

## Sec. 130.

If the revisor of statutes recompiles the administrative procedure act as a separate chapter in Minnesota Statutes, he may change references to "chapter 15" or other references to sections or series of sections in Minnesota Statutes or in administrative rules publications to references to the new chapter if the context indicates that a reference to the administrative procedure act is intended.

Sec. 131. Laws 1980, Chapter 587, Article I, Sections 31 to 39, are repealed.

Sec. 132. Minnesota Statutes 1981 Supplement, Section 514.011, Subdivision 4a, is amended to read:

Subd. 4a. **EXCEPTIONS; SAME OWNERSHIP.** The notice required by this section shall not be required to be given where the ~~property~~ contractor is managed or controlled by substantially the same persons who manage or control the owner of the improved real estate.

Sec. 133. Minnesota Statutes 1980, Section 145.61, Subdivision 2, is amended to read:

Subd. 2. **PROFESSIONAL.** "Professional" means a person licensed to practice a healing art under ~~Minnesota Statutes 1969~~, chapter 147, or chapter 148, to practice dentistry under ~~Minnesota Statutes 1969~~, chapter 150A, to practice as a pharmacist under ~~Minnesota Statutes 1969~~, chapter 151, or to practice podiatry under ~~Minnesota Statutes 1969~~, chapter 153.

Approved March 18, 1982

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CHAPTER 425 — H.F.No. 1786

*An act relating to agriculture; changing certain procedures relating to fertilizers and soil and plant amendments; requiring adoption of rules concerning analysis of sewage sludge; imposing a penalty; amending Minnesota Statutes 1980, Sections 17.713, by adding a subdivision; 17.721, Subdivision 2; and 17.728, as amended; Minnesota Statutes 1981 Supplement, Sections 17.713, Subdivisions 8, 12, 17a, and 20; 17.714, Subdivision 2; 17.716, Subdivision 6; 17.719, Subdivision 1, and by adding a subdivision; 17.721, Subdivision 1; 17.725, Subdivision 1; 17.726; and 116.07, Subdivision 4; proposing new law coded in Minnesota Statutes, Chapter 17.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1980, Section 17.713, is amended by adding a subdivision to read:

Subd. 4a. COMMISSIONER. "Commissioner" means the commissioner of agriculture or his designee.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 2. Minnesota Statutes 1981 Supplement, Section 17.713, Subdivision 8, is amended to read:

Subd. 8. **GUARANTEED ANALYSIS.** "Guaranteed analysis": (1) Until the commissioner prescribes the alternative form of "guaranteed analysis" in accordance with the provisions of paragraph 2 of this subdivision, the term "guaranteed analysis" shall mean the percentage of plant nutrient content, if claimed, in the following order:

- (a) Total nitrogen .....percent
- Available phosphoric acid .....percent
- Soluble potash .....percent

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

(c) Guarantees for plant nutrients other than nitrogen, phosphorus and potassium may be permitted or required by regulation of the commissioner. The guarantees for such other nutrients shall be expressed in the elemental form. The sources of such other elements, oxides, salt, and chelates, may be required to be stated on the application for registration and may be included as a parenthetical statement on the label. Other beneficial substances or compounds, determinable by laboratory methods, also may be guaranteed by permission of the commissioner and with the advice of the director of the agricultural experiment station. When any plant nutrients or other substances or compounds are guaranteed, they shall be subject to inspection and analyses in accord with the methods and regulations prescribed by the commissioner.

(d) Potential basicity or acidity expressed in terms of calcium carbonate equivalent in multiples of 100 pounds per ton, when required by regulation.

(2) When the commissioner finds, after public hearing following due notice, that the requirement for expressing the guaranteed analysis of phosphorus and potassium in elemental form would not impose an economic hardship on distributors and users of fertilizer by reason of conflicting labeling requirements among the states, he may require thereafter that the "guaranteed analysis" shall be in the following form:

- Total nitrogen .....percent
- Available phosphorus .....percent
- Soluble potassium .....percent

The effective date of said regulation shall be not less than one year following the issuance thereof, and provided, further, that for a period of two years following the effective date of said regulation the equivalent of phosphorus and potassium may also be shown in the form of phosphoric acid and potash. After the effective date of a regulation issued under the provisions of this section, requiring that phosphorus and potassium be shown in the elemental form, the

guaranteed analysis for nitrogen, phosphorus, and potassium shall constitute the grade.

(3) "Guaranteed analysis" of a soil amendment or plant amendment shall mean an accurate statement of composition including the percentages of each ingredient. If the product is a microbiological product, the number of viable microorganisms per milliliter for a liquid or the number of viable microorganisms per gram for a dry product must also be listed.

Sec. 3. Minnesota Statutes 1981 Supplement, Section 17.713, Subdivision 12, is amended to read:

Subd. 12. **OFFICIAL SAMPLE.** "Official sample" means any sample of commercial fertilizer, soil amendment or plant amendment taken by the commissioner or his agent according to methods prescribed by sections 17.711 to 17.729.

Sec. 4. Minnesota Statutes 1981 Supplement, Section 17.713, Subdivision 17a, is amended to read:

Subd. 17a. **SEWAGE SLUDGE.** "Sewage sludge" means the solids and associated liquids in municipal wastewater which are encountered and concentrated by a municipal wastewater treatment plant. Sewage sludge does not include incinerator residues and grit, scum, or screenings removed from other solids during treatment. Sewage sludge is not a commercial fertilizer, fertilizer material, manipulated manure, plant amendment or soil amendment unless the sewage sludge meets the criteria for one of those categories and is offered for retail sale exempt from all requirements of this chapter except the soil amendment labeling requirements of section 17.716 unless the sewage sludge meets the plant food content criteria for a commercial fertilizer in which case the sewage sludge will be considered a commercial fertilizer. A copy of the sewage sludge analysis required by the rules of the pollution control agency adopted under section 116.07, subdivision 4, is sufficient to meet the labeling requirements of section 17.716.

Sec. 5. Minnesota Statutes 1981 Supplement, Section 17.713, Subdivision 20, is amended to read:

Subd. 20. **SPECIALTY FERTILIZER.** "Specialty fertilizer" means any commercial fertilizer labeled and distributed for, but not limited to, the following uses: commercial gardening, greenhouses, nurseries and sod farms, home gardens, house plants, lawns, shrubs, golf courses, municipal parks, cemeteries, and for research or experimental purposes.

Sec. 6. Minnesota Statutes 1981 Supplement, Section 17.714, Subdivision 2, is amended to read:

Subd. 2. **CONTENTS OF APPLICATION.** The application for registration shall include the following information:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(a) For fertilizers:

- (1) The name and address of the guarantor and registrant;
- (2) The brand and grade;
- (3) The guaranteed analysis as required by section 17.713, subdivision 8;
- (4) The sources from which nitrogen, phosphorus, potassium or other elements or materials are derived.

(b) For soil and plant amendments:

- (1) The name and address of the guarantor and registrant;
- (2) The brand name;
- (3) The sources from which the ingredients used in the product are derived;
- (4) The guaranteed analysis as required by section 17.713, subdivision 8.

**Sec. 7. [17.7155] APPROVAL OF FACILITY AND EQUIPMENT.**

Subdivision 1. APPROVAL. A person beginning construction of or substantially altering an existing facility or equipment used for the manufacture, blending, handling, or bulk storage of commercial fertilizers, soil or plant amendments shall obtain the approval of the commissioner on forms provided by the commissioner.

Subd. 2. TRANSFER. The approval shall not be transferable from one person to another, or from the ownership to whom issued to another ownership, or from one location to another.

Sec. 8. Minnesota Statutes 1981 Supplement, Section 17.716, Subdivision 6, is amended to read:

**Subd. 6. LABEL CONTENTS.** Any soil or plant amendment offered for sale or sold or distributed in this state in bags or other containers shall have placed on or affixed to the bag or container a label setting forth in legible and conspicuous form the following information:

- (a) The name and address of the ~~registrant~~ guarantor;
- (b) Its brand name;
- (c) Its guaranteed analysis;
- (d) Its net weight;
- (e) Directions for the amendment's use;
- (f) Its purpose or proposed use; and

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(g) The words "NOT A PLANT FOOD PRODUCT," shall appear in a conspicuous position on the label and shall be printed in easily legible type in contrast with the other printed material on the label. The words shall be in a size equal to or larger than the largest printed material on the label or tags affixed to the bags or other containers except that the type size need not exceed one inch in height.

The information required in this subdivision shall appear on the face or display side of the container in a conspicuous form, or on the upper one-third of either side of the container, or on the upper end of the container, or shall be printed on ~~conspicuous~~ tags conspicuously affixed to the upper end of the container.

Sec. 9. Minnesota Statutes 1981 Supplement, Section 17.719, Subdivision 1, is amended to read:

Subdivision 1. **POWERS AND DUTIES OF COMMISSIONER.** The ~~commissioner or the commissioner's authorized agent~~ shall sample, inspect, make analysis of, and test commercial fertilizers, soil amendments and plant amendments offered for sale, sold, or distributed within this state at a time and place and to an extent the commissioner may deem necessary to determine whether the commercial fertilizers, soil amendments and plant amendments are in compliance with the provisions of sections 17.711 to 17.729, and may obtain additional information as ~~he or she~~ the commissioner deems advisable. The ~~commissioner or the commissioner's agent~~ is authorized to enter upon any public or private premises during regular business hours in order to have access to commercial fertilizers, soil amendments and plant amendments subject to the provisions of sections 17.711 to 17.729 and ~~the rules and regulations pertaining thereto adopted under section 17.725.~~

Sec. 10. Minnesota Statutes 1981 Supplement, Section 17.719, is amended by adding a subdivision to read:

Subd. 4. INSPECTION; SAMPLING; ANALYSIS. The commissioner shall inspect facilities and equipment used for the manufacture, blending, handling, or storing of commercial fertilizers or soil and plant amendments. The commissioner is authorized to enter upon any public or private premises during regular business hours in order to have access to facilities and equipment used to manufacture, blend, handle, or store commercial fertilizers or soil and plant amendments subject to the provisions of sections 17.711 to 17.729 and rules adopted under section 17.725.

Sec. 11. Minnesota Statutes 1981 Supplement, Section 17.721, Subdivision 1, is amended to read:

Subdivision 1. **MINIMUM GUARANTEES.** While the "guaranteed analysis" is as defined in section 17.713, subdivision 8, clause (1), ~~no nitrogen product containing less than 18 percent total nitrogen, no superphosphate~~

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~~containing less than 18 percent available phosphoric acid, nor any mixed fertilizer in which the sum of guarantees for the nitrogen, available phosphoric acid, and soluble potash totals less than 24 percent shall be offered for sale, sold or distributed in this state. If guarantees are as provided in section 17.713, subdivision 8, clause (2), the appropriate conversions shall be made to available phosphorus and soluble potassium.~~

Sec. 12. Minnesota Statutes 1980, Section 17.721, Subdivision 2, is amended to read:

Subd. 2. **EXCEPTIONS.** ~~The provisions of Subdivision 1 shall~~ does not apply to commercial fertilizers mixed or blended to a customer's order or specialty fertilizer which is clearly labeled for noncommercial nonfarm use.

Sec. 13. Minnesota Statutes 1981 Supplement, Section 17.725, Subdivision 1, is amended to read:

Subdivision 1. **FOR ADMINISTRATION.** The commissioner may prescribe and, after public hearing following due public notice, adopt rules relating to the manufacture, sale, distribution, tonnage reporting, labeling, storage, and handling of commercial fertilizers and soil amendments and plant amendments or other soil additives necessary to carry into effect the full intent and meaning of sections 17.711 to 17.729.

Sec. 14. Minnesota Statutes 1981 Supplement, Section 17.726, is amended to read:

#### 17.726 "STOP SALE" ORDERS.

Subdivision 1. **FERTILIZER; SOIL OR PLANT AMENDMENT.** The commissioner shall issue and enforce a written or printed "stop sale, use, or removal" order to the owner or custodian of any lot of commercial fertilizer, soil amendment or plant amendment when the commissioner finds the commercial fertilizer, soil amendment or plant amendment is being offered or exposed for sale in violation of any of the provisions of sections 17.711 to 17.729 or ~~any regulation issued hereunder~~ a rule adopted under section 17.725. The owner or custodian to whom the order is addressed shall hold the commercial fertilizer, soil amendment or plant amendment until the law has been complied with and the commercial fertilizer, soil amendment or plant amendment is released in writing by the commissioner or the violation has been otherwise legally disposed of by written authority.

Subd. 2. **FACILITIES AND EQUIPMENT.** The commissioner shall issue and enforce a written or printed "stop sale, use, or removal" order to the person in control of facilities and equipment used for the manufacture, blending, handling, or storage of commercial fertilizers or soil and plant amendments operated in violation of any of the provisions of sections 17.711 to 17.729 or a rule adopted under section 17.725. The owner or person to whom the order is

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addressed shall not operate the facility or equipment in violation until the commissioner issues a written release.

Sec. 15. Minnesota Statutes 1980, Section 17.728, as amended by Laws 1981, Chapter 214, Section 18, is amended to read:

**17.728 VIOLATIONS; PENALTY.**

Subdivision 1. **REGISTRATION.** The commissioner may cancel the registration of any commercial fertilizer, soil amendment or plant amendment or refuse to register any brand of commercial fertilizer, soil amendment or plant amendment as herein provided, upon satisfactory evidence that the registrant has used fraudulent or deceptive practices in the evasion or attempted evasion of the provisions of sections 17.711 to 17.729 or any rules and regulations promulgated ~~thereunder~~ adopted under section 17.725. No registration shall be revoked until the registrant has been given opportunity for a hearing by the commissioner.

Subd. 2. **LICENSE.** The commissioner may cancel the license as herein provided upon satisfactory evidence that the licensee has used fraudulent and deceptive practices in the evasion or attempted evasion of the provisions of this section. No license shall be revoked until the licensee has been given opportunity for a hearing by the commissioner.

Subd. 2a. **APPROVAL.** The commissioner may cancel the facility and equipment approval when hazards to people's lives, adjoining property, or the environment exist, or upon satisfactory evidence that the person to whom the approval was issued has used fraudulent or deceptive practices to evade or attempt to evade the provisions of sections 17.711 to 17.729 or rules adopted under section 17.725. No approval shall be canceled until the person has been given an opportunity for a hearing by the commissioner.

Subd. 3. **COMMISSIONER'S DISCRETION.** Nothing in sections 17.711 to 17.729 shall be construed as requiring the commissioner or his representative to (1) report for prosecution or, (2) institute seizure proceedings, or (3) issue a withdrawal from distribution (stop sale) order, as a result of minor violations of sections 17.711 to 17.729 or when he believes the public interest will be best served by a suitable notice of warning in writing.

Subd. 4. **PENALTY.** Any person convicted of violating any of the provisions a provision of sections 17.711 to 17.729 or any rule or regulation issued ~~hereunder~~ adopted under section 17.725, is guilty of a misdemeanor.

Subd. 5. **ENFORCEMENT.** ~~Each~~ A county attorney to whom any violation is reported shall ~~cause~~ institute appropriate proceedings ~~to be instituted and prosecuted and prosecution~~ in the district court or other court of competent jurisdiction without delay.

Sec. 16. [17.7285] **INCIDENTS.**

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The commissioner may apply appropriate, efficient procedures to contain and control fertilizers and soil and plant amendments involved in an emergency incident likely to cause adverse effects on the environment. For purposes of this section "incident" includes a flood, fire, tornado, or motor vehicle accident, which unintentionally releases fertilizers and soil and plant amendments on the environment. Persons involved in or responsible for an incident shall report the incident to the commissioner immediately upon discovering the incident. The department of agriculture shall be the lead government agency for decisions involving the emergency.

Sec. 17. Minnesota Statutes 1981 Supplement, Section 116.07, Subdivision 4, is amended to read:

Subd. 4. **RULES AND STANDARDS.** Pursuant and subject to the provisions of chapter 15, and the provisions hereof, the pollution control agency may adopt, amend and rescind rules and standards having the force of law relating to any purpose within the provisions of Laws 1969, Chapter 1046, for the prevention, abatement, or control of air pollution. Any such rule or standard may be of general application throughout the state, or may be limited as to times, places, circumstances, or conditions in order to make due allowance for variations therein. Without limitation, rules or standards may relate to sources or emissions of air contamination or air pollution, to the quality or composition of such emissions, or to the quality of or composition of the ambient air or outdoor atmosphere or to any other matter relevant to the prevention, abatement, or control of air pollution.

Pursuant and subject to the provisions of chapter 15, and the provisions hereof, the pollution control agency may adopt, amend, and rescind rules and standards having the force of law relating to any purpose within the provisions of Laws 1969, Chapter 1046, for the collection, transportation, storage, processing, and disposal of solid waste and the prevention, abatement, or control of water, air, and land pollution which may be related thereto, and the deposit in or on land of any other material that may tend to cause pollution. The agency shall adopt such rules and standards for sewage sludge, addressing the intrinsic suitability of land, the volume and rate of application of sewage sludge of various degrees of intrinsic hazard, design of facilities, and operation of facilities and sites. The agency shall promulgate temporary rules for sewage sludge pursuant to section 15.0412, subdivision 5. Notwithstanding the provisions of section 15.0412, subdivision 5, the temporary rules shall be effective until permanent rules are promulgated or March 1, 1982, whichever is earlier. Any such rule or standard may be of general application throughout the state or may be limited as to times, places, circumstances, or conditions in order to make due allowance for variations therein. Without limitation, rules or standards may relate to collection, transportation, processing, disposal, equipment, location, procedures, methods, systems or techniques or to any other matter relevant to the prevention, abatement or control of water, air, and land pollution which may be advised

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through the control of collection, transportation, processing, and disposal of solid waste and sewage sludge, and the deposit in or on land of any other material that may tend to cause pollution. By January 1, 1983, the rules for the management of sewage sludge shall include an analysis of the sewage sludge determined by the commissioner of agriculture to be necessary to meet the soil amendment labeling requirements of section 17.716.

Pursuant and subject to the provisions of chapter 15, and the provisions hereof, the pollution control agency may adopt, amend and rescind rules and standards having the force of law relating to any purpose within the provisions of Laws 1971, Chapter 727, for the prevention, abatement, or control of noise pollution. Any such rule or standard may be of general application throughout the state, or may be limited as to times, places, circumstances or conditions in order to make due allowances for variations therein. Without limitation, rules or standards may relate to sources or emissions of noise or noise pollution, to the quality or composition of noises in the natural environment, or to any other matter relevant to the prevention, abatement, or control of noise pollution.

As to any matters subject to this chapter, local units of government may set emission regulations with respect to stationary sources which are more stringent than those set by the pollution control agency.

Pursuant to chapter 15, the pollution control agency may adopt, amend, and rescind rules and standards having the force of law relating to any purpose within the provisions of this chapter for the management, identification, labeling, classification, storage, collection, treatment, transportation, processing, and disposal of hazardous waste and location of hazardous waste facilities. A rule or standard may be of general application throughout the state or may be limited as to time, places, circumstances, or conditions. The public utilities commission, in cooperation with the pollution control agency, shall set standards for the transportation of hazardous waste in accordance with chapter 221. In implementing its hazardous waste rules, the pollution control agency shall give high priority to providing planning and technical assistance to hazardous waste generators. The agency shall assist generators in investigating the availability and feasibility of both interim and long term hazardous waste management methods. The methods shall include waste reduction, waste separation, waste processing, resource recovery, and temporary storage.

The pollution control agency shall give highest priority in the consideration of permits to authorize disposal of diseased shade trees by open burning at designated sites to evidence concerning economic costs of transportation and disposal of diseased shade trees by alternative methods.

Approved March 18, 1982

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