

TITLE 22
AGRICULTURE AND HORTICULTURE

CHAPTER 6
COMMERCIAL FERTILIZERS

22-601. TITLE. This chapter shall be known as the "Idaho Fertilizer Act of 2000."

[22-601, added 2000, ch. 295, sec. 2, p. 1012.]

22-602. ADMINISTRATION. The Idaho state department of agriculture, hereinafter referred to as the "department," shall administer this chapter.

[22-602, added 2000, ch. 295, sec. 2, p. 1012; am. 2001, ch. 147, sec. 1, p. 516.]

22-603. DEFINITIONS. When used in this chapter:

(1) "Biosolid(s)" means a primary organic solid material produced by wastewater treatment processes that can be beneficially recycled for its plant nutrient content and soil amending characteristics, as regulated under the code of federal regulations, 40 CFR 503, as amended.

(2) "Brand" means a term, design, or trademark used in connection with one (1) or several grades of fertilizer.

(3) "Calcium carbonate equivalent" means the acid-neutralizing capacity of an agricultural liming material expressed as a weight percentage of calcium carbonate.

(4) "Compost" means a biologically stable material derived from the composting process.

(5) "Composting" means the biological decomposition of organic matter. It is accomplished by mixing and piling in such a way to promote aerobic and/or anaerobic decay. The process inhibits pathogens, viable weed seeds and odors.

(6) "Coproduct" means a chemical substance produced for a commercial purpose during the manufacture, processing, use or disposal of another chemical substance or mixture.

(7) "Deficiency" means the amount of nutrient found by analysis to be less than that guaranteed, which may result from a lack of nutrient ingredients or from lack of uniformity.

(8) "Department" means the Idaho state department of agriculture or its authorized representative.

(9) "Distribute" means to import, consign, manufacture, produce, compound, mix, or blend fertilizer, or to offer for sale, sell, barter or otherwise distribute or supply fertilizer in this state.

(10) "Distributor" means any person who distributes.

(11) "Fertilizer" means any substance containing one (1) or more recognized plant nutrient which is used for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth, and includes limes and gypsum. It does not include unmanipulated animal manure and vegetable organic waste-derived material, or biosolids regulated under the code of federal regulations, 40 CFR 503, as amended.

(a) "Bulk fertilizer" means a fertilizer distributed in a nonpackaged form.

(b) "Customer formula fertilizer" means a mixture of fertilizer or materials of which each batch is mixed according to the specific instructions of the final purchaser.

(c) "Fertilizer material" means a fertilizer which either:

(i) Contains important quantities of no more than one (1) of the primary plant nutrients: nitrogen (N), phosphate (P_2O_5) and potash (K_2O), or

(ii) Has eighty-five percent (85%) or more of its plant nutrient content present in the form of a single chemical compound, or

(iii) Is derived from a plant or animal residue or byproduct or natural material deposit which has been processed in such a way that its content of plant nutrients has not been materially changed except by purification and concentration.

(d) "Micronutrient fertilizer" means a fertilizer that contains valuable concentrations of micronutrients, but does not contain valuable concentrations of total nitrogen (N), available phosphate (P_2O_5), soluble potash (K_2O), calcium (Ca), magnesium (Mg), or sulfur (S).

(e) "Mixed fertilizer" means a fertilizer containing any combination or mixture of fertilizer materials.

(f) "Packaged fertilizer" means fertilizers, either agricultural or specialty, distributed in nonbulk form.

(g) "Specialty fertilizer" means a fertilizer distributed for nonagricultural use.

(h) "Waste-derived fertilizer" includes any commercial fertilizer derived from an industrial byproduct, coproduct or other material that would otherwise be disposed of if a market for reuse were not an option, but does not include fertilizers derived from biosolids or biosolid products regulated under the code of federal regulations, 40 CFR 503, as amended.

(12) "Grade" means the percentage of total nitrogen, available phosphate, and soluble potash stated in whole numbers in the same terms, order, and percentages as in the guaranteed analysis. Provided however, that specialty fertilizers may be guaranteed in fractional units of less than one percent (1%) of total nitrogen, available phosphate, and soluble potash: provided further, that fertilizer materials, bone meal, and similar materials may be guaranteed in fractional units.

(13) "Guaranteed analysis" means the minimum percentage of plant nutrients claimed, for a total nitrogen, available phosphate, or soluble potash fertilizer, consistent with the grade and in the following order and form:

(a) Total nitrogen	%
Available phosphate	%
Soluble potash	%

(b) Unless approved by the department, all fertilizer intended for agricultural use with a total nitrogen, available phosphate, or soluble potash guarantee shall contain five percent (5%) or more of available nitrogen, phosphate, or potash, singly, collectively, or in combination.

(c) For unacidulated mineral phosphatic materials and basic slag, the guaranteed analysis shall contain both total and available phosphate and the degree of fineness. For bone, tankage, and other organic phosphatic materials, the guaranteed analysis shall contain total and available phosphate.

(d) The guaranteed analysis for limes shall include the percentage of calcium or magnesium expressed as their carbonate; the calcium carbonate equivalent as determined by methods prescribed by the association of official analytical chemists, international (AOAC); and the minimum percentage of material that will pass respectively a one hundred (100) mesh, sixty (60) mesh, and ten (10) mesh sieve.

(e) The guarantees for nutrients other than total nitrogen, available phosphate and soluble potash shall be expressed in the form of the element. The source (oxides, salts, chelates, etc.) of such other nutrients may be required to be stated on the application for registration and shall be included on the label. Other beneficial substances or compounds, determinable by laboratory methods, also may be guaranteed by permission of the department. Other guarantees shall not be included with the guarantee for nutrients, but shall be listed separately as "nonnutrient substances." When any plant nutrients or other substances or compounds are guaranteed they shall be subject to inspection and analysis in accordance with the methods and rules prescribed by the department.

(f) In a fertilizer with the principal constituent of calcium sulfate (gypsum), the percentage of calcium sulfate ($\text{CaSO}_4 \cdot 2\text{H}_2\text{O}$) shall be given along with the percentage of total sulfur (S).

(14) "Investigational allowance" means an allowance for variations inherent in the taking, preparation and analysis of an official sample of fertilizer.

(15) "Label" means the display of all written, printed, or graphic matter, upon the immediate container, or a statement accompanying a fertilizer.

(16) "Labeling" means all written, printed, or graphic matter, upon or accompanying any fertilizer, or advertisements, brochures, posters, and television and radio announcements used in promoting the sale of such fertilizer.

(17) "Lime" means a substance or a mixture of substances, the principal constituent of which is calcium carbonate (CaCO_3), calcium hydroxide ($\text{Ca}(\text{OH})_2$), calcium oxide (CaO), magnesium carbonate (MgCO_3), magnesium hydroxide ($\text{Mg}(\text{OH})_2$) or magnesium oxide (MgO), singly or combined, and capable of neutralizing soil acidity.

(18) "Manipulation" means actively processed or treated in any manner.

(19) "Manufacture" means to compound, produce, granulate, mix, blend, repackage, or otherwise alter the composition of fertilizer materials.

(20) "Micronutrient" means boron (B), chlorine (Cl), cobalt (Co), copper (Cu), iron (Fe), manganese (Mn), molybdenum (Mo), nickel (Ni), sodium (Na), and zinc (Zn).

(21) "Official sample" means any sample of fertilizer taken by the director or his authorized agent and designated as "official" by the department.

(22) "Organic waste-derived material" means grass clippings, leaves, weeds, bark, plantings, prunings and other vegetative wastes, wood wastes from logging and milling operations, and food wastes. "Organic waste-derived material" does not include products that contain biosolids as defined in this section.

(23) "Packaged fertilizer" means fertilizers, either agricultural or specialty, distributed in nonbulk form.

(24) "Percent" or "percentage" means the percentage by weight.

(25) "Person" means an individual, partnership, association, firm or corporation.

(26) "Primary nutrient" means total nitrogen, available phosphate, and soluble potash.

(27) "Production" means to compound or fabricate a fertilizer through a physical or chemical process. Production does not include mixing, blending, or repackaging fertilizer products.

(28) "Registrant" means the person who registers fertilizer under the provisions of this act.

(29) "Storage container" means a container, including a railcar, nurse tank or other container that is used or intended for the storage of bulk liquid or dry fertilizer. It does not include a mobile container at a storage facility for less than fifteen (15) days if this storage is incidental to the loading or unloading of a storage container at the bulk fertilizer storage facility. Storage container does not include underground storage containers or surface impoundments such as lined ponds or pits.

(30) "Storage facility" means a location at which undivided quantities of liquid bulk fertilizer in excess of five hundred (500) U.S. gallons or undivided quantities of dry bulk fertilizer in excess of fifty thousand (50,000) pounds are held in a storage container. Temporary field storage of less than thirty (30) days is not considered a storage facility.

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

(32) "Tonnage-only distributor" means any person who assumes the responsibility for inspection fees and reports as provided for in sections [22-608](#)(1) and [22-609](#), Idaho Code. A tonnage-only distributor must register with the department on forms provided by the director. A tonnage-only distributor is subject to section [22-608](#), Idaho Code.

When not specifically stated in this section or otherwise designated by the department in rule, the department will be guided by the definitions of general terms, fertilizer materials and soil and plant amendment materials as set forth in the Official Publication of the Association of American Plant Food Control Officials (AAPFCO) or the Merck Index, published by Merck Co., Inc.

[22-603, added 2000, ch. 295, sec. 2, p. 1013; am. 2001, ch. 147, sec. 2, p. 516; am. 2008, ch. 131, sec. 1, p. 365.]

22-604. ADOPTION OF RULES. The department shall administer, enforce, and carry out the provisions of this chapter and may adopt rules necessary to carry out its purposes including, but not limited to, the proper use, handling, transportation, storage, display, distribution, sampling, records, analysis, form, minimum percentages, fertilizer ingredients, exempted materials, investigational allowances, definitions, labels, labeling, misbranding, mislabeling and disposal of fertilizers and their containers. The adoption of rules is subject to public hearing as prescribed by the Idaho administrative procedure act, [chapter 52, title 67](#), Idaho Code.

[22-604, added 2000, ch. 295, sec. 2, p. 1015; am. 2001, ch. 147, sec. 3, p. 519.]

22-605. REGISTRATION OF PRODUCTS AND STORAGE FACILITIES. (1) Registration of products.

(a) Each separately identifiable fertilizer product except individual customer-formula mixes shall be registered by the person who manufactures or distributes fertilizer into or within the state of Idaho before being offered for sale, sold, or otherwise distributed into or within this state. Companies planning to mix customer-formula fertilizers shall include the statement "customer-formula mixes" or "CFM" on the registration application form. The application for registration shall be submitted to the department on forms furnished by the department, and shall be accompanied by a nonrefundable fee of twenty-five dollars (\$25.00) per separately identifiable fertilizer product. Upon approval by the department, a certificate of registration shall be furnished to the applicant. All registrations expire on December 31 of each year. The application shall include the following information:

- (i) The brand, grade and product name for each product;
- (ii) The name and address of the registrant; and
- (iii) A current label meeting the requirements of section [22-607](#), Idaho Code, for each product.

(b) A distributor is not required to register any fertilizer that is already registered under this chapter, as long as the label remains unchanged.

(c) If an application for renewal of the product registration provided for in this section is not postmarked by January 31 of any one (1) year, a penalty of ten dollars (\$10.00) per product shall be assessed and added to the original fee and shall be paid by the applicant before the renewal registration certificate is issued.

(d) The department shall examine the fertilizer product registration application form and labels for conformance with the requirements of this chapter. If the application, information and appropriate labels are in proper form and contain all the required information, the fertilizer products shall be registered by the department and a certificate of registration shall be issued to the applicant. The department may refuse to register or, cancel the registration, of any fertilizer product which would be in violation of any provision of this chapter.

(e) In reviewing the fertilizer product registration application, the department may consider experimental data, manufacturers' evaluations, data from agricultural experiment stations' product review evaluations, and other authoritative sources to substantiate labeling claims. The data shall be from statistically designed and analyzed trials representative of the soil, crops, and climatic conditions found in the northwestern area of the United States.

(f) In determining whether approval of a label statement or guarantee of an ingredient is appropriate, the department may require the submission of a written statement describing the methodology of laboratory analysis utilized, the source of the ingredient material, and any reference material relied upon to support the label statement or guarantee of ingredient.

(g) Any waste-derived fertilizer distributed as a single ingredient product or blended with other fertilizer ingredients must be identified as "waste-derived fertilizer" by the registrant in the application for registration.

(h) The registrant of a waste-derived fertilizer shall state in the application for registration the levels of nonnutritive metals including, but not limited to, arsenic (As), cadmium (Cd), mercury (Hg),

lead (Pb) and selenium (Se). The registrant shall provide a laboratory report or other documentation verifying the levels of the nonnutritive metals in the waste-derived fertilizer. The registrant shall provide a new laboratory report upon a change of any nutrient source containing waste-derived material.

(i) Any person distributing commercial fertilizer into or within Idaho to an Idaho registrant or a tonnage-only distributor must be a registrant or a tonnage-only distributor.

(j) If a product is found being offered for sale, sold, or otherwise distributed into or within Idaho prior to registration, the department is authorized to assess a penalty of twenty-five dollars (\$25.00) on each product in addition to the annual registration fee as provided in this section.

(2) Registration of storage facilities.

(a) Distributors shall register each of their in-state storage facilities with the department. The application for registration shall be submitted to the department on forms furnished by the department and shall be accompanied by a nonrefundable fee of one hundred dollars (\$100) per distributor. Upon approval by the department, a certificate of registration shall be furnished to the applicant. All registrations expire on December 31 of each year. The application shall include the following information:

(i) The name and address of the registrant and location of storage facility;

(ii) Listing of storage containers by volume, per storage facility.

(b) If an application for renewal of the storage facility registration provided for in this section is not postmarked by January 31 of any one (1) year, a penalty of ten dollars (\$10.00) per storage facility shall be assessed and added to the original fee and shall be paid by the applicant before the renewal registration certificate is issued.

(c) The department shall be notified of the installation of any additional storage container or containers to a storage facility within thirty (30) days of installation.

(d) If the department is not notified within thirty (30) days of the installation of any additional storage container or containers, a penalty of fifty dollars (\$50.00) shall be assessed.

[22-605, added 2000, ch. 295, sec. 2, p. 1015; am. 2001, ch. 147, sec. 4, p. 520; am. 2008, ch. 131, sec. 2, p. 369.]

22-606. FORMULAS. The department may require submission of the complete formula of any fertilizer and the source of all ingredients if it is deemed necessary for the registration of any fertilizer product or the administration of this chapter. Any formula so submitted is exempt from disclosure to the public pursuant to section [74-107](#) (1) or (2), Idaho Code.

[22-606, added 2000, ch. 295, sec. 2, p. 1017; am. 2015, ch. 141, sec. 28, p. 407.]

22-607. LABELS -- INFORMATION REQUIRED. (1) Any fertilizer distributed in this state in containers shall have placed on or affixed to the container a label setting forth in a clearly legible and conspicuous form the following information:

- (a) The net weight;
- (b) The brand and grade, provided that the grade shall not be required when no primary nutrients are claimed;
- (c) Product name;
- (d) Guaranteed analysis;
- (e) The name and address of the registrant, or manufacturer, or both;
- (f) The sources from which the guaranteed plant nutrients are derived; and
- (g) Directions for use of specialty fertilizers distributed to the end user.

(2) In the case of bulk shipments, this information in written or printed form, shall accompany delivery and be supplied to the purchaser.

(3) Each delivery of a customer-formula fertilizer shall contain those ingredients specified by the purchaser. The ingredients shall be shown on the statement or invoice with the amount contained therein, and a record of all invoices of customer-formula grade mixes shall be kept by the registrant for a period of thirty-six (36) months and shall be available to the department upon request; provided, that each delivery shall be accompanied by either a statement, invoice, delivery slip, or label if bagged, containing the following information:

- (a) The net weight;
- (b) The guaranteed analysis or evidence of grade which may be stated to the nearest tenth of a percent or to the next lower whole number, or weight and grade of each ingredient;
- (c) The name and address of the registrant or manufacturer, or both; and
- (d) The name and address of the purchaser.

[22-607, added 2000, ch. 295, sec. 2, p. 1017; am. 2008, ch. 131, sec. 3, p. 371.]

22-608. INSPECTION FEES. (1) There shall be paid to the department for all fertilizers sold or distributed in this state in quantities of more than twenty-five (25) pounds an inspection fee at the rate of thirty-five cents (35¢) per ton by the product registrant. Another registrant or a tonnage-only distributor may assume responsibility for the inspection fee. Except that:

- (a) No fee shall be paid on commercial fertilizer if the payment has been made by a previous distributor.
- (b) No fee shall be paid on a customer-formula fertilizer if the inspection fee is paid on the commercial fertilizers that are used as ingredients therein.
- (c) No fee shall be paid on commercial fertilizers that are used as ingredients for the manufacture of commercial fertilizers.
- (d) If the fee has already been paid, credit shall be given for such payment.

(2) Every registrant who distributes fertilizer into or within the state shall file with the department an annual statement setting forth the number of net tons of each fertilizer so distributed into or within this state during such period. The annual tonnage reporting period shall be July 1 to June 30 of each year. The statement is due on or before thirty (30) days following the close of the filing period. Upon filing the statement, the registrant shall pay the inspection fee at the rate provided in this section. If the tonnage report is not filed and the inspection fee is not paid within thirty (30) days after the end of the specified filing period, a collection

fee of ten percent (10%) of the amount due, or twenty-five dollars (\$25.00), whichever is greater, shall be assessed against the registrant and added to the amount due.

(3) When more than one (1) person is involved in the distribution of a fertilizer, the last person who has the fertilizer registered or who has distributed the fertilizer to a nonregistrant, dealer, or consumer is responsible for reporting the tonnage and paying the inspection fee, unless the report and payment is made by a prior distributor of the fertilizer. The registrant has the ultimate responsibility for the payment of inspection fees.

(4) Records of the number of net tons of each fertilizer so distributed in this state shall be maintained for a period of five (5) years. The director shall have the right to examine such records to verify the reported tonnage of fertilizer distributed in this state.

(5) A minimum inspection fee shall be fifteen dollars (\$15.00) per reporting period.

(6) On individual packages of fertilizer containing twenty-five (25) pounds or less, there shall be paid, in lieu of the inspection fee, an annual registration fee of twenty-five dollars (\$25.00) for each separately identifiable product sold or distributed. Where a person distributes fertilizer in packages of twenty-five (25) pounds or less and in packages of over twenty-five (25) pounds, the annual fee shall apply only to that portion distributed in packages of twenty-five (25) pounds or less.

(7) Fees so collected shall be used for the payment of the costs of inspection, sampling and analysis, and other expenses necessary for the administration of this chapter.

[22-608, added 2000, ch. 295, sec. 2, p. 1017; am. 2008, ch. 131, sec. 4, p. 372; am. 2020, ch. 142, sec. 2, p. 435.]

22-609. TONNAGE REPORTS. (1) The registrant or tonnage-only distributor distributing or selling fertilizer to a nonregistrant or consumer shall furnish to the department a report showing the amount (in tons) of each grade of fertilizer, and the form in which the fertilizer was distributed (dry or liquid). In the case of fertilizer sold to an intermediate distributor, the registrant, tonnage-only distributor, or distributor shall list the name, address, telephone number, and amount (in tons) of each fertilizer product sold to each intermediate distributor.

(2) Information furnished to the department under this section is exempt from disclosure under section [74-107](#) (1) or (2), Idaho Code, if the disclosure would divulge the operation of any person.

[22-609, added 2000, ch. 295, sec. 2, p. 1018; am. 2008, ch. 131, sec. 5, p. 373; am. 2015, ch. 141, sec. 29, p. 408.]

22-610. INSPECTION -- SAMPLING. (1) The department shall inspect, sample, analyze, and test fertilizers distributed within this state, at a time and place and to the extent the department deems necessary, to determine whether the fertilizers comply with this chapter. The department may stop any commercial vehicle transporting fertilizers on the public highways and direct it to the nearest scales approved by the department to check weights of fertilizers being delivered. The department may also, upon presentation of proper identification, enter any distributor's premises, including any vehicle of transport, at all reasonable times in order to have access to

fertilizers for sampling and to examine and make copies of records relating to their distribution.

(2) The methods of sampling and analysis shall be those adopted by the department from officially recognized sources including, but not limited to, the association of American plant food control officials (AAPFCO) and the association of official analytical chemists, international (AOAC).

(3) The department, in determining for administrative purposes whether a fertilizer is deficient in any component or total nutrients, shall be guided solely by the official sample as defined in section [22-603](#) (21), Idaho Code, and obtained and analyzed as provided for in this section.

(4) When the inspection and analysis of an official sample has been made, the department shall forward the results of the analysis to the distributor and manufacturer, and to the purchaser upon request. Upon written request and within thirty (30) days of the results of analysis, the department shall furnish to the distributor and/or manufacturer a portion of the sample concerned.

(5) If analyses of samples made by the department indicate deficiencies in the fertilizer examined, below guaranteed analysis, and in excess of the tolerances specified by rules promulgated under this chapter, the department shall immediately notify the manufacturer and/or distributor of the fertilizer of the results of the analyses. The manufacturer or seller of the fertilizer may, upon written request, obtain from the department a portion of the sample(s) in question. If he fails to agree with the analyses of the department, he may request an umpire who shall be one (1) of a list of not less than three (3) public analysts of recognized ability in fertilizer analyses, who shall be named by the department. The umpire analyses shall be made at the expense of the manufacturer or seller requesting the same. If the umpire agrees more closely with the department, the figures of the department shall be considered correct. If the umpire agrees more closely with the figures of the manufacturer or distributor, then the figures of the manufacturer or distributor shall be considered correct.

(6) Analysis of an official sample by the department shall be accepted as prima facie evidence by any court of competent jurisdiction.

[22-610, added 2000, ch. 295, sec. 2, p. 1018; am. 2001, ch. 147, sec. 5, p. 521; am. 2008, ch. 131, sec. 6, p. 373.]

22-611. PENALTIES. (1) If the analysis shows that any fertilizer deviates from the guaranteed analysis in any plant nutrient, micronutrient, or in total nutrients, a penalty shall be assessed in favor of the department at the rate of three (3) times the value of the deficiency or twenty-five dollars (\$25.00), whichever is greater, when the deviation exceeds the tolerances established by rules promulgated under this chapter. Provided, that penalties for any specialty fertilizer that deviates from the guaranteed analysis in any plant nutrient, micronutrient, or in total nutrients shall be determined as authorized under section [22-619](#), Idaho Code, and rules promulgated pursuant to this chapter.

(2) All penalties assessed under this section or any rule hereunder on any one (1) fertilizer, represented by the sample analyzed, shall be paid to the department within three (3) months after the date of notice from the department to the registrant. The department shall deposit the amount of the penalty into the "commercial feed and fertilizer fund."

(3) Nothing contained in this section or any rule hereunder shall prevent any person from appealing to a court of competent jurisdiction for a

judgment as to the justification of such penalties imposed under subsections (1) and (2) of this section.

(4) Penalties payable as provided for in subsections (1) and (2) of this section or any rule hereunder shall in no manner be construed as limiting the consumer's right to bring a civil action in damage against the registrant paying the penalties.

(5) Penalties for short weights, both packaged and bulk, shall be assessed at the rate of three (3) times the invoiced value if the deficiency exceeds the tolerances established by rule.

[22-611, added 2000, ch. 295, sec. 2, p. 1019; am. 2004, ch. 108, sec. 1, p. 382.]

22-612. ASSESSMENT OF PENALTIES. For the purpose of initially determining the commercial value to be applied under the provisions of section [22-611](#), Idaho Code, the department shall determine and publish annually the values per unit of nitrogen, available phosphate, soluble potash, secondary elements and micro-elements used in this state. The values so determined and published shall be used in determining and assessing penalties as authorized under section [22-611](#), Idaho Code.

[22-612, added 2000, ch. 295, sec. 2, p. 1020; am. 2004, ch. 108, sec. 2, p. 383.]

22-613. MISBRANDING. No person shall distribute a misbranded fertilizer. A fertilizer is misbranded if:

- (1) The labeling is false or misleading;
- (2) It is distributed under the name of another fertilizer product;
- (3) It is not labeled as required in section [22-607](#), Idaho Code, and in accordance with rules prescribed under this chapter; or
- (4) It purports to be or is represented as a fertilizer, or is represented as containing a plant nutrient or fertilizer unless such plant nutrient or fertilizer conforms to the definition of identity, if any, prescribed by rule of the department. In adopting such rules the department shall give due regard to commonly accepted definitions and official fertilizer terms as stated or provided for in section [22-603](#), Idaho Code.

[22-613, added 2000, ch. 295, sec. 2, p. 1020; am. 2001, ch. 147, sec. 6, p. 522.]

22-614. ADULTERATION. No person shall distribute an adulterated fertilizer product. A fertilizer is adulterated if:

- (1) It contains any deleterious or harmful substance in sufficient amount to render it injurious to beneficial plant life, animals, humans, aquatic life, soil, or water when applied in accordance with directions for use on the label; or, if adequate warning statements or directions for use which may be necessary to protect plant life, animals, humans, aquatic life, soil, or water are not shown upon the label;
- (2) Its composition falls below or differs from that which it is purported to possess by its labeling; or
- (3) It contains unwanted crop seed or weed seed.

[22-614, added 2000, ch. 295, sec. 2, p. 1020.]

22-615. PUBLICATION OF INFORMATION. The department shall publish at least annually and in a form it deems proper: the total tonnage of fertilizer distributed, the number of total official samples analyzed and the number of deficient official samples analyzed, and any other information the department deems fit.

[22-615, added 2000, ch. 295, sec. 2, p. 1020.]

22-616. "STOP SALE" ORDERS. The department may issue and enforce a written or printed "stop sale, use, or removal" order to the distributor, owner or custodian of any fertilizer and hold the fertilizer, or order it held, at a designated place when the department finds the fertilizer is being offered for sale in violation of this chapter, until the law has been complied with and the fertilizer is released in writing by the department, or the violation has been otherwise legally disposed of by written authority. The owner or custodian of any fertilizer that has been issued a "stop sale, use, or removal" order shall remedy the violations within ninety (90) days, unless the department grants a written extension. The department shall release the fertilizer so withdrawn when the requirements of this chapter have been complied with and all costs and expenses incurred in connection with the withdrawal have been paid.

[22-616, added 2000, ch. 295, sec. 2, p. 1021; am. 2001, ch. 147, sec. 7, p. 522.]

22-617. COMPLAINT FOR SEIZURE -- HEARING. Any fertilizer that does not comply with this chapter is subject to seizure on complaint of the department to a court of competent jurisdiction in the geographic area in which the fertilizer is located. If the court finds the fertilizer to be in violation of this chapter and orders the condemnation of the fertilizer, the fertilizer shall be disposed of in any manner consistent with the quality of the fertilizer and the laws of the state; provided, that in no instance shall the disposition of the fertilizer be ordered by a court of competent jurisdiction without first giving the claimant an opportunity to apply to the court for release of the fertilizer or for permission to process or relabel the fertilizer to bring it into compliance with this chapter.

[22-617, added 2000, ch. 295, sec. 2, p. 1021.]

22-618. VIOLATIONS. It is unlawful for any person to:

- (1) Distribute a misbranded fertilizer;
- (2) Fail, refuse or neglect to place upon or attach to each container of distributed fertilizer a label containing the information required by this chapter;
- (3) Fail, refuse or neglect to deliver to a purchaser of bulk fertilizer a statement containing the information required by this chapter;
- (4) Distribute a fertilizer which has not been registered with the department;
- (5) Distribute a fertilizer containing viable seeds unless serving a desirable purpose and appropriately labeled;
- (6) Distribute an adulterated fertilizer;
- (7) Distribute a fertilizer weighing less than that which it is purported to weigh;

(8) Distribute a fertilizer different from the guaranteed analysis purported on the label; or

(9) Fail or refuse to provide, keep or maintain records and information as required by this chapter.

[22-618, added 2000, ch. 295, sec. 2, p. 1021.]

22-619. REMEDIES FOR VIOLATIONS. (1) Any person convicted of violating any of this chapter or the rules promulgated thereunder or who impedes, obstructs, hinders, or otherwise prevents or attempts to prevent the director or a duly authorized agent from the performance of their duty in connection with this chapter, is guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500) for the first violation, and not more than one thousand five hundred dollars (\$1,500) for a subsequent violation. In all prosecutions under this chapter involving the composition of a lot of commercial fertilizer, a certified copy of the official analysis signed by the director or his duly authorized agent shall be accepted as prima facie evidence of the composition.

(2) Any person who violates or fails to comply with this chapter or any rules promulgated thereunder may be assessed a civil penalty by the department or its duly authorized agent of not more than ten thousand dollars (\$10,000) for each offense and shall be liable for reasonable attorney's fees. Assessment of a civil penalty may be made in conjunction with any other department administrative action. No civil penalty may be assessed unless the person charged was given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act, [chapter 52, title 67](#), Idaho Code. If the director is unable to collect the penalty or if any person fails to pay all or a set portion of the civil penalty as determined by the department, it may recover such amount by action in the appropriate district court. Any person against whom the director has assessed a civil penalty under the provisions of this section may, within thirty (30) days of the final action by the agency making the assessment, appeal the assessment to the district court of the county in which the violation is alleged by the department to have occurred.

(3) Nothing in this chapter requires the director or a duly authorized representative to report minor violations of the chapter for prosecution, or for the institution of seizure proceedings, when the director believes that the public interest will be best served by a suitable notice of warning in writing.

(4) Each prosecuting attorney to whom any violation is reported shall cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the director reports a violation for such prosecution, an opportunity shall be given the distributor to present his view to the director.

(5) The director may apply for and the court is authorized to grant a temporary or permanent injunction restraining any person from violating or continuing to violate this chapter or any rule promulgated under the chapter notwithstanding the existence of other remedies at law. Said injunction shall be issued without bond.

[22-619, added 2000, ch. 295, sec. 2, p. 1021; am. 2001, ch. 147, sec. 8, p. 523.]

22-620. USE OF FUNDS RECEIVED. All moneys received by the director from the registration of various fertilizers and from the payment to him of moneys derived from the registration and inspection fees charged on such fertilizers, and moneys collected for a violation(s) of this chapter or rules promulgated thereunder, shall be paid into the state treasury and placed in a fund to be known as the "commercial feed and fertilizer fund." Moneys in the commercial feed and fertilizer fund are continuously appropriated for the purposes of carrying out the provisions of this chapter.

[22-620, added 2000, ch. 295, sec. 2, p. 1022; am. 2008, ch. 131, sec. 7, p. 374.]

22-621. COOPERATION WITH OTHER GOVERNMENTAL AGENCIES. The director may cooperate with and enter into agreements with other governmental agencies, whether of this state, other states, or agencies of the federal government, and with private associations, in order to carry out the purposes of this chapter.

[22-621, added 2000, ch. 295, sec. 2, p. 1023.]

22-622. NO AFFECT ON EXISTING LIABILITY. The enactment of this chapter does not terminate or modify any civil or criminal liability which already exists on July 1, 2000.

[22-622, added 2000, ch. 295, sec. 2, p. 1023.]

22-623. NOT APPLICABLE TO WHOLESALE TRANSACTIONS. Nothing in this chapter restricts or precludes sales or exchanges of fertilizers to each other by importers, manufacturers, or manipulators who mix fertilizer materials for sale or prevents the free and unrestricted shipments of fertilizer to manufacturers or manipulators who have registered their products as required by this chapter.

[22-623, added 2000, ch. 295, sec. 2, p. 1023.]

22-624. SEVERABILITY. If any clause, sentence, paragraph, or part of this chapter is judged invalid by any court of competent jurisdiction, the judgment shall not affect, impair, or invalidate the remainder of the chapter, but shall be confined in its operation to the clause, sentence, paragraph, or part of the chapter directly involved in the controversy in which the judgment has been rendered.

[22-624, added 2000, ch. 295, sec. 2, p. 1023.]

22-625. STATEMENTS OF UNIFORM INTERPRETATION AND POLICY. When not otherwise stated in this chapter or rule adopted under this chapter, the statements of uniform interpretation and policy as adopted in the annual Official Publication of the Association of American Plant Food Control Officials (AAPFCO) shall guide the department when making decisions in the areas covered by AAPFCO statements of uniform interpretation and policy.

[22-625, added 2001, ch. 147, sec. 9, p. 523.]

22-626. LOCAL LEGISLATION -- PROHIBITION. (1) No local government entity including, but not limited to, any city, county, township, or municipal

corporation or any other body corporate and politic that is responsible for government activities in a geographic area smaller than that of the state of Idaho, shall:

(a) Regulate the registration, packaging, labeling, sale, storage, distribution, use and application of fertilizers;

(b) Adopt or continue in effect local legislation relating to the registration, packaging, labeling, sale, storage, distribution, use or application of fertilizers.

(2) Ordinances adopted by the local government entity in violation of this section are void and unenforceable.

(3) The provisions of subsections (1) and (2) of this section shall not preempt county or city local zoning ordinances governing the physical location or siting of fertilizer manufacturing, storage and sales facilities or protecting the quality of ground water or surface water in accordance with applicable state and federal law.

[22-626, added 2005, ch. 387, sec. 1, p. 1248.]