

## CHAPTER 18C

## FERTILIZER, SOIL AMENDMENTS, AND PLANT AMENDMENTS

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**18C.001 CITATION.**

This chapter may be cited as the "fertilizer, soil amendment, and plant amendment law."

**History:** 1989 c 326 art 6 s 1

**18C.005 DEFINITIONS.**

Subdivision 1. **Applicability.** The definitions in this section apply to this chapter.

Subd. 2. **Best management practices.** "Best management practices" means practices, techniques, and measures developed under section 103H.151, subdivision 2.

Subd. 3. **Brand.** "Brand" means a term, design, or trademark used in connection with one or several grades of fertilizers or soil and plant amendment materials.

Subd. 4. **Chemigation.** "Chemigation" means a process of applying fertilizers to land or crops including agricultural, nursery, turf, golf course, or greenhouse sites in or with irrigation water during the irrigation process.

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of agriculture.

Subd. 6. **Compost.** "Compost" is a material derived primarily or entirely from biological decomposition of vegetative organic matter or animal manure that does not have inorganic fertilizer added other than to promote decomposition.

Subd. 7. **Custom apply.** "Custom apply" means to apply a fertilizer, soil amendment, or plant amendment product for compensation.

Subd. 8. **Deficiency.** "Deficiency" means that amount of nutrient found by analysis is less than the amount guaranteed resulting from a lack of nutrient ingredients or from lack of uniformity.

Subd. 9. **Distributor.** "Distributor" means a person who imports, consigns, manufactures, produces, compounds, mixes, or blends fertilizer, or who offers for sale, sells, barters, or otherwise supplies fertilizer or soil and plant amendments in this state.

Subd. 10. **Environment.** "Environment" means surface water, groundwater, air, land, plants, humans, and animals and their interrelationships.

Subd. 11. **Fertilizer.** "Fertilizer" means a substance containing one or more recognized plant nutrients that is used for its plant nutrient content and designed for use or claimed to have value in promoting plant growth. Fertilizer does not include animal and vegetable manures that are not manipulated, marl, lime, limestone, and other products exempted by rule by the commissioner.

Subd. 12. **Fixed location.** "Fixed location" means all stationary fertilizer facility operations, owned or operated by a person, located in the same plant location or locality.

Subd. 13. **Grade.** "Grade" means the percentage of total nitrogen (N), available phosphorus (P) or phosphoric acid (P<sub>2</sub>O<sub>5</sub>), and soluble potassium (K) or soluble potash (K<sub>2</sub>O) stated in whole numbers in the same terms, order, and percentages as in the guaranteed analysis except the grade of bone meals, manures, and similar raw materials may be stated in fractional units, and specialty fertilizers may be stated in fractional units of less than one percent of total nitrogen, available phosphorus or phosphoric acid, and soluble potassium or soluble potash.

Subd. 14. **Guarantor.** "Guarantor" means the person who is guaranteeing the material to be as stated in the guaranteed analysis.

Subd. 15. **Incident.** "Incident" means a flood, fire, tornado, transportation accident, storage container rupture, portable container rupture, leak, spill, emission, discharge, escape, disposal, or other event that releases or immediately threatens to release a fertilizer, soil amendment, or plant amendment accidentally or otherwise into the environment, and may cause unreasonable adverse effects on the environment. Incident does not include a release resulting from the normal use of a product or practice in accordance with law.

Subd. 16. **Investigational allowance.** "Investigational allowance" means an allowance for variations inherent in the taking, preparation, and analysis of an official sample of fertilizer.

Subd. 17. **Label.** "Label" means the display of all written, printed or graphic matter upon the immediate container or the statement accompanying a fertilizer, soil amendment, or plant amendment.

Subd. 18. **Labeling.** "Labeling" means all written, printed or graphic matter on or accompanying a fertilizer, soil amendment, or plant amendment or advertisements, brochures, posters, television, radio or other announcements used in promoting the sale of fertilizers, soil amendments, or plant amendments.

Subd. 19. **Manipulated.** "Manipulated" means fertilizers that are manufactured, blended, or mixed, or animal or vegetable manures that have been treated in any manner, including mechanical drying, grinding, pelleting, and other means, or by adding other chemicals or substances.

Subd. 20. **Mobile mechanical unit.** "Mobile mechanical unit" means a portable machine or apparatus used to blend, mix, or manufacture fertilizers.

Subd. 21. **Official sample.** "Official sample" means a sample of fertilizer, soil amendment, or plant amendment taken by the commissioner according to methods prescribed by this chapter or by rule.

Subd. 22. **Organic.** "Organic" in reference to fertilizer nutrients refers only to naturally occurring substances generally recognized as the hydrogen compounds of carbon and their derivatives or synthetic products of similar composition with a water insoluble nitrogen content of at least 60 percent of the guaranteed total nitrogen.

Subd. 23. **Percent; percentage.** "Percent" or "percentage" means the percentage by weight.

Subd. 24. **Person.** "Person" means an individual, firm, corporation, partnership, association, trust, joint stock company, or unincorporated organization, the state, a state agency, or a political subdivision.

Subd. 25. **Plant amendment.** "Plant amendment" means a substance applied to plants or seeds that is intended to improve germination, growth, yield, product quality, reproduction, flavor, or other desirable characteristics of plants except fertilizers, soil amendments, agricultural liming materials, pesticides, and other materials that are exempted by rule.

Subd. 26. **Plant food.** "Plant food" means a plant nutrient generally recognized as beneficial for plant growth, including nitrogen, phosphorus, potassium, calcium,

magnesium, sulfur, boron, chlorine, cobalt, copper, iron, manganese, molybdenum, sodium, and zinc.

Subd. 27. **Registrant.** "Registrant" means the person who registers fertilizer, soil amendment, or plant amendment under this chapter.

Subd. 28. **Rinsate.** "Rinsate" means a dilute mixture of a fertilizer or fertilizer with water, solvents, oils, commercial rinsing agents, or other substances.

Subd. 29. **Safeguard.** "Safeguard" means a facility, equipment, device, or system, individually or in combination, designed to prevent an incident as required by rule.

Subd. 30. **Sell.** "Sell," in reference to the sale of fertilizer, soil amendment, or plant amendment, includes:

- (1) the act of selling, transferring ownership;
- (2) the offering and exposing for sale, exchange, distribution, giving away, and transportation in, and into, this state;
- (3) the possession with intent to sell, exchange, distribute, give away or transport in, and into, this state;
- (4) the storing, carrying, and handling in aid of trafficking fertilizers, plant amendments, or soil amendments, whether done in person or through an agent, employee or others; and
- (5) receiving, accepting, and holding of consignment for sale.

Subd. 31. **Sewage sludge.** "Sewage sludge" means the solids and associated liquids in municipal wastewater that 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.

Subd. 32. **Site.** "Site" includes land and water areas, air space, and plants, animals, structures, buildings, contrivances, and machinery, whether fixed or mobile, including anything used for transportation.

Subd. 33. **Soil amendment.** "Soil amendment" means a substance intended to improve the physical characteristics of the soil, except fertilizers, agricultural liming materials, pesticides, and other materials exempted by the commissioner's rules.

Subd. 34. **Specialty fertilizer.** "Specialty fertilizer" means a fertilizer labeled and distributed for, but not limited to, the following uses: commercial gardening, greenhouses, nurseries, sod farms, home gardens, house plants, lawn fertilizer that is not custom applied, shrubs, golf courses, municipal parks, cemeteries, and research or experimental uses.

Subd. 35. **Substantially altering.** "Substantially altering" means modifying a facility by adding additional safeguards or storage containers, or changing existing storage containers, safeguards, appurtenances, or piping. This does not include routine maintenance of existing safeguards, storage containers, appurtenances, and piping or of existing mixing, blending, weighing, and handling equipment.

Subd. 36. **Ton.** "Ton" means a net ton of 2,000 pounds avoirdupois.

Subd. 37. **Unreasonable adverse effects on the environment.** "Unreasonable adverse effects on the environment" means an unreasonable risk to humans or the environment, taking into account the economic, social, and environmental costs and benefits of the use of a fertilizer.

Subd. 38. **Wildlife.** "Wildlife" means living things that are not human, domesticated, or pests.

**History:** 1989 c 326 art 6 s 2

## GENERAL PROVISIONS

### 18C.105 ADMINISTRATION.

The commissioner of agriculture shall administer this chapter.

**History:** 1989 c 326 art 6 s 3

**18C.111 POWERS AND DUTIES OF COMMISSIONER.**

Subdivision 1. **Administration by commissioner.** The commissioner shall administer, implement, and enforce this chapter and the department of agriculture is the lead state agency for the regulation of fertilizer, including storage, handling, distribution, use, and disposal of fertilizer.

Subd. 2. **Delegation of duties.** The commissioner may delegate duties under this chapter to designated employees or agents of the department of agriculture.

Subd. 3. **Delegation to approved agencies.** The commissioner may, by written agreements, delegate specific inspection, enforcement, and other regulatory duties of this chapter to officials of other agencies. The delegation may only be made to a state agency, a political subdivision, or a political subdivision's agency that has signed a joint powers agreement with the commissioner as provided in section 471.59.

**History:** 1989 c 326 art 6 s 4

**18C.115 ADOPTION OF NATIONAL STANDARDS.**

Subdivision 1. **Policy of uniformity.** It is the policy of this state to achieve and maintain uniformity as much as possible with national standards and with other states in the regulation and control of the manufacture, distribution, and sale of fertilizer in this state.

Subd. 2. **Adoption of national standards.** Applicable national standards contained in the 1989 official publication, number 42, of the association of American plant food control officials including the rules and regulations, statements of uniform interpretation and policy, and the official fertilizer terms and definitions, and not otherwise adopted by the commissioner, may be adopted as fertilizer rules of this state.

**History:** 1989 c 326 art 6 s 5

**18C.121 RULES.**

Subdivision 1. **Administration.** The commissioner may adopt emergency or permanent rules necessary to implement and enforce this chapter. The rules must conform to national standards in a manner that is practicable and consistent with state law.

Subd. 2. **Liming materials.** The commissioner may adopt rules governing the labeling, registration, and distribution of liming materials sold for agricultural purposes.

Subd. 3. **Certification of laboratories.** The commissioner may adopt rules establishing procedures and requirements for certification of soil and plant food testing laboratories operating in or outside of the state for the benefit of state residents. The rules shall include but not be limited to standardization of procedures and recommendations relating to application of plant food materials. Basic data and reference material for establishment of rules will include but not be limited to findings of the University of Minnesota soil testing laboratory.

Subd. 4. **Hearings.** Hearings authorized or required by law must be conducted by the commissioner or an officer, agent, or employee the commissioner designates.

**History:** 1989 c 326 art 6 s 6

**18C.131 FERTILIZER INSPECTION ACCOUNT.**

A fertilizer inspection account is established in the state treasury. The fees collected under this chapter must be deposited in the state treasury and credited to the fertilizer inspection account. Money in that account, including interest earned and money appropriated for the purposes of this chapter, is annually appropriated to the commissioner for the administration of this chapter.

**History:** 1989 c 326 art 6 s 7

**18C.135 APPLICATION OF REQUIREMENTS TO SEWAGE SLUDGE AND COMPOST.**

Subdivision 1. **Sewage sludge without charge exempt.** Sewage sludge that is transferred between parties without compensation is exempt from the requirements of this chapter except the labeling requirements of this chapter.

Subd. 2. **Sewage sludge analysis meets labeling requirements.** A copy of the sewage sludge analysis required by the rules of the pollution control agency is sufficient to meet the labeling requirements.

Subd. 3. **Compost without charge exempt.** Compost that is transferred between parties without compensation is exempt from all requirements of this chapter.

**History:** 1989 c 326 art 6 s 8

**18C.141 SOIL TESTING LABORATORY CERTIFICATION.**

Subdivision 1. **Program establishment.** The commissioner shall establish a program to certify the accuracy of analyses from soil testing laboratories and promote standardization of soil testing procedures and analytical results.

Subd. 2. **Check sample system.** (a) The commissioner shall institute a system of check samples that requires a laboratory to be certified to analyze at least four multiple soil check samples during the calendar year. The samples must be supplied by the commissioner or by a person under contract with the commissioner to prepare and distribute the samples.

(b) Within 30 days after the laboratory receives check samples, the laboratory shall report to the commissioner the results of the analyses for all requested elements or compounds or for the elements or compounds the laboratory makes an analytical determination of as a service to others.

(c) The commissioner shall compile analytical data submitted by laboratories and provide laboratories submitting samples with a copy of the data without laboratory names or code numbers.

(d) The commissioner may conduct check samples on laboratories that are not certified.

Subd. 3. **Analyses reporting standards.** (a) The results obtained from soil or plant analysis must be reported in accordance with standard reporting units established by the commissioner by rule. The standard reporting units must conform as far as practical to uniform standards that are adopted on a regional or national basis.

(b) If a certified laboratory offers a recommendation, the University of Minnesota recommendation or that of another land grant college in a contiguous state must be offered in addition to other recommendations, and the source of the recommendation must be identified on the recommendation form. If relative levels such as low, medium, or high are presented to classify the analytical results, the corresponding relative levels based on the analysis as designated by the University of Minnesota or the land grant college in a contiguous state must also be presented.

Subd. 4. **Revocation of certification.** If the commissioner determines that analysis being performed by a laboratory is inaccurate as evidenced by check sample results, the commissioner may deny, suspend, or revoke certification.

Subd. 5. **Certification fees.** (a) A laboratory applying for certification shall pay an application fee of \$100 and a certification fee of \$100 before the certification is issued.

(b) Certification is valid for one year and the renewal fee is \$100. The commissioner shall charge an additional application fee of \$100 if a certified laboratory allows certification to lapse before applying for renewed certification.

(c) The commissioner shall notify a certified lab that its certification lapses within 30 to 60 days of the date when the certification lapses.

Subd. 6. **Rules.** The commissioner shall adopt rules for the establishment of minimum standards for laboratories, equipment, procedures, and personnel used in soil analysis and rules necessary to administer and enforce this section. The commis-

sioner shall consult with representatives of the fertilizer industry, representatives of the laboratories doing business in this state, and with the University of Minnesota college of agriculture before proposing rules.

**History:** 1989 c 326 art 6 s 9

### SALE, USE, AND STORAGE

#### 18C.201 PROHIBITED FERTILIZER ACTIVITIES.

**Subdivision 1. Storage, handling, distribution, or disposal.** A person may not store, handle, distribute, or dispose of a fertilizer, rinsate, fertilizer container, or fertilizer application equipment in a manner:

- (1) that endangers humans, damages agricultural products, food, livestock, fish, or wildlife;
- (2) that will cause unreasonable adverse effects on the environment; or
- (3) that will cause contamination of public or other waters of the state, as defined in section 105.37, subdivisions 7 and 14, from backsiphoning or backflowing of fertilizers through water wells or from the direct flowage of fertilizers.

**Subd. 2. Use of public water supplies for filling equipment.** A person may not fill fertilizer application equipment directly from a public water supply, as defined in section 144.382, unless the outlet from the public water supply is equipped with a backflow prevention device that complies with Minnesota Rules, parts 4715.2000 to 4715.2280.

**Subd. 3. Use of public waters for filling equipment.** A person may not fill fertilizer application equipment directly from public or other waters of the state, as defined in section 105.37, subdivisions 7 and 14, unless the equipment contains proper and functioning anti-backsiphoning mechanisms.

**Subd. 4. Cleaning equipment in or near surface water.** A person may not:

- (1) clean fertilizer application equipment in surface waters of the state; or
- (2) fill or clean fertilizer application equipment adjacent to surface waters, ditches, or wells where, because of the slope or other conditions, fertilizers or materials contaminated with fertilizers could enter or contaminate the surface waters, groundwater, or wells, as a result of overflow, leakage, or other causes.

**Subd. 5. Fertilizer, rinsate, and container disposal.** A person may only dispose of fertilizer, rinsate, and fertilizer containers in accordance with this chapter. The manner of disposal must not cause unreasonable adverse effects on the environment.

**History:** 1989 c 326 art 6 s 10

#### 18C.205 CHEMIGATION.

**Subdivision 1. Authorization.** The commissioner may issue chemigation permits for irrigation to be used to apply fertilizers on crops and land, including agricultural, nursery, turf, golf course, and greenhouse sites.

**Subd. 2. Permit required.** A person may not apply fertilizers through an irrigation system without a chemigation permit from the commissioner. A chemigation permit is required for one or more wells that are protected from contamination by the same devices.

**Subd. 3. Application.** (a) A person must apply for a chemigation permit on forms prescribed by the commissioner.

(b) A person initially applying for a chemigation permit must pay a nonrefundable application fee of \$50. A person who holds a valid pesticide chemigation permit as required in chapter 18B is exempt from the fee in this subdivision.

**Subd. 4. Permit requirements.** An irrigation system operating under a chemigation permit must be fitted with effective antisiphon devices or check valves that prevent the backflow of fertilizers or fertilizer-water mixtures into water supplies or other materials

during times of irrigation system failure or equipment shutdown. The devices or valves must be installed between:

- (1) the irrigation system pump or other source discharge and the point of fertilizer injection; and
- (2) the point of fertilizer injection and the fertilizer supply.

Subd. 5. **Rules.** The commissioner shall adopt rules prescribing conditions and restrictions for applying fertilizers by irrigation.

**History:** 1989 c 326 art 6 s 11

### 18C.211 GUARANTEED ANALYSIS.

Subdivision 1. **N, P, and K nutrient content stated.** (a) Until the commissioner prescribes the alternative form of guaranteed analysis, it must be stated as provided in this subdivision.

(b) A guaranteed analysis must state the percentage of plant nutrient content, if claimed, in the following form:

"Total Nitrogen (N)	..... percent
Available Phosphoric Acid (P <sub>2</sub> O <sub>5</sub> )	..... percent
Soluble Potash (K <sub>2</sub> O)	..... percent"

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

Subd. 2. **Guarantees of the nutrients.** (a) A person may guarantee plant nutrients other than nitrogen, phosphorus, and potassium only if allowed or required by commissioner's rule.

(b) The guarantees for the plant nutrients must be expressed in the elemental form.

(c) The sources of 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.

(d) If plant nutrients or other substances or compounds are guaranteed, the plant nutrients are subject to inspection and analyses in accord with the methods and rules prescribed by the commissioner.

(e) The commissioner may, by rule, require the potential basicity or acidity expressed in terms of calcium carbonate equivalent in multiples of 100 pounds per ton.

Subd. 3. **Form for analyses.** (a) The commissioner may require a guaranteed analysis to be in a prescribed form if the commissioner determines 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 because of conflicting labeling requirements among the states.

(b) The commissioner must give proper notice and hold a public hearing before the determination is made.

(c) After making the determination under paragraph (a), the commissioner may require by rule that guaranteed analyses be in the following form:

"Total Nitrogen (N)	..... percent
Available Phosphorus (P)	..... percent
Soluble Potassium (K)	..... percent"

(d) In adopting the rule, the commissioner must provide that:

- (1) the effective date of the rule is at least one year after the rule is adopted; and
- (2) for a period of two years following the effective date of the rule, the equivalent of phosphorus and potassium may also be shown in the form of phosphoric acid and potash.

(e) After the effective date of the rule requiring that phosphorus and potassium be

shown in the elemental form, the guaranteed analysis for nitrogen, phosphorus, and potassium constitutes the grade.

Subd. 4. **Guaranteed analysis of soil or plant amendment.** The guaranteed analysis of a soil amendment or plant amendment must be 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.

**History:** 1989 c 326 art 6 s 12

### 18C.215 FERTILIZER LABELING.

Subdivision 1. **Label contents.** (a) A person may not sell or distribute fertilizer in bags or other containers in this state unless a label is placed on or affixed to the bag or container stating in a clear, legible, and conspicuous form the following information:

(1) the net weight;

(2) the brand and grade, except (i) the grade is not required if primary nutrients are not claimed, and (ii) the grade on the label is optional if the fertilizer is used only for agricultural purposes and the guaranteed analysis statement is shown in the complete form as in section 18C.211;

(3) the guaranteed analysis;

(4) the name and address of the guarantor;

(5) directions for use; and

(6) a derivatives statement.

(b) The labeled information must appear:

(1) on the face or display side of the container in a conspicuous form;

(2) on the upper one-third of the side of the container;

(3) on the upper end of the container; or

(4) printed on tags affixed conspicuously to the upper end of the container.

Subd. 2. **Blended and mixed fertilizer.** (a) A distributor who blends or mixes fertilizer to a customer's order without a guaranteed analysis of the final mixture must furnish each purchaser with an invoice or delivery ticket in written or printed form showing the net weight and guaranteed analysis of each of the materials used in the mixture.

(b) The invoice or delivery ticket must accompany the delivery.

(c) Records of invoices or delivery tickets must be kept for five years after the delivery or application.

Subd. 3. **Bulk fertilizer.** If fertilizer is transported or distributed in bulk, the information in subdivision 1, paragraph (a), must accompany each delivery in written or printed form and be supplied to each purchaser at time of delivery.

Subd. 4. **Plant food content must be uniform.** The plant food content of a given lot of fertilizer must remain uniform and may not become segregated within the lot.

Subd. 5. **Fertilizer in bulk storage.** Fertilizer in bulk storage must be identified with a label attached to the storage bin or container stating the appropriate grade or guaranteed analysis.

**History:** 1989 c 326 art 6 s 13

### 18C.221 FERTILIZER PLANT FOOD CONTENT.

(a) Products that are deficient in plant food content are subject to this subdivision.

(b) An analysis must show that a fertilizer is deficient:

(1) in one or more of its guaranteed primary plant nutrients beyond the investigational allowances and compensations as established by regulation; or

(2) if the overall index value of the fertilizer is shown below the level established by rule.

(c) A deficiency in an official sample of mixed fertilizer resulting from nonuniformity is not distinguishable from a deficiency due to actual plant nutrient shortage and is properly subject to official action.

(d) For the purpose of determining the commercial index value to be applied, the commissioner shall determine at least annually the values per unit of nitrogen, available phosphoric acid, and soluble potash in fertilizers in this state.

(e) If a fertilizer in the possession of the consumer is found by the commissioner to be short in weight, the registrant or licensee of the fertilizer must submit a penalty payment of two times the value of the actual shortage to the consumer within 30 days after official notice from the commissioner.

**History:** 1989 c 326 art 6 s 14

### 18C.225 MISBRANDED PRODUCTS.

Subdivision 1. **Sale and distribution prohibited.** A person may not sell or distribute a misbranded fertilizer, soil amendment, or plant amendment.

Subd. 2. **Factors causing misbranding.** A fertilizer, soil amendment, or plant amendment is misbranded if:

(1) it carries a false or misleading statement on the container, on the label attached to the container; or

(2) false or misleading statements concerning the fertilizer, soil amendment, or plant amendment are disseminated in any manner or by any means.

**History:** 1989 c 326 art 6 s 15

### 18C.231 ADULTERATION.

Subdivision 1. **Sale and distribution prohibited.** A person may not sell or distribute an adulterated fertilizer, soil amendment, or plant amendment product.

Subd. 2. **Factors causing adulteration.** A fertilizer, soil amendment, or plant amendment is adulterated if:

(1) it contains a deleterious or harmful ingredient in an amount to render it injurious to plant life if applied in accordance with directions for use on the label;

(2) the composition falls below or differs from that which the product is purported to possess by its labeling; or

(3) the product contains unwanted crop seed or weed seed.

Subd. 3. **Certain adulterated products must be disposed.** Adulterated products that cannot be reconditioned must be disposed of according to methods approved by the commissioner.

**History:** 1989 c 326 art 6 s 16

## FACILITIES

### 18C.235 CONTINGENCY PLAN FOR STORAGE OF BULK PRODUCTS.

Subdivision 1. **Plan required.** A person who stores fertilizers, soil amendment, or plant amendment products in bulk must develop and maintain a contingency plan that describes the storage, handling, disposal, and incident handling practices.

Subd. 2. **Plan availability.** (a) The plan must be kept at a principal business site or location within this state and must be submitted to the commissioner upon request.

(b) The plan must be available for inspection by the commissioner.

**History:** 1989 c 326 art 6 s 17

### 18C.301 MIXING PESTICIDE WITH FERTILIZER, SOIL AMENDMENT, OR PLANT AMENDMENT.

A distributor who blends, mixes, or otherwise adds pesticides to fertilizers, soil amendments, or plant amendments must:

(1) be licensed under section 18C.415; and

(2) comply with the provisions of chapter 18B and the federal Insecticide, Fungicide and Rodenticide Act, Public Law Number 92-516, as amended.

**History:** 1989 c 326 art 6 s 18

### 18C.305 FERTILIZER FACILITIES.

Subdivision 1. **Construction permit.** A person must obtain a permit from the commissioner on forms provided by the commissioner before the person constructs or substantially alters:

(1) safeguards; or

(2) an existing facility used for the manufacture, blending, handling, or bulk storage of fertilizers, soil amendments, or plant amendments. The commissioner may not grant a permit for a site without safeguards that are adequate to prevent the escape or movement of the fertilizers from the site.

Subd. 2. **Permit fees.** (a) An application for a new facility must be accompanied by a nonrefundable application fee of \$100 for each location where fertilizer is stored.

(b) An application to substantially alter a facility must be accompanied by a nonrefundable \$50 fee.

(c) In addition to the fees under paragraphs (a) and (b), a fee of \$250 must be paid by an applicant who begins construction or substantial alteration before a permit is issued.

(d) An application for a facility that includes both fertilizers, as regulated under this chapter, and pesticides as regulated under chapter 18B shall pay only one application fee of \$100.

**History:** 1989 c 326 art 6 s 19

## REGISTRATION AND LICENSING

### 18C.401 GENERAL LICENSING AND REGISTRATION CONDITIONS.

Subdivision 1. **Substantiation of claims.** The commissioner may require a person applying for a license or registration to manufacture or distribute a product for use in this state to submit authentic experimental evidence or university research data to substantiate the claims made for the product. The commissioner may rely on experimental data, evaluations, or advice furnished by experts at the University of Minnesota as evidence to substantiate claims and may accept or reject additional sources of evidence in evaluating a fertilizer, soil amendment, or plant amendment. The experimental evidence must relate to conditions in this state for which the product is intended. The commissioner may also require evidence of value when used as directed or recommended.

Subd. 2. **Insufficient evidence.** If the commissioner determines that the evidence submitted does not substantiate the product's usefulness in this state, the commissioner may require the applicant to submit samples, conduct tests, or submit additional information, including conditions affecting performance, to evaluate the product's performance and usefulness.

Subd. 3. **Refusal to license or register.** The commissioner may refuse to license a person or register a specialty fertilizer, soil amendment, or plant amendment if:

(1) the application for license or registration is not complete;

(2) the commissioner determines that the fertilizer, soil amendment, plant amendment, or other additive with substantially the same contents will not or is not likely to produce the results or effects claimed if used as directed;

(3) the commissioner determines that the fertilizer, soil amendment, plant amendment, or other additive with substantially the same contents is not useful in this state;

or

(4) the facility does not properly safeguard for bulk storage.

**Subd. 4. Conditional license and registration.** (a) After reviewing an application accompanied by the application fee, the commissioner may issue a conditional license or registration:

- (1) to prevent unreasonable adverse effects on the environment; or
  - (2) if the commissioner determines that the applicant needs the license or registration to accumulate information necessary to substantiate claims; or
  - (3) to correct minor label violations.
- (b) The commissioner may prescribe terms, conditions, and a limited period of time for the conditional license or registration.

(c) The commissioner may revoke or modify a conditional license or registration if the commissioner finds that the terms or conditions are being violated or are inadequate to avoid unreasonable adverse effects on the environment.

(d) The commissioner may deny issuance of a conditional license or registration if the commissioner determines that issuance of a license or registration is not warranted or that the use to be made of the product under the proposed terms and conditions may cause unreasonable adverse effects on the environment.

**History:** 1989 c 326 art 6 s 20

#### **18C.405 PROTECTION OF TRADE SECRETS.**

**Subdivision 1. Notation of protected information.** In submitting data required by this chapter, the applicant may:

- (1) clearly mark any portions that in the applicant's opinion are trade secrets, or commercial or financial information; and
- (2) submit the marked material separately from other material.

**Subd. 2. Protection of information by commissioner.** (a) After consideration of the applicant's request submitted under subdivision 1, the commissioner may not allow the information to become public that the commissioner determines to contain or relate to trade secrets or to commercial or financial information obtained from an applicant. If necessary, information relating to formulas of products may be revealed to a state or federal agency consulted with similar protection of trade secret authority and may be revealed at a public hearing or in findings of facts issued by the commissioner.

(b) If the commissioner proposes to release information that the applicant or registrant believes to be protected from disclosure under paragraph (a), the commissioner must notify the applicant or registrant by certified mail. The commissioner may not make the information available for inspection until 30 days after receipt of the notice by the applicant or registrant. During this period, the applicant or registrant may begin an action in an appropriate court for a declaratory judgment as to whether the information is subject to protection under this section.

**History:** 1989 c 326 art 6 s 21

#### **18C.411 REGISTRATION OF SPECIALTY FERTILIZERS, SOIL AMENDMENTS, AND PLANT AMENDMENTS.**

**Subdivision 1. Registration required.** (a) A person may not sell brands or grades of specialty fertilizers, soil amendments, or plant amendments in this state unless they are registered with the commissioner.

(b) Registration of the materials is not a warranty by the commissioner or the state.

(c) Specialty fertilizers custom applied are exempt from the registration requirements of this section.

**Subd. 2. Application.** The application for registration must include:

- (1) for specialty fertilizers:
  - (i) the name and address of the guarantor and registrant;

- (ii) the brand and grade;
- (iii) the guaranteed analysis as required by section 18C.211;
- (iv) the sources from which nitrogen, phosphorus, potassium, or other elements or materials are derived; and
- (v) the amount and formulas of inert ingredients; and
- (2) for soil amendments and plant amendments:
  - (i) the name and address of the guarantor and registrant;
  - (ii) the brand name;
  - (iii) the sources from which the ingredients used in the product are derived; and
  - (iv) the guaranteed analysis as required by section 18C.211.

**Subd. 3. Copy of label, and labeling material.** Application for registration of a specialty fertilizer, a soil amendment, or a plant amendment must include:

- (1) a label or label facsimile of each product for which registration is requested; and
- (2) a copy of all labeling material used in this state for promotion and sale of each product being registered.

**Subd. 4. Yearly registration.** A registration is effective until January 1 following the date of issuance or approval. A product registration is not transferable from one person to another or from the ownership to whom the registration is issued to another ownership.

**History:** 1989 c 326 art 6 s 22

#### **18C.415 FERTILIZER LICENSES.**

**Subdivision 1. License required.** (a) A person may not sell or distribute bulk fertilizers for use on agricultural lands, custom apply fertilizers, or manufacture, blend, or otherwise manipulate fertilizers without obtaining a license from the commissioner from each fixed location where the person does business within the state and one license for all fixed locations that are located outside of the state.

(b) A distributor may not manipulate fertilizer by means of a mobile mechanical unit without a license from the commissioner for each mobile mechanical unit.

**Subd. 2. Copy of label and labeling material.** Application for license must include:

- (1) a designation of the formula such as is provided on an invoice, delivery ticket, label, or label facsimile, for each product manufactured or formulated; and
- (2) a copy of all labeling material used in this state for promotion of each product manufactured or formulated.

**Subd. 3. Effective period.** Other licenses are for the period from January 1 to the following December 31 and must be renewed annually by the licensee before January 1. A license is not transferable from one person to another, from the ownership to whom issued to another ownership, or from one location to another location.

**Subd. 4. Posting of license.** The license must be posted in a conspicuous place in each fixed location in this state and accompany each mobile mechanical unit operated in this state.

**History:** 1989 c 326 art 6 s 23

#### **18C.421 DISTRIBUTOR'S TONNAGE REPORT.**

**Subdivision 1. Semiannual statement.** (a) Each licensed distributor of fertilizer and each registrant of a specialty fertilizer, soil amendment, or plant amendment must file a semiannual statement for the periods ending December 31 and June 30 with the commissioner on forms furnished by the commissioner stating the number of net tons of each brand or grade of fertilizer, soil amendment, or plant amendment distributed in this state during the reporting period.

(b) A report from a licensee who sells to an ultimate consumer must be accompa-

nied by records or invoice copies indicating the name of the distributor who paid the inspection fee, the net tons received, and the grade or brand name of the products received.

(c) The report is due on or before the last day of the month following the close of each reporting period of each calendar year.

(d) The inspection fee at the rate stated in section 18C.425, subdivision 6, must accompany the statement.

**Subd. 2. Additional reports.** The commissioner may by rule require additional reports for the purpose of gathering statistical data relating to fertilizer, soil amendments, and plant amendments distribution in the state.

**Subd. 3. Late report and fee penalty.** (a) If a distributor does not file the semiannual statement or pay the inspection fees by 31 days after the end of the reporting period, the commissioner shall assess a penalty of the greater of \$25 or ten percent of the amount due against the licensee or registrant.

(b) The fees due, plus the penalty, may be recovered in a civil action against the licensee or registrant.

(c) The assessment of the penalty does not prevent the commissioner from taking other actions as provided in this chapter.

**Subd. 4. Responsibility for inspection fees.** If more than one person is involved in the distribution of a fertilizer, soil amendment, or plant amendment, the distributor who imports, manufactures, or produces the fertilizer or who has the specialty fertilizer, soil amendment, or plant amendment registered is responsible for the inspection fee on products produced or brought into this state. The distributor must separately list the inspection fee on the invoice to the licensee. The last licensee must retain the invoices showing proof of inspection fees paid for three years and must pay the inspection fee on products brought into this state before July 1, 1989, unless the reporting and paying of fees have been made by a prior distributor of the fertilizer.

**Subd. 5. Verification of statements.** The commissioner may verify the records on which the statement of tonnage is based.

*History: 1989 c 326 art 6 s 24*

### 18C.425 REGISTRATION, LICENSE, AND INSPECTION FEES.

**Subdivision 1. Application fees.** (a) An application for other licenses for each fixed location to be covered by the license within the state must be accompanied by a \$100 fee.

(b) An application for a license for all fixed locations of a firm outside of the state must be accompanied by a fee of \$100.

(c) An application for a license to cover mobile mechanical units must be accompanied by a fee of \$100 for the first unit operated by one distributor and \$50 for each additional mobile mechanical unit.

**Subd. 2. Specialty fertilizer registration.** An application for registration of a specialty fertilizer must be accompanied by a registration fee of \$100 for each brand and grade to be sold or distributed as provided in section 18C.411.

**Subd. 3. Soil amendment and plant amendment registration.** An application for registration of a soil amendment or plant amendment must be accompanied by a registration fee of \$200 for each brand sold or distributed as provided in section 18C.411.

**Subd. 4. Fee for late application.** If an application for renewal of a fertilizer license or registration of a specialty fertilizer, soil amendment, or plant amendment is not filed before January 1 or July 1 of a year, as required, an additional application fee of one-half of the amount due must be paid before the renewal license or registration may be issued.

**Subd. 5. Fee for product use without initial registration or license.** An additional application fee equal to the amount due must be paid by an applicant for each license

or registration required for products distributed or used in this state before an initial license or registration for the products distributed or used is issued by the commissioner.

**Subd. 6. Inspection fees.** A person who sells or distributes fertilizers, soil amendments, or plant amendments in this state must pay an inspection fee amounting to the greater of 15 cents per ton of fertilizer, soil amendment, and plant amendment sold or distributed in this state or \$10. Products sold or distributed to manufacturers or exchanged between them are exempt from the inspection fee imposed by this subdivision if the products are used exclusively for manufacturing purposes.

**History:** 1989 c 326 art 6 s 25

## INDUSTRIAL BY-PRODUCT SOIL BUFFERING MATERIALS

### 18C.501 DEFINITIONS.

**Subdivision 1. Applicability.** The definitions in this section apply to sections 18C.501 to 18C.525.

**Subd. 2. Commissioner.** "Commissioner" means the commissioner of agriculture.

**Subd. 3. Industrial by-product soil buffering material.** "Industrial by-product soil buffering material" means an industrial waste or by-product or the by-product of municipal water treatment processes containing calcium or magnesium or both in a form that may neutralize soil acidity.

**Subd. 4. Limestone.** "Limestone" means a material consisting essentially of calcium carbonate or a combination of calcium carbonate with magnesium carbonate capable of neutralizing soil acidity.

**Subd. 5. Soil buffering materials.** "Soil buffering materials" means materials whose calcium or magnesium or both are capable of neutralizing soil acidity.

**Subd. 6. Stockpile.** "Stockpile" means a supply of agricultural soil buffering material stored for future use.

**Subd. 7. TNP.** "TNP" means total neutralizing power and is the number of pounds of neutralizing value in one ton of a soil buffering material.

**History:** 1989 c 326 art 6 s 26

**NOTE:** This section is repealed effective June 30, 1991. See Laws 1989, chapter 326, article 6, section 34.

### 18C.505 SOIL BUFFERING DEMONSTRATION PROJECT AND STUDY.

**Subdivision 1. Purpose.** The purpose of the demonstration project required under sections 18C.501 to 18C.525 is to identify appropriate and mutually beneficial methods for the use of industrial by-product soil buffering materials. Proper use will minimize current waste disposal problems, provide a market for an underutilized resource, and make available to farmers an effective, low-cost soil buffering product.

**Subd. 2. Authority.** The commissioner shall coordinate the design and implementation of a demonstration project to examine the technical feasibility, economic benefits, and environmental impacts of using industrial by-product soil buffering materials as a substitute for limestone and other traditional soil buffering materials.

**Subd. 3. Procedures developed.** The demonstration project must identify and recommend as proposed standards appropriate procedures for the sampling, analysis, TNP labeling, storage, stockpiling, transportation, and application of industrial by-product soil buffering materials. After TNP labeling standards have been established, they must be provided to the landowner or tenant prior to land application or stockpiling.

**Subd. 4. Scope.** The demonstration project must be on a scale deemed by the commissioner to be efficient and manageable while providing the greatest practicable use of industrial by-product soil buffering materials for agricultural purposes.

**History:** 1989 c 326 art 6 s 27

**NOTE:** This section is repealed effective June 30, 1991. See Laws 1989, chapter 326, article 6, section 34.

**18C.511 RESPONSIBILITIES OF THE COMMISSIONER.**

Subdivision 1. **Broad participation.** The commissioner shall seek participation in the demonstration project by other persons, institutions, and organizations having an interest in soil buffering materials and industrial by-product soil buffering materials including the pollution control agency, one or more counties, one or more soil and water conservation districts, and the University of Minnesota.

Subd. 2. **Public education.** The commissioner shall seek to maximize the public education benefit of the demonstration program.

**History:** 1989 c 326 art 6 s 28

**NOTE:** This section is repealed effective June 30, 1991. See Laws 1989, chapter 326, article 6, section 34.

**18C.515 ENVIRONMENTAL CONTROLS.**

Subdivision 1. **Sampling and analysis.** The commissioner and the commissioner's agents may sample, inspect, make analysis of, and test industrial by-product soil buffering materials used in the demonstration project and study at a time and place and to an extent the commissioner considers necessary to determine whether the industrial by-product soil buffering materials are suitable for the project. The commissioner and the commissioner's agents may enter public or private premises where demonstration projects are being conducted in order to have access to:

- (1) soil buffering materials used in the demonstration project;
- (2) sampling of sites actually or reportedly exposed to industrial by-product soil buffering materials;
- (3) inspection of storage, handling, transportation, use, or disposal areas of industrial by-product soil buffering materials;
- (4) inspection or investigation of complaints of injury to humans, wildlife, domesticated animals, crops, or the environment;
- (5) observation of the use and application of the soil buffering material;
- (6) inspection of records related to the production, transportation, stockpiling, use, or disposal of industrial by-product soil buffering material; and
- (7) other purposes necessary to implement sections 18C.501 to 18C.525.

Subd. 2. **Receipt and report on samples.** Before leaving inspected premises, the commissioner shall provide the owner, operator, or agent in charge with a receipt describing any samples obtained. If an analysis is made of the samples, a copy of the results of the analysis must be furnished to the owner, operator, or agent in charge.

Subd. 3. **Emergency inspection.** The commissioner and the commissioner's agents may enter public or private property without a notice of inspection if a suspected incident involving industrial by-product soil buffering materials may threaten public health or the environment.

**History:** 1989 c 326 art 6 s 29

**NOTE:** This section is repealed effective June 30, 1991. See Laws 1989, chapter 326, article 6, section 34.

**18C.521 REPORT.**

The commissioner shall report to the committees on agriculture of the house of representatives and senate on March 1 of each year, about the activities, findings, and recommendations related to the demonstration project.

**History:** 1989 c 326 art 6 s 30

**NOTE:** This section is repealed effective June 30, 1991. See Laws 1989, chapter 326, article 6, section 34.

**18C.525 EXEMPTION.**

Sections 18C.501 to 18C.525 do not apply to industrial by-product soil buffering material produced at a facility if the University of Minnesota, North Central Experimental Station, has conducted a study of the material at that facility.

**History:** 1989 c 326 art 6 s 31

**NOTE:** This section is repealed effective June 30, 1991. See Laws 1989, chapter 326, article 6, section 34.