



Sen. Michael W. Frerichs

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LRB097 08213 CEL 51770 a

1 AMENDMENT TO SENATE BILL 2010

2 AMENDMENT NO. _____. Amend Senate Bill 2010 by replacing
3 everything after the enacting clause with the following:

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 Sections
7 21.5 and 21.7 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)

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

3 "AAPFCO" means the Association of American Plant Food
4 Control Officials.

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

12 "Blender" means any person or system engaged in the
13 business of blending fertilizer. This includes both mobile and
14 fixed equipment, excluding application equipment, used to
15 achieve this function.

16 "Blending" means the physical mixing or combining of: one
17 or more fertilizer materials and one or more filler materials;
18 2 or more fertilizer materials; 2 or more fertilizer materials
19 and filler materials, including mixing through the
20 simultaneous or sequential application of any of the outlined
21 combinations listed in this definition, to produce a uniform
22 mixture.

23 "Brand" means a term, design, or trademark used in
24 connection with one or several grades of commercial
25 fertilizers.

26 "Bulk" means any fertilizer distributed in a non-packaged

1 form.

2 "Custom blend" means a fertilizer blended according to
3 specifications provided to a blender in a soil test nutrient
4 recommendation or to meet the specific consumer request prior
5 to blending.

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

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

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

23 ~~(d) The term "anhydrous ammonia" means the compound formed~~
24 ~~by the combination of two gaseous elements, nitrogen and~~
25 ~~hydrogen, in the proportion of one part of nitrogen to three~~
26 ~~parts of hydrogen (NH₃) by volume. Anhydrous ammonia is a~~

1 ~~commercial fertilizer of ammonia gas in compressed and~~
2 ~~liquified form. It is not aqueous ammonia which is a solution~~
3 ~~of ammonia gas in water and which is considered a low pressure~~
4 ~~nitrogen solution.~~

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

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

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

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

18 "Deficiency" means the amount of nutrient found by analysis
19 less than that guaranteed that may result from a lack of
20 nutrient ingredients or from lack of uniformity.

21 "Department" means the Illinois Department of Agriculture.

22 "Department rules or regulations" means any rule or
23 regulation implemented by the Department as authorized under
24 Section 14 of this Act.

25 "Director" means the Director of Agriculture or a duly
26 authorized representative.

1 "Distribute" means to import, consign, manufacture,
2 produce, store, transport, custom blend, compound, or blend
3 fertilizer or to transfer from one container to another for the
4 purpose of selling, giving away, bartering, or otherwise
5 supplying fertilizer in this State. For the purposes of this
6 Act, "distribute" does not include the retail sale of non-bulk,
7 packaged speciality fertilizers or the commercial application
8 of fertilizer to lawns as defined in the Lawn Care Products
9 Application and Notice Act.

10 "Distributor" means any person who distributes.

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

19 "Fertilizer material" means a fertilizer that either:

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

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

25 (C) is derived from a plant or animal residue or
26 by-product or natural material deposit that has been

1 processed in such a way that its content of plant nutrients
2 has not been materially changed except by purification and
3 concentration.

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

7 ~~(j) The term "guaranteed analysis" means the minimum~~
8 ~~percentages of plant nutrients claimed in the following order~~
9 ~~and form:~~

- 10 ~~A. Total Nitrogen (N)..... %~~
- 11 ~~Available Phosphoric Acid (P2O5) %~~
- 12 ~~Soluble Potash (K2O) %~~

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

17 ~~C. Additional plant nutrients expressed as the elements,~~
18 ~~when permitted by regulation.~~

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

22 "Grade" ~~(k) The term "grade" means the minimum percentage~~
23 ~~of total nitrogen, available phosphoric phosphate acid (P2O5)~~
24 ~~and soluble potash (K2O) stated in the whole numbers in the~~
25 ~~same terms, order, and percentages as in the guaranteed~~
26 ~~analysis, provided that specialty fertilizers may be~~

1 guaranteed in fractional units of less than 1% of total
 2 nitrogen, available phosphate, and soluble potash and that
 3 fertilizer materials, bone meal, manures, and similar
 4 materials may be guaranteed in fractional units ~~order given in~~
 5 ~~this definition.~~

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

- 8 A. Total Nitrogen (N) %
- 9 Available Phosphate (P2O5) %
- 10 Soluble Potash (K2O) %

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

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

19 "Investigational allowance" means an allowance for
 20 variations inherent in the taking, preparation, and analysis of
 21 an official sample of fertilizer.

22 "Label" means the display of all written, printed, or
 23 graphic matter upon the immediate container or a statement
 24 accompanying a fertilizer.

25 "Labeling" means all (i) written, written, printed, or
 26 graphic matter upon or accompanying any fertilizer or (ii)

1 advertisements, Internet, brochures, posters, and television
2 and radio announcements used in promoting the sale of
3 fertilizer.

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

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

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

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

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

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

22 ~~(q) Words importing the singular number may extend and be~~
23 ~~applied to several persons or things and words importing the~~
24 ~~plural number may include the singular.~~

25 ~~(r) The term "registrant" means the person who registers~~
26 ~~commercial fertilizer or custom mix under the provisions of~~

1 ~~this Act.~~

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

6 "Mixed fertilizer" means any combination or mixture of
7 fertilizer materials designed for use or claimed to have value
8 in promoting plant growth.

9 "Official sample" means any sample of fertilizer taken by
10 the Director or his agent and designated as official by the
11 Director.

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

13 "Person" means any individual, partnership, association,
14 firm and corporation.

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

17 "Specialty fertilizer" means a fertilizer distributed
18 primarily for nonfarm use, such as home gardens, lawns,
19 shrubbery, flowers, golf courses, municipal parks, cemeteries,
20 green houses and nurseries, and may include fertilizer used for
21 research or experimental purposes.

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

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

24 ~~(t) The term "Department" means the Illinois Department of~~
25 ~~Agriculture.~~

26 ~~(u) The term "Director" means the Director of the Illinois~~

1 ~~Department of Agriculture or a duly authorized representative.~~

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

3 (505 ILCS 80/4) (from Ch. 5, par. 55.4)

4 Sec. 4. License and product registration Registration.

5 (a) Each brand and grade of ~~commercial~~ fertilizer shall be
6 registered in the name of that person whose name appears upon
7 the label before being distributed in this State. The
8 application for registration shall be submitted with a label or
9 facsimile of same to the Director on form furnished by the
10 Director, and shall be accompanied by a fee of \$20 ~~\$10~~ per
11 grade within a brand. Upon approval by the Director a copy of
12 the registration shall be furnished to the applicant. All
13 registrations expire on December 31 of each year.

14 The application shall include the following information:

- 15 (1) The net weight
16 (2) The brand and grade
17 (3) The guaranteed analysis
18 (4) The name and address of the registrant.

19 (a-5) No person shall distribute a fertilizer in the State
20 unless the person has secured a license under this Act on forms
21 provided by the Director. The license application shall be
22 accompanied by a fee of \$100, provided that the persons who
23 store anhydrous ammonia as a fertilizer, store bulk fertilizer,
24 or custom blend fertilizer at more than one site under the same
25 distributor's name shall identify each additional site with a

1 complete address and remit a license fee of \$50 for each
2 additional site. Persons performing lawn care applications for
3 hire or persons who sell specialty fertilizer exclusively in
4 non-bulk packages to consumers or end users are exempt from
5 obtaining a license under this Act.

6 (b) A distributor shall not be required to register any
7 brand of ~~commercial~~ fertilizer ~~or custom mix~~ which is already
8 registered under this Act by another person.

9 (c) The plant nutrient content of each and every ~~commercial~~
10 fertilizer must remain uniform for the period of registration
11 and, in no case, shall the percentage of any guaranteed plant
12 nutrient element be changed in such a manner that the
13 crop-producing quality of the ~~commercial~~ fertilizer is
14 lowered.

15 (d) (Blank) ~~Each custom mixer shall register annually with~~
16 ~~the Director on forms furnished by the Director. The~~
17 ~~application for registration shall be accompanied by a fee of~~
18 ~~\$50, unless the custom mixer elects to register each mixture,~~
19 ~~paying a fee of \$10 per mixture. Upon approval by the Director,~~
20 ~~a copy of the registration shall be furnished to the applicant.~~
21 ~~All registrations expire on December 31 of each year.~~

22 (e) A custom blend ~~mix~~ as defined in Section 3 ~~section~~
23 ~~3(f)~~, prepared for one consumer shall not be co-mingled with
24 the custom blended ~~mixed~~ fertilizer prepared for another
25 consumer.

26 (f) All fees collected pursuant to this Section shall be

1 paid to the Fertilizer Control Fund for activities related to
2 the administration and enforcement of this Act ~~paid into the~~
3 ~~State treasury.~~

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

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

6 Sec. 5. Labeling.

7 (a) Any ~~commercial~~ fertilizer ~~or custom mix~~ distributed in
8 this State in non-bulk containers shall have placed on or
9 affixed to the container a label setting forth in clearly
10 legible form the following information: ~~required by Items (1),~~
11 ~~(2), (3), and (4) of paragraph (a) of Section 4.~~

12 (1) net weight;

13 (2) brand and grade; provided, that the grade shall not
14 be required when no primary nutrients are claimed;

15 (3) guaranteed analysis;

16 (4) directions for use for the fertilizer distributed
17 to the consumer; and

18 (5) name and address of the registrant.

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

24 (b) (Blank). ~~If distributed in bulk as a brand or grade of~~
25 ~~fertilizer, a written or printed statement of the information~~

1 ~~required by items (1), (2), (3), and (4) of paragraph (a) of~~
2 ~~Section 4 shall accompany delivery of each load and be supplied~~
3 ~~to the purchaser at time of delivery.~~

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

8 1. Weight of each ~~commercial~~ fertilizer used in the custom
9 blend ~~mixing~~.

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

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

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

14 (d) A custom blended ~~mixed~~ fertilizer shall be intimately
15 and uniformly mixed. The Director, in determining for
16 administrative purposes whether a custom blend ~~mix~~ is
17 intimately and uniformly mixed, shall compute the analysis of
18 the load of custom blended ~~mixed~~ fertilizer from the
19 information required by Items (1), (2), and (3) of paragraph
20 (c) of this section.

21 (e) Each lot of fertilizer shall display identification in
22 a manner that includes, but is not limited to, numerical,
23 alphabetical, date of manufacture, or a combination that
24 distinguishes it from that of other lots distributed.

25 (f) Fertilizer materials not defined by AAPFCO may be used
26 if the registrant furnishes an acceptable definition, AOAC

1 International or other appropriate method of analysis, heavy
2 metal analysis, and agronomic data when deemed necessary.

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

4 (505 ILCS 80/6) (from Ch. 5, par. 55.6)

5 Sec. 6. Inspection fees.

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

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

1 ~~after June 30, 1989.~~

2 (b) Every person who distributes a ~~commercial~~ fertilizer ~~or~~
3 ~~custom mix~~ in this State shall file with the Director, on forms
4 furnished by the Director, a semi-annual statement for the
5 periods ending June 30 and December 31, setting forth the
6 number of net tons of each grade of ~~commercial~~ fertilizers
7 within a brand or the net tons of custom blend ~~mix~~ distributed.
8 The report shall be due on or before the 30th ~~15th~~ day of the
9 month following the close of each semi-annual period and upon
10 the statement shall pay the inspection fee at the rate stated
11 in paragraph (a) of this Section.

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

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

23 (c) When more than one person is involved in the
24 distribution of a ~~commercial~~ fertilizer, the last registrant
25 who distributes to the consumer or end-user ~~non-registrant~~
26 ~~(dealer or consumer)~~ is responsible for reporting the tonnage

1 and paying the inspection fee.

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

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

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

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

19 The NREC shall be comprised of 9 persons, 3 representing
20 the fertilizer industry, 3 persons representing grower
21 organizations, to include at least one member of the State's
22 largest farm organization, one person representing the
23 specialty fertilizer industry, one person representing a
24 certified agronomy organization, and the Director or his or her
25 designee and 4 non-voting members: 2 persons representing

1 environmental organizations, one person representing a State
2 or federal agriculture experiment station and the Director of
3 the Illinois Environmental Protection Agency or his or her
4 designee. In the appointment of persons to the NREC, the
5 organizations designated in this Section shall nominate, and
6 the Director shall select from these nominations,
7 representatives to this Council. Members of the Council shall
8 receive no compensation for their services, and the terms of
9 the Council members, appointment process, and conduct of the
10 meetings shall be outlined in the bylaws established by this
11 Council on their initial appointment by the Director and made
12 available to the industry organizations.

13 The responsibilities of the NREC are to:

14 (1) prioritize nutrient research needs and solicit
15 research proposals to generate findings and make
16 recommendations to the Council based on the findings;

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

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

21 (4) report the findings of all research projects at
22 industry conferences, publish the findings and implement
23 educational programs to apply the research recommendations
24 in agricultural production systems and in consumer use
25 markets where appropriate;

26 (5) engage in outreach and field level trials and

1 educational programs with growers and consumers and
2 publicize these events; and

3 (6) where practical, cooperate with other programs
4 with similar goals.

5 The Council shall recommend, and the Director shall set,
6 the fertilizer tonnage assessment for the purpose of funding
7 the NREC at no less than 50 cents per ton and no greater than \$3
8 per ton to fund, administer, publish, and implement the
9 research, education, and outreach programs designated each
10 year by the Council. A minimum of 20% of the funds shall be
11 designated for cost-share programs and on-farm demonstration
12 programs to study and address water quality issues. The Council
13 shall report to the Director by December 31 of each year the
14 recommended amount of annual tonnage assessment to be collected
15 the following year from distributors.

16 Assessments collected from distributors are payable
17 directly to the NREC on a semi-annual basis. This payment shall
18 coincide with the reporting of the tonnage data and the
19 remittance of the inspection fee to the Department. If the NREC
20 assessment is not made to the Council under this Section, then
21 the Director may rescind the license of the distributor. The
22 Council may enter into an agreement with the Director to
23 establish random audits of distributors to assure accurate
24 remittance of the NREC assessment. The NREC may also enter into
25 contracts with other entities approved by the Council for the
26 purposes of fulfilling the objectives of the NREC.

1 The NREC shall publish annually an activity and financial
2 report of its activities, funds collected, and expenditures for
3 nutrient programs shall be audited at least annually by a
4 certified public accountant and made available within 30 days
5 after its completion to the Director and each Council member
6 for dissemination to their respective organizations. The
7 ~~Department is hereby authorized to establish a program and~~
8 ~~expend appropriations for a fertilizer research and education~~
9 ~~program dealing with the relationship of fertilizer use to soil~~
10 ~~management, soil fertility, plant nutrition problems, and for~~
11 ~~research on environmental concerns which may be related to~~
12 ~~fertilizer usage; for the dissemination of the results of such~~
13 ~~research; and for other designated activities including~~
14 ~~educational programs to promote the correct and effective usage~~
15 ~~of fertilizer materials.~~

16 ~~To assist in the development and administration of the~~
17 ~~fertilizer research and education program, the Director is~~
18 ~~authorized to establish a Fertilizer Research and Education~~
19 ~~Council consisting of 9 persons. This council shall be~~
20 ~~comprised of 3 persons representing the fertilizer industry, 3~~
21 ~~persons representing crop production, and 2 persons~~
22 ~~representing the public at large. In the appointment of persons~~
23 ~~to the council, the Director shall consult with representative~~
24 ~~persons and recognized organizations in the respective fields~~
25 ~~concerning such appointments. The Director or his~~
26 ~~representative from the Department shall act as chairman of the~~

1 ~~council. The Director shall call meetings thereof from time to~~
2 ~~time or when requested by 3 or more appointed members of the~~
3 ~~council.~~

4 ~~The responsibilities of the Fertilizer Research and~~
5 ~~Education Council are to:~~

6 ~~(a) solicit research and education projects consistent~~
7 ~~with the scope of the established fertilizer research and~~
8 ~~education program;~~

9 ~~(b) review and arrange for peer review of all research~~
10 ~~proposals for scientific merit and methods, and review or~~
11 ~~arrange for the review of all proposals for their merit,~~
12 ~~objective, methods and procedures;~~

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

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

18 ~~The Fertilizer Research and Education Council shall at~~
19 ~~least annually recommend projects to be approved and funded~~
20 ~~including recommendations on continuation or cancellation of~~
21 ~~authorized and ongoing projects to the Board of Agricultural~~
22 ~~Advisors, which is created in Section 5-525 of the Departments~~
23 ~~of State Government Law (20 ILCS 5/5-525). The Board of~~
24 ~~Agricultural Advisors shall review the proposed projects and~~
25 ~~recommendations of the Fertilizer Research and Education~~
26 ~~Council and recommend to the Director what projects shall be~~

1 ~~approved and their priority. In the case of authorized and~~
2 ~~ongoing projects, the Board of Agricultural Advisors shall~~
3 ~~recommend to the Director the continuation or cancellation of~~
4 ~~such projects.~~

5 ~~When the Director, the Board of Agricultural Advisors, and~~
6 ~~the Fertilizer Research and Education Council approve a project~~
7 ~~and subject to available appropriations, the Director shall~~
8 ~~grant funds to the person originating the proposal.~~

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

10 (505 ILCS 80/7) (from Ch. 5, par. 55.7)

11 Sec. 7. Inspection, sampling, analysis.

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

24 (b) The methods of analysis and sampling shall be those
25 adopted by the official agency from sources such as those of

1 the Association of Official Analytical ~~Agricultural~~ Chemists.

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

8 (d) The results of official analysis of any ~~commercial~~
9 fertilizer ~~or custom mix~~ which has been found to be subject to
10 penalty or other legal action shall be forwarded by the
11 Director to the registrant at least 10 days before the report
12 is submitted to the purchaser. If during that period no
13 adequate evidence to the contrary is made available to the
14 Director, the report shall become official. Upon request the
15 Director shall furnish to the registrant a portion of any
16 sample found subject to penalty or other legal action.

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

18 (505 ILCS 80/8) (from Ch. 5, par. 55.8)

19 Sec. 8. Plant food deficiency.

20 If any ~~commercial~~ fertilizer ~~or custom mix~~ offered for sale
21 in this State proves, upon official analysis, to be deficient
22 from its guaranteed analysis, penalty shall be assessed against
23 the manufacturer or custom blender ~~mixer~~ in accordance with the
24 following provisions:

25 (1) When the value for a single ingredient fertilizer

1 containing nitrogen, available phosphate, or soluble potash is
2 found to be deficient from the guarantee to the extent of 3% to
3 5% of the total value ~~For a single ingredient fertilizer~~
4 ~~containing nitrogen or phosphate or potash: when the value of~~
5 ~~this ingredient is found to be deficient from the guarantee to~~
6 ~~the extent of 3% and not over 5% of the total value, the~~
7 registrant shall be liable for the actual deficiency in value.
8 When the deficiency exceeds 5% of the total value, the penalty
9 shall be 3 times the actual value of the shortage.

10 (2) For multiple ingredient fertilizers containing 2 or
11 more of the single ingredients: nitrogen or phosphate or
12 potash, penalties shall be assessed according to (a) or (b) as
13 herein stated. When a multiple ingredient fertilizer is subject
14 to a penalty under both (a) and (b) only the larger penalty
15 shall be assessed.

16 (a) When the total combined values of the nitrogen or
17 available phosphate ~~phosphoric acid~~ or potash is found to be
18 deficient to the extent of 3% to 5% ~~3% and not over 5%~~, the
19 registrant shall be liable for the actual deficiency in total
20 value. When the deficiency exceeds 5% of the total value, the
21 penalty shall be 3 times the actual value of the shortage.

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

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

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

9 (b) All penalties assessed under this Section shall be paid
10 to the consumer of the lot of ~~commercial~~ fertilizer ~~or custom~~
11 ~~mix~~ purchased, and which is represented by the sample analyzed,
12 within 3 months after the date of notice from the Director to
13 the registrant. Receipts shall be taken therefor and promptly
14 forwarded to the Director. If such consumers cannot be found,
15 the amount of the penalty shall be paid to the Director who
16 shall deposit the same in the General Revenue Fund in the State
17 Treasury.

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

19 (505 ILCS 80/9) (from Ch. 5, par. 55.9)

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

25 Nitrogen \$6.00 ~~\$3.00~~ per unit (30¢ ~~15¢~~ per pound)

1 Total P2O5 in Rock
 2 Phosphate 1.44 ~~.72~~ per unit (7.2¢ ~~3.6¢~~ per pound)
 3 Available P2O5 4.00 ~~2.00~~ per unit (20¢ ~~10¢~~ per pound)
 4 Potash 2.00 ~~1.00~~ per unit (10¢ ~~5¢~~ per pound).

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

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

16 (505 ILCS 80/10) (from Ch. 5, par. 55.10)

17 Sec. 10. Minimum plant food content.

18 No superphosphate containing less than 18% available
 19 phosphate ~~phosphoric acid~~ nor any mixed fertilizer or custom
 20 blend mix, other than a custom blend mix consisting in part of
 21 unacidulated mineral phosphatic materials, in which the sum of
 22 the guarantees for the nitrogen, available phosphate
 23 ~~phosphoric acid~~, and soluble potash totals less than 20% shall
 24 be distributed in this State. Specialty fertilizers are exempt
 25 from minimum plant food requirements for mixed fertilizers and

1 custom blends ~~mixes~~.

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

3 (505 ILCS 80/11) (from Ch. 5, par. 55.11)

4 Sec. 11. Misbranding or adulteration. ~~False or misleading~~
5 ~~statements.~~

6 (a) It is unlawful for any person to distribute a
7 fertilizer that is misbranded or adulterated within this State.

8 A fertilizer shall be deemed misbranded if:

9 (1) its labeling is false or misleading in any
10 particular;

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

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

15 (4) it purports to be or is represented as a
16 fertilizer, or is represented as containing a plant
17 nutrient or fertilizer, unless such plant nutrient or
18 fertilizer conforms to the definition of identity, if any,
19 prescribed by regulation of the Director; in adopting such
20 regulations the Director shall give due regard to commonly
21 accepted definitions and official fertilizer terms such as
22 those issued by the Association of American Plant Food
23 Control Officials.

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

25 (1) it contains any deleterious or harmful substance,

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

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

8 (3) it contains unwanted crop seed or weed seed. A
9 ~~commercial fertilizer or custom mix is misbranded if it~~
10 ~~carries any false or misleading statement upon or attached~~
11 ~~to the container, or if false or misleading statements~~
12 ~~concerning its agricultural value are made on the container~~
13 ~~or in any advertising matter accompanying or associated~~
14 ~~with the commercial fertilizer or custom mix. It is~~
15 ~~unlawful to distribute a misbranded commercial fertilizer~~
16 ~~or custom mix only after a notice of hearing has been~~
17 ~~issued, served, a hearing held, and opportunity is given~~
18 ~~for the defendant to appeal to a court of competent~~
19 ~~jurisdiction from the decision of the hearing, if he so~~
20 ~~elects, within a period of 10 days after such hearing.~~

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

22 (505 ILCS 80/12) (from Ch. 5, par. 55.12)

23 Sec. 12. Tonnage reports; records.

24 (a) Any person distributing fertilizer to a consumer or
25 end-user ~~non-registrant~~ in this State shall provide the

1 Director with a summary report on or before the 10th day of
2 each month covering the shipments made during the preceding
3 month of tonnage on a form, provided by the Director, for that
4 purpose. If requested by the NREC, the distributor who supplies
5 fertilizer to the consumer or end user shall also provide to
6 the NREC additional information relevant to general fertilizer
7 use, practices or sales of products that enhance the
8 stabilization, or efficiency of fertilizer.

9 Specialty fertilizer sold in packages weighing 5 pounds or
10 less or in container of 4000 cubic centimeters or less, shall
11 be reported but no inspection fee will be charged. No
12 information furnished under this Section shall be disclosed by
13 the Department in such a way as to divulge the operation of any
14 person.

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

17 (1) the date of distribution;

18 (2) the quantity purchased;

19 (3) the license number of the purchaser's valid State
20 or federal driver's license, or an equivalent number taken
21 from another form of picture identification approved for
22 purchaser identification by the Director; and

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

25 Any retailer of ammonium nitrate may refuse to sell
26 ammonium nitrate to any person attempting to purchase ammonium

1 nitrate (i) out of season, (ii) in unusual quantities, or (iii)
2 under suspect purchase patterns.

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

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

8 (505 ILCS 80/13) (from Ch. 5, par. 55.13)

9 Sec. 13. Publications.

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

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

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

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

19 (505 ILCS 80/14) (from Ch. 5, par. 55.14)

20 Sec. 14. Rules and regulations.

21 (a) For the enforcement of this Act, the Director is
22 authorized, after due notice and public hearing, to prescribe
23 and to enforce such rules and regulations relating to the
24 distribution of fertilizers, the equipment, containers, and

1 storage pertaining to anhydrous ammonia, and low pressure
2 nitrogen solutions ~~commercial fertilizer or custom mix~~ as he
3 may be find necessary to carry into effect the full intent and
4 meaning of this Act.

5 (b) The official definitions of fertilizers and official
6 fertilizer terms as adopted and published by the Association of
7 American Plant Food Control Officials and any amendments or
8 supplements thereto are the official definitions of
9 fertilizers and official fertilizer terms, except insofar as
10 specifically defined in Section 3 or amended, modified, or
11 rejected by a rule adopted by the Director.

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

13 (505 ILCS 80/15) (from Ch. 5, par. 55.15)

14 Sec. 15. Short weight. If any ~~commercial~~ fertilizer ~~or~~
15 ~~custom mix~~ in the possession of the consumer is found by the
16 Director to be short in weight, the registrant of such
17 ~~commercial~~ fertilizer ~~or custom mix~~ shall, within 30 days after
18 official notice from the Director, pay to the consumer a
19 penalty equal to 4 times the value of the actual shortage.

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

21 (505 ILCS 80/16) (from Ch. 5, par. 55.16)

22 Sec. 16. Cancellation, suspension, or refusal of
23 registrations and licenses. ~~Cancellation of registrations.~~

24 The Director may refuse to register a fertilizer or cancel

1 or suspend a fertilizer registration, custom blend, or
2 fertilizer license if:

3 (1) the composition of the fertilizer does not warrant
4 the claims made;

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

7 (3) the labeling or other materials required for
8 registration do not comply with the provisions of this Act
9 or its rules;

10 (4) the registrant used fraudulent or deceptive
11 practices to secure registration;

12 (5) it is determined that a fertilizer poses a risk of
13 unreasonable adverse effects to man or the environment
14 under the provisions of this Act or its rules; or

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

17 ~~The Director is authorized and empowered to cancel the~~
18 ~~registration of any brand of commercial fertilizer or custom~~
19 ~~mix or to refuse to register any brand of commercial fertilizer~~
20 ~~or custom mix as herein provided, upon satisfactory evidence~~
21 ~~that the registrant has used fraudulent or deceptive practices~~
22 ~~in the evasions or attempted evasions of the provisions of this~~
23 ~~Act or any rules and regulations promulgated thereunder;~~
24 ~~however, no registration shall be revoked or refused until the~~
25 ~~registrant has been given the opportunity to appear for a~~
26 ~~hearing by the Director.~~

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

2 (505 ILCS 80/17) (from Ch. 5, par. 55.17)

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

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

9 (b) The Director shall provide the registrant, if different
10 from the person served under subsection (a), with a copy of any
11 order when corrective action appears to be the responsibility
12 of the registrant.

13 (c) If an owner, operator, manager, or agent is not
14 available for service of an order upon him or her, the Director
15 shall attach the order to the fertilizer and notify the
16 registrant.

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

23 (e) When the Director finds, under the provisions of this
24 Act or its rules, that a fertilizer being distributed in this
25 State is injurious to plants, animals, or man when used in

1 accordance with label directions, he or she may issue an order
2 to remove the fertilizer from the State and establish
3 requirements to effect the expeditious removal of the
4 fertilizer without adverse effects to man or the environment.

5 ~~"Stop sale" orders.~~

6 ~~The Director or his authorized agent may issue and enforce~~
7 ~~a written or printed "stop sale, use, or removal" order to the~~
8 ~~owner or custodian of any lot of commercial fertilizer or~~
9 ~~custom mix and to hold such lot at a designated place when the~~
10 ~~Director finds such commercial fertilizer or custom mix is~~
11 ~~being offered or exposed for sale in violation of any of the~~
12 ~~provisions of this Act until the law has been complied with and~~
13 ~~such commercial fertilizer or custom mix is released in writing~~
14 ~~by the Director or such violation has been otherwise legally~~
15 ~~disposed of by written authority.~~

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

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

21 (505 ILCS 80/18) (from Ch. 5, par. 55.18)

22 Sec. 18. Seizure, condemnation and sale.

23 Any lot of ~~commercial~~ fertilizer ~~or custom mix~~ not in
24 compliance with the provisions of this Act shall be subject to
25 seizure on complaint of the Director or his authorized agent to

1 the circuit court of the county in which such ~~commercial~~
2 fertilizer ~~or custom mix~~ is located. In the event the court
3 finds such ~~commercial~~ fertilizer ~~or custom mix~~ to be in
4 violation of this Act and orders the condemnation of such
5 ~~commercial~~ fertilizer ~~or custom mix~~, it shall be disposed of in
6 any manner consistent with the quality of the ~~commercial~~
7 fertilizer ~~or custom mix~~ and the laws of the State. However, in
8 no instance shall the disposition of such ~~commercial~~ fertilizer
9 ~~or custom mix~~ be ordered by the court without first giving the
10 claimant an opportunity to apply to the court for release of
11 such ~~commercial~~ fertilizer ~~or custom mix~~ or for permission to
12 process or re-label the ~~commercial~~ fertilizer ~~or custom mix~~ to
13 bring it into compliance with this Act.

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

15 (505 ILCS 80/18a) (from Ch. 5, par. 55.18a)

16 Sec. 18a. Location and operation.

17 (a) Before installing commercial fertilizer facilities for
18 the distribution or storage of anhydrous ammonia or
19 low-pressure nitrogen solutions, the owner shall apply to the
20 Department for approval of the location of the facilities.
21 Distribution and storage facilities shall be in compliance with
22 local zoning ordinances and the minimum distance requirements
23 for safe storage of anhydrous ammonia or low-pressure nitrogen
24 solutions as established by Department rule. Existing storage
25 tanks installed prior to the effective date of this amendatory

1 Act of 1983 shall be exempt from the requirements for location
2 approval. Prior to any expansion or modification of such
3 existing storage tanks, written approval shall be obtained from
4 the Department and such tanks shall meet current requirements
5 as established by Department rule.

6 (b) Authorized Department personnel may enter upon any
7 public or private premises during reasonable business hours and
8 inspect facilities, equipment and vehicles used in the storage
9 and distribution of anhydrous ammonia and low-pressure
10 nitrogen solutions and observe operations as necessary to
11 determine compliance with the provisions of this Act and the
12 rules promulgated hereunder. Department personnel may enter
13 the premises at any time when the health, safety or welfare of
14 the public is threatened by escaping gas, spills, fire, damaged
15 or faulty equipment, accident or act of God.

16 (c) The Department shall adopt rules and regulations
17 setting forth minimum safety standards covering the design,
18 construction, location, installation and operation of
19 equipment for storage, handling, use and transportation of
20 anhydrous ammonia and low pressure nitrogen solutions. Such
21 rules and regulations shall consist of those reasonably
22 necessary for the safety of the public, including persons
23 handling or using such materials, and shall be in substantial
24 conformity with the current nationally accepted safety
25 standards.

26 (d) The Director or his authorized agent may issue and

1 enforce a written stop use order to the owner or custodian of
2 the facility upon a violation of this Act or the rules and
3 regulations. The Director shall terminate the stop use order
4 upon compliance with the requirements of this Act and rules and
5 regulations.

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

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

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

20 (505 ILCS 80/19) (from Ch. 5, par. 55.19)

21 Sec. 19. Violations and prosecutions. ~~Violations.~~

22 (a) If it appears from the examination of any commercial
23 fertilizer or custom mix that any of the provisions of this Act
24 or the rules and regulations issued thereunder have been
25 violated, the Director or his or her authorized agent shall

1 cause notice of the violations to be given to the registrant,
2 distributor or possessor from whom the sample was taken. Any
3 person so notified shall be given opportunity to be heard under
4 such rules and regulations as may be prescribed by the
5 Director. If it appears after such hearing, either in the
6 presence or absence of the person so notified, that any of the
7 provisions of this Act or rules and regulations issued
8 thereunder have been violated, the Director may certify the
9 facts to the proper prosecuting attorney.

10 It shall be unlawful for any person to distribute, store,
11 transport or use anhydrous ammonia or low-pressure nitrogen
12 solutions in violation of this Act or the rules and regulations
13 promulgated thereunder or to violate a stop use order issued by
14 the Director.

15 (b) Any person convicted of violating any provisions of
16 this Act or any of the rules or regulations issued thereunder,
17 or who impedes, obstructs, hinders or otherwise prevents or
18 attempts to prevent the Director, or his or her duly authorized
19 agent, in the performance of his or her duty in connection with
20 the provisions of this Act, shall be guilty of a business
21 offense punishable by a fine not less than \$1,000 plus all
22 costs for each violation ~~to exceed \$1,000~~. In all prosecutions
23 under this Act involving the composition of a commercial
24 fertilizer or custom mix, a certified copy of the official
25 analysis signed by the Director shall be accepted as prima
26 facie evidence of the composition.

1 (c) Nothing in this Act shall be construed as requiring the
2 Director or his or her representative to report for prosecution
3 or for the institution of seizure proceedings as a result of
4 minor violations of the Act if he or she believes that a
5 suitable notice of warning in writing will serve the public
6 interests ~~that the public interests will be served by a~~
7 ~~suitable notice of warning in writing.~~

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

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

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

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

21 Sec. 20. Hearing; notice; injunction.

22 (a) The Department, over the signature of the Director, is
23 authorized to issue subpoenas and bring before the Department
24 any person or persons in this State to take testimony orally,
25 by deposition, or by exhibit, in the same manner prescribed by

1 law in judicial proceedings and civil cases in the circuit
2 courts of this State. The Director is authorized to issue
3 subpoenas duces tecum for records relating to a fertilizer
4 distributor's or registrant's business.

5 (b) The Department, over the signature of the Director, may
6 apply to any court for a temporary restraining order or a
7 preliminary or permanent injunction restraining any person
8 from violating or continuing to violate any provision of this
9 Act or its rules. An injunction issued under this Section shall
10 be issued without bond.

11 (c) When an administrative hearing is held, the hearing
12 officer, upon determination of a violation of this Act, shall
13 levy and the Department shall collect administrative penalties
14 in addition to any initial penalty levied by this Act on a per
15 occurrence basis as follows:

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

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

21 (B) sale, transport, disposal, or distribution of
22 a fertilizer that has been placed under stop-sale
23 order.

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

26 (A) thwarting or hindering the Director in the

1 performance of his or hers duties by misrepresenting or
2 concealing facts or conditions; or

3 (B) distribution of a fertilizer that is
4 mislabeled or adulterated.

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

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

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

11 (C) distribution in this State of any fertilizer
12 containing noxious weed seed.

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

16 All penalties collected by the Department under this
17 Section shall be deposited into the Fertilizer Control Fund.
18 Any penalty not paid within 60 days after receiving the notice
19 from the Department shall be submitted to the Attorney
20 General's office for collection. Exchanges between
21 manufacturers.

22 ~~Nothing in this Act shall be construed to restrict or avoid~~
23 ~~sales or exchanges of commercial fertilizers to each other by~~
24 ~~importers, manufacturers or manipulators who mix fertilizer~~
25 ~~materials for sale or as preventing the free and unrestricted~~
26 ~~shipments of commercial fertilizer to manufacturers or~~

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

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

4 (505 ILCS 80/21) (from Ch. 5, par. 55.21)

5 Sec. 21. Exchanges between manufacturers
6 Constitutionality. Nothing in this Act shall be construed to
7 restrict or avoid sales or exchanges of fertilizers to each
8 other by importers, manufacturers or blenders who mix
9 fertilizer materials for sale or as preventing the free and
10 unrestricted shipments of fertilizer to manufacturers or
11 manipulators who have registered their brands as required by
12 the provisions of this Act.

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

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

21 (505 ILCS 80/21.5 new)

22 Sec. 21.5. Constitutionality. If any clause, sentence,
23 paragraph, or part of this Act shall for any reason be adjudged
24 invalid by any court of competent jurisdiction, the judgment

1 shall not affect, impair, or invalidate the remainder thereof
2 but shall be confined in its operation to the clause, sentence,
3 paragraph, or part thereof directly involved in the controversy
4 in which the judgment shall have been rendered.

5 (505 ILCS 80/21.7 new)

6 Sec. 21.7. Home rule. The regulation of fertilizer under
7 this Act by any political subdivision of this State, including
8 home rule units, is specifically prohibited, except for
9 counties and municipalities with a population greater than
10 3,000,000. The regulation of fertilizer under this Act is an
11 exclusive power and function of the State, except as provided
12 in this paragraph, and is denial and limitation, under
13 subsection (h) of Section 6 of Article VII of the Illinois
14 Constitution, of the power of a home rule unit to regulate
15 fertilizer or custom blends.

16 (505 ILCS 80/6b rep.)

17 Section 10. The Illinois Fertilizer Act of 1961 is amended
18 by repealing Section 6b.

19 Section 99. Effective date. This Act takes effect January
20 1, 2012."