

AN ACT

ENTITLED, An Act to define certain terms related to commercial fertilizer and soil amendments.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 38-19-1 be amended to read:

38-19-1. Terms, as used in this chapter, mean:

- (1) "Available phosphoric acid," the sum of the water-soluble and the citrate-soluble phosphoric acid and reported as phosphorus pentoxide;
- (2) "Brand," a term, design, or trademark used in connection with one or several grades of commercial fertilizer;
- (3) "Bulk commercial fertilizer," any volume of a commercial fertilizer which is transported or held for resale in an immediate reusable container in undivided quantities greater than one hundred pounds net dry weight or fifty-five U.S. gallons liquid measure;
- (4) "Bulk commercial fertilizer storage facility," any area, location, tract of land, building, structure, or premises constructed in accordance with rules promulgated by the secretary for the storage of bulk commercial fertilizer;
- (5) "Commercial fertilizer," any substance, including manipulated manure, containing any 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, except unmanipulated animal and vegetable manures, marl, lime, limestone, lime sludge, sewage sludge, wood ashes, gypsum, compost, and other products excluded by rule;
- (5A) "Compost," a group of organic residues or a mixture of organic residues and soil that have been piled, moistened, and allowed to undergo aerobic biological decomposition;
- (6) "Distribute," to import, consign, manufacture, produce, compound, mix, or blend commercial fertilizer, or to offer for sale, sell, barter, or otherwise supply commercial

fertilizer in this state;

- (7) "Distributor," any person who distributes commercial fertilizer in this state;
- (8) "Fertilizer material," a commercial fertilizer which either:
 - (a) Contains important quantities of no more than one of the primary plant nutrients: nitrogen, phosphoric acid, and potash;
 - (b) Has approximately eighty-five percent of its plant nutrient content present in the form of a single chemical compound; or
 - (c) Is derived from a plant or animal residue or by-product or a natural material deposit which has been processed in such a way that its content of primary plant nutrients has not been materially changed except by purification and concentration;
- (9) "Grade," the percentage of total nitrogen, available phosphoric acid, and soluble potash stated in whole numbers in the same terms, order, and percentages as in the guaranteed analysis. However, speciality fertilizers may be guaranteed in fractional units of less than one percent of total nitrogen, available phosphoric acid, and soluble potash. Fertilizer materials, bone meal, manures, and similar raw materials may be guaranteed in fractional units;
- (10) "Investigational allowance," allowance for variations inherent in the taking, preparation, and analysis of an official sample of commercial fertilizer;
- (11) "Label," a display of written, printed, or graphic matter on or attached to the immediate container of any article and the outside container or wrapper of the retail package, or a statement or document accompanying a commercial fertilizer;
- (12) "Labeling," all written, printed, or graphic matter, upon or accompanying any commercial fertilizer or advertisements, brochures, posters, television, and radio announcements used in promoting the sale of commercial fertilizer;

- (13) "Licensee," any person who receives a license to distribute a commercial fertilizer under the provisions of this chapter;
- (13A) "Manipulated manure," any animal or vegetable manure collected or stored in a manner consistent with practices commonly implemented in agricultural production that has been subjected to practices including composting, mechanical dewatering, or pelletizing or altered in any way to change chemical, physical, or biological characteristics;
- (14) "Metric ton," a net weight of one thousand kilograms;
- (15) "Mixed fertilizer," a commercial fertilizer containing any combination or mixture of fertilizer materials;
- (16) "Nitrogen," the element of nitrogen;
- (17) "Official sample," any sample of commercial fertilizer taken by the secretary of agriculture or department agent according to methods prescribed by this chapter;
- (18) "Percent" or "percentage," the percentage by weight;
- (19) "Primary nutrients," nitrogen, available phosphoric acid, and soluble potash;
- (20) "Recognized plant nutrients," primary nutrients, secondary nutrients, and micro nutrients;
- (21) Deleted by SL 2001, ch 215, § 7;
- (22) "Secondary and micro nutrients," those nutrients other than 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 include calcium, magnesium, and sulfur; micro plant nutrients include boron, chlorine, cobalt, copper, iron, manganese, molybdenum, sodium, and zinc;
- (23) "Secretary," the secretary of the Department of Agriculture;
- (24) "Sell:"
 - (a) The act of selling, transferring ownership;

- (b) The offering and exposing for sale, exchange, or distribution;
 - (c) Giving away; or
 - (d) Receiving, accepting, holding or possession for sale, exchange, or distribution;
- (25) "Sewage sludge," "sludge," "biosolids," any solid, semisolid, or liquid residue removed during the treatment of municipal or domestic sewage by publicly-owned treatment works regulated under 40 CFR Part 503, as amended to January 1, 1995, and the Clean Water Act as amended to January 1, 1995;
- (26) "Soluble potash," that portion of the potash contained in fertilizers or fertilizer materials which is soluble in an aqueous ammoniacal solution of 0.8% ammonium oxalate, after boiling in a 1.14% solution of ammonium oxalate and reported as potassium oxide;
- (27) "Ton," a net weight of two thousand pounds avoirdupois.

Section 2. That § 38-19A-1 be amended to read:

38-19A-1. Terms as used in this chapter, unless the context otherwise requires, shall mean:

- (1) "Brand," any trademark, product name, or other specific designation under which any individual soil amendment is offered for sale;
- (2) "Bulk," nonpackaged form;
- (3) "Distributing," importing, consigning, manufacturing, producing, compounding, mixing or blending any soil amendment, or offering for sale, selling, bartering, or otherwise supplying any soil amendment in this state;
- (4) "Distributor," any person who distributes any soil amendment in this state;
- (5) "Investigational allowance," any allowance for variations inherent in the taking, preparation and analysis of an official sample of a soil amendment;
- (6) "Label," any display of all written, printed, or graphic matter upon the immediate container or statement accompanying a soil amendment;

- (7) "Labeling," any written, printed, or graphic matter, upon or accompanying any soil amendment, or advertisements, brochures, posters, or television or radio announcements used in promoting the sale of such soil amendment;
- (7A) "Manipulated manure," any animal or vegetable manure collected or stored in a manner consistent with practices commonly implemented in agricultural production that has been subjected to practices including composting, mechanical dewatering, or pelletizing or altered in any way to change chemical, physical, or biological characteristics;
- (7B) "Microbe," any microbiological organism or mixture of microbiological organisms intended to produce any physical, chemical, biochemical, biological, or other change in the soil;
- (8) "Minimum percentage," that percentage of soil amendment ingredient that shall be present in a product before the product may be accepted for registration when distributed in any form or manner;
- (9) "Official sample," any sample of a soil amendment taken by the secretary and so designated;
- (10) "Percent," percentage by weight;
- (11) "Registrant," any person who shall register any soil amendments under the provisions of this chapter;
- (12) "Secretary," the secretary of the Department of Agriculture of the State of South Dakota;
- (13) "Soil amending ingredient," any substance which will improve the physical, chemical, or other characteristic of the soil or improve crop production;
- (14) "Soil amendment," any substance which is intended to improve the physical, chemical, or other characteristics of the soil or improve crop production, except the following: commercial fertilizer, unmanipulated animal manures, unmanipulated vegetable manures,

pesticides, lime or lime sludge produced by a water treatment facility, sewage sludge, as defined in § 38-19-1, and compost as defined in § 38-19-1;

- (15) "Soil ingredient form," any ingredient or the chemical compound of an ingredient;
- (16) "Ton," two thousand pounds avoirdupois net weight;
- (17) "Weight," the weight of that material offered for sale.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1018

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1018

File No. _____

Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State