

1 A bill to be entitled
2 An act relating to fertilizers; amending s.
3 576.011, F.S.; defining "compost,"
4 "investigational allowance," "manipulated
5 manure," "manure," "pelletized fertilizer,"
6 "soil amendment," "soil conditioner," "soil
7 additive," and "unmanipulated animal and
8 vegetable manure"; amending s. 576.021, F.S.;
9 deleting registration requirements; amending s.
10 576.031, F.S.; deleting labeling requirements;
11 amending s. 576.051, F.S.; authorizing the
12 Department of Agriculture and Consumer Services
13 to test fertilizers and collect fees for costs;
14 amending s. 576.061, F.S.; establishing
15 investigational allowances; providing for
16 penalties and compensation for certain plant
17 nutrient deficiencies; amending s. 576.071,
18 F.S.; revising the method of determining
19 commercial value; amending s. 576.091, F.S.;
20 providing for the appointment of members and
21 alternate members of the Fertilizer Technical
22 Council; amending s. 576.101, F.S.; revising
23 performance levels for licensees; amending s.
24 576.151, F.S.; providing standards for the
25 distribution of certain fertilizers; amending
26 s. 576.181, F.S.; revising the department's
27 authority relating to investigational
28 allowances; repealing s. 19, ch. 92-143, Laws
29 of Florida, relating to the repeal and review
30 of ch. 576, F.S.; providing an effective date.
31

1 Be It Enacted by the Legislature of the State of Florida:

2

3 Section 1. Section 576.011, Florida Statutes, is
4 amended to read:

5 576.011 Definitions.--When used in this chapter, the
6 term:

7 (1) "Advertisement" means all representations
8 disseminated in any manner or by any means, other than by
9 labeling, for the purpose of inducing, or which are likely to
10 induce, directly or indirectly, the purchase of fertilizer.

11 (2) "Best-management practices" means practices or
12 combinations of practices determined by research or field
13 testing in representative sites to be the most effective and
14 practicable methods of fertilization designed to meet nitrate
15 groundwater quality standards, including economic and
16 technological considerations.

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

19 (4) "Bulk fertilizer" means commercial fertilizer in a
20 nonpackaged form.

21 (5) "Compost" means a substance derived primarily or
22 entirely from decomposition of vegetative or animal organic
23 material, which is sold or offered for sale for the purpose of
24 promoting or stimulating plant growth, and to which no
25 inorganic fertilizer materials have been added other than to
26 promote decomposition. Such products may not contain more than
27 12 percent total plant nutrients.

28 ~~(6)~~(5) "Coning" means the formation of a pyramidal
29 pile or cone of dry bulk mixed fertilizer such as may occur
30 while being loaded into a holding hopper or transport vehicle

31

1 and cause separation and segregation of the fertilizer
2 components.

3 (7)~~(6)~~ "Dealer" means any person, other than the
4 manufacturer, who offers for sale, sells, barter, or supplies
5 commercial fertilizer.

6 (8)~~(7)~~ "Deconing" means any accepted process employed
7 by a licensee that will prevent or minimize coning.

8 (9)~~(8)~~ "Deficiency" means the amount of nutrient found
9 by analysis to be less than that guaranteed which may result
10 from lack of nutrient ingredients or from lack of uniformity.

11 (10)~~(9)~~ "Department" means the Department of
12 Agriculture and Consumer Services or its authorized
13 representatives.

14 (11)~~(10)~~ "Excess" means the amount found by analysis
15 to be over that guaranteed on the label.

16 (12)~~(11)~~ "Fertilizer" means any substance which:

17 (a) Contains one or more recognized plant nutrients
18 and promotes plant growth, or

19 (b) Controls soil acidity or alkalinity, or

20 (c) Provides other soil enrichment, or

21 (d) Provides other corrective measures to the soil.
22

23 For the purposes of this chapter, the term "fertilizer" does
24 not include unmanipulated animal or vegetable manures, peat,
25 or compost which make no claims as described in paragraphs
26 (a)-(d).

27 (13)~~(12)~~ "Fertilizer-pesticide mixture" means a
28 fertilizer containing a pesticide.

29 (14)~~(13)~~ "Grade" means the percentages in fertilizer
30 of total nitrogen expressed as N, available phosphorus
31

1 expressed as P₂O₅, and soluble potassium expressed as
2 K₂O, stated in whole numbers in that order.

3 (15)~~(14)~~ "Guaranteed analysis" means the percentage of
4 plant nutrients or measures of neutralizing capability claimed
5 to be present in a fertilizer.

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

9 (17)~~(15)~~ "Label" means a display of written, printed,
10 or graphic matter upon the immediate container of any
11 fertilizer or accompanying any fertilizer when moved in bulk.

12 (18)~~(16)~~ "Labeling" means all labels and other
13 written, printed, or graphic matters upon an article or any of
14 its containers or wrappers, or accompanying such article.

15 (19)~~(17)~~ "Licensee" means a person who guarantees a
16 fertilizer and receives a license to distribute fertilizer
17 under the provisions of this chapter.

18 (20) "Manipulated manure," or "manure" when not
19 qualified as unmanipulated, means substances, other than
20 unmanipulated manures, composed of excreta of animals and
21 residual materials that have been used for bedding, sanitary,
22 or feeding purposes for animals, and to which no fertilizer
23 materials have been added other than for neutralization or
24 sanitary purposes.

25 (21)~~(18)~~ "Manufacturer" means a person engaged in the
26 business of importing, preparing, mixing, blending, or
27 manufacturing fertilizer for sale, either direct to consumers
28 or by or through other media of distribution, and the word
29 "manufacture" means preparation, mixing, blending, or
30 manufacturing for the purpose of distribution.

31

1 ~~(22)(19)~~ "Misbranded" means that one or more label
2 requirements have not been fulfilled.

3 ~~(23)(20)~~ "Mixed fertilizer" means a fertilizer
4 containing any combination or mixtures of fertilizers.

5 ~~(24)(21)~~ "Natural organic fertilizer" means a material
6 derived from either plant or animal products containing one or
7 more elements (other than carbon, hydrogen, and oxygen) which
8 are essential for plant growth.

9 ~~(25)(22)~~ "Nitrogen breakdown" means the classification
10 of forms of nitrogen guaranteed in percent by weight, the sum
11 of which equals the total nitrogen guarantee.

12 ~~(26)(23)~~ "Official check sample" means a sealed and
13 identified sample taken from the official sample for use in
14 check analysis.

15 ~~(27)(24)~~ "Official sample" means any sample of
16 fertilizer taken by the department in accordance with the
17 provisions of this law or rules adopted hereunder, and
18 designated as "official" by the department.

19 ~~(28)(25)~~ "Organic fertilizer" means a material
20 containing carbon and one or more elements, other than
21 hydrogen and oxygen, essential for plant growth. This term
22 includes both "natural organic fertilizer" and "synthetic
23 organic fertilizer."

24 (29) "Pelletized fertilizer" means a fertilizer in a
25 form, uniform in size and usually of globular shape,
26 containing one or more nutrients produced by one of several
27 methods including:

28 (a) Solidification of a melt while falling through a
29 countercurrent stream of air.

30 (b) Dried layers of slurry applied to recycling
31 particles.

1 (c) Compaction.

2 (d) Extrusion.

3 (e) Granulation.

4 ~~(30)(26)~~ "Percent" or "percentage" means the
5 percentage by weight.

6 ~~(31)(27)~~ "Primary plant nutrient" means total nitrogen
7 expressed as N, available phosphorus expressed as
8 P_2O_5 , and soluble potassium expressed as K_2O , or
9 any combination of these substances.

10 ~~(32)(28)~~ "Registrant" means the person who registers
11 specialty fertilizer under the provisions of this chapter.

12 ~~(33)(29)~~ "Secondary plant nutrient" and "micro plant
13 nutrient" mean those nutrients other than the primary plant
14 nutrients that are essential for the normal growth of plants
15 and have been added to the fertilizer.

16 ~~(34)(30)~~ "Slow or controlled release fertilizer" means
17 a fertilizer containing a plant nutrient in a form which
18 delays its availability for plant uptake and use after
19 application, or which extends its availability to the plant
20 significantly longer than a reference "rapidly available
21 nutrient fertilizer," such as ammonium nitrate or urea,
22 ammonium phosphate, or potassium chloride.

23 (35) "Soil amendment," "soil conditioner," or "soil
24 additive" means any substance or mixture of substances sold or
25 offered for sale for soil enriching or corrective purposes,
26 intended or claimed to be effective in promoting or
27 stimulating plant growth, increasing soil or plant
28 productivity, improving the quality of crops, or producing any
29 chemical or physical change in the soil, except amendments,
30 conditioners, additives, and related products that are derived

31

1 solely from inorganic sources and that contain no recognized
2 plant nutrients.

3 (36)~~(31)~~ "Specialty fertilizer" means any fertilizer
4 packaged, marketed, and distributed for home and garden use
5 and packaged in containers or bags such that the net weight is
6 49 pounds or less.

7 (37)~~(32)~~ "Synthetic organic fertilizer" means a
8 material that is manufactured chemically (by synthesis) from
9 its elements or other chemicals.

10 ~~(33) "Tolerance" means the variation permitted by law~~
11 ~~or rule from the guaranteed analysis.~~

12 (38)~~(34)~~ "Ton" means a net weight of 2,000 pounds
13 avoirdupois.

14 (39)~~(35)~~ "Unit of plant nutrient" means 1 percent by
15 weight or 20 pounds per ton.

16 (40) "Unmanipulated animal and vegetable manure" means
17 substances composed of excreta of animals or plant remains
18 which do not contain any materials other than those which have
19 been used for bedding, sanitary, or feeding purposes for such
20 animals, and which have not been mechanically or
21 systematically dried, ground, shredded, blended with
22 plant-food additives, or processed in any other manner.

23 (41)~~(36)~~ "Water-insoluble nitrogen" means nitrogen not
24 soluble in water.

25 (42)~~(37)~~ "Water-soluble ~~organic~~ nitrogen" means all
26 ~~organic~~ nitrogen soluble in water.

27 Section 2. Paragraph (b) of subsection (2) and
28 subsection (3) of section 576.021, Florida Statutes, are
29 amended to read:

30 576.021 Registration and licensing.--

31 (2)

1 (b) Labels for each brand and product grade shall
2 accompany the application and shall include the following
3 information:

- 4 1. The brand and grade.
- 5 2. The guaranteed analysis.
- 6 3. The name and ~~street~~ address of the licensee.
- 7 4. The net weight.
- 8 5. The sources from which the nitrogen, phosphorus,
9 and potassium are derived.

10 6. The sources of secondary plant nutrients and micro
11 plant nutrients if guaranteed, claimed, or advertised.

12 ~~(3) Upon approval by the department, a copy of each~~
13 ~~registration and a registration number series shall be~~
14 ~~furnished to the applicant.~~

15 Section 3. Paragraph (c) of subsection (1) and
16 subsection (3) of section 576.031, Florida Statutes, are
17 amended to read:

18 576.031 Labeling.--

19 (1) Any fertilizer distributed in this state in
20 containers shall have placed on or affixed to the immediate
21 and outside container a label setting forth in clearly legible
22 and conspicuous form the following information:

23 (c) The name and ~~street~~ address of the licensee.

24 (3) ~~Each label of specialty fertilizer shall bear the~~
25 ~~Florida specialty fertilizer registration number.~~ Each label
26 of ~~all other~~ fertilizer shall bear the Florida license number.

27 Section 4. Subsection (2) of section 576.051, Florida
28 Statutes, is amended to read:

29 576.051 Inspection, sampling, analysis.--

30 (2) The department is directed to sample, test,
31 inspect, and make analyses of fertilizer sold or offered for

1 sale within this state. The department may conduct commercial
 2 tests of fertilizer and fix and collect fees in an amount to
 3 cover the direct and indirect costs associated with the tests
 4 when requested as an aid to support compliance with this
 5 chapter.

6 Section 5. Section 576.061, Florida Statutes, is
 7 amended to read:

8 576.061 Plant nutrient investigational allowances
 9 ~~tolerances~~, deficiencies, and penalties.--

10 (1) Investigational allowances are set as follows:

11 (a) Primary plant nutrients; investigational
 12 allowances.--

	<u>Total</u>	<u>Available</u>	
<u>Guaranteed</u>	<u>Nitrogen</u>	<u>Phosphate</u>	<u>Potash</u>
<u>Percent</u>	<u>Percent</u>	<u>Percent</u>	<u>Percent</u>
17 <u>04 or less</u>	<u>0.49</u>	<u>0.67</u>	<u>0.41</u>
18 <u>05</u>	<u>0.51</u>	<u>0.67</u>	<u>0.43</u>
19 <u>06</u>	<u>0.52</u>	<u>0.67</u>	<u>0.47</u>
20 <u>07</u>	<u>0.54</u>	<u>0.68</u>	<u>0.53</u>
21 <u>08</u>	<u>0.55</u>	<u>0.68</u>	<u>0.60</u>
22 <u>09</u>	<u>0.57</u>	<u>0.68</u>	<u>0.65</u>
23 <u>10</u>	<u>0.58</u>	<u>0.69</u>	<u>0.70</u>
24 <u>12</u>	<u>0.61</u>	<u>0.69</u>	<u>0.79</u>
25 <u>14</u>	<u>0.63</u>	<u>0.70</u>	<u>0.87</u>
26 <u>16</u>	<u>0.67</u>	<u>0.70</u>	<u>0.94</u>
27 <u>18</u>	<u>0.70</u>	<u>0.71</u>	<u>1.01</u>
28 <u>20</u>	<u>0.73</u>	<u>0.72</u>	<u>1.08</u>
29 <u>22</u>	<u>0.75</u>	<u>0.72</u>	<u>1.15</u>
30 <u>24</u>	<u>0.78</u>	<u>0.73</u>	<u>1.21</u>
31 <u>26</u>	<u>0.81</u>	<u>0.73</u>	<u>1.27</u>

1	<u>28</u>	<u>0.83</u>	<u>0.74</u>	<u>1.33</u>
2	<u>30</u>	<u>0.86</u>	<u>0.75</u>	<u>1.39</u>
3	<u>32 or more</u>	<u>0.88</u>	<u>0.76</u>	<u>1.44</u>

4

5 For guarantees not listed, calculate the appropriate value by
 6 interpolation.

7 (b) Nitrogen investigational allowances.--

8	<u>Nitrogen breakdown</u>	<u>Investigational allowances</u>
9		<u>Percent</u>
10	<u>Nitrate nitrogen</u>	<u>0.40</u>
11	<u>Ammoniacal nitrogen</u>	<u>0.40</u>
12	<u>Water soluble nitrogen</u>	
13	<u>or urea nitrogen</u>	<u>0.40</u>
14	<u>Water insoluble nitrogen</u>	<u>0.30</u>

15

16 In no case may the investigational allowance exceed 50 percent
 17 of the amount guaranteed.

18 (c) Secondary and micro plant nutrients, total or
 19 soluble.--

20	<u>Element</u>	<u>Investigational allowances</u>
21		<u>Percent</u>
22	<u>Calcium</u>	<u>0.2 unit+5 percent of guarantee</u>
23	<u>Magnesium</u>	<u>0.2 unit+5 percent of guarantee</u>
24	<u>Sulfur (free and combined)</u>	<u>0.2 unit+5 percent of guarantee</u>
25	<u>Boron</u>	<u>0.003 unit+15 percent of guarantee</u>
26	<u>Cobalt</u>	<u>0.0001 unit+30 percent of guarantee</u>
27	<u>Chlorine</u>	<u>0.005 unit+10 percent of guarantee</u>
28	<u>Copper</u>	<u>0.005 unit+10 percent of guarantee</u>
29	<u>Iron</u>	<u>0.005 unit+10 percent of guarantee</u>
30	<u>Manganese</u>	<u>0.005 unit+10 percent of guarantee</u>
31	<u>Molybdenum</u>	<u>0.0001 unit+30 percent of guarantee</u>

1 Sodium 0.005 unit+10 percent of guarantee
 2 Zinc 0.005 unit+10 percent of guarantee

3
 4 The maximum allowance for secondary and minor elements when
 5 calculated in accordance with this section is 1 unit (1
 6 percent). In no case, however, may the investigational
 7 allowance exceed 50 percent of the amount guaranteed.

8 (d) Liming materials and gypsum.--

<u>Range Percent</u>	<u>Investigational allowances</u>
	<u>Percent</u>
11 <u>0-10</u>	<u>0.30</u>
12 <u>Over 10-25</u>	<u>0.40</u>
13 <u>Over 25</u>	<u>0.50</u>

14 (e) Pesticides in fertilizer mixtures.--An
 15 investigational allowance of 25 percent of the guarantee shall
 16 be allowed on all pesticides when added to custom blend
 17 fertilizers.

18 ~~(1) Tolerances shall be set by the department by rule.~~

19 (2) Deficiencies, compensation, and penalties shall be
 20 as follows:

21 (a) When the commercial value of a mixed fertilizer
 22 found to be deficient in primary plant nutrient equals or
 23 exceeds the amount guaranteed by the licensee, no penalty
 24 shall be assessed, provided no element of primary plant
 25 nutrient is deficient more than one-half of 1 percent when the
 26 guarantee does not exceed 10 percent or more than 1 percent
 27 when the guarantee exceeds 10 percent. If the commercial
 28 value found fails to equal or exceed that which is guaranteed,
 29 a penalty shall be assessed based on the deficiency found, but
 30 in no instance shall the penalty be less than \$10. No overage
 31 in any secondary plant nutrient or micro plant nutrient shall

1 compensate for a deficiency in primary plant nutrient or of
2 another secondary plant nutrient or micro plant nutrient.
3 When a deficiency is found in any plant nutrient, the buyer
4 shall be entitled to collect an amount from the licensee equal
5 to 3 times the commercial value of the deficiency found. ~~When~~
6 ~~a fertilizer-pesticide mixture is found to be deficient in~~
7 ~~pesticide, the consumer shall be entitled to collect from the~~
8 ~~licensee an amount prescribed by rule of the department.~~

9 ~~(b)~~ If the licensee on which a penalty is assessed for
10 a plant nutrient deficiency is on probationary status as
11 provided in this chapter ~~and rules adopted thereunder~~, the
12 licensee shall pay to the department an additional amount
13 equal to one-half the penalty assessed. The proceeds from any
14 such penalty shall be deposited into the General Inspection
15 Trust Fund to be used for the sole purpose of funding the
16 fertilizer inspection program. A penalty shall be assessed if
17 any of the plant nutrients in mixed fertilizer or fertilizer
18 material are found below the investigational allowances
19 provided in subsection (1), unless compensable.

20 (b) Penalties shall be assessed at the rate of 3 times
21 the commercial value of the deficiency found, using the
22 formula: the percent deficient times the commercial value
23 times 3 times the tonnage represented by the official sample.

24 (c) A deficiency in a nitrogen breakdown form shall be
25 compensated by an excess in another nitrogen form if the
26 following criteria are met:

27 1. Fifty percent or greater of the guaranteed amount
28 of the deficient form must be found by analysis.

29 2. The excess in the nitrogen forms used for
30 compensation must exceed the commercial value of the
31

1 guaranteed forms found within investigational allowance but
 2 below guarantee.

3
 4 If the criteria for compensation in this paragraph are not
 5 met, a penalty shall be assessed on the difference in the
 6 guaranteed and found percentages of the deficient nitrogen
 7 form. When compensation is applied to a deficiency and the
 8 total commercial value of the nitrogen forms found by analysis
 9 fails to equal 100 percent of the total commercial value of
 10 the nitrogen forms guaranteed, a penalty of 3 times the
 11 difference of the commercial value after compensation and the
 12 commercial value guaranteed shall be assessed. A penalty must
 13 be assessed on the nitrogen breakdown when both the total
 14 nitrogen and the nitrogen breakdown are found to be deficient.
 15 If the nitrogen breakdown is within investigational allowance
 16 and the total nitrogen is deficient, a penalty shall be
 17 assessed against the total nitrogen deficiency unless
 18 compensable as provided in this chapter. If the nitrogen is
 19 derived solely from ammonium nitrate, the commercial value
 20 used in determining the penalty on either the total nitrogen
 21 or the nitrate nitrogen must be the same as that of the
 22 ammoniacal nitrogen.

23 (d) In assessing penalties on a deficient lot of
 24 dolomite or limestone, the following formula shall be used:
 25 the percentage guarantee minus the percentage of CaCO₃ or
 26 MgCO₃ found times the commercial value times 3 times the
 27 tonnage represented by the official sample. Shortages in
 28 CaCO₃ liming materials may be compensated by overages in
 29 MgCO₃ on a unit-for-unit basis.

30 (e) In calculating penalties, no consideration may be
 31 given to investigational allowances.

1 (f) When a pesticide in a fertilizer-pesticide mixture
 2 is found by analysis to be deficient beyond the
 3 investigational allowance as provided in this section, the
 4 buyer is entitled to collect an amount from the registrant
 5 equal to 3 times the value of the deficiency found, except
 6 when the official sample was taken from a fertilizer-pesticide
 7 mixture that was in the possession of a consumer for more than
 8 45 days after the date of purchase by that consumer. When a
 9 deficiency is found in a sample drawn from a
 10 fertilizer-pesticide mixture in the hands of a dealer or
 11 agency, the penalty shall be disbursed as provided in
 12 paragraph (3)(e). The value of the deficiency found must be an
 13 amount equal to the product of the percent deficient times the
 14 comparable consumer invoice value of the quantity of pesticide
 15 as active ingredient represented by the official sample,
 16 divided by the percent guarantee of the pesticide. In no
 17 instance may the penalty be less than \$25.

18 (3)(a) In tobacco brands of mixed fertilizer, the
 19 penalty for an excess of chlorine of more than 25 percent of
 20 the guarantee shall be 100 percent of the commercial value of
 21 the mixed fertilizer. No penalty shall be assessed for an
 22 excess of chlorine of less than 25 percent of the guarantee
 23 and in no case shall a penalty be assessed unless the chlorine
 24 present is 1 percent or more.

25 ~~(b) In brands of fertilizer other than tobacco brands,~~
 26 ~~the penalty for excess in chlorine shall be one-eighth the~~
 27 ~~penalties as set forth above for excess in tobacco brands.~~

28 (b)(c) Within 60 days from the date of issuance of a
 29 fertilizer analysis report from the department and the notice
 30 of penalties assessed under the provisions of this chapter, a
 31 licensee shall make payment in full to the consumer, in cash,

1 or by credit memo if and to the extent the consumer is
 2 indebted to the licensee or dealer. Any licensee who fails to
 3 make settlement in full to the consumer within the 60 days is
 4 liable for interest on the penalty of 1.5 percent per month
 5 from the date of issuance of the fertilizer analysis report.
 6 If a licensee demands an analysis of the official check sample
 7 by a referee chemist, the 60-day settlement requirement shall
 8 be temporarily suspended pending a final determination. When
 9 the final and binding analysis has been established, it shall
 10 be the responsibility of the department to determine the
 11 amount of penalty, if any, due to the consumer and to notify
 12 in writing the licensee and the consumer of the final
 13 determination. The licensee shall have 10 days from the date
 14 of receipt of the final determination from the department to
 15 make settlement with the consumer and shall notify the
 16 department in writing of the terms of the settlement.

17 (c)~~(d)~~ If any fertilizer is found to be of short
 18 weight by the department, the licensee, within 30 days after
 19 receipt of notice of such short weight, shall make payment to
 20 the consumer or the department an amount of 3 times the
 21 commercial value of the shortage in each case, or by credit
 22 memo if and to the extent the consumer is indebted to the
 23 licensee or dealer, but in no instance shall the penalty be
 24 less than \$25. Any licensee who fails to make settlement in
 25 full to the consumer or the department within 60 days is
 26 liable for interest on the penalty of 1.5 percent per month
 27 from the date of issuance. The licensee shall notify the
 28 department in writing of the terms of the settlement.

29 (d)~~(e)~~ If the licensee, dealer, or agent fails or
 30 refuses to make payment to the consumer within the time
 31 required, the consumer may institute legal proceedings against

1 the licensee, dealer, or agent for recovery of penalties as
 2 provided in this chapter. Any judgment against a licensee,
 3 dealer, or agent shall be double the amount of the penalty and
 4 shall include a reasonable attorney's fee and costs.

5 (e)~~(f)~~ When a deficiency is found in a sample drawn
 6 from a lot of fertilizer in the hands of a dealer or agency,
 7 the dealer or agency shall collect the amount due under the
 8 deficiency from the licensee and shall within 60 days pay to
 9 each person purchasing fertilizer from such lot a
 10 proportionate share of the amount collected and shall notify
 11 the department in writing that such payment has been made.
 12 However, as to any individual sale by a dealer or agent of
 13 fertilizer subject to penalties for deficiencies when the
 14 dealer or agent is unable to determine the purchaser of the
 15 lot of fertilizer, the dealer or agent shall pay the
 16 proportionate amount of penalties to the department to be
 17 placed in the State Treasury to the credit of the General
 18 Inspection Trust Fund to be used for the sole purpose of
 19 funding the fertilizer inspection program.

20 (4) When it is determined by the department that a
 21 fertilizer has been distributed without being licensed or
 22 registered, or without labeling, the department shall require
 23 the licensee to pay a penalty in the amount of \$100. The
 24 proceeds from any penalty payments shall be deposited by the
 25 department in the General Inspection Trust Fund to be used for
 26 the sole purpose of funding the fertilizer inspection program.

27 (5) The department may enter an order imposing one or
 28 more of the following penalties against any person who
 29 violates any of the provisions of this chapter or the rules
 30 adopted hereunder or who shall impede, obstruct, hinder, or
 31 otherwise prevent or attempt to prevent the department in the

1 performance of its duty in connection with the provisions of
2 this chapter:

3 (a) Issuance of a warning letter.

4 (b) Imposition of an administrative fine of not more
5 than \$1,000 per occurrence after the issuance of a warning
6 letter.

7 (c) Cancellation, revocation, or suspension of any
8 license issued by the department.

9 Section 6. Section 576.071, Florida Statutes, is
10 amended to read:

11 576.071 Commercial value.--The commercial value used
12 in assessing penalties for any deficiency shall be determined
13 by using annualized plant nutrient values contained in one or
14 more generally recognized journals recommended by the
15 Fertilizer Technical Council ~~the latest established by rule,~~
16 ~~consistent with market prices, and reviewed annually to keep~~
17 ~~the values consistent with current fertilizer market prices.~~

18 Section 7. Section 576.091, Florida Statutes, is
19 amended to read:

20 576.091 Fertilizer Technical Council.--

21 (1) CREATION ~~COMPOSITION~~.--The Fertilizer Technical
22 Council is ~~hereby~~ created within in the department. The
23 Commissioner of Agriculture shall appoint all members and
24 alternate members of the council. ~~and shall be composed of 13~~
25 ~~members as follows:~~

26 (2) COMPOSITION.--The council is composed of 13
27 members including:

28 (a) Three representatives of the department; a citizen
29 not involved in at large ~~who shall have no affiliation with~~
30 the manufacture, or distribution, or sale of fertilizer ~~shall~~
31 ~~be appointed by the commissioner;~~ the Dean for Research and

1 the Dean for Extension of the Institute of Food and
2 Agricultural Sciences at the University of Florida; and one
3 representative each from the beef cattle, field crops, citrus,
4 vegetable, fertilizer, pesticide, and agricultural limestone
5 industries in Florida ~~members of the State Agricultural~~
6 ~~Advisory Council.~~

7 (b) The commissioner may appoint an alternate member
8 for each member. ~~If a vacancy occurs, it shall be filled for~~
9 ~~the remainder of the term in the same manner as an initial~~
10 ~~appointment.~~

11 (3)(2) POWERS AND DUTIES; MEETINGS; PROCEDURES;
12 RECORDS; REIMBURSEMENTS ~~COMPENSATION.~~ --The meetings, powers
13 and duties, procedures, and recordkeeping, ~~of the Fertilizer~~
14 ~~Technical Council, and per diem and reimbursement of expenses~~
15 of council members and alternate members of the council, shall
16 be in accordance with ~~governed by~~ the provisions of s.
17 570.0705 relating to advisory committees established within
18 the department.

19 Section 8. Subsection (2) of section 576.101, Florida
20 Statutes, is amended to read:

21 576.101 Cancellation, revocation, and suspension;
22 probationary status.--

23 (2) The department may place any licensee on a
24 probationary status when the deficiency levels of samples
25 taken from that licensee do not meet minimum performance
26 levels established by statute rule within the investigational
27 allowances provided in s. 576.061 ~~tolerances permitted by the~~
28 ~~rule.~~

29 Section 9. Subsection (8) of section 576.151, Florida
30 Statutes, is amended to read:

31

1 576.151 Prohibited acts.--The following acts are
2 prohibited:

3 (8) The sale of ~~unprocessed leather, hair, wool waste,~~
4 ~~or any other organic~~ material as a fertilizer or as an
5 ingredient of any mixed fertilizer showing an activity of
6 water-insoluble nitrogen less than prescribed by the
7 Association of Official Analytical Chemists, ~~however,~~
8 Fertilizer ~~materials~~ not defined by the Association of
9 American Plant Food Control Officials may be distributed ~~used~~
10 as fertilizer ~~materials~~, provided the licensee furnishes an
11 acceptable definition, Association of Official Analytical
12 Chemists analysis, or other appropriate method of analysis,
13 and provides efficacy studies with appropriate controls that
14 have been generated in accordance with good scientific
15 practices whose results have been peer reviewed and published
16 in a generally available scientific journal or have been
17 reviewed and recognized by the research department of an
18 accredited agricultural college or university. The data must
19 clearly quantify and demonstrate a beneficial plant growth
20 response attributable to the fertilizer material when it is
21 used in accordance with the manufacturer's or distributor's
22 recommendations. ~~agronomic data from a recognized school of~~
23 ~~agriculture whose test results have been subjected to peer~~
24 ~~review and published in a generally available scientific~~
25 ~~journal.~~

26 Section 10. Subsection (2) of section 576.181, Florida
27 Statutes, is amended to read:

28 576.181 Administration; rules; procedure.--

29 (2) The department is authorized, by rule, to
30 implement, make specific, and interpret the provisions of this
31 chapter, and specifically to determine the composition and

1 uses of fertilizer as defined in this chapter, including,
2 without limiting the foregoing general terms, the taking and
3 handling of samples, the establishment of investigational
4 allowances ~~tolerances~~, deficiencies, and penalties where not
5 specifically provided for in this chapter; to prohibit the
6 sale or use in fertilizer of any material proven to be
7 detrimental to agriculture, public health, or the environment,
8 or of questionable value; to provide for the incorporation
9 into fertilizer of such other substances as pesticides and
10 proper labeling of such mixture; and to prescribe the
11 information which shall appear on the label other than
12 specifically set forth in this chapter.

13 Section 11. Section 19 of chapter 92-143, Laws of
14 Florida, is repealed.

15 Section 12. This act shall take effect October 1,
16 1997.

17
18
19
20
21
22
23
24
25
26
27
28
29
30
31