

ENROLLED ACT NO. 32, SENATE

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2009 GENERAL SESSION

AN ACT relating to fertilizer; modifying existing definitions and providing new definitions; amending label requirements; providing for registration of persons in possession of ammonium nitrate or regulated ammonium nitrate materials; identifying adulterated fertilizers; providing that a portion of the act is contingent upon subsequent actions; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. Section 2 of this act shall be effective only if the United States department of homeland security publishes final federal rules under H.R. 2764, Subtitle J, Secure Handling of Ammonium Nitrate or its successor. The governor shall certify to the secretary of state the occurrence of the publication of such final federal rules and section 2 of this act shall be effective on the date the certification is filed with the secretary of state. In preparing copy for printing and arranging and furnishing copies of this act for the printer of the session laws or the Wyoming statutes, the legislative service office is authorized to display the provisions of this act in a manner which most effectively displays the contingencies provided in this act.

Section 2. W.S. 11-14-118 is created to read:

11-14-118. Registration of ammonium nitrate.

(a) Any person who possesses ammonium nitrate or regulated ammonium nitrate materials shall be registered with the department. The registration application shall be on a form approved by the director in consultation with and upon the recommendation of the director of the office of homeland security. The director shall charge an annual

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registration fee not to exceed fifty dollars (\$50.00). Nothing in this section shall require the registration of any person who produces, sells or purchases ammonium nitrate exclusively for use in the production of an explosive under a license or permit issued under chapter 40 of title 18, U.S.C.

(b) Ammonium nitrate and regulated ammonium nitrate materials shall be secured to provide reasonable protection against vandalism, theft or other unauthorized use. Reasonable protection may include, but not be limited to, ensuring that storage facilities are fenced and locked when unattended, and inspected daily for signs of attempted entry or vandalism to any storage facility. The director in consultation with or upon the recommendation of the director of the office of homeland security, may recommend other security measures. The director shall work in consultation with or upon the recommendation of the director of the office of homeland security to provide information to ammonium nitrate users on appropriate security measures.

(c) A distributor shall record the date of sale and quantity sold, the valid state or federal driver's license number, the current physical address and telephone number for the purchaser of ammonium nitrate or regulated ammonium nitrate materials. If the purchaser obtains physical possession of ammonium nitrate or regulated ammonium nitrate material, the distributor shall obtain the registrant's registration number as a condition of completing the sale. A registrant, if not a distributor, shall record the date of application. All sale and application records shall be retained by each registrant for a period of not less than two (2) years.

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(d) Registrants shall comply with all federal and state requirements regarding the dissemination of any information, providing the director and the director of the office of homeland security access to the records.

(e) For the purposes of this section:

(i) "Ammonium nitrate" means chiefly the ammonium salt of nitric acid. Ammonium nitrate shall not contain less than thirty-three percent (33%) nitrogen, one-half (1/2) of which is the ammonium form and one-half (1/2) of which is the nitrate form;

(ii) "Regulated ammonium nitrate materials" means regulated ammonium nitrate material fertilizer products which have been determined by the director in consultation with and upon the recommendation of the director of the office of homeland security to warrant regulation based on the potential explosive capacity of the fertilizer material determined by the ammonium nitrate content.

Section 3. W.S. 11-14-101, 11-14-103(a)(xvii), by creating new paragraphs (xxiii) and (xxiv) and by amending and renumbering paragraph (xxiii) as (xxv), 11-14-105(a), 11-14-109(a)(i), (b)(ii), (iii), by creating a new paragraph (iv) and by creating a new subsection (e) and 11-14-115(a) are amended to read:

11-14-101. Short title.

This act shall be known as the "Wyoming Fertilizer Law of ~~1971~~2009."

11-14-103. Definitions.

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(a) As used in this act:

(xvii) "Primary nutrient" means the plant nutrients nitrogen (N), available phosphate (P₂O₅) or phosphorus, ~~and~~ soluble potash ~~or potassium~~ (K₂O);

(xxiii) "Organic fertilizer" means a material containing carbon and one (1) or more elements other than hydrogen and oxygen essential for plant growth, and allowed for use under the Organic Foods Production Act of 1990, as promulgated by the United States department of agriculture "National List of Allowed and Prohibited Substances" rule;

(xxiv) "Secondary or micro plant nutrients" means nutrients other than the primary nutrients that are essential for the normal growth of plants and that may need to be added to the growth medium. Secondary plant nutrients shall include calcium, magnesium and sulfur. Micro plant nutrients shall include boron, chlorine, cobalt, copper, iron, manganese, molybdenum, nickel, sodium and zinc;

~~(xxiii)~~ (xxv) "This act" means W.S. 11-14-101 through ~~11-14-117~~ 11-14-118.

11-14-105. Label requirements.

(a) Any commercial fertilizer, soil amendment or soil conditioner distributed in this state in containers shall have affixed to the container a label setting forth in clearly legible and conspicuous form the information required by W.S. 11-14-104(a) and (b), the month and year of preparation or lot number, and shall show the net weight stated in both metric units and avoirdupois. In case of bulk shipments, this information in written or printed form

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shall accompany delivery and be supplied to the purchaser at time of delivery.

11-14-109. Misbranded or adulterated fertilizer, soil conditioner or soil amendment; distribution of unregistered fertilizer.

(a) No person shall distribute misbranded fertilizer, soil conditioners or soil amendments. A commercial fertilizer, soil conditioner or soil amendment is misbranded if:

(i) Its labeling is false or misleading in any particular way, including being labeled organic fertilizer, when its use is not allowed pursuant to the United States department of agriculture "National List of Allowed and Prohibited Substances" rule;

(b) No person shall distribute an adulterated fertilizer, soil conditioner or soil amendment. A commercial fertilizer, soil conditioner or soil amendment is adulterated if:

(ii) Its composition falls below or differs from that which it is purported to possess by its labeling; ~~or~~

(iii) It contains unwanted crop seed or weed seed; ~~or~~ or

(iv) A commercial fertilizer that contains guaranteed amounts of phosphates or micronutrients, contains metals in amounts greater than the levels of metals established by the following table:

<u>Metal</u>	<u>ppm per 1% P₂O₅</u>	<u>ppm per 1% micronutrients</u>
<u>Arsenic</u>	<u>13</u>	<u>112</u>

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<u>Cadmium</u>	<u>10</u>	<u>83</u>
<u>Cobalt</u>	<u>3,100</u>	<u>23,000*</u>
<u>Lead</u>	<u>61</u>	<u>463</u>
<u>Mercury</u>	<u>1</u>	<u>6</u>
<u>Molybdenum</u>	<u>42</u>	<u>300*</u>
<u>Nickel</u>	<u>250</u>	<u>1,900</u>
<u>Selenium</u>	<u>26</u>	<u>180</u>
<u>Zinc</u>	<u>420</u>	<u>2,900*</u>

(* only applies
when not
guaranteed)

The table shall be used according to the following three (3) situations:

(A) For fertilizers with a phosphate guarantee, but no micronutrient guarantee, multiply the percent guaranteed P₂O₅ in the product by the values in the table to obtain the maximum allowable concentration of each metal. The minimum value for P₂O₅ utilized as a multiplier shall be six (6.0);

(B) For fertilizers with one (1) or more micronutrient guarantee, but no phosphate guarantee, multiply the sum of the guaranteed percentages of all micronutrients in the product by the value in the appropriate column in the table to obtain the maximum allowable concentration (in parts per million, or ppm) of each metal. The minimum value for micronutrients utilized as a multiplier shall be one (1);

(C) For fertilizers with both a phosphate and a micronutrient guarantee, multiply the guaranteed percent P₂O₅ by the value in the appropriate column. The minimum value for P₂O₅ utilized as a multiplier shall be one (1). Then, multiply the sum of the guaranteed percentages

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of the micronutrients by the value in the appropriate column. The minimum value for micronutrients utilized as a multiplier shall be one (1). Then, utilize the higher of the two (2) resulting values as the maximum allowable concentration (ppm) of each metal.

(e) Any penalties resulting from violations of these heavy metal standards shall accrue to the registrant of the material that violates the heavy metal standard.

11-14-115. Action for damages to crops; evidence.

(a) Nothing in this act shall preclude the right of a purchaser to bring an action for any damages to crops, land or livestock by reason of misbranded, adulterated or deficient fertilizer, soil conditioner or soil amendment.

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Section 4. Subject to section 1 of this act, this act is effective July 1, 2009.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk