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**SUBSTITUTE SENATE BILL 6474**

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**State of Washington**

**55th Legislature**

**1998 Regular Session**

**By** Senate Committee on Agriculture & Environment (originally sponsored by Senators Jacobsen, Rasmussen, Kline, T. Sheldon, Patterson and Fairley; by request of Governor Locke)

Read first time 02/06/98.

1 AN ACT Relating to fertilizer regulation; amending RCW 15.54.270,  
2 15.54.275, 15.54.325, 15.54.330, 15.54.340, 15.54.362, 15.54.380,  
3 15.54.414, 15.54.420, 15.54.436, 15.54.470, 15.54.474, 15.54.480,  
4 15.54.800, 70.95.030, and 70.95.240; adding new sections to chapter  
5 15.54 RCW; adding a new section to chapter 70.95 RCW; creating new  
6 sections; repealing RCW 15.54.335 and 70.95.830; and prescribing  
7 penalties.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

12 (a) Ensuring that all fertilizers meet standards for allowable  
13 metals;

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

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

18 (2) The legislature intends to provide better information to the  
19 public on fertilizers, soils, and potential health effects by

1 authorizing additional studies on plant uptake of metals and levels of  
2 dioxins in soils and products.

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

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

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

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

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

16 (4) "Commercial fertilizer" means a substance containing one or  
17 more recognized plant nutrients and that is used for its plant nutrient  
18 content or that is designated for use or claimed to have value in  
19 promoting plant growth, and shall include limes, gypsum, and  
20 manipulated animal and vegetable manures(~~(, and a material approved~~  
21 ~~under RCW 70.95.830)~~). It does not include unmanipulated animal and  
22 vegetable manures, organic waste-derived material, and other products  
23 exempted by the department by rule.

24 (5) "Composting" means the controlled aerobic degradation of  
25 organic waste materials. Natural decay of organic waste under  
26 uncontrolled conditions is not composting.

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

30 (~~(+6)~~) (7) "Department" means the department of agriculture of the  
31 state of Washington or its duly authorized representative.

32 (~~(+7)~~) (8) "Director" means the director of the department of  
33 agriculture.

34 (~~(+8)~~) (9) "Distribute" means to import, consign, manufacture,  
35 produce, compound, mix, or blend commercial fertilizer, or to offer for  
36 sale, sell, barter, exchange, or otherwise supply commercial fertilizer  
37 in this state.

38 (~~(+9)~~) (10) "Distributor" means a person who distributes.

1       (~~(10)~~) (11) "Fertilizer material" means a commercial fertilizer  
2 that either:

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

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

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

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

19       (~~(11)~~) (13) "Guaranteed analysis."

20       (a) Until the director prescribes an alternative form of  
21 "guaranteed analysis" by rule the term "guaranteed analysis" shall mean  
22 the minimum percentage of plant nutrients claimed in the following  
23 order and form:

24	Total nitrogen (N)	. . . . .	percent
25	Available phosphoric acid (P205)	. .	percent
26	Soluble potash (K20)	. . . . .	percent

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

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

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

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

1 (d) The guaranteed analysis for limes shall include the percentage  
2 of calcium or magnesium expressed as their carbonate; the calcium  
3 carbonate equivalent as determined by methods prescribed by the  
4 association of official analytical chemists; and the minimum percentage  
5 of material that will pass respectively a one hundred mesh, sixty mesh,  
6 and ten mesh sieve. The mesh size declaration may also include the  
7 percentage of material that will pass additional mesh sizes.

8 (e) In commercial fertilizer, the principal constituent of which is  
9 calcium sulfate (gypsum), the percentage of calcium sulfate  
10 (CaSO<sub>4</sub>.2H<sub>2</sub>O) shall be given along with the percentage of total sulfur.

11 ~~((f) The guaranteed analysis for a material approved under RCW  
12 70.95.830 and to be used as a soil amendment shall include the name and  
13 percentage of each soil amending ingredient and the total percentage of  
14 all other ingredients.~~

15 ~~(12))~~ (14) "Imported fertilizer" means any fertilizer distributed  
16 into Washington from any other state, province, or country.

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

20 ~~((13))~~ (16) "Labeling" includes all written, printed, or graphic  
21 matter, upon or accompanying a commercial fertilizer, or advertisement,  
22 brochures, posters, television, and radio announcements used in  
23 promoting the sale of such fertilizer.

24 ~~((14))~~ (17) "Licensee" means the person who receives a license to  
25 distribute a commercial fertilizer under the provisions of this  
26 chapter.

27 ~~((15))~~ (18) "Lime" means a substance or a mixture of substances,  
28 the principal constituent of which is calcium or magnesium carbonate,  
29 hydroxide, or oxide, singly or combined.

30 ~~((16))~~ (19) "Manipulation" means processed or treated in any  
31 manner, including drying to a moisture content less than thirty  
32 percent.

33 ~~((17))~~ (20) "Manufacture" means to compound, produce, granulate,  
34 mix, blend, repackage, or otherwise alter the composition of fertilizer  
35 materials.

36 ~~((18))~~ (21) "Micronutrients" are: Boron; chlorine; cobalt;  
37 copper; iron; manganese; molybdenum; sodium; and zinc.

38 (22) "Micronutrient fertilizer" means a produced or imported  
39 commercial fertilizer that contains commercially valuable

1 concentrations of micronutrients but does not contain commercially  
2 valuable concentrations of nitrogen, phosphoric acid, available  
3 phosphorus, potash, calcium, magnesium, and sulfur.

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

6 ~~((19))~~ (24) "Organic waste-derived material" means grass  
7 clippings, leaves, weeds, bark, plantings, prunings, and other  
8 vegetative wastes, uncontaminated wood waste from logging and milling  
9 operations, food wastes, food processing wastes, and materials derived  
10 from these wastes through composting. "Organic waste-derived material"  
11 does not include products that include biosolids.

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

14 ~~((20))~~ (26) "Person" means an individual, firm, brokerage,  
15 partnership, corporation, company, society, or association.

16 ~~((21))~~ (27) "Percent" or "percentage" means the percentage by  
17 weight.

18 ~~((22))~~ (28) "Produce" means to compound or fabricate a commercial  
19 fertilizer through a physical or chemical process, or through mining.  
20 "Produce" does not include mixing, blending, or repackaging commercial  
21 fertilizer products.

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

24 ~~((23))~~ (30) "Specialty fertilizer" means a commercial fertilizer  
25 distributed primarily for nonfarm use, such as, but not limited to, use  
26 on home gardens, lawns, shrubbery, flowers, golf courses, municipal  
27 parks, cemeteries, greenhouses, and nurseries.

28 ~~((24))~~ (31) "Ton" means the net weight of two thousand pounds  
29 avoirdupois.

30 ~~((25))~~ (32) "Total nutrients" means the sum of the percentages of  
31 total nitrogen, available phosphoric acid, and soluble potash as  
32 guaranteed and as determined by analysis.

33 (33) "Washington application rate" is calculated by using up to a  
34 four-year averaging period that incorporates agronomic rates that are  
35 representative of soil, crop rotation, and climatic conditions in  
36 Washington state.

37 (34) "Waste-derived fertilizer" means a commercial fertilizer that  
38 is derived in whole or in part from solid waste as defined in chapter  
39 70.95 or 70.105 RCW, or rules adopted thereunder, but does not include

1 fertilizers derived from biosolids or biosolids products regulated  
2 under chapter 70.95J RCW or wastewaters regulated under chapter 90.48  
3 RCW.

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

6 (1) No person may distribute a ~~((commercial))~~ bulk fertilizer in  
7 this state ~~((, except packaged fertilizers,))~~ until a license to  
8 distribute has been obtained by that person. An annual license is  
9 required for each out-of-state or in-state location that distributes  
10 ~~((nonpackaged commercial))~~ bulk fertilizer in Washington state. An  
11 application for each location shall be filed on forms provided by the  
12 master license system and shall be accompanied by an annual fee of  
13 twenty-five dollars per location. The license shall expire on the  
14 master license expiration date.

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

16 (a) The name and address of licensee.

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

18 ~~((The name and address shown on the license shall be shown on~~  
19 ~~all labels, pertinent invoices, and storage facilities for fertilizer~~  
20 ~~distributed by the licensee in this state.~~

21 ~~(4))~~ If an application for license renewal provided for in this  
22 section is not filed prior to ~~((the))~~ the master license expiration  
23 date, a delinquency fee of twenty-five dollars shall be assessed and  
24 added to the original fee and shall be paid by the applicant before the  
25 renewal license shall be issued. The assessment of this delinquency  
26 fee shall not prevent the department from taking any other action as  
27 provided for in this chapter. The penalty shall not apply if the  
28 applicant furnishes an affidavit that he or she has not distributed  
29 this commercial fertilizer subsequent to the expiration of his or her  
30 prior license.

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

33 (1) No person may distribute in this state a ~~((packaged))~~  
34 commercial fertilizer until it ~~((is))~~ has been registered with the  
35 department by the ~~((distributor whose name appears on the label))~~  
36 producer, importer, or packager of that product. A bulk fertilizer

1 does not require registration if all commercial fertilizer products  
2 contained in the final product are registered.

3 ~~(2)~~ An application for ~~((each packaged fertilizer product))~~  
4 registration shall be made on a form furnished by the department and  
5 shall be accompanied by an initial fee of twenty-five dollars for ~~((the~~  
6 ~~first))~~ each product ~~((and ten dollars for each additional product))~~.  
7 Labels for each product shall accompany the application. All companies  
8 planning to mix ~~((packaged))~~ customer-formula fertilizers shall include  
9 the statement "customer-formula grade mixes" under the column headed  
10 "product name" on the product registration application form. All  
11 customer-formula fertilizers sold under one brand name shall be  
12 considered one product. ~~((Upon the approval of an application by the~~  
13 ~~department, a copy of the registration shall be furnished to the~~  
14 ~~applicant. All registrations expire on June 30th of each year except~~  
15 ~~that for the period beginning January 1, 1994, the registration shall~~  
16 ~~expire on June 30, 1995.~~

17 ~~(2))~~ (3) An application for registration shall include the  
18 following:

19 (a) The product name;

20 (b) The brand and grade;

21 (c) The guaranteed analysis;

22 (d) Name ~~((and))~~, address, and phone number of the registrant;

23 (e) Labels for each product being registered;

24 (f) Identification of those products that are (i) waste-derived  
25 fertilizers, (ii) micronutrient fertilizers, or (iii) fertilizer  
26 materials containing phosphate;

27 (g) Identification of the fertilizer components in the commercial  
28 fertilizer product and verification that all the components are  
29 registered. If any of the components are not registered, then the  
30 application must include the concentration of each metal in each  
31 fertilizer component, for which standards are established under RCW  
32 15.54.800;

33 (h) Waste-derived fertilizers and micronutrient fertilizers shall  
34 include at a minimum, information to ensure the product complies with  
35 chapter 70.105 RCW and the resource conservation and recovery act, 42  
36 U.S.C. Sec. 6901 et seq.; and

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

38 ~~((3))~~ (4) If an application for renewal of the product  
39 registration provided for in this section is not filed prior to July

1 1st of any one year, a penalty of ten dollars per product shall be  
2 assessed and added to the original fee and shall be paid by the  
3 applicant before the renewal registration shall be issued. The  
4 assessment of this late collection fee shall not prevent the department  
5 from taking any other action as provided for in this chapter. The  
6 penalty shall not apply if the applicant furnishes an affidavit that he  
7 or she has not distributed this commercial fertilizer subsequent to the  
8 expiration of his or her prior registration.

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

11 (1) The department shall examine the ((packaged)) commercial  
12 fertilizer product registration application form and labels for  
13 conformance with the requirements of this chapter. If the application  
14 and appropriate labels are in proper form and contain the required  
15 information, the particular ((packaged)) commercial fertilizer products  
16 shall be registered by the department and a certificate of registration  
17 shall be issued to the applicant. All registrations expire June 30th  
18 of each year.

19 (2) In reviewing the ((packaged)) commercial fertilizer product  
20 registration application, the department may consider experimental  
21 data, manufacturers' evaluations, data from agricultural experiment  
22 stations, product review evaluations, or other authoritative sources to  
23 substantiate labeling claims. The data shall be from statistically  
24 designed and analyzed trials representative of the soil, crops, and  
25 climatic conditions found in the northwestern area of the United  
26 States.

27 (3) In determining whether approval of a labeling statement or  
28 guarantee of an ingredient is appropriate, the department may require  
29 the submission of a written statement describing the methodology of  
30 laboratory analysis utilized, the source of the ingredient material,  
31 and any reference material relied upon to support the label statement  
32 or guarantee of ingredient.

33 (4) Before registering a waste-derived fertilizer or micronutrient  
34 fertilizer, the department shall obtain written approval from the  
35 department of ecology as provided in section 19 of this act. Once a  
36 waste-derived fertilizer or micronutrient fertilizer has been approved  
37 by the department of ecology, its subsequent use in another product  
38 during that registration cycle shall not require department of ecology

1 review. This subsection shall apply to new and renewal registration  
2 applications for periods beginning July 1, 1999, and thereafter.

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

5 (1) Any (~~packaged~~) commercial fertilizer distributed in this  
6 state (~~in containers~~) shall have placed on or affixed to the package  
7 a label setting forth in clearly legible and conspicuous form the  
8 following information:

9 (a) The net weight;

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

12 (c) The guaranteed analysis;

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

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

17 (f) At a minimum the following labeling statement: "This product  
18 has been registered with the Washington State Department of  
19 Agriculture. When applied as directed, this fertilizer meets the  
20 Washington standards for arsenic, cadmium, cobalt, mercury, molybdenum,  
21 lead, nickel, selenium, and zinc. You have the right to receive  
22 specific information about Washington standards from the distributor of  
23 this product."

24 (g) Other information as required by the department by rule.

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

29 (3) Each delivery of a customer-formula fertilizer shall be subject  
30 to containing those ingredients specified by the purchaser, which  
31 ingredients shall be shown on the statement or invoice with the amount  
32 contained therein, and a record of all invoices of customer-formula  
33 grade mixes shall be kept by the registrant or licensee for a period of  
34 twelve months and shall be available to the department upon request:  
35 PROVIDED, That each such delivery shall be accompanied by either a  
36 statement, invoice, a delivery slip, or a label if bagged, containing  
37 the following information: The net weight; the brand; the guaranteed  
38 analysis which may be stated to the nearest tenth of a percent or to

1 the next lower whole number; the name and address of the registrant or  
2 licensee, or manufacturer, or both; and the name and address of the  
3 purchaser.

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

7 **Sec. 7.** RCW 15.54.362 and 1993 c 183 s 7 are each amended to read  
8 as follows:

9 (1) Every registrant or licensee who distributes commercial  
10 fertilizer in this state shall file a semiannual report on forms  
11 provided by the department setting forth the number of net tons of each  
12 commercial fertilizer so distributed in this state. The reports will  
13 cover the following periods: January 1<sup>st</sup> through June 30<sup>th</sup> and July  
14 1<sup>st</sup> through December 31<sup>st</sup> of each year. Upon permission of the  
15 department, an annual statement under oath may be filed for the annual  
16 reporting period of July 1<sup>st</sup> through June 30<sup>th</sup> of any year by any  
17 person distributing within the state less than one hundred tons for  
18 each six-month period during any calendar year, and upon filing such  
19 statement, such person shall pay the inspection fee required under RCW  
20 15.54.350. The department may accept sales records or other records  
21 accurately reflecting the tonnage sold and verifying such reports.

22 (2) Each person responsible for the payment of inspection fees for  
23 commercial fertilizer distributed in this state shall include the  
24 inspection fees with the report on the same dates and for the same  
25 reporting periods mentioned in subsection (1) of this section. If in  
26 one year a registrant or licensee distributes less than (~~eighty-~~  
27 ~~three~~) seventy tons of commercial fertilizer or less than one hundred  
28 (~~sixty-seven~~) tons of commercial lime or equivalent combination of  
29 the two, the registrant or licensee shall pay the minimum inspection  
30 fee. The minimum inspection fee shall be twenty-five dollars per year.

31 (3) The department may, upon request, require registrants or  
32 licensees to furnish information setting forth the net tons of  
33 commercial fertilizer distributed to each location in this state.

34 (4) Semiannual or annual reports filed after the close of the  
35 corresponding reporting period shall pay a late filing fee of twenty-  
36 five dollars. Inspection fees which are due and have not been remitted  
37 to the department by the due date shall have a late-collection fee of  
38 ten percent, but not less than twenty-five dollars, added to the amount

1 due when payment is finally made. The assessment of this late  
2 collection fee shall not prevent the department from taking any other  
3 action as provided for in this chapter.

4 (5) It shall be a misdemeanor for any person to divulge any  
5 information provided under this section that would reveal the business  
6 operation of the person making the report. However, nothing contained  
7 in this subsection may be construed to prevent or make unlawful the use  
8 of information concerning the business operations of a person in any  
9 action, suit, or proceeding instituted under the authority of this  
10 chapter, including any civil action for the collection of unpaid  
11 inspection fees, which action is hereby authorized and which shall be  
12 as an action at law in the name of the director of the department.

13 **Sec. 8.** RCW 15.54.380 and 1993 c 183 s 9 are each amended to read  
14 as follows:

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

19 (a) A penalty of three times the commercial value of the  
20 deficiency, if such deficiency in any one plant nutrient is more than  
21 two percent under guarantee on any one commercial fertilizer in which  
22 that plant nutrient is guaranteed up to and including ten percent; a  
23 penalty of three times the commercial value of the deficiency, if such  
24 deficiency in any one plant nutrient is more than three percent under  
25 guarantee on any one commercial fertilizer in which that plant nutrient  
26 is guaranteed from ten and one-tenth percent to twenty percent; a  
27 penalty of three times the commercial value of the deficiency, if such  
28 deficiency in any one plant nutrient is more than four percent under  
29 guarantee on any one commercial fertilizer in which that plant nutrient  
30 is guaranteed twenty and one-tenth percent and above.

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

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

37 (2) All penalties assessed under this section on any one commercial  
38 fertilizer, represented by the sample analyzed, shall be paid to the

1 department within three months after the date of notice from the  
2 department to the registrant or licensee. The department shall deposit  
3 the amount of the penalty into (~~the fertilizer, agricultural mineral  
4 and lime account~~) an account with the agricultural local fund.

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

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

13 **Sec. 9.** RCW 15.54.414 and 1993 c 183 s 10 are each amended to read  
14 as follows:

15 No person may distribute an adulterated commercial fertilizer. A  
16 commercial fertilizer is adulterated:

17 (1) If it contains any deleterious or harmful (~~ingredient~~)  
18 substance in sufficient amount to render it injurious to beneficial  
19 plant life when applied in accordance with directions for use on the  
20 label, or if adequate warning statements or directions for use which  
21 may be necessary to protect plant life are not shown upon the label;

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

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

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

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

30 It shall be unlawful for any person to:

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

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

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

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

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

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

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

9 (~~(8))~~) (7) Make false or fraudulent applications, records,  
10 invoices, or reports.

11 **Sec. 11.** RCW 15.54.436 and 1993 c 183 s 12 are each amended to  
12 read as follows:

13 The department may cancel the license to distribute commercial  
14 fertilizer or registration of any (~~packaged~~) commercial fertilizer  
15 product or refuse to license a distributor or register any (~~packaged~~)  
16 commercial fertilizer product as provided in this chapter due to:

17 (1) An incomplete or insufficient license or registration  
18 application;

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

20 (3) A violation of this chapter or rules adopted under this  
21 chapter.

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

27 **Sec. 12.** RCW 15.54.470 and 1993 c 183 s 13 are each amended to  
28 read as follows:

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

32 (2) Nothing in this chapter shall be considered as requiring the  
33 department to report for prosecution or to cancel the registration of  
34 a (~~packaged~~) commercial fertilizer product or to stop the sale of  
35 fertilizers for violations of this chapter, when violations are of a  
36 minor character, and/or when the department believes that the public

1 interest will be served and protected by a suitable notice of the  
2 violation in writing.

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

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

16 **Sec. 13.** RCW 15.54.474 and 1987 c 45 s 10 are each amended to read  
17 as follows:

18 Every person who fails to comply with this chapter, or any rule  
19 adopted under it, may be subjected to a civil penalty, as determined by  
20 the director, in an amount of not more than (~~one~~) seven thousand five  
21 hundred dollars for every such violation. Each and every such  
22 violation shall be a separate and distinct offense. Every person, who,  
23 through an act of commission or omission, procures, aids, or abets in  
24 the violation shall be considered to have violated this chapter and may  
25 be subject to the penalty provided for in this section.

26 **Sec. 14.** RCW 15.54.480 and 1988 c 254 s 3 are each amended to read  
27 as follows:

28 (1) Except as provided in subsection (2) of this section, all  
29 moneys collected under the provisions of this chapter shall be paid to  
30 the director and deposited in an account within the agricultural local  
31 fund. Such deposits shall be used only in the administration and  
32 enforcement of this chapter. Any residual balance remaining in the  
33 fertilizer, agricultural mineral and lime fund on June 9, 1988, shall  
34 be transferred to that account within the agricultural local fund.

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

1        NEW SECTION.    **Sec. 15.**    The department of agriculture shall conduct  
2 a comprehensive study of plant uptake of metals.    The department shall  
3 work cooperatively with the department of ecology and the department of  
4 health to interpret the study results regarding potential impacts to  
5 public and environmental health.    A report of the results of the study  
6 shall be submitted to appropriate committees of the legislature by  
7 December 31, 2000.

8        **Sec. 16.**    RCW 15.54.800 and 1997 c 427 s 3 are each amended to read  
9 as follows:

10        (1) The director shall administer and enforce the provisions of  
11 this chapter and any rules adopted under this chapter.    All authority  
12 and requirements provided for in chapter 34.05 RCW apply to this  
13 chapter in the adoption of rules.

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

17        (a) Definitions of terms;

18        (b) Determining standards for labeling and registration of  
19 commercial fertilizers;

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

21        (d) Recordkeeping by registrants and licensees;

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

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

26        (3) Standards are established for allowable levels of nonnutritive  
27 substances in commercial fertilizers.    These standards are Canadian  
28 figures for agricultural and agri-food Canadian maximum acceptable  
29 cumulative metal additions to soil established under Trade Memorandum  
30 T-4-93 dated August 1996.    These standards may be revised by rule if  
31 federal or other risk-based standards are adopted or scientific, peer-  
32 reviewed studies have shown that these standards are not at the  
33 appropriate level to protect human health and the environment.  
34 Washington application rates shall be used to ensure that the maximum  
35 acceptable cumulative metal additions to soil are not exceeded.

36        NEW SECTION.    **Sec. 17.**    A new section is added to chapter 15.54 RCW  
37 to read as follows:

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

6 (a) Chapter 70.95 RCW, the solid waste management act;

7 (b) Chapter 70.105 RCW, the hazardous waste management act; and

8 (c) 42 U.S.C. Sec. 6901 et seq., the resource conservation and  
9 recovery act.

10 (2) The department of ecology shall apply the standards adopted in  
11 RCW 15.54.800. If more stringent standards apply under chapter 173-303  
12 WAC for the same constituents, the department of ecology must use the  
13 more stringent standards.

14 (3) Within sixty days of receiving the completed application, the  
15 department of ecology shall advise the department as to whether the  
16 application complies with the requirements of subsections (1) and (2)  
17 of this section. In making a determination, the department of ecology  
18 shall consult with the department of health and the department of labor  
19 and industries.

20 (4) A party aggrieved by a decision of the department of ecology to  
21 issue a written approval under this section or to deny the issuance of  
22 such an approval may appeal the decision to the pollution control  
23 hearings board within thirty days of the decision. Review of such a  
24 decision shall be conducted in accordance with chapter 43.21B RCW. Any  
25 subsequent appeal of a decision of the hearings board shall be obtained  
26 in accordance with RCW 43.21B.180.

27 **Sec. 18.** RCW 70.95.030 and 1997 c 213 s 1 are each amended to read  
28 as follows:

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

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

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

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

33 (4) "Composted material" means organic solid waste that has been  
34 subjected to controlled aerobic degradation at a solid waste facility  
35 in compliance with the requirements of this chapter. Natural decay of  
36 organic solid waste under uncontrolled conditions does not result in  
37 composted material.

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

1       (~~(5)~~) (6) "Director" means the director of the department of  
2 ecology.

3       (~~(6)~~) (7) "Disposal site" means the location where any final  
4 treatment, utilization, processing, or deposit of solid waste occurs.

5       (~~(7)~~) (8) "Energy recovery" means a process operating under  
6 federal and state environmental laws and regulations for converting  
7 solid waste into usable energy and for reducing the volume of solid  
8 waste.

9       (~~(8)~~) (9) "Functional standards" means criteria for solid waste  
10 handling expressed in terms of expected performance or solid waste  
11 handling functions.

12       (~~(9)~~) (10) "Incineration" means a process of reducing the volume  
13 of solid waste operating under federal and state environmental laws and  
14 regulations by use of an enclosed device using controlled flame  
15 combustion.

16       (~~(10)~~) (11) "Jurisdictional health department" means city,  
17 county, city-county, or district public health department.

18       (~~(11)~~) (12) "Landfill" means a disposal facility or part of a  
19 facility at which solid waste is placed in or on land and which is not  
20 a land treatment facility.

21       (~~(12)~~) (13) "Local government" means a city, town, or county.

22       (~~(13)~~) (14) "Modify" means to substantially change the design or  
23 operational plans including, but not limited to, removal of a design  
24 element previously set forth in a permit application or the addition of  
25 a disposal or processing activity that is not approved in the permit.

26       (~~(14)~~) (15) "Multiple family residence" means any structure  
27 housing two or more dwelling units.

28       (~~(15)~~) (16) "Person" means individual, firm, association,  
29 copartnership, political subdivision, government agency, municipality,  
30 industry, public or private corporation, or any other entity  
31 whatsoever.

32       (~~(16)~~) (17) "Recyclable materials" means those solid wastes that  
33 are separated for recycling or reuse, such as papers, metals, and  
34 glass, that are identified as recyclable material pursuant to a local  
35 comprehensive solid waste plan. Prior to the adoption of the local  
36 comprehensive solid waste plan, adopted pursuant to RCW 70.95.110(2),  
37 local governments may identify recyclable materials by ordinance from  
38 July 23, 1989.

1       (~~(17)~~) (18) "Recycling" means transforming or remanufacturing  
2 waste materials into usable or marketable materials for use other than  
3 landfill disposal or incineration.

4       (~~(18)~~) (19) "Residence" means the regular dwelling place of an  
5 individual or individuals.

6       (~~(19)~~) (20) "Sewage sludge" means a semisolid substance  
7 consisting of settled sewage solids combined with varying amounts of  
8 water and dissolved materials, generated from a wastewater treatment  
9 system, that does not meet the requirements of chapter 70.95J RCW.

10       (~~(20)~~) (21) "Soil amendment" means any substance that is intended  
11 to improve the physical characteristics of the soil, except composted  
12 material, commercial fertilizers, agricultural liming agents,  
13 unmanipulated animal manures, unmanipulated vegetable manures, food  
14 wastes, food processing wastes, and materials exempted by rule of the  
15 department, such as biosolids as defined in chapter 70.95J RCW and  
16 wastewater as regulated in chapter 90.48 RCW.

17       (22) "Solid waste" or "wastes" means all putrescible and  
18 nonputrescible solid and semisolid wastes including, but not limited  
19 to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge,  
20 demolition and construction wastes, abandoned vehicles or parts  
21 thereof, and recyclable materials.

22       (~~(21)~~) (23) "Solid waste handling" means the management, storage,  
23 collection, transportation, treatment, utilization, processing, and  
24 final disposal of solid wastes, including the recovery and recycling of  
25 materials from solid wastes, the recovery of energy resources from  
26 solid wastes or the conversion of the energy in solid wastes to more  
27 useful forms or combinations thereof.

28       (~~(22)~~) (24) "Source separation" means the separation of different  
29 kinds of solid waste at the place where the waste originates.

30       (~~(23)~~) (25) "Vehicle" includes every device physically capable of  
31 being moved upon a public or private highway, road, street, or  
32 watercourse and in, upon, or by which any person or property is or may  
33 be transported or drawn upon a public or private highway, road, street,  
34 or watercourse, except devices moved by human or animal power or used  
35 exclusively upon stationary rails or tracks.

36       (~~(24)~~) (26) "Waste-derived soil amendment" means any soil  
37 amendment as defined in this chapter that is derived from solid waste  
38 as defined in RCW 70.95.030, but does not include biosolids or

1 biosolids products regulated under chapter 70.95J RCW or wastewaters  
2 regulated under chapter 90.48 RCW.

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

5 NEW SECTION. Sec. 19. A new section is added to chapter 70.95 RCW  
6 to read as follows:

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

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

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

16 (2) After receipt of an application, the department shall review it  
17 to determine whether the application is complete, and forward a copy of  
18 the complete application to all interested jurisdictional health  
19 departments for review and comment. Within forty-five days, the  
20 jurisdictional health departments shall forward their comments and any  
21 other information they deem relevant to the department, which shall  
22 then give final approval or disapproval of the application. Every  
23 complete application shall be approved or disapproved by the department  
24 within ninety days after receipt.

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

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

34 **Sec. 20.** RCW 70.95.240 and 1997 c 427 s 4 are each amended to read  
35 as follows:

36 (1) After the adoption of regulations or ordinances by any county,  
37 city, or jurisdictional board of health providing for the issuance of

1 permits as provided in RCW 70.95.160, it shall be unlawful for any  
2 person to dump or deposit or permit the dumping or depositing of any  
3 solid waste onto or under the surface of the ground or into the waters  
4 of this state except at a solid waste disposal site for which there is  
5 a valid permit. This section (~~shall~~) does not:

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

10 (b) (~~Apply to a person using a material or materials on the land  
11 as commercial fertilizer if (i) the department of ecology has issued  
12 written approval for the use of the material or materials as commercial  
13 fertilizer as provided in RCW 70.95.830, (ii) the registration of the  
14 material or materials as a packaged commercial fertilizer has not been  
15 canceled under RCW 15.54.335, and (iii) the distribution of the  
16 material or materials as a commercial fertilizer has not been  
17 prohibited by the department of agriculture under RCW 15.54.335~~) Apply  
18 to a person using a waste-derived soil amendment that has been approved  
19 by the department under section 19 of this act; or

20 (c) Apply to the application of commercial fertilizer that has been  
21 registered with the department of agriculture as provided in RCW  
22 15.54.325, and that is applied in accordance with the standards  
23 established in RCW 15.54.800(3).

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

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

35 NEW SECTION. Sec. 21. The department of ecology, in conjunction  
36 with the departments of agriculture and health, shall undertake a study  
37 of whether dioxins occur in fertilizers, soil amendments, and soils and  
38 if so, at what levels. The department of ecology shall seek additional

1 financial and technical assistance from appropriate federal agencies,  
2 the fertilizer industry, and other appropriate sources in conducting  
3 this study. The department of ecology shall report its findings to the  
4 legislature in November 1998.

5 NEW SECTION. **Sec. 22.** A new section is added to chapter 15.54 RCW  
6 to read as follows:

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

10 (2) Except for confidential information under RCW 15.54.362  
11 regarding fertilizer tonnages distributed in the state, information in  
12 the fertilizer data base shall be made available to the public upon  
13 request.

14 (3) The department, and the department of ecology in consultation  
15 with the department of health, shall biennially prepare a report to the  
16 legislature presenting information on levels of nonnutritive substances  
17 in fertilizers. Results from agency testing of products that were  
18 sampled shall also be displayed. The first such report will be  
19 provided to the legislature by December 1, 1999.

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

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

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

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

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