:

8 (1) Except as provided in subsection (2) of this section, all
9 moneys collected under the provisions of this chapter shall be paid to
10 the director and deposited in an account within the agricultural local
11 fund. Such deposits shall be used only in the administration and
12 enforcement of this chapter. ~~((Any residual balance remaining in the
13 fertilizer, agricultural mineral and lime fund on June 9, 1988, shall
14 be transferred to that account within the agricultural local fund.))~~

15 (2) Moneys collected under RCW 15.54.474 shall be deposited in the
16 general fund.

17 NEW SECTION. **Sec. 14.** The department of agriculture shall conduct
18 a comprehensive study of plant uptake of metals. The department shall
19 work cooperatively with the department of ecology and the department of
20 health to interpret the study results regarding potential impacts to
21 public and environmental health. A report of the results of the study
22 shall be submitted to appropriate committees of the legislature by
23 December 31, 2000.

24 **Sec. 15.** RCW 15.54.800 and 1997 c 427 s 3 are each amended to read
25 as follows:

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

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

33 (a) Definitions of terms;

34 (b) Determining standards for labeling and registration of
35 commercial fertilizers;

36 (c) The collection and examination of commercial fertilizers;

- 1 (d) Recordkeeping by registrants and licensees;
2 (e) Regulation of the use and disposal of commercial fertilizers
3 for the protection of ground water and surface water; and
4 (f) The safe handling, transportation, storage, display, and
5 distribution of commercial fertilizers.

6 (3)(a) Standards are established for allowable levels of
7 nonnutritive substances in commercial fertilizers. These standards are
8 Canadian figures for agricultural and agri-food Canadian maximum
9 acceptable cumulative metal additions to soil established under Trade
10 Memorandum T-4-93 dated August 1996. Washington application rates
11 shall be used to ensure that the maximum acceptable cumulative metal
12 additions to soil are not exceeded.

13 (b) If federal or other risk-based standards are adopted or
14 scientific peer-reviewed studies show that the standards adopted in
15 this section are not at the appropriate level to protect human health
16 or the environment, the department, in consultation with the
17 departments of ecology and health, may initiate a rule making to amend
18 these standards.

19 NEW SECTION. Sec. 16. A new section is added to chapter 15.54 RCW
20 to read as follows:

21 (1) After receipt from the department of the completed application
22 required by RCW 15.54.325, the department of ecology shall evaluate
23 whether the use of the proposed waste-derived fertilizer or the
24 micronutrient fertilizer as defined in RCW 15.54.270 is consistent with
25 the following:

- 26 (a) Chapter 70.95 RCW, the solid waste management act;
27 (b) Chapter 70.105 RCW, the hazardous waste management act; and
28 (c) 42 U.S.C. Sec. 6901 et seq., the resource conservation and
29 recovery act.

30 (2) The department of ecology shall apply the standards adopted in
31 RCW 15.54.800. If more stringent standards apply under chapter 173-303
32 WAC for the same constituents, the department of ecology must use the
33 more stringent standards.

34 (3) Within sixty days of receiving the completed application, the
35 department of ecology shall advise the department as to whether the
36 application complies with the requirements of subsections (1) and (2)
37 of this section. In making a determination, the department of ecology

1 shall consult with the department of health and the department of labor
2 and industries.

3 (4) A party aggrieved by a decision of the department of ecology to
4 issue a written approval under this section or to deny the issuance of
5 such an approval may appeal the decision to the pollution control
6 hearings board within thirty days of the decision. Review of such a
7 decision shall be conducted in accordance with chapter 43.21B RCW. Any
8 subsequent appeal of a decision of the hearings board shall be obtained
9 in accordance with RCW 43.21B.180.

10 **Sec. 17.** RCW 70.95.030 and 1997 c 213 s 1 are each amended to read
11 as follows:

12 As used in this chapter, unless the context indicates otherwise:

13 (1) "City" means every incorporated city and town.

14 (2) "Commission" means the utilities and transportation commission.

15 (3) "Committee" means the state solid waste advisory committee.

16 (4) "Composted material" means organic solid waste that has been
17 subjected to controlled aerobic degradation at a solid waste facility
18 in compliance with the requirements of this chapter. Natural decay of
19 organic solid waste under uncontrolled conditions does not result in
20 composted material.

21 (5) "Department" means the department of ecology.

22 ~~((+5))~~ (6) "Director" means the director of the department of
23 ecology.

24 ~~((+6))~~ (7) "Disposal site" means the location where any final
25 treatment, utilization, processing, or deposit of solid waste occurs.

26 ~~((+7))~~ (8) "Energy recovery" means a process operating under
27 federal and state environmental laws and regulations for converting
28 solid waste into usable energy and for reducing the volume of solid
29 waste.

30 ~~((+8))~~ (9) "Functional standards" means criteria for solid waste
31 handling expressed in terms of expected performance or solid waste
32 handling functions.

33 ~~((+9))~~ (10) "Incineration" means a process of reducing the volume
34 of solid waste operating under federal and state environmental laws and
35 regulations by use of an enclosed device using controlled flame
36 combustion.

37 ~~((+10))~~ (11) "Jurisdictional health department" means city,
38 county, city-county, or district public health department.

1 (~~(11)~~) (12) "Landfill" means a disposal facility or part of a
2 facility at which solid waste is placed in or on land and which is not
3 a land treatment facility.

4 (~~(12)~~) (13) "Local government" means a city, town, or county.

5 (~~(13)~~) (14) "Modify" means to substantially change the design or
6 operational plans including, but not limited to, removal of a design
7 element previously set forth in a permit application or the addition of
8 a disposal or processing activity that is not approved in the permit.

9 (~~(14)~~) (15) "Multiple family residence" means any structure
10 housing two or more dwelling units.

11 (~~(15)~~) (16) "Person" means individual, firm, association,
12 copartnership, political subdivision, government agency, municipality,
13 industry, public or private corporation, or any other entity
14 whatsoever.

15 (~~(16)~~) (17) "Recyclable materials" means those solid wastes that
16 are separated for recycling or reuse, such as papers, metals, and
17 glass, that are identified as recyclable material pursuant to a local
18 comprehensive solid waste plan. Prior to the adoption of the local
19 comprehensive solid waste plan, adopted pursuant to RCW 70.95.110(2),
20 local governments may identify recyclable materials by ordinance from
21 July 23, 1989.

22 (~~(17)~~) (18) "Recycling" means transforming or remanufacturing
23 waste materials into usable or marketable materials for use other than
24 landfill disposal or incineration.

25 (~~(18)~~) (19) "Residence" means the regular dwelling place of an
26 individual or individuals.

27 (~~(19)~~) (20) "Sewage sludge" means a semisolid substance
28 consisting of settled sewage solids combined with varying amounts of
29 water and dissolved materials, generated from a wastewater treatment
30 system, that does not meet the requirements of chapter 70.95J RCW.

31 (~~(20)~~) (21) "Soil amendment" means any substance that is intended
32 to improve the physical characteristics of the soil, except composted
33 material, commercial fertilizers, agricultural liming agents,
34 unmanipulated animal manures, unmanipulated vegetable manures, food
35 wastes, food processing wastes, and materials exempted by rule of the
36 department, such as biosolids as defined in chapter 70.95J RCW and
37 wastewater as regulated in chapter 90.48 RCW.

38 (22) "Solid waste" or "wastes" means all putrescible and
39 nonputrescible solid and semisolid wastes including, but not limited

1 to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge,
2 demolition and construction wastes, abandoned vehicles or parts
3 thereof, and recyclable materials.

4 ~~((+21+))~~ (23) "Solid waste handling" means the management, storage,
5 collection, transportation, treatment, utilization, processing, and
6 final disposal of solid wastes, including the recovery and recycling of
7 materials from solid wastes, the recovery of energy resources from
8 solid wastes or the conversion of the energy in solid wastes to more
9 useful forms or combinations thereof.

10 ~~((+22+))~~ (24) "Source separation" means the separation of different
11 kinds of solid waste at the place where the waste originates.

12 ~~((+23+))~~ (25) "Vehicle" includes every device physically capable of
13 being moved upon a public or private highway, road, street, or
14 watercourse and in, upon, or by which any person or property is or may
15 be transported or drawn upon a public or private highway, road, street,
16 or watercourse, except devices moved by human or animal power or used
17 exclusively upon stationary rails or tracks.

18 ~~((+24+))~~ (26) "Waste-derived soil amendment" means any soil
19 amendment as defined in this chapter that is derived from solid waste
20 as defined in RCW 70.95.030, but does not include biosolids or
21 biosolids products regulated under chapter 70.95J RCW or wastewaters
22 regulated under chapter 90.48 RCW.

23 (27) "Waste reduction" means reducing the amount or toxicity of
24 waste generated or reusing materials.

25 NEW SECTION. Sec. 18. A new section is added to chapter 70.95 RCW
26 to read as follows:

27 (1) Waste-derived soil amendments that meet the standards and
28 criteria in this section may apply for exemption from solid waste
29 permitting as required under RCW 70.95.170. The application shall be
30 submitted to the department in a format determined by the department or
31 an equivalent format. The application shall include:

32 (a) Analytical data showing that the waste-derived soil amendments
33 meet standards established under RCW 15.54.800; and

34 (b) Other information deemed appropriate by the department to
35 protect human health and the environment.

36 (2) After receipt of an application, the department shall review it
37 to determine whether the application is complete, and forward a copy of
38 the complete application to all interested jurisdictional health

1 departments for review and comment. Within forty-five days, the
2 jurisdictional health departments shall forward their comments and any
3 other information they deem relevant to the department, which shall
4 then give final approval or disapproval of the application. Every
5 complete application shall be approved or disapproved by the department
6 within ninety days after receipt.

7 (3) The department, after providing opportunity for comments from
8 the jurisdictional health departments, may at any time revoke an
9 exemption granted under this section if the quality or use of the
10 waste-derived soil amendment changes or the management, storage, or end
11 use of the waste-derived soil amendment constitutes a threat to human
12 health or the environment.

13 (4) Any aggrieved party may appeal the determination by the
14 department in subsection (2) or (3) of this section to the pollution
15 control hearings board.

16 **Sec. 19.** RCW 70.95.240 and 1997 c 427 s 4 are each amended to read
17 as follows:

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

25 (a) Prohibit a person from dumping or depositing solid waste
26 resulting from his or her own activities onto or under the surface of
27 ground owned or leased by him or her when such action does not violate
28 statutes or ordinances, or create a nuisance; (~~or~~)

29 (b) (~~Apply to a person using a material or materials on the land
30 as commercial fertilizer if (i) the department of ecology has issued
31 written approval for the use of the material or materials as commercial
32 fertilizer as provided in RCW 70.95.830, (ii) the registration of the
33 material or materials as a packaged commercial fertilizer has not been
34 canceled under RCW 15.54.335, and (iii) the distribution of the
35 material or materials as a commercial fertilizer has not been
36 prohibited by the department of agriculture under RCW 15.54.335)) Apply
37 to a person using a waste-derived soil amendment that has been approved
38 by the department under section 18 of this act; or~~

1 (c) Apply to the application of commercial fertilizer that has been
2 registered with the department of agriculture as provided in RCW
3 15.54.325, and that is applied in accordance with the standards
4 established in RCW 15.54.800(3).

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

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

16 NEW SECTION. Sec. 20. The department of ecology, in conjunction
17 with the departments of agriculture and health, shall undertake a study
18 of whether dioxins occur in fertilizers, soil amendments, and soils and
19 if so, at what levels. The department of ecology shall seek additional
20 financial and technical assistance from appropriate federal agencies,
21 the fertilizer industry, and other appropriate sources in conducting
22 this study. The department of ecology shall report its findings to the
23 legislature in November 1998.

24 NEW SECTION. Sec. 21. A new section is added to chapter 15.54 RCW
25 to read as follows:

26 (1) The department shall expand its fertilizer data base to include
27 additional information required for registration under RCW 15.54.325
28 and 15.54.330.

29 (2) Except for confidential information under RCW 15.54.362
30 regarding fertilizer tonnages distributed in the state, information in
31 the fertilizer data base shall be made available to the public upon
32 request.

33 (3) The department, and the department of ecology in consultation
34 with the department of health, shall biennially prepare a report to the
35 legislature presenting information on levels of nonnutritive substances
36 in fertilizers. Results from agency testing of products that were

1 sampled shall also be displayed. The first such report will be
2 provided to the legislature by December 1, 1999.

3 (4) After July 1, 1999, the department shall post on the internet
4 the information contained in applications for fertilizer registration.

5 **Sec. 22.** RCW 43.21B.110 and 1993 c 387 s 22 are each amended to
6 read as follows:

7 (1) The hearings board shall only have jurisdiction to hear and
8 decide appeals from the following decisions of the department, the
9 director, (~~the administrator of the office of marine safety,~~) and the
10 air pollution control boards or authorities as established pursuant to
11 chapter 70.94 RCW, or local health departments:

12 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
13 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and
14 90.56.330.

15 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
16 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
17 90.14.130, and 90.48.120.

18 (c) The issuance, modification, or termination of any permit,
19 certificate, or license by the department or any air authority in the
20 exercise of its jurisdiction, including the issuance or termination of
21 a waste disposal permit, the denial of an application for a waste
22 disposal permit, or the modification of the conditions or the terms of
23 a waste disposal permit.

24 (d) Decisions of local health departments regarding the grant or
25 denial of solid waste permits pursuant to chapter 70.95 RCW.

26 (e) Decisions of local health departments regarding the issuance
27 and enforcement of permits to use or dispose of biosolids under RCW
28 70.95J.080.

29 (f) Decisions of the department regarding waste-derived fertilizer
30 or micronutrient fertilizer under section 16 of this act, and decisions
31 of the department regarding waste-derived soil amendments under section
32 18 of this act.

33 (g) Any other decision by the department (~~(, the administrator of~~
34 ~~the office of marine safety,~~) or an air authority which pursuant to
35 law must be decided as an adjudicative proceeding under chapter 34.05
36 RCW.

37 (2) The following hearings shall not be conducted by the hearings
38 board:

1 (a) Hearings required by law to be conducted by the shorelines
2 hearings board pursuant to chapter 90.58 RCW.

3 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
4 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

5 (c) Proceedings by the department relating to general adjudications
6 of water rights pursuant to chapter 90.03 or 90.44 RCW.

7 (d) Hearings conducted by the department to adopt, modify, or
8 repeal rules.

9 (3) Review of rules and regulations adopted by the hearings board
10 shall be subject to review in accordance with the provisions of the
11 Administrative Procedure Act, chapter 34.05 RCW.

12 NEW SECTION. **Sec. 23.** The following acts or parts of acts are
13 each repealed:

14 (1) RCW 15.54.335 and 1997 c 427 s 2; and

15 (2) RCW 70.95.830 and 1997 c 427 s 5.

16 NEW SECTION. **Sec. 24.** This act may be known and cited as the
17 fertilizer regulation act.

18 NEW SECTION. **Sec. 25.** If specific funding for the purposes of
19 this act, referencing this act by bill or chapter number, is not
20 provided by June 30, 1998, in the omnibus appropriations act, this act
21 is null and void."

22 **SSB 6474** - H COMM AMD

23 By Committee on Agriculture & Ecology

24

25 On page 1, line 1 of the title, after "regulation;" strike the
26 remainder of the title and insert "amending RCW 15.54.270, 15.54.275,
27 15.54.325, 15.54.330, 15.54.340, 15.54.380, 15.54.414, 15.54.420,
28 15.54.436, 15.54.470, 15.54.474, 15.54.480, 15.54.800, 70.95.030,
29 70.95.240, and 43.21B.110; adding new sections to chapter 15.54 RCW;
30 adding a new section to chapter 70.95 RCW; creating new sections;
31 repealing RCW 15.54.335 and 70.95.830; and prescribing penalties."

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