



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5539

Introduced 2/15/2012, by Rep. Lisa M. Dugan

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Fertilizer Act of 1961. Makes changes to the definitions. Provides for labeling requirements for fertilizers or custom blends. Provides that it shall be unlawful for misbranding or for the adulteration of a fertilizer within the State. Provides that the Director of the Department of Agriculture may refuse to register a fertilizer or cancel or suspend a fertilizer registration, custom blend, or fertilizer if certain specified claims are made. Permits the Director to issue and serve a written stop sale, stop use, or regulate removal upon an owner, operator, manager, or agent in charge of fertilizer. Creates the Nutrient Research and Education Council (NREC) for the purpose of pursuing nutrient research and providing educational programs to ensure the adoption and implementation of practices that optimize nutrient use efficiency, ensure soil fertility, and address environmental concerns with regard to fertilizer use. Provides that the Department has the authority to issue subpoenas, temporary restraining orders, preliminary or permanent injunctions against any person from violating or continuing to violate any provision of the Act. Provides for penalties based on type of violation. Repeals a provision concerning fund appropriations and seizure, condemnation, and sale of fertilizers. Makes other corresponding changes. Effective immediately.

LRB097 20044 CEL 65371 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning agriculture.

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

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

8 (505 ILCS 80/2) (from Ch. 5, par. 55.2)

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

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

15 (505 ILCS 80/3) (from Ch. 5, par. 55.3)

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

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

20 "Adulterated" shall apply to any fertilizer:

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

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

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

7 (iii) contains unwanted crop seed or weed seed.

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

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

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

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

1 connection with one or several grades of fertilizers.

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

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

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

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

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

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

1       ~~(d) The term "anhydrous ammonia" means the compound formed~~  
2 ~~by the combination of two gaseous elements, nitrogen and~~  
3 ~~hydrogen, in the proportion of one part of nitrogen to three~~  
4 ~~parts of hydrogen (NH<sub>3</sub>) by volume. Anhydrous ammonia is a~~  
5 ~~commercial fertilizer of ammonia gas in compressed and~~  
6 ~~liquified form. It is not aqueous ammonia which is a solution~~  
7 ~~of ammonia gas in water and which is considered a low pressure~~  
8 ~~nitrogen solution.~~

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

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

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

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

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

26       "Department" means the Illinois Department of Agriculture.

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

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

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

11       "Distributor" means any entity who distributes fertilizer.

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

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

22       "Fertilizer material" means a fertilizer that either:

23           (A) contains important quantities of no more than one  
24 of the primary plant nutrients: nitrogen (N), phosphate  
25 (P<sub>2</sub>O<sub>5</sub>), and potash (K<sub>2</sub>O);

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

1 present in the form of a single chemical compound; or

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

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

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

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

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

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

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

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

1 (~~P<sub>2</sub>O<sub>5</sub>~~~~P<sub>2</sub>O<sub>5</sub>~~) and soluble potash (~~K<sub>2</sub>O~~~~K<sub>2</sub>O~~) stated in the whole  
 2 numbers in the same terms, order, and percentages as in the  
 3 guaranteed analysis, provided that specialty fertilizers may  
 4 be guaranteed in fractional units of less than 1% of total  
 5 nitrogen, available phosphate, and soluble potash and that  
 6 fertilizer materials, bone meal, manures, and similar  
 7 materials may be guaranteed in fractional units ~~order given in~~  
 8 ~~this definition.~~

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

- 11 A. Total Nitrogen (N) ..... %
- 12 Available Phosphate (P<sub>2</sub>O<sub>5</sub>) ..... %
- 13 Soluble Potash (K<sub>2</sub>O) ..... %

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

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

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

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



1 accompanying a fertilizer.

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

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

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

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

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

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

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

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

1 ~~plural number may include the singular.~~

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

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

9 "Misbranded" shall apply to any fertilizer:

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

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

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

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

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

24 "NREC" means the Nutrient Research and Education Council.

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

1 the Director.

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

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

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

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

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

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

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

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

17 (505 ILCS 80/4) (from Ch. 5, par. 55.4)

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

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

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

3 The application shall include the following information:

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

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

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

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

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

3 (d) (Blank) ~~Each custom mixer shall register annually with~~  
4 ~~the Director on forms furnished by the Director. The~~  
5 ~~application for registration shall be accompanied by a fee of~~  
6 ~~\$50, unless the custom mixer elects to register each mixture,~~  
7 ~~paying a fee of \$10 per mixture. Upon approval by the Director,~~  
8 ~~a copy of the registration shall be furnished to the applicant.~~  
9 ~~All registrations expire on December 31 of each year.~~

10 (e) A custom blend ~~mix~~ as defined in Section 3 ~~section~~  
11 ~~3(f)~~, prepared for one consumer or end user shall not be  
12 co-mingled with the custom blended ~~mixed~~ fertilizer prepared  
13 for another consumer or end user.

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

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

19 (505 ILCS 80/5) (from Ch. 5, par. 55.5)

20 Sec. 5. Labeling.

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

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

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

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

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

22           1. Weight of each ~~commercial~~ fertilizer used in the custom  
23           blend ~~mixing~~.

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

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

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

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

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

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

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

20 (505 ILCS 80/6) (from Ch. 5, par. 55.6)

21 Sec. 6. Inspection fees.

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

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

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

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



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

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

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

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

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

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

24 (505 ILCS 80/6a) (from Ch. 5, par. 55.6a)

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

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

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

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

5 The responsibilities of the NREC are to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (505 ILCS 80/7) (from Ch. 5, par. 55.7)

2 Sec. 7. Inspection, sampling, analysis.

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

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

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

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

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

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

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

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

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



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

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

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

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

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

1 penalties.

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

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

13 (505 ILCS 80/9) (from Ch. 5, par. 55.9)

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

19 Nitrogen <u>(N)</u>	<u>\$6.00</u> <del>\$3.00</del> per unit ( <u>30¢</u> <del>15¢</del> per pound)
20 Total <u>P<sub>2</sub>O<sub>5</sub></u> <del>P<sub>2</sub>O<sub>5</sub></del> in	
21 Rock	
22 Phosphate	<u>\$1.44</u> <del>.72</del> per unit ( <u>7.2¢</u> <del>3.6¢</del> per pound)
23 Available <u>P<sub>2</sub>O<sub>5</sub></u> <del>P<sub>2</sub>O<sub>5</sub></del>	<u>\$4.00</u> <del>2.00</del> per unit ( <u>20¢</u> <del>10¢</del> per pound)
24 Potash <u>(K<sub>2</sub>O)</u>	<u>\$2.00</u> <del>1.00</del> per unit ( <u>10¢</u> <del>5¢</del> per pound).

25 In the event that the actual retail price is substantially

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

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

11 (505 ILCS 80/10) (from Ch. 5, par. 55.10)

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

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

23 (505 ILCS 80/11) (from Ch. 5, par. 55.11)

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

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

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

17 (505 ILCS 80/12) (from Ch. 5, par. 55.12)

18 Sec. 12. Tonnage reports; records.

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

25 Specialty fertilizer sold in packages weighing 5 pounds or

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

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

9 (1) the date of distribution;

10 (2) the quantity purchased;

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

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

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

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

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

1 (505 ILCS 80/13) (from Ch. 5, par. 55.13)

2 Sec. 13. Publications.

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

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

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

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

12 (505 ILCS 80/14) (from Ch. 5, par. 55.14)

13 Sec. 14. Rules and regulations.

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

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

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

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

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

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

25 (505 ILCS 80/15) (from Ch. 5, par. 55.15)

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

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

9           (505 ILCS 80/16) (from Ch. 5, par. 55.16)

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

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

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

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

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

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

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



1 under the provisions of this Act or its rules; or

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

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

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

15 (505 ILCS 80/17) (from Ch. 5, par. 55.17)

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

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

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

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

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

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

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

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

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

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

8 (505 ILCS 80/18a) (from Ch. 5, par. 55.18a)

9 Sec. 18a. Location and operation.

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

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

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

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

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

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

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

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

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

17 (505 ILCS 80/19) (from Ch. 5, par. 55.19)

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (505 ILCS 80/20) (from Ch. 5, par. 55.20)

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

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



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

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

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

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

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

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

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

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

1 registrant's business.

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

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

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

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

19 (505 ILCS 80/21) (from Ch. 5, par. 55.21)

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

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

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

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

11 (505 ILCS 80/21.5 new)

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

19 (505 ILCS 80/6b rep.)

20 (505 ILCS 80/18 rep.)

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

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

1

## INDEX

2

## Statutes amended in order of appearance

3	505 ILCS 80/2	from Ch. 5, par. 55.2
4	505 ILCS 80/3	from Ch. 5, par. 55.3
5	505 ILCS 80/4	from Ch. 5, par. 55.4
6	505 ILCS 80/5	from Ch. 5, par. 55.5
7	505 ILCS 80/6	from Ch. 5, par. 55.6
8	505 ILCS 80/6a	from Ch. 5, par. 55.6a
9	505 ILCS 80/7	from Ch. 5, par. 55.7
10	505 ILCS 80/8	from Ch. 5, par. 55.8
11	505 ILCS 80/9	from Ch. 5, par. 55.9
12	505 ILCS 80/10	from Ch. 5, par. 55.10
13	505 ILCS 80/11	from Ch. 5, par. 55.11
14	505 ILCS 80/12	from Ch. 5, par. 55.12
15	505 ILCS 80/13	from Ch. 5, par. 55.13
16	505 ILCS 80/14	from Ch. 5, par. 55.14
17	505 ILCS 80/15	from Ch. 5, par. 55.15
18	505 ILCS 80/16	from Ch. 5, par. 55.16
19	505 ILCS 80/17	from Ch. 5, par. 55.17
20	505 ILCS 80/18a	from Ch. 5, par. 55.18a
21	505 ILCS 80/19	from Ch. 5, par. 55.19
22	505 ILCS 80/20	from Ch. 5, par. 55.20
23	505 ILCS 80/21	from Ch. 5, par. 55.21
24	505 ILCS 80/21.5 new	
25	505 ILCS 80/6b rep.	

1 505 ILCS 80/18 rep.