

1 (3) "Commercial fertilizer" means any substance which contains one or more recognized
2 plant nutrients which is used for its plant nutrient content and is designed for use or claimed to
3 have value in promoting plant growth, exclusive of unmanipulated animal and vegetable manures,
4 marl, lime, limestone, wood ashes, gypsum, and other products exempted by regulation of the
5 department.

6 (4) "Distributor" means any person who imports, consigns, manufactures, produces,
7 compounds, mixes, or blends commercial fertilizer, or a person who imports, consigns,
8 manufactures, produces, compounds, sizes, or blends a soil amendment; or who offers for sale,
9 sells, barter, or otherwise supplies commercial fertilizer or a soil amendment in this state.

10 (5) "Fertilizer material" means a commercial fertilizer which contains either:

11 (a) Quantities of no more than one of the primary plant nutrients (nitrogen, phosphoric
12 acid, and potash);

13 (b) Approximately 85% plant nutrients in the form of a single chemical compound; or

14 (c) Plant or animal residues or byproducts, or a natural material deposit that is processed
15 so that its primary plant nutrients have not been materially changed, except through purification
16 and concentration.

17 (6) "Grade" means the percentage of total nitrogen, available phosphorus or phosphoric
18 acid, and soluble potassium or soluble potash stated in whole numbers in the same terms, order,
19 and percentages as in the guaranteed analysis; provided, that specialty fertilizers may be
20 guaranteed in fractional units of less than ~~[one percent]~~ 1% of total nitrogen, available phosphorus
21 or phosphoric acid, and soluble potassium or soluble potash and that fertilizer materials such as
22 bone meal, manures, and similar raw materials may be guaranteed in fractional units.

23 (7) (a) "Guaranteed analysis" means the minimum percentage by weight of plant nutrients
24 claimed in the following order and form:

- 25 Total nitrogen (N) _____ percent
- 26 Available phosphoric acid (P₀) _____ percent
- 27 Soluble potash (K₀) _____ percent

28 (b) For unacidulated mineral phosphatic materials and basic slag, bone, tankage, and other
29 organic phosphate materials, it means the total phosphoric acid and/or degree of fineness[;].

30 (c) Potential basicity or acidity shall be expressed in terms of calcium carbonate equivalent
31 in multiples of ~~[one hundred]~~ 100 pounds per ton, when required by regulation.

1 (d) Guarantees for plant nutrients other than nitrogen, phosphorus, and potassium may be
2 permitted or required by regulation of the department. The guarantees for [such] other nutrients
3 shall be expressed in the form of the element. The sources of [such] other nutrients, [(]oxides, salt,
4 chelates, etc.[)]₂ may be required to be stated on the application for registration and may be
5 included as a parenthetical statement on the label. Other beneficial substances or compounds,
6 determinable by laboratory methods, also may be guaranteed by permission of the department.
7 Any plant nutrients or other substances or compounds guaranteed are subject to inspection and
8 analysis in accord with the methods and regulations prescribed by the department.

9 (8) "Investigational allowance" means an allowance for variations inherent in the taking,
10 preparation, and analysis of an official sample of commercial fertilizer or soil amendment.

11 (9) "Label" means the display of all written, printed, or graphic matter upon the immediate
12 container or statement accompanying a commercial fertilizer or soil amendment.

13 (10) "Labeling" means all written, printed, or graphic matter upon or accompanying any
14 commercial fertilizer or soil amendment, or advertisements, brochures, posters, television₂ and
15 radio announcements used in promoting the sale of such commercial fertilizers or soil
16 amendments.

17 (11) "Mixed fertilizer" means a commercial fertilizer containing any combination of
18 fertilizer materials.

19 (12) "Official sample" means any sample of commercial fertilizer or soil amendment taken
20 by the department and designated as "official."

21 (13) "Percent" or "percentage" means the percentage by weight.

22 (14) "Registrant" means any person who registers a commercial fertilizer or a soil
23 amendment under the provisions of this chapter.

24 (15) "Soil amendment" means any substance that is intended to improve the physical
25 characteristics of soil; except, commercial fertilizer, agriculture liming materials, unmanipulated
26 animal manure, unmanipulated vegetable manure, pesticides, or other material exempted by
27 regulation of the department.

28 (16) "Specialty fertilizer" means any commercial fertilizer distributed primarily for
29 nonfarm use, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks,
30 cemeteries, greenhouses, and nurseries.

31 (17) "Ton" means a net weight of [~~two thousand~~] 2,000 pounds avoirdupois.

1 (18) "Waste-derived fertilizer" means a commercial fertilizer that is derived from an
2 industrial byproduct, coproduct, or other material that would otherwise be disposed of if a market
3 for reuse were not an option.

4 Section 2. Section 4-13-3 is amended to read:

5 **4-13-3. Distribution of commercial fertilizer or soil amendment -- Registration**
6 **required -- Application -- Fees -- Expiration -- Renewal -- Exemptions specified -- Blenders**
7 **and mixers to register name under which business conducted -- Blenders and mixers fee.**

8 (1) (a) Each brand and grade of commercial fertilizer or soil amendment shall be registered
9 in the name of the person whose name appears upon the label before being distributed in this state.

10 (b) The application for registration shall be submitted to the department on a form
11 prescribed and furnished by it, and shall be accompanied by a fee determined by the department
12 pursuant to Subsection 4-2-2(2) for each brand and grade.

13 (c) Upon approval by the department, a copy of the registration shall be furnished to the
14 applicant.

15 (d) (i) Each registration expires at midnight on December 31 of the year in which issued.

16 (ii) Each registration is renewable for a period of one year upon the payment of an annual
17 registration renewal fee in an amount equal to the current applicable original registration fee.

18 (iii) Each renewal fee shall be paid on or before December 31 of each year.

19 (2) (a) The application for registration shall include the following information:

20 [(a)] (i) the net weight;

21 [(b)] (ii) the brand and grade;

22 [(c)] (iii) the guaranteed analysis;

23 [(d)] (iv) the name and address of the registrant; and

24 [(e)] (v) any other information as the department may prescribe by rule.

25 (b) (i) Any waste-derived fertilizer shall be identified as such in the application for
26 registration.

27 (ii) The registrant of a waste-derived fertilizer shall state in the application for registration
28 the levels of the nonnutritive metals in the waste-derived fertilizer in accordance with department
29 rules.

30 (3) A distributor is not required to register any commercial fertilizer which has been
31 registered by another person under this chapter if the label does not differ in any respect.

1 (4) (a) A distributor is not required to register each grade of commercial fertilizer
2 formulated by a consumer before mixing, but is required to:

3 (i) register the name under which the business of blending or mixing is conducted;

4 (ii) pay an annual blenders license fee determined by the department pursuant to
5 Subsection 4-2-2(2); and

6 (iii) label the mixed fertilizer or soil amendment as provided in Section 4-13-4.

7 (b) (i) A blenders license shall expire at midnight on December 31 of the year in which
8 it is issued.

9 (ii) A blenders license is renewable for a period of one year upon the payment of an annual
10 license renewal fee in an amount equal to the current applicable original blenders license fee.

11 (iii) Each renewal fee shall be paid on or before December 31 of each year.

12 (5) (a) A fee shall be assessed on fertilizer and soil amendment products sold in the state.

13 (b) The fee shall be:

14 (i) determined by the department pursuant to Subsection 4-2-2(2); and

15 (ii) paid by the manufacturer or distributor on a schedule specified by rule.

16 (c) Revenue generated by the fee shall be deposited in the General Fund as dedicated
17 credits to be used by the department for education about and promotion of proper fertilizer
18 distribution, handling, and use.

19 Section 3. Section **4-13-4** is amended to read:

20 **4-13-4. Labeling requirements for specialty fertilizer, bulk commercial fertilizer,**
21 **packaged mixed fertilizer, and soil amendments specified.**

22 (1) Each container of specialty commercial fertilizer distributed in this state shall bear a
23 label setting forth:

24 (a) its net weight;

25 (b) the brand and grade;

26 (c) the guaranteed analysis;

27 (d) each component required to be listed by rules of the department;

28 [~~(d)~~] (e) the name and address of the registrant; and

29 [~~(e)~~] (f) the lot number.

30 (2) Each bulk shipment of commercial fertilizer distributed in this state shall be
31 accompanied by a printed or written statement setting forth the information specified in

1 Subsections (1)(a) through [~~(d) of this section~~] (e). The statement shall be delivered to the
2 purchaser at the time the bulk fertilizer is delivered.

3 (3) Each sale of packaged mixed fertilizer shall be labeled, or labeling furnished the
4 consumer, to show:

5 (a) its net weight[;];

6 (b) the guaranteed analysis[;];

7 (c) each component required to be listed by rules of the department;

8 (d) the lot number[;]; and

9 (e) the name and address of the distributor.

10 (4) Each container of soil amendment shall conform to the requirements of Subsection (1)
11 [~~of this section~~], and if distributed in bulk, with Subsection (2) [~~of this section~~]. In addition, the
12 name or chemical designation and content of the soil amending ingredient or any other information
13 prescribed by regulation of the department shall appear whether distributed in a container or in
14 bulk.

15 Section 4. Section ~~4-13-5~~ is amended to read:

16 **4-13-5. Enforcement -- Inspection and samples authorized -- Methods for sampling**
17 **and analysis prescribed -- Warrants.**

18 (1) The department shall periodically sample, inspect, analyze, and test commercial
19 fertilizers and soil amendments distributed within this state to determine if they comply with this
20 chapter and rules of the department, including labeling requirements and rules governing the
21 reporting of nonnutritive metals in the application for registration of waste-derived fertilizers.

22 (2) Methods of analysis and sampling shall be in accordance with those adopted by the
23 department from sources such as the Association of Official Analytical Chemists Journal.

24 (3) In determining whether a commercial fertilizer or soil amendment is deficient, the
25 department shall be guided solely by the official sample.

26 (4) The department is authorized to enter any public or private premises or carriers during
27 regular business hours in order to have access to commercial fertilizers or soil amendments subject
28 to this chapter. If admittance is refused, the department may proceed immediately to obtain an ex
29 parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises for
30 the purpose of making inspections and obtaining samples.

31 Section 5. Section ~~4-13-11~~ is enacted to read:

1 **4-13-11. Rules.**

2 (1) The department shall make rules specifying components that must be identified in the
3 application for registration of any waste-derived fertilizer and the manner in which the levels shall
4 be reported. Components to be identified shall include:

5 (a) nonnutritive metals;

6 (b) toxic materials regulated under the Resource Conservation and Recovery Act, 42
7 U.S.C. Section 6901, et seq.; and

8 (c) radioactive wastes regulated by the Department of Energy, the Nuclear Regulatory
9 Commission, or the Utah Division of Radiation Control.

10 (2) The department shall make rules specifying the components of commercial fertilizers
11 and soil amendments that must be listed in the label or labeling, including nutrients, fillers, inert
12 materials, and the components listed in Subsection (1).

13 (3) By July 1, 1999, the department shall make rules establishing maximum levels of the
14 components listed in Subsection (1) that may be contained in commercial fertilizers.

Legislative Review Note
as of 2-11-98 1:54 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel