

Chapter 15.54 RCW
FERTILIZERS, MINERALS, AND LIMES

Sections

- 15.54.265 Intent—1998 c 36.
- 15.54.270 Definitions.
- 15.54.275 Bulk fertilizer distribution license—Fee.
- 15.54.325 Commercial fertilizer registration—Required for distribution—Application—Fees.
- 15.54.330 Commercial fertilizer registration—Application review—Labels and guarantees.
- 15.54.340 Labeling requirements.
- 15.54.350 Inspection fees.
- 15.54.362 Reports—Inspection fees—Late fees—Confidentiality—Penalty—Exception.
- 15.54.370 Official samples—Inspection, analysis, testing—Right of entry.
- 15.54.380 Penalties for deficiencies upon analysis of commercial fertilizers—Appeal—Disposition of penalties.
- 15.54.390 Determination and publication of commercial values—Use in assessment of penalty payments.
- 15.54.400 Restrictions on sale—Minimum percentages.
- 15.54.412 Misbranding.
- 15.54.414 Adulteration.
- 15.54.420 Unlawful acts.
- 15.54.430 Publication of distribution information, analyses results.
- 15.54.433 Fertilizer database—Public availability—Biennial report to legislature.
- 15.54.436 Cancellation of license to distribute or of registration—Refusal to register if fraudulent or deceptive practices used—Opportunity for hearing.
- 15.54.440 "Stop sale," "stop use," or "withdrawal from distribution" order, when issued—Release—Associated costs.
- 15.54.450 Noncompliance—Seizure—Disposition—Associated costs.
- 15.54.460 Damages from administrative action, stop sales or seizures.
- 15.54.470 Violations—Department discretion—Duty of prosecuting attorney—Injunctions.
- 15.54.474 Penalty—Failure to comply with chapter or rule.
- 15.54.480 Disposition of moneys.
- 15.54.490 Cooperation with other entities.
- 15.54.500 Turf fertilizer—Prohibitions on application, sales, and retail display.
- 15.54.800 Enforcement of chapter—Adoption of rules.
- 15.54.820 Department of ecology—Waste-derived or micronutrient fertilizer—Standards—Written decision—Appeal of decision.
- 15.54.910 Prior liability preserved.
- 15.54.940 Continuation of rules adopted pursuant to repealed sections.
- 15.54.950 Short title.

Crop liens: Chapter 60.11 RCW.

RCW 15.54.265 Intent—1998 c 36. (1) The legislature intends to strengthen the state's fertilizer adulteration laws to protect human health and the environment by:

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

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

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

(2) The legislature intends to provide better information to the public on fertilizers, soils, and potential health effects by authorizing additional studies on plant uptake of metals and levels of dioxins in soils and products. [1998 c 36 s 1.]

Short title—1998 c 36: "This act may be known and cited as the fertilizer regulation act." [1998 c 36 s 24.]

RCW 15.54.270 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

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

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

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

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

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

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

(8) "Director" means the director of the department of agriculture.

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

(10) "Distributor" means a person who distributes.

(11) "Fertilizer material" means a commercial fertilizer that either:

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

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

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

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

(13) "Guaranteed analysis."

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

Total nitrogen (N)	percent
Available phosphoric acid (P ₂ O ₅)	percent
Soluble potash (K ₂ O)	percent

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(27) "Percent" or "percentage" means the percentage by weight.

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

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

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

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

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

(33)(a) "Turf" means land, including residential property, commercial property, and publicly owned land, which is planted in closely mowed, managed grass.

(b) "Turf" does not include pasture land, land used to grow grass for sod, or any other land used for agricultural production or residential vegetable or flower gardening.

(34) "Turf fertilizer" means a commercial fertilizer that is labeled for use on turf.

(35) "Washington application rate" is calculated by using an averaging period of up to four consecutive years that incorporates

agronomic rates that are representative of soil, crop rotation, and climatic conditions in Washington state.

(36) "Waste-derived fertilizer" means a commercial fertilizer that is derived in whole or in part from solid waste as defined in chapter 70A.205 or 70A.300 RCW, or rules adopted thereunder, but does not include fertilizers derived from biosolids or biosolids products regulated under chapter 70A.226 RCW or wastewaters regulated under chapter 90.48 RCW. [2020 c 20 s 1001. Prior: 2011 c 73 s 1; 1998 c 36 s 2; 1997 c 427 s 1; 1993 c 183 s 1; 1987 c 45 s 1; 1967 ex.s. c 22 s 1.]

Effective date—2011 c 73: "This act takes effect January 1, 2013." [2011 c 73 s 5.]

Short title—1998 c 36: See note following RCW 15.54.265.

Construction—1987 c 45: "This act shall not be construed as affecting any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule, regulation, or order adopted under those sections, nor as affecting any proceeding instituted under those sections." [1987 c 45 s 32.]

Severability—1987 c 45: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 45 s 33.]

RCW 15.54.275 Bulk fertilizer distribution license—Fee. (1) No person may distribute a bulk fertilizer in this state until a license to distribute has been obtained by that person. An annual license is required for each out-of-state or in-state location that distributes bulk fertilizer in Washington state. An application for each location must be filed on forms provided by the business licensing system established under chapter 19.02 RCW and must be accompanied by an annual fee of fifty dollars per location. The license expires on the business license expiration date.

(2) An application for license must include the following:

(a) The name and address of licensee.

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

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

(4) If an application for license renewal provided for in this section is not filed prior to the business license expiration date, a delinquency fee of fifty dollars must be assessed and added to the original fee and must be paid by the applicant before the renewal license is issued. The assessment of this delinquency fee does not prevent the department from taking any other action as provided for in this chapter. [2021 c 282 s 1; 2013 c 144 s 8; 1998 c 36 s 3; 1993 c 183 s 2.]

Application date—2021 c 282: "All new or renewal applications for registration under this act received on or after June 1, 2021, are

subject to the provisions of this act, including all fees required by this act." [2021 c 282 s 5.]

Effective date—2021 c 282: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 1, 2021." [2021 c 282 s 6.]

Short title—1998 c 36: See note following RCW 15.54.265.

RCW 15.54.325 Commercial fertilizer registration—Required for distribution—Application—Fees. (1) No person may distribute in this state a commercial fertilizer until it has been registered with the department by the producer, importer, or packager of that product.

(2) An application for registration must be made on a form furnished by the department and must include the following:

- (a) The product name;
- (b) The brand and grade;
- (c) The guaranteed analysis;
- (d) Name, address, and phone number of the registrant;
- (e) A label for each product being registered;
- (f) Identification of those products that are (i) waste-derived fertilizers, (ii) micronutrient fertilizers, or (iii) fertilizer materials containing phosphate;

(g) The concentration of each metal, for which standards are established under RCW 15.54.800, in each product being registered, unless the product is (i) anhydrous ammonia or a solution derived solely from dissolving anhydrous ammonia in water, (ii) a customer-formula fertilizer containing only registered commercial fertilizers, or (iii) a packaged commercial fertilizer whose plant nutrient content is present in the form of a single chemical compound which is registered in compliance with this chapter and the product is not blended with any other material. The provisions of (g)(i) of this subsection do not apply if the anhydrous ammonia is derived in whole or in part from waste such that the fertilizer is a "waste-derived fertilizer" as defined in RCW 15.54.270. Verification of a registration relied on by an applicant under (g)(iii) of this subsection must be submitted with the application;

(h) If a waste-derived fertilizer or micronutrient fertilizer, information to ensure the product complies with chapter 70A.300 RCW and the resource conservation and recovery act, 42 U.S.C. Sec. 6901 et seq.; and

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

(3) All companies planning to mix customer-formula fertilizers shall include the statement "customer-formula grade mixes" under the column headed "product name" on the product registration application form. All customer-formula fertilizers sold under one brand name shall be considered one product.

(4) Registrations are issued by the department for a two-year period beginning on July 1st of a given year and ending twenty-four months later on July 1st, except that registrations issued to a registrant who applies to register an additional product during the last twelve months of the registrant's period expire on the next July 1st.

(5) An application for a new registration must be accompanied by a fee of one hundred fifty dollars for each product.

(6) Application for renewal of registration is due July 1st of each registration period and must be accompanied by a renewal fee of one hundred twenty dollars for each product. If an application for renewal is not received by the department by the due date, a late fee of fifty dollars per product is added to the original fee and must be paid by the applicant before the renewal registration may be issued. Payment of a late fee does not prevent the department from taking any action authorized by this chapter for the violation. [2021 c 282 s 2; 2020 c 20 s 1002; 2008 c 292 s 1. Prior: 1999 c 383 s 1; 1999 c 382 s 1; 1998 c 36 s 4; 1993 c 183 s 3.]

Application date—Effective date—2021 c 282: See notes following RCW 15.54.275.

Effective date—1999 c 383: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1999." [1999 c 383 s 5.]

Effective date—1999 c 382: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1999." [1999 c 382 s 2.]

Short title—1998 c 36: See note following RCW 15.54.265.

RCW 15.54.330 Commercial fertilizer registration—Application review—Labels and guarantees. (1) The department shall examine the commercial fertilizer product registration application form and labels for conformance with the requirements of this chapter. If the application and appropriate labels are in proper form and contain the required information, the particular commercial fertilizer products shall be registered by the department and a certificate of registration shall be issued to the applicant.

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

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

(4) Before registering a waste-derived fertilizer or micronutrient fertilizer, the department shall obtain written approval from the department of ecology as provided in RCW 15.54.820. Once a waste-derived fertilizer or micronutrient fertilizer has been approved by the department of ecology, its subsequent use in another product

during that registration cycle shall not require department of ecology review. This subsection shall apply to new and renewal registration applications for periods beginning July 1, 1999, and thereafter. [1999 c 383 s 2; 1998 c 36 s 5; 1993 c 183 s 4; 1967 ex.s. c 22 s 21.]

Effective date—1999 c 383: See note following RCW 15.54.325.

Short title—1998 c 36: See note following RCW 15.54.265.

RCW 15.54.340 Labeling requirements. (1) Any packaged commercial fertilizer distributed in this state that is not a customer-formula fertilizer must have placed on or affixed to the package a label stating in clearly legible and conspicuous form the following information:

- (a) The net weight;
- (b) The product name, brand, and grade. The grade is not required if no primary nutrients are claimed;
- (c) The guaranteed analysis;
- (d) The name and address of the registrant or licensee. The name and address of the manufacturer, if different from the registrant or licensee, may also be stated;
- (e) Any information required under WAC 296-307-560 through 296-307-56050;

(f) A statement, established by rule, referring persons to the department's Uniform Resource Locator (URL) internet address where data regarding the metals content of the product is located; and

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

(2) Any commercial fertilizer that is distributed in bulk in this state that is not a customer-formula fertilizer must be accompanied by a written or printed statement that includes the information required by subsection (1) of this section and must be supplied to the purchaser at the time of delivery.

(3) Each delivery of a customer-formula fertilizer in this state must be accompanied by either a statement, invoice, a delivery slip, or a label if bagged, containing the following information: The net weight; the brand; the name and amount of each ingredient; the guaranteed analysis which may be stated to the nearest tenth of a percent or to the next lower whole number; the name and address of the registrant or licensee, or manufacturer, or both; and the name and address of the purchaser.

(4) Each delivery of a customer-formula fertilizer must contain the ingredients specified by the purchaser. A record of the invoice or statement of each delivery must be kept by the registrant or licensee for twelve months and must be available to the department upon request. [2008 c 292 s 2; 2003 c 15 s 1; 1999 c 381 s 1; 1998 c 36 s 6; 1993 c 183 s 5; 1987 c 45 s 12; 1967 ex.s. c 22 s 22.]

Effective date—2003 c 15 s 1: "Section 1 of this act takes effect January 1, 2004." [2003 c 15 s 2.]

Effective date—1999 c 381: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1999." [1999 c 381 s 2.]

Short title—1998 c 36: See note following RCW 15.54.265.

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

RCW 15.54.350 Inspection fees. (1) There shall be paid to the department for all commercial fertilizers distributed in this state to nonregistrants or nonlicensees an inspection fee of twenty cents per ton of lime and thirty-five cents per ton of all other commercial fertilizer distributed during the year beginning July 1st and ending June 30th.

(2) Distribution of commercial fertilizers for shipment to points outside this state may be excluded.

(3) When more than one distributor is involved in the distribution of a commercial fertilizer, the last registrant or licensee who distributes to a nonregistrant or nonlicensee is responsible for paying the inspection fee, unless the payment of fees has been made by a prior distributor of the fertilizer. [2021 c 282 s 3; 1993 c 183 s 6; 1987 c 45 s 13; 1981 c 297 s 18; 1975 1st ex.s. c 257 s 9; 1967 ex.s. c 22 s 23.]

Application date—Effective date—2021 c 282: See notes following RCW 15.54.275.

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

Severability—1981 c 297: See note following RCW 15.36.201.

Effective date—1975 1st ex.s. c 257: See note following RCW 15.13.470.

RCW 15.54.362 Reports—Inspection fees—Late fees—Confidentiality—Penalty—Exception. (1) Every registrant or licensee who distributes commercial fertilizer in this state must file a semiannual report on forms provided by the department stating the number of net tons of each commercial fertilizer distributed in this state.

(a) For the period January 1st through June 30th of each year, the report is due on July 31st of that year; and

(b) For the period July 1st through December 31st of each year, the report is due on January 31st of the following year.

(2) Upon permission of the department, a person distributing in the state less than one hundred tons for each six-month period during any annual reporting period of July 1st through June 30th may submit an annual report on a form provided by the department that is due on the July 31st following the period. The department may accept sales records or other records accurately reflecting the tonnage sold and verifying such reports.

(3) Each person responsible for the payment of inspection fees for commercial fertilizer distributed in this state must include the inspection fees with each semiannual or annual report. If in an annual reporting period a registrant or licensee distributes less than one hundred forty-three tons of commercial fertilizer or less than two

hundred fifty tons of commercial lime or equivalent combination of the two, the registrant or licensee must pay the minimum inspection fee of fifty dollars.

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

(5) If the semiannual or annual report indicates that zero tons of commercial fertilizer were distributed during the reporting period, the person responsible for completing the report must pay a filing fee of twelve dollars and fifty cents for a semiannual report or twenty-five dollars for an annual report.

(6) (a) If a complete report is not received by the due date, the person responsible for filing the report must pay a late fee of fifty dollars.

(b) If the appropriate inspection fees are not received by the due date, the person responsible for paying the inspection fee must pay a late fee equal to ten percent of the inspection fee owed or fifty dollars, whichever is greater.

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

(8) Payment of late fees or filing fees provided for under this section does not prevent the department from taking any other action authorized by this chapter for the violation. [2021 c 282 s 4; 2008 c 292 s 3; 1993 c 183 s 7; 1987 c 45 s 14.]

Application date—Effective date—2021 c 282: See notes following RCW 15.54.275.

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

RCW 15.54.370 Official samples—Inspection, analysis, testing—Right of entry. (1) It shall be the duty of the department to inspect, sample, make analysis of, and test commercial fertilizers distributed within this state at such time and place and to such an extent as it may deem necessary to determine whether such fertilizers are in compliance with the provisions of this chapter. The department is authorized to stop any commercial vehicle transporting fertilizers on the public highways and direct it to the nearest scales approved by the department to check weights of fertilizers being delivered. The department is also authorized, upon presentation of proper identification, to enter any distributor's premises, including any vehicle of transport, at all reasonable times in order to have access to commercial fertilizers and to records relating to their distribution.

(2) The methods of sampling and analysis shall be those adopted by the department from officially recognized sources.

(3) The department, in determining for administrative purposes whether a fertilizer is deficient in any component or total nutrients, shall be guided solely by the official sample as defined in RCW 15.54.270 and obtained and analyzed as provided for in this section.

(4) When the inspection and analysis of an official sample has been made, the results of analysis shall be forwarded by the department to the registrant or licensee and to the purchaser, if known. Upon request and within thirty days, the department shall furnish to the registrant or licensee a portion of the sample concerned.

(5) Analysis of an official sample by the department shall be accepted as prima facie evidence by any court of competent jurisdiction. [1993 c 183 s 8; 1987 c 45 s 16; 1967 ex.s. c 22 s 25.]

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

RCW 15.54.380 Penalties for deficiencies upon analysis of commercial fertilizers—Appeal—Disposition of penalties. (1) If the analysis shall show that any commercial fertilizer falls short of the guaranteed analysis in any one plant nutrient or in total nutrients, penalty shall be assessed in favor of the department in accordance with the following provisions:

(a) A penalty of three times the commercial value of the deficiency, if such deficiency in any one plant nutrient is more than two percent under guarantee on any one commercial fertilizer in which that plant nutrient is guaranteed up to and including ten percent; a penalty of three times the commercial value of the deficiency, if such deficiency in any one plant nutrient is more than three percent under guarantee on any one commercial fertilizer in which that plant nutrient is guaranteed from ten and one-tenth percent to twenty percent; a penalty of three times the commercial value of the deficiency, if such deficiency in any one plant nutrient is more than four percent under guarantee on any one commercial fertilizer in which that plant nutrient is guaranteed twenty and one-tenth percent and above.

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

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

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

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

(4) The civil penalties payable in subsections (1) and (2) of this section shall in no manner be construed as limiting the consumer's right to bring a civil action in damage against the

registrant or licensee paying said civil penalties. [1998 c 36 s 7; 1993 c 183 s 9; 1987 c 45 s 17; 1967 ex.s. c 22 s 26.]

Short title—1998 c 36: See note following RCW 15.54.265.

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

RCW 15.54.390 Determination and publication of commercial values—Use in assessment of penalty payments. For the purpose of determining the commercial value to be applied under the provisions of RCW 15.54.380, the department shall determine and publish the values per unit of nitrogen, available phosphoric acid, and soluble potash in commercial fertilizers in this state. The values so determined and published shall be used in determining and assessing penalty payments and shall be established by rule. [1987 c 45 s 18; 1967 ex.s. c 22 s 27.]

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

RCW 15.54.400 Restrictions on sale—Minimum percentages. No superphosphate containing less than eighteen percent of available phosphoric acid may be sold or offered for sale in this state. Specialty fertilizers, except manipulated animal and vegetable manures, guaranteeing less than five percent total plant food shall contain on the label specific directions for use, and prior to registration, the department may require proof of the efficacy of the product when used as directed. [1987 c 45 s 19; 1967 ex.s. c 22 s 28.]

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

RCW 15.54.412 Misbranding. No person may distribute misbranded commercial fertilizer. A commercial fertilizer shall be deemed to be misbranded:

(1) If its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

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

(3) If its labeling bears any reference to registration under this chapter unless such reference is required by rule under this chapter;

(4) If any word, statement, or other information, required by this chapter or rules adopted thereunder to appear on the label or labeling, is not prominently placed thereon with such conspicuousness (as compared with other words, statements, design, or graphic matter in the labeling), and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; or

(5) If it purports to be or is represented as a fertilizer, or is represented as containing a plant nutrient or fertilizer unless such plant nutrient or fertilizer conforms to the definition of identity, if any, prescribed by the department by rule. In adopting such rules the department shall give due regard to commonly accepted definitions and official fertilizer terms such as those issued by the association of American plant food control officials. [1987 c 45 s 20.]

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

RCW 15.54.414 Adulteration. No person may distribute an adulterated commercial fertilizer. A commercial fertilizer is adulterated:

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

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

(3) If it contains unwanted viable seed; or

(4) If the concentration of any nonnutritive constituent in a representative sample of commercial fertilizer exceeds the maximum concentration stated on the registration application or on the label. [1998 c 36 s 8; 1993 c 183 s 10; 1987 c 45 s 21.]

Short title—1998 c 36: See note following RCW 15.54.265.

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

RCW 15.54.420 Unlawful acts. It shall be unlawful for any person to:

(1) Distribute an adulterated or misbranded commercial fertilizer;

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

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

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

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

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

(7) Make false or fraudulent applications, records, invoices, or reports. [1998 c 36 s 9; 1993 c 183 s 11; 1987 c 45 s 22; 1967 ex.s. c 22 s 30.]

Short title—1998 c 36: See note following RCW 15.54.265.

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

RCW 15.54.430 Publication of distribution information, analyses results. The department shall publish at least annually and in such form as it may deem proper (1) information concerning the distribution of commercial fertilizers and (2) results of analyses based on official samples as compared with the analyses guaranteed. [1967 ex.s. c 22 s 31.]

RCW 15.54.433 Fertilizer database—Public availability—Biennial report to legislature. (1) The department shall maintain a fertilizer database that includes the information required for registration under RCW 15.54.325 and 15.54.330.

(2) Except for confidential information under RCW 15.54.362 regarding fertilizer tonnages distributed in the state, information in the fertilizer database must be made available to the public upon request.

(3) The department, and the department of ecology in consultation with the department of health, shall biennially prepare a report to the legislature presenting information on levels of nonnutritive substances in fertilizers and the results of any agency testing of products. The first report must be provided to the legislature by December 1, 1999.

(4) The department shall post on the internet the information contained in applications for fertilizer registration. [2008 c 292 s 4; 1998 c 36 s 21.]

Short title—1998 c 36: See note following RCW 15.54.265.

RCW 15.54.436 Cancellation of license to distribute or of registration—Refusal to register if fraudulent or deceptive practices used—Opportunity for hearing. The department may cancel the license to distribute commercial fertilizer or registration of any commercial fertilizer product or refuse to license a distributor or register any commercial fertilizer product as provided in this chapter due to:

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

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

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

If the department cancels or refuses to renew an existing license or registration due to the misbranding or adulteration of a commercial fertilizer or due to a violation of this chapter or a rule adopted hereunder, the licensee/registrant or applicant may request a hearing as provided for in chapter 34.05 RCW. [1998 c 36 s 10; 1993 c 183 s 12; 1987 c 45 s 24.]

Short title—1998 c 36: See note following RCW 15.54.265.

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

RCW 15.54.440 "Stop sale," "stop use," or "withdrawal from distribution" order, when issued—Release—Associated costs. (1) Commercial fertilizers that are not registered in Washington state or that fail to meet the Washington standards for total metals pose an emergency situation because they may contain certain metals at levels which are harmful to Washington soils and plants and may contain substances which are harmful to the public without its knowledge. Commercial fertilizers that are not registered or that fail to meet the Washington standards for total metals are subject to immediate stop sale, stop use, or withdrawal from distribution in this state and seizure, disposal, or both.

(2) The department may issue and enforce a written "stop sale," "stop use," or "withdrawal from distribution" order to the distributor, owner, or custodian of any lot of commercial fertilizer to hold the commercial fertilizer at a designated place when the department has reasonable cause to believe such fertilizer is being offered or exposed for sale in violation of any of the provisions of this chapter.

(3) The department may issue and enforce a written immediate "stop sale," "stop use," or "withdrawal from distribution" order to any distributor, owner, or custodian of commercial fertilizer in the state for any commercial fertilizer that:

(a) Is not registered in Washington state; or

(b) According to the department, fails to meet the Washington standards for total metals, as established in RCW 15.54.800 or the rules adopted under this chapter.

(4) The department shall release the commercial fertilizer stopped or withdrawn under subsection (2) or (3) of this section when the distributor, owner, or custodian has complied with the provisions of this chapter and the rules adopted under it and the department has issued a written release order. If compliance is not or cannot be obtained, the department may institute proceedings under RCW 15.54.450 or may agree in writing with the distributor, owner, or custodian of the commercial fertilizer to an alternative disposition of the commercial fertilizer.

(5) All costs associated with any "stop sale," "stop use," or "withdrawal from distribution" incurred by the distributor, owner, or custodian of a commercial fertilizer are the responsibility of the distributor, owner, or custodian. [1999 c 383 s 3; 1987 c 45 s 23; 1967 ex.s. c 22 s 32.]

Effective date—1999 c 383: See note following RCW 15.54.325.

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

RCW 15.54.450 Noncompliance—Seizure—Disposition—Associated costs. (1) Any lot of commercial fertilizer not in compliance with the provisions of this chapter shall be subject to seizure on complaint of the department to a court of competent jurisdiction in the area in which the commercial fertilizer is located.

(2) Any commercial fertilizer that is not registered in the state or that fails to meet the Washington standards for total metals is subject to seizure on complaint of the department in the name of the

state to Thurston county superior court or other court of competent jurisdiction.

(3) In the event the court finds, upon application by the department under subsection (1) or (2) of this section, that a commercial fertilizer violates this chapter or the rules adopted under it and orders the condemnation of the commercial fertilizer, the commercial fertilizer shall be disposed of in any manner consistent with the quality of the commercial fertilizer and the laws of the state: PROVIDED, That in no instance shall the disposition of the commercial fertilizer be ordered by the court without first giving the claimant an opportunity to apply to the court for release of the commercial fertilizer or for permission to process or relabel the commercial fertilizer to bring it into compliance with this chapter and the rules adopted under it.

(4) All costs associated with disposal are the responsibility of the distributor, owner, or custodian of the commercial fertilizer unless such a distributor, owner, or custodian is the consumer or is a person whose role as a distributor, owner, or custodian of the fertilizer is only that of a transporter of the fertilizer. Such disposal costs shall not be the responsibility of the consumer or such a transporter of the commercial fertilizer. [1999 c 383 s 4; 1967 ex.s. c 22 s 33.]

Effective date—1999 c 383: See note following RCW 15.54.325.

RCW 15.54.460 Damages from administrative action, stop sales or seizures. No state court shall allow the recovery of damages from administrative action taken or for stop sales or seizures under RCW 15.54.440 and 15.54.450 if the court finds that there was probable cause for such action. [1967 ex.s. c 22 s 34.]

RCW 15.54.470 Violations—Department discretion—Duty of prosecuting attorney—Injunctions. (1) Except for violations of RCW 15.54.500, any person who violates any provision of this chapter shall be guilty of a misdemeanor, and the fines collected shall be disposed of as provided under RCW 15.54.480.

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

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

(4) The department is hereby authorized to apply for, and the court authorized to grant, a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule adopted under this chapter, notwithstanding the existence of any other remedy at law. Any such

injunction shall be issued without bond. [2011 c 73 s 3; 1998 c 36 s 11; 1993 c 183 s 13; 1967 ex.s. c 22 s 35.]

Effective date—2011 c 73: See note following RCW 15.54.270.

Short title—1998 c 36: See note following RCW 15.54.265.

RCW 15.54.474 Penalty—Failure to comply with chapter or rule.

Every person who fails to comply with this chapter, or any rule adopted under it, may be subjected to a civil penalty, as determined by the director, in an amount of not more than seven thousand five hundred dollars for every such violation. Each and every such violation shall be a separate and distinct offense. Every person, who, through an act of commission or omission, procures, aids, or abets in the violation shall be considered to have violated this chapter and may be subject to the penalty provided for in this section. [1998 c 36 s 12; 1987 c 45 s 10.]

Short title—1998 c 36: See note following RCW 15.54.265.

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

RCW 15.54.480 Disposition of moneys. (1) Except as provided in subsection (2) of this section, all moneys collected under the provisions of this chapter shall be paid to the director and deposited in an account within the agricultural local fund. Such deposits shall be used only in the administration and enforcement of this chapter.

(2) Moneys collected under RCW 15.54.474 shall be deposited in the general fund. [1998 c 36 s 13; 1988 c 254 s 3; 1975 1st ex.s. c 257 s 11; 1967 ex.s. c 22 s 36.]

Short title—1998 c 36: See note following RCW 15.54.265.

Effective date—1975 1st ex.s. c 257: See note following RCW 15.13.470.

RCW 15.54.490 Cooperation with other entities. The director may cooperate with and enter into agreements with other governmental agencies, whether of this state, other states, or agencies of the federal government, and with private associations, in order to carry out the purposes and provisions of this chapter. [1967 ex.s. c 22 s 37.]

RCW 15.54.500 Turf fertilizer—Prohibitions on application, sales, and retail display. (1) A person may not:

(a) Except as otherwise provided in this section, apply turf fertilizer that is labeled as containing phosphorus to turf;

(b) Apply turf fertilizer labeled as containing phosphorus to turf when the ground is frozen;

(c) Intentionally apply turf fertilizer labeled as containing phosphorus to an impervious surface;

(d) Except as otherwise provided in this section, sell turf fertilizer that is labeled as containing phosphorus; or

(e) Display turf fertilizer that is labeled as containing phosphorus in a retail store unless the turf fertilizer is also clearly labeled for a use permitted by this section.

(2) The prohibitions in this section on the application, sale, and retail display of turf fertilizer that is labeled as containing phosphorus, other than the prohibitions in subsection (1)(b) and (c) of this section, do not apply in the following instances:

(a) Application for the purpose of establishing grass or repairing damaged grass, using either seeds or sod, during the growing season in which the grass is established;

(b) Application to an area if the soil in the area is deficient in plant available phosphorus, as shown by a soil test performed no more than thirty-six months before the application; or

(c) Application to pasture, interior house plants, flower and vegetable gardens located on either public or private property, land used to grow grass for sod, or any land used for agricultural or silvicultural production.

(3) If a retailer can show proof that a product prohibited for sale under subsection (1)(d) and (e) of this section was in stock and physically in the retail location before January 1, 2012, that retail location may sell that product until it is sold out.

(4)(a) Nothing in this section:

(i) Requires the enforcement or monitoring of compliance with this section by local governments; or

(ii) Requires local governments to participate in the administration of this section, including the verification of soil tests under subsection (2)(b) of this section.

(b) A city or county may not adopt a local ordinance regarding the application or sale of turf fertilizer that is labeled as containing phosphorus that is less restrictive than this section.
[2011 c 73 s 2.]

Effective date—2011 c 73: See note following RCW 15.54.270.

RCW 15.54.800 Enforcement of chapter—Adoption of rules. (1)

The director shall administer and enforce the provisions of this chapter and any rules adopted under this chapter. All authority and requirements provided for in chapter 34.05 RCW apply to this chapter in the adoption of rules.

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

(a) Definitions of terms;

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

(c) The collection and examination of commercial fertilizers;

(d) Recordkeeping by registrants and licensees;

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

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

(3)(a) Standards are established for allowable levels of nonnutritive substances in commercial fertilizers. These standards are

Canadian figures for agricultural and agri-food Canadian maximum acceptable cumulative metal additions to soil established under Trade Memorandum T-4-93 dated August 1996. Washington application rates shall be used to ensure that the maximum acceptable cumulative metal additions to soil are not exceeded.

(b) If federal or other risk-based standards are adopted or scientific peer-reviewed studies show that the standards adopted in this section are not at the appropriate level to protect human health or the environment, the department, in consultation with the departments of ecology and health, may initiate a rule making [may adopt a rule] to amend these standards. [1998 c 36 s 15; 1997 c 427 s 3; 1993 c 183 s 14; 1987 c 45 s 9.]

Short title—1998 c 36: See note following RCW 15.54.265.

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

RCW 15.54.820 Department of ecology—Waste-derived or micronutrient fertilizer—Standards—Written decision—Appeal of decision. (1) After receipt from the department of the completed application required by RCW 15.54.325, the department of ecology shall evaluate whether the use of the proposed waste-derived fertilizer or the micronutrient fertilizer as defined in RCW 15.54.270 is consistent with the following:

(a) Chapter 70A.205 RCW, the solid waste management act;
(b) Chapter 70A.300 RCW, the hazardous waste management act; and
(c) 42 U.S.C. Sec. 6901 et seq., the resource conservation and recovery act.

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

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

(4) A party aggrieved by a decision of the department of ecology to issue a written approval under this section or to deny the issuance of such an approval may appeal the decision to the pollution control hearings board within thirty days of the decision. Review of such a decision shall be conducted in accordance with chapter 43.21B RCW. Any subsequent appeal of a decision of the hearings board shall be obtained in accordance with RCW 43.21B.180. [2020 c 20 s 1003; 1998 c 36 s 16.]

Short title—1998 c 36: See note following RCW 15.54.265.

RCW 15.54.910 Prior liability preserved. The enactment of this chapter shall not have the effect of terminating, or in any way modifying any liability, civil or criminal, which shall already be in

existence on the effective date of this chapter. [1967 ex.s. c 22 s 38.]

RCW 15.54.940 Continuation of rules adopted pursuant to repealed sections. The repeal of sections 15.54.010 through 15.54.250 and 15.54.900, chapter 11, Laws of 1961 and chapter 15.54 RCW and the enactment of this act shall not be deemed to have repealed any rules adopted under the provisions of sections 15.54.010 through 15.54.250 and 15.54.900, chapter 11, Laws of 1961 and chapter 15.54 RCW and in effect immediately prior to such repeal and not inconsistent with the provisions of this act. All such rules shall be considered to have been adopted under the provisions of this act. [1967 ex.s. c 22 s 41.]

Repeal of prior law by 1967 act: "Sections 15.54.010 through 15.54.250 and section 15.54.900, chapter 11, Laws of 1961 and RCW 15.54.010 through 15.54.250 and 15.54.900 are each repealed." [1967 ex.s. c 22 s 43.]

RCW 15.54.950 Short title. RCW 15.54.270 through 15.54.490 and 15.54.910 through 15.54.940 shall be known as the "Washington Commercial Fertilizer Act." [1967 ex.s. c 22 s 42.]