

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, 18, 18a, 19, 20, and 21 and by adding Section
7 21.5 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 "Anhydrous ammonia" means the compound formed by the
21 combination of 2 gaseous elements, nitrogen and hydrogen, in
22 the proportion of one part of nitrogen to 3 parts of hydrogen

1 (NH3) by volume. Anhydrous ammonia is a fertilizer of ammonia
2 gas in compressed and liquified form. It is not aqueous ammonia
3 which is a solution of ammonia gas in water and which is
4 considered a low-pressure nitrogen solution.

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

9 "Blending" means the physical mixing or combining of: one
10 or more fertilizer materials and one or more filler materials;
11 2 or more fertilizer materials; 2 or more fertilizer materials
12 and filler materials, including mixing through the
13 simultaneous or sequential application of any of the outlined
14 combinations listed in this definition, to produce a uniform
15 mixture.

16 "Brand" means a term, design, or trademark used in
17 connection with one or several grades of commercial
18 fertilizers.

19 "Bulk" means any fertilizer distributed in a non-packaged
20 form.

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

25 ~~(a) The term "fertilizer material" means any substance~~
26 ~~containing nitrogen, phosphorus, potash or any other~~

1 ~~recognized plant nutrient element or compound which is used~~
2 ~~primarily for its plant nutrient content or for compounding~~
3 ~~mixed fertilizers except unmanipulated animal and vegetable~~
4 ~~manures.~~

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

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

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

24 ~~(e) The term "specialty fertilizer" means a commercial~~
25 ~~fertilizer distributed primarily for nonfarm use, such as home~~
26 ~~gardens, lawns, shrubbery, flowers, golf courses, municipal~~

1 ~~parks, cemeteries, green houses and nurseries, and may include~~
2 ~~commercial fertilizer used for research or experimental~~
3 ~~purposes.~~

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

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

9 "Custom blender" ~~(h) The term "custom mixer" means a person~~
10 who produces and sells custom blends ~~mixes~~.

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

14 "Department" means the Illinois Department of Agriculture.

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

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

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

25 "Distributor" means any person who distributes.

26 "Fertilizer" means any substance containing one or more of

1 the recognized plant nutrient nitrogen, phosphate, potash, or
 2 those defined under 8 Ill. Adm. Code 210.20 that is used for
 3 its plant nutrient content and that is designed for use or
 4 claimed to have value in promoting plant growth, except
 5 unmanipulated animal and vegetable manures, sea solids, marl,
 6 lime, limestone, wood ashes, and other products exempted by
 7 regulation by the Director.

8 "Fertilizer material" means a fertilizer that either:

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

12 (B) has 85% or more of its plant nutrient content
 13 present in the form of a single chemical compound; or

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

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

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

- 25 A. Total Nitrogen (N)..... %
- 26 Available Phosphoric Acid (P2O5) %

1 ~~Soluble Potash (K20) %~~

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

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

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

11 ~~"Grade" (k) The term "grade" means the minimum percentage~~
12 ~~of total nitrogen, available phosphoric phosphate acid (P2O5)~~
13 ~~and soluble potash (K2O) stated in the whole numbers in the~~
14 ~~same terms, order, and percentages as in the guaranteed~~
15 ~~analysis, provided that specialty fertilizers may be~~
16 ~~guaranteed in fractional units of less than 1% of total~~
17 ~~nitrogen, available phosphate, and soluble potash and that~~
18 ~~fertilizer materials, bone meal, manures, and similar~~
19 ~~materials may be guaranteed in fractional units order given in~~
20 ~~this definition.~~

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

- 23 ~~A. Total Nitrogen (N) %~~
- 24 ~~Available Phosphate (P2O5) %~~
- 25 ~~Soluble Potash (K2O) %~~

26 ~~B. For unacidulated mineral phosphatic materials and~~

1 basic slag, both total and available phosphate and the
2 degree of fineness. For bone, tankage, and other organic
3 phosphatic materials, total phosphate.

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

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

11 "Label" means the display of all written, printed, or
12 graphic matter upon the immediate container or a statement
13 accompanying a fertilizer.

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

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

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

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

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

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

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

11 ~~(q) Words importing the singular number may extend and be~~
12 ~~applied to several persons or things and words importing the~~
13 ~~plural number may include the singular.~~

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

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

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

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

2 "Person" means any individual, partnership, association,
3 firm and corporation.

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

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

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

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

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

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

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

18 (505 ILCS 80/4) (from Ch. 5, par. 55.4)

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

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

1 grade within a brand. Upon approval by the Director a copy of
2 the registration shall be furnished to the applicant. All
3 registrations expire on December 31 of each year.

4 The application shall include the following information:

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

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

20 (b) A distributor shall not be required to register any
21 brand of ~~commercial~~ fertilizer ~~or custom mix~~ which is already
22 registered under this Act by another 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 shall not be co-mingled with
12 the custom blended ~~mixed~~ fertilizer prepared for another
13 consumer.

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 mix~~ distributed in
22 this State in non-bulk containers shall have placed on or
23 affixed to the container a label setting forth in clearly
24 legible form the following information: ~~required by Items (1),~~
25 ~~(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; 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 identification in
10 a manner that includes, but is not limited to, numerical,
11 alphabetical, date of manufacture, or a combination that
12 distinguishes it from that of other lots distributed.

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

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

18 (505 ILCS 80/6) (from Ch. 5, par. 55.6)

19 Sec. 6. Inspection fees.

20 (a) There shall be paid to the Director for all ~~commercial~~
21 fertilizers ~~or custom mix~~ distributed in this State an
22 inspection fee at the rate of 15¢ ~~25¢~~ per ton. Sales ~~to~~
23 ~~manufacturers~~ or exchanges between registrants ~~them~~ are hereby
24 exempted from the inspection fee.

25 On individual packages of ~~commercial or custom mix or~~

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

16 (b) Every person who distributes a ~~commercial~~ fertilizer ~~or~~
17 ~~custom mix~~ in this State shall file with the Director, on forms
18 furnished by the Director, a semi-annual statement for the
19 periods ending June 30 and December 31, setting forth the
20 number of net tons of each grade of ~~commercial~~ fertilizers
21 within a brand or the net tons of custom blend ~~mix~~ distributed.
22 The report shall be due on or before the 30th ~~15th~~ day of the
23 month following the close of each semi-annual period and upon
24 the statement shall pay the inspection fee at the rate stated
25 in paragraph (a) of this Section.

26 ~~One half of the 25¢ per ton inspection fee shall be paid~~

1 ~~into the Fertilizer Control Fund and all other fees collected~~
2 ~~under this Section shall be paid into the State treasury.~~

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

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

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

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

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

21 Sec. 6a. Nutrient Research and Education Council. The
22 Director is hereby authorized to ensure that distributors remit
23 a designated fertilizer tonnage assessment to the Nutrient
24 Research and Education Council (NREC) for the purpose of
25 pursuing nutrient research and providing educational programs

1 to ensure the adoption and implementation of practices that
2 optimize nutrient use efficiency, ensure soil fertility, and
3 address environmental concerns with regard to fertilizer use.
4 The NREC may also participate in relevant demonstration and
5 cost-share programs to enhance adoption and meet objectives of
6 nutrient efficiency and stewardship programs supported by the
7 NREC.

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

1 The responsibilities of the NREC are to:

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

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

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

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

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

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

19 The Council shall recommend, and the Director shall set,
20 the fertilizer tonnage assessment for the purpose of funding
21 the NREC at no less than 50 cents per ton and no greater than \$3
22 per ton to fund, administer, publish, and implement the
23 research, education, and outreach programs designated each
24 year by the Council. A minimum of 20% of the funds shall be
25 designated for cost-share programs and on-farm demonstration
26 programs to study and address water quality issues. The Council

1 shall report to the Director by December 31 of each year the
2 recommended amount of annual tonnage assessment to be collected
3 the following year from distributors.

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

15 The NREC shall publish annually an activity and financial
16 report of its activities, funds collected, and expenditures for
17 nutrient programs shall be audited at least annually by a
18 certified public accountant and made available within 30 days
19 after its completion to the Director and each Council member
20 for dissemination to their respective organizations. ~~The~~
21 Department is hereby authorized to establish a program and
22 expend appropriations for a fertilizer research and education
23 program dealing with the relationship of fertilizer use to soil
24 management, soil fertility, plant nutrition problems, and for
25 research on environmental concerns which may be related to
26 fertilizer usage; for the dissemination of the results of such

1 ~~research; and for other designated activities including~~
2 ~~educational programs to promote the correct and effective usage~~
3 ~~of fertilizer materials.~~

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

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

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

23 ~~(b) review and arrange for peer review of all research~~
24 ~~proposals for scientific merit and methods, and review or~~
25 ~~arrange for the review of all proposals for their merit,~~
26 ~~objective, methods and procedures;~~

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

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

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

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

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

24 (505 ILCS 80/7) (from Ch. 5, par. 55.7)

25 Sec. 7. Inspection, sampling, analysis.

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

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

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

22 (d) The results of official analysis of any ~~commercial~~
23 fertilizer ~~or custom mix~~ which has been found to be subject to
24 penalty or other legal action shall be forwarded by the
25 Director to the registrant at least 10 days before the report
26 is submitted to the purchaser. If during that period no

1 adequate evidence to the contrary is made available to the
2 Director, the report shall become official. Upon request the
3 Director shall furnish to the registrant a portion of any
4 sample found subject to penalty or other legal action.

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

6 (505 ILCS 80/8) (from Ch. 5, par. 55.8)

7 Sec. 8. Plant food deficiency.

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

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

23 (2) For multiple ingredient fertilizers containing 2 or
24 more of the single ingredients: nitrogen or phosphate or
25 potash, penalties shall be assessed according to (a) or (b) as

1 herein stated. When a multiple ingredient fertilizer is subject
2 to a penalty under both (a) and (b) only the larger penalty
3 shall be assessed.

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

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

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

20 (a) Nothing contained in this Section shall prevent any
21 person from appealing to a court of competent jurisdiction for
22 judgment as to the justification of such penalties.

23 (b) All penalties assessed under this Section shall be paid
24 to the consumer of the lot of ~~commercial~~ fertilizer ~~or custom~~
25 ~~mix~~ purchased, and which is represented by the sample analyzed,
26 within 3 months after the date of notice from the Director to

1 the registrant. Receipts shall be taken therefor and promptly
 2 forwarded to the Director. If such consumers cannot be found,
 3 the amount of the penalty shall be paid to the Director who
 4 shall deposit the same in the General Revenue Fund in the State
 5 Treasury.

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

7 (505 ILCS 80/9) (from Ch. 5, par. 55.9)

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

13 Nitrogen	<u>\$6.00</u> \$3.00 per unit (<u>30¢</u> 15¢ per pound)
14 Total P205 in Rock	
15 Phosphate	<u>1.44</u> .72 per unit (<u>7.2¢</u> 3.6¢ per pound)
16 Available P205	<u>4.00</u> 2.00 per unit (<u>20¢</u> 10¢ per pound)
17 Potash	<u>2.00</u> 1.00 per unit (<u>10¢</u> 5¢ per pound).

18 In the event that the actual retail price is substantially
 19 greater than the value as calculated at the above rates, the
 20 penalty shall be based on the retail price. In addition, the
 21 Director may require that any lot subject to penalty be
 22 returned to the registrant and all costs involved in the return
 23 of such goods shall be borne by the registrant. However, in the
 24 case of bulk fertilizers, the person offering fertilizer for
 25 sale in bulk shall be responsible for guaranteeing such

1 fertilizer and shall be liable for all penalties assessed under
2 the provisions of Section 8.

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

4 (505 ILCS 80/10) (from Ch. 5, par. 55.10)

5 Sec. 10. Minimum plant food content.

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

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

16 (505 ILCS 80/11) (from Ch. 5, par. 55.11)

17 Sec. 11. Misbranding or adulteration. ~~False or misleading~~
18 ~~statements.~~

19 (a) It is unlawful for any person to distribute a
20 fertilizer that is misbranded or adulterated within this State.
21 A fertilizer shall be deemed misbranded if:

22 (1) its labeling is false or misleading in any
23 particular;

24 (2) it is distributed under the name of another

1 fertilizer product;

2 (3) it is not labeled as required by this Act or its
3 rules; or

4 (4) it purports to be or is represented as a
5 fertilizer, or is represented as containing a plant
6 nutrient or fertilizer, unless such plant nutrient or
7 fertilizer conforms to the definition of identity, if any,
8 prescribed by regulation of the Director; in adopting such
9 regulations the Director shall give due regard to commonly
10 accepted definitions and official fertilizer terms such as
11 those issued by the Association of American Plant Food
12 Control Officials.

13 (b) A fertilizer shall be deemed adulterated if:

14 (1) it contains any deleterious or harmful substance,
15 defined under the provisions of this Act or its rules or
16 regulations, in sufficient amount to render it injurious to
17 beneficial plant life, animals, humans, aquatic life,
18 soil, or water when applied in accordance with directions
19 for use on the label;

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

22 (3) it contains unwanted crop seed or weed seed. A
23 ~~commercial fertilizer or custom mix is misbranded if it~~
24 ~~carries any false or misleading statement upon or attached~~
25 ~~to the container, or if false or misleading statements~~
26 ~~concerning its agricultural value are made on the container~~

~~or in any advertising matter accompanying or associated with the commercial fertilizer or custom mix. It is unlawful to distribute a misbranded commercial fertilizer or custom mix only after a notice of hearing has been issued, served, a hearing held, and opportunity is given for the defendant to appeal to a court of competent jurisdiction from the decision of the hearing, if he so elects, within a period of 10 days after such hearing.~~

(Source: Laws 1961, p. 3085.)

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

Sec. 12. Tonnage reports; records.

(a) Any person distributing fertilizer to a consumer or end-user ~~non-registrant~~ in this State shall provide the Director with a summary report on or before the 10th day of each month covering the shipments made during the preceding month of tonnage on a form, provided by the Director, for that purpose. If requested by the NREC, the distributor who supplies fertilizer to the consumer or end-user shall also provide to the NREC additional information relevant to general fertilizer use, practices or sales of products that enhance the stabilization, or efficiency of fertilizer.

Specialty fertilizer sold in packages weighing 5 pounds or less or in container of 4000 cubic centimeters or less, shall be reported but no inspection fee will be charged. No information furnished under this Section shall be disclosed by

1 the Department in such a way as to divulge the operation of any
2 person.

3 (b) Persons engaged in the sale of ammonium nitrate shall
4 obtain the following information upon its distribution:

5 (1) the date of distribution;

6 (2) the quantity purchased;

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

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

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

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

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

22 (505 ILCS 80/13) (from Ch. 5, par. 55.13)

23 Sec. 13. Publications.

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

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

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

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

8 (505 ILCS 80/14) (from Ch. 5, par. 55.14)

9 Sec. 14. Rules and regulations.

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

18 (b) The official definitions of fertilizers and official
19 fertilizer terms as adopted and published by the Association of
20 American Plant Food Control Officials and any amendments or
21 supplements thereto are the official definitions of
22 fertilizers and official fertilizer terms, except insofar as
23 specifically defined in Section 3 or amended, modified, or
24 rejected by a rule adopted by the Director.

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

1 (505 ILCS 80/15) (from Ch. 5, par. 55.15)

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

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

1 unreasonable adverse effects to man or the environment
2 under the provisions of this Act or its rules; or

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

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

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

16 (505 ILCS 80/17) (from Ch. 5, par. 55.17)

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

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

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

1 of the registrant.

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

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

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

19 ~~"Stop sale" orders.~~

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

1 ~~such commercial fertilizer or custom mix is released in writing~~
2 ~~by the Director or such violation has been otherwise legally~~
3 ~~disposed of by written authority.~~

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

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

9 (505 ILCS 80/18) (from Ch. 5, par. 55.18)

10 Sec. 18. Seizure, condemnation and sale.

11 Any lot of ~~commercial~~ fertilizer ~~or custom mix~~ not in
12 compliance with the provisions of this Act shall be subject to
13 seizure on complaint of the Director or his authorized agent to
14 the circuit court of the county in which such ~~commercial~~
15 fertilizer ~~or custom mix~~ is located. In the event the court
16 finds such ~~commercial~~ fertilizer ~~or custom mix~~ to be in
17 violation of this Act and orders the condemnation of such
18 ~~commercial~~ fertilizer ~~or custom mix~~, it shall be disposed of in
19 any manner consistent with the quality of the ~~commercial~~
20 fertilizer ~~or custom mix~~ and the laws of the State. However, in
21 no instance shall the disposition of such ~~commercial~~ fertilizer
22 ~~or custom mix~~ be ordered by the court without first giving the
23 claimant an opportunity to apply to the court for release of
24 such ~~commercial~~ fertilizer ~~or custom mix~~ or for permission to
25 process or re-label the ~~commercial~~ fertilizer ~~or custom mix~~ to

1 bring it into compliance with this Act.

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

3 (505 ILCS 80/18a) (from Ch. 5, par. 55.18a)

4 Sec. 18a. Location and operation.

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

19 (b) Authorized Department personnel may enter upon any
20 public or private premises during reasonable business hours and
21 inspect facilities, equipment and vehicles used in the storage,
22 application, and distribution of anhydrous ammonia and
23 low-pressure nitrogen solutions and observe operations as
24 necessary to determine compliance with the provisions of this
25 Act and the rules promulgated hereunder. Department personnel

1 may enter the premises at any time when the health, safety or
2 welfare of the public is threatened by escaping gas, spills,
3 fire, damaged or faulty equipment, accident or act of God.

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 ~~low-pressure~~ nitrogen
9 solutions. Such rules and regulations shall consist of those
10 reasonably necessary for the safety of the public, including
11 persons handling or using such materials, and shall be in
12 substantial conformity with the current nationally accepted
13 safety standards.

14 (d) The Director or his authorized agent may issue and
15 enforce a written stop use order to the owner or custodian of
16 the facility upon a violation of this Act or the rules and
17 regulations. The Director shall terminate the stop use order
18 upon compliance with the requirements of this Act and rules and
19 regulations.

20 (e) The Department may adopt rules and regulations setting
21 forth the requirements for the containment of fertilizer
22 products at commercial facilities, which may include, but would
23 not be limited to, the design, inspection, construction,
24 location, installation, and operation for the storage and
25 handling use of bulk liquid fertilizer, bulk dry fertilizer,
26 and low-pressure nitrogen solutions as may be necessary for the

1 protection of ground water, the environment, and public safety.
2 The Department may establish fees for the inspection of such
3 containment facilities.

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

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

8 (505 ILCS 80/19) (from Ch. 5, par. 55.19)

9 Sec. 19. Violations and prosecutions. ~~Violations.~~

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

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

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

3 (b) Any person convicted of violating any provisions of
4 this Act or any of the rules or regulations issued thereunder,
5 or who impedes, obstructs, hinders or otherwise prevents or
6 attempts to prevent the Director, or his or her duly authorized
7 agent, in the performance of his or her duty in connection with
8 the provisions of this Act, shall be guilty of a business
9 offense punishable by a fine not less than \$1,000 plus all
10 costs for each violation under Section 20 of this Act ~~to exceed~~
11 ~~\$1,000~~. In all prosecutions under this Act involving the
12 composition of a ~~commercial~~ fertilizer or custom blend mix, a
13 certified copy of the official analysis signed by the Director
14 shall be accepted as prima facie evidence of the composition.

15 (c) Nothing in this Act shall be construed as requiring the
16 Director or his or her representative to report for prosecution
17 or for the institution of seizure proceedings as a result of
18 minor violations of the Act if he or she believes that a
19 suitable notice of warning in writing will serve the public
20 interests ~~that the public interests will be served by a~~
21 ~~suitable notice of warning in writing~~.

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

26 (e) (Blank). ~~The Director is authorized to apply for and~~

1 ~~the court is authorized to grant a temporary restraining order~~
2 ~~or a preliminary or permanent injunction restraining any person~~
3 ~~from violating or continuing to violate any of the provisions~~
4 ~~of this Act or any rule or regulation promulgated under the Act~~
5 ~~notwithstanding the existence of other remedies. The~~
6 ~~injunction shall be entered without bond.~~

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

8 (505 ILCS 80/20) (from Ch. 5, par. 55.20)

9 Sec. 20. Hearing; notice; injunction.

10 (a) The Department, over the signature of the Director, is
11 authorized to issue subpoenas and bring before the Department
12 any person or persons in this State to take testimony orally,
13 by deposition, or by exhibit, in the same manner prescribed by
14 law in judicial proceedings and civil cases in the circuit
15 courts of this State. The Director is authorized to issue
16 subpoenas duces tecum for records relating to a fertilizer
17 distributor's or registrant's business.

18 (b) The Department, over the signature of the Director, may
19 apply to any court for a temporary restraining order or a
20 preliminary or permanent injunction restraining any person
21 from violating or continuing to violate any provision of this
22 Act or its rules. An injunction issued under this Section shall
23 be issued without bond.

24 (c) When an administrative hearing is held, the hearing
25 officer, upon determination of a violation of this Act, shall

1 levy and the Department shall collect administrative penalties
2 in addition to any initial penalty levied by this Act on a per
3 occurrence basis as follows:

4 (1) A penalty of \$1000 shall be imposed for the
5 following violations:

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

9 (B) sale, transport, disposal, or distribution of
10 a fertilizer that has been placed under stop-sale
11 order.

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

14 (A) thwarting or hindering the Director in the
15 performance of his or her duties by misrepresenting or
16 concealing facts or conditions; or

17 (B) distribution of a fertilizer that is
18 mislabeled or adulterated.

19 (3) A penalty of \$200 shall be imposed for the
20 following violations:

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

23 (B) failure to comply with any provisions of this
24 Act or its rules; or

25 (C) distribution in this State of any fertilizer
26 containing noxious weed seed.

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

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

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

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

18 (505 ILCS 80/21) (from Ch. 5, par. 55.21)

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

1 the provisions of this Act.

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

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

10 (505 ILCS 80/21.5 new)

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

18 (505 ILCS 80/6b rep.)

19 Section 10. The Illinois Fertilizer Act of 1961 is amended
20 by repealing Section 6b.

21 Section 99. Effective date. This Act takes effect January
22 1, 2012.