

# SENATE BILL No. 840

October 25, 2005, Introduced by Senators KUIPERS, JELINEK, VAN WOERKOM, GILBERT, SANBORN, STAMAS and BARCIA and referred to the Committee on Agriculture, Forestry and Tourism.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 8501, 8502, 8503, 8505, 8506, 8507, 8509,  
8510, 8513, and 8517 (MCL 324.8501, 324.8502, 324.8503, 324.8505,  
324.8506, 324.8507, 324.8509, 324.8510, 324.8513, and 324.8517),  
section 8501 as amended and section 8517 as added by 1998 PA 276  
and sections 8502, 8503, 8505, 8506, 8507, 8509, 8510, and 8513 as  
added by 1995 PA 60, and by adding sections 8501a, 8519, 8520,  
8521, and 8522; and to repeal acts and parts of acts.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 8501. As used in this part:

2       (a) "Adulterated product" means a product which contains any

1 deleterious or harmful substance in sufficient amount to render it  
2 injurious to beneficial plant life, animals, humans, aquatic life,  
3 soil or water when applied in accordance with directions for use on  
4 the label, or if adequate warning statements or directions for use  
5 which may be necessary to protect plant life, animals, humans,  
6 aquatic life, soil or water are not shown on the label.

7 (b) "Aquifer" means a geologic formation, group of formations,  
8 or part of a formation capable of yielding a significant amount of  
9 groundwater to wells or springs.

10 (c) "Aquifer sensitivity" means a hydrogeologic function  
11 representing the inherent abilities of materials surrounding the  
12 aquifer to attenuate the movement of nitrogen fertilizers into that  
13 aquifer.

14 (d) "Aquifer sensitivity region" means an area in which  
15 aquifer sensitivity estimations are sufficiently uniform to warrant  
16 their classification as a unit.

17 (e) "Brand or product name" means a term, design, or trademark  
18 used in connection with 1 or more grades of fertilizer.

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

21 (g) "Custom ~~mixed fertilizer~~ **BLEND**" means a ~~mixed~~  
22 fertilizer ~~formulated~~ **BLENDED** according to ~~individual~~  
23 specifications ~~furnished by the consumer before mixing~~ **PROVIDED**  
24 **TO A BLENDER OR TO MEET SPECIFIC CONSUMER REQUESTS PRIOR TO**  
25 **BLENDING.**

26 (h) "Department" means the department of agriculture.

27 (i) "Director" means the director of the department of

1 agriculture or his or her designee.

2 (j) "Distribute" means to import, consign, sell, barter, offer  
3 for sale, solicit orders for sale, or otherwise supply fertilizer  
4 for sale or use in this state.

5 (K) "DISTRIBUTOR" MEANS ANY PERSON WHO DISTRIBUTES FERTILIZER  
6 FOR SALE OR USE IN THIS STATE.

7 (l) ~~(k)~~ "Fertilizer" means a substance containing 1 or more  
8 recognized plant nutrients, which substance is used for its plant  
9 nutrient content and which is designed for use, or claimed to have  
10 value, in promoting plant growth. Fertilizer does not include  
11 unmanipulated animal and vegetable manures, marl, lime, limestone,  
12 wood ashes, and other materials exempted by rules promulgated under  
13 this part.

14 (M) ~~(l)~~ "Fertilizer material" means ~~any substance containing~~  
15 ~~any recognized plant nutrient, which is used as a fertilizer or~~  
16 ~~for compounding mixed fertilizers.~~ THAT IS ANY OF THE FOLLOWING:

17 (i) CONTAINS NOT MORE THAN 1 OF THE FOLLOWING AS PRIMARY  
18 NUTRIENTS:

19 (A) TOTAL NITROGEN (N).

20 (B) AVAILABLE PHOSPHATE ( $P_2O_5$ ).

21 (C) SOLUBLE POTASH ( $K_2O$ ).

22 (ii) HAS 85% OR MORE OF ITS PLANT NUTRIENT CONTENT PRESENT IN  
23 THE FORM OF A SINGLE CHEMICAL COMPOUND.

24 (iii) IS DERIVED FROM A PLANT OR ANIMAL RESIDUE OR BY-PRODUCT OR  
25 NATURAL MATERIAL DEPOSIT WHICH HAS BEEN PROCESSED IN SUCH A WAY  
26 THAT ITS CONTENT OF PLANT NUTRIENTS HAS NOT BEEN MATERIALLY CHANGED  
27 EXCEPT BY PURIFICATION AND CONCENTRATION.

1           (N) "FIELD CAPACITY" MEANS THE AMOUNT OF WATER A PARTICULAR  
2 SOIL IS ABLE TO CONTAIN ONCE GRAVITY HAS DRAINED SURPLUS WATER.

3           (O) "GENERAL TURF" MEANS NONCROP LAND MANAGED USING  
4 TURFGRASSES INCLUDING, BUT NOT LIMITED TO, HOME LAWNS, CEMETERIES,  
5 PARK AREAS, AND COMMERCIAL, SCHOOL, UNIVERSITY, AND GOVERNMENT  
6 GROUNDS. GENERAL TURF DOES NOT INCLUDE PERFORMANCE TURF, FORAGE  
7 PRODUCTION, SOD FARMS, TURF ESTABLISHMENT, OR OTHER AGRICULTURAL  
8 PRODUCTION.

9           (P) ~~—(m)—~~ "Grade" means the percentage guarantee of total  
10 nitrogen (N), ~~—available phosphorus, or available phosphoric~~  
11 ~~acid,  $P_2O_5$ —~~ **PHOSPHATE ( $P_2O_5$ )**, and ~~—soluble potassium, or soluble~~  
12 ~~potash,  $K_2O$ —~~ **SOLUBLE POTASH ( $K_2O$ )**, of a fertilizer and shall be  
13 stated in the same order ~~—as listed—~~ **GIVEN** in this subdivision.  
14 Indication of grade does not apply to peat or peat moss or soil  
15 conditioners.

16           (Q) ~~—(n)—~~ "Groundwater" means underground water within the  
17 zone of saturation.

18           (R) ~~—(o)—~~ "Groundwater stewardship practices" means any of a  
19 set of voluntary practices adopted by the commission of agriculture  
20 pursuant to part 87, designed to protect groundwater from  
21 contamination by fertilizers.

22           (S) ~~—(p)—~~ "Guaranteed analysis" means the minimum percentage  
23 of each plant nutrient guaranteed or claimed to be present.

24           (T) ~~—(q)—~~ "Label" means any written, printed, or graphic  
25 matter on or attached to packaged fertilizer or used to identify  
26 fertilizer distributed in bulk or held in bulk storage.

27           (U) ~~—(r)—~~ "Labeling" means all labels and other written,

1 printed, **ELECTRONIC**, or graphic matter upon or accompanying **ANY**  
2 fertilizer at any time, and includes advertising, ~~or~~ sales  
3 literature, **BROCHURES, POSTERS, AND INTERNET, TELEVISION, AND RADIO**  
4 **ANNOUNCEMENTS USED IN PROMOTING THE SALE OF THAT FERTILIZER.**

5 (V) "LICENSEE" MEANS THE PERSON WHO RECEIVES A LICENSE TO  
6 MANUFACTURE OR DISTRIBUTE FERTILIZERS UNDER THIS PART.

7 (W) "LOCAL UNIT OF GOVERNMENT" MEANS A COUNTY, CITY, TOWNSHIP,  
8 OR VILLAGE. LOCAL UNIT OF GOVERNMENT DOES NOT INCLUDE THE STATE OR  
9 FEDERAL GOVERNMENT OR A STATE OR FEDERAL AGENCY.

10 (X) "LOT" MEANS AN IDENTIFIABLE QUANTITY OF FERTILIZER THAT  
11 CAN BE SAMPLED OFFICIALLY ACCORDING TO METHODS ADOPTED UNDER  
12 SECTION 8510, THAT AMOUNT CONTAINED IN A SINGLE VEHICLE, OR THAT  
13 AMOUNT DELIVERED UNDER A SINGLE INVOICE.

14 (Y) "MANAGEMENT PRACTICES" MEANS STRUCTURAL, VEGETATIVE, OR  
15 OTHER PRACTICES THAT REDUCE OR PREVENT THE DETACHMENT, TRANSPORT,  
16 AND DELIVERY OF POLLUTANTS TO WATERS OF THE STATE OR GROUNDWATER.

17 (Z) ~~(s)~~ "Manufacture" means to process, granulate, compound,  
18 produce, mix, blend, or alter the composition of fertilizer or  
19 fertilizer materials.

20 ~~—— (t) "Maximum contaminant level" means that term as it is~~  
21 ~~defined in title XIV of the public health service act, chapter 373,~~  
22 ~~88 Stat. 1660, and the regulations promulgated under that act.~~

23 ~~—— (u) "Mixed fertilizer" means a fertilizer containing any~~  
24 ~~combination or mixture of fertilizer materials designed for use or~~  
25 ~~claimed to have value in promoting plant growth, including mixtures~~  
26 ~~of fertilizer and pesticide.~~

27 ~~—— (v) "Nitrogen fertilizer" means a fertilizer that contains~~

1 ~~nitrogen as a component.~~

2 ~~—— (w) "Official sample" means a sample of fertilizer taken by a~~  
3 ~~representative of the department of agriculture in accordance with~~  
4 ~~acceptable methods.~~

5 ~~—— (x) "Order" means a cease and desist order issued under~~  
6 ~~section 8511.~~

7 ~~—— (y) "Package" or "packaged" means any type of product~~  
8 ~~regulated by this part that is distributed in individual containers~~  
9 ~~with a capacity not exceeding 55 gallons for liquids and not~~  
10 ~~exceeding 200 pounds for solids.~~

11 ~~—— (z) "Percent" and "percentage" mean the percentage by weight.~~

12 ~~—— (aa) "Soil conditioner" means a substance that is used or~~  
13 ~~intended for use solely for the improvement of the physical nature~~  
14 ~~of soil and for which no claims are made for plant nutrients~~  
15 ~~content. Soil conditioner does not include guaranteed plant~~  
16 ~~nutrients, hormones, bacterial inoculants, and products used in~~  
17 ~~directly influencing or controlling plant growth.~~

18 ~~—— (bb) "Specialty fertilizer" means any fertilizer distributed~~  
19 ~~primarily for nonfarm use, such as use in connection with home,~~  
20 ~~gardens, lawns, shrubbery, flowers, golf courses, parks, and~~  
21 ~~cemeteries, and may include fertilizers used for research or~~  
22 ~~experimental purposes.~~

23 ~~—— (cc) "Ton" means a net ton of 2,000 pounds avoirdupois.~~

24 ~~—— (dd) "Use" means the loading, mixing, applying, storing,~~  
25 ~~transporting, or disposing of a fertilizer.~~

26 **SEC. 8501A. AS USED IN THIS PART:**

27 **(A) "MAXIMUM CONTAMINANT LEVEL" MEANS THAT TERM AS IT IS**

1   DEFINED IN TITLE XIV OF THE PUBLIC HEALTH SERVICE ACT, CHAPTER 373,  
2   88 STAT. 1660, AND THE REGULATIONS PROMULGATED UNDER THAT ACT.

3       (B) "MIXED FERTILIZER" MEANS A FERTILIZER CONTAINING ANY  
4   COMBINATION OR MIXTURE OF FERTILIZER MATERIALS.

5       (C) "NITROGEN FERTILIZER" MEANS A FERTILIZER THAT CONTAINS  
6   NITROGEN AS A COMPONENT.

7       (D) "OFFICIAL SAMPLE" MEANS A SAMPLE OF FERTILIZER TAKEN BY A  
8   REPRESENTATIVE OF THE DEPARTMENT OF AGRICULTURE IN ACCORDANCE WITH  
9   ACCEPTABLE SAMPLING METHODS UNDER SECTION 8510.

10      (E) "ORDER" MEANS A CEASE AND DESIST ORDER ISSUED UNDER  
11   SECTION 8511.

12      (F) "PACKAGE" OR "PACKAGED" MEANS ANY TYPE OF PRODUCT  
13   REGULATED BY THIS PART THAT IS DISTRIBUTED IN INDIVIDUAL LABELED  
14   CONTAINERS.

15      (G) "PERCENT" AND "PERCENTAGE" MEAN THE PERCENTAGE BY WEIGHT.

16      (H) "PERFORMANCE TURF" MEANS TURF MANAGED FOR USE ON GOLF  
17   COURSES AND ATHLETIC FIELDS.

18      (I) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, ASSOCIATION,  
19   FIRM, LIMITED LIABILITY COMPANY, OR CORPORATION.

20      (J) "PRIMARY NUTRIENTS" MEANS TOTAL NITROGEN, AVAILABLE  
21   PHOSPHATE, OR SOLUBLE POTASH, OR ANY COMBINATION OF THOSE  
22   NUTRIENTS.

23      (K) "REGISTRANT" MEANS THE PERSON WHO REGISTERS A PRODUCT  
24   UNDER THIS PART.

25      (L) "SOIL CONDITIONER" MEANS ANY SUBSTANCE THAT IS USED OR  
26   INTENDED FOR USE TO IMPROVE THE PHYSICAL CHARACTERISTICS OF SOIL,  
27   INCLUDING, BUT NOT LIMITED TO, MATERIALS SUCH AS PEAT MOSS AND PEAT

1 PRODUCTS, COMPOSTED PRODUCTS, SYNTHETIC SOIL CONDITIONERS, OR OTHER  
2 PRODUCTS THAT ARE WORKED INTO THE SOIL OR ARE APPLIED ON THE  
3 SURFACE TO IMPROVE THE PROPERTIES OF THE SOIL FOR ENHANCING PLANT  
4 GROWTH. SOIL CONDITIONER DOES NOT INCLUDE GUARANTEED PLANT  
5 NUTRIENTS, AGRICULTURAL LIMING MATERIALS, PESTICIDES, UNMANIPULATED  
6 ANIMAL OR VEGETABLE MANURES, HORMONES, BACTERIAL INOCULANTS, AND  
7 PRODUCTS USED IN DIRECTLY INFLUENCING OR CONTROLLING PLANT GROWTH.  
8 A SOIL CONDITIONER FOR WHICH CLAIMS ARE MADE OF NUTRIENT VALUE IS  
9 CONSIDERED A FERTILIZER FOR THE PURPOSES OF THIS PART.

10 (M) "SPECIALTY FERTILIZER" MEANS ANY FERTILIZER DISTRIBUTED  
11 PRIMARILY FOR NONFARM USE, SUCH AS USE IN CONNECTION WITH HOME,  
12 GARDENS, LAWNS, SHRUBBERY, FLOWERS, GOLF COURSES, PARKS, AND  
13 CEMETERIES, AND MAY INCLUDE FERTILIZERS USED FOR RESEARCH OR  
14 EXPERIMENTAL PURPOSES.

15 (N) "TMDL" MEANS TOTAL MAXIMUM DAILY LOAD THAT IS THE MAXIMUM  
16 POLLUTANT LOAD THAT CAN BE DISCHARGED IN WATERS OF THE STATE FROM  
17 ALL SOURCES AS DETERMINED BY THE STATE OF MICHIGAN AND AS REQUIRED  
18 BY SECTION 303(D) OF THE FEDERAL CLEAN WATER ACT AND THE UNITED  
19 STATES ENVIRONMENTAL PROTECTION AGENCY WATER QUALITY MANAGEMENT  
20 REGULATIONS, TITLE 40 CFR PART 130.

21 (O) "TON" MEANS A NET WEIGHT OF 2,000 POUNDS AVOIRDUPOIS.

22 (P) "TURF ESTABLISHMENT" MEANS AN AREA WHERE TURFGRASSES ARE  
23 BEING ESTABLISHED FROM SEED OR SOD DURING THE FIRST YEAR OF GROWTH.

24 (Q) "USE" MEANS THE LOADING, MIXING, APPLYING, STORING,  
25 TRANSPORTING, OR DISPOSING OF A FERTILIZER.

26 (R) "WATERS OF THE STATE" MEANS ALL OF THE FOLLOWING:

27 (i) THE GREAT LAKES AND THEIR CONNECTING WATERS.



1           (ii) INLAND LAKES.

2           (iii) RIVERS.

3           (iv) STREAMS.

4           (v) OTHER SURFACE BODIES OF WATER WITHIN THE CONFINES OF THIS  
5 STATE.

6           Sec. 8502. (1) A packaged fertilizer distributed in this  
7 state, including packaged ~~custom~~ mixed fertilizer and soil  
8 conditioner, shall have placed on or affixed to the package or  
9 container a label setting forth in clearly legible and conspicuous  
10 form ~~all of~~ the following:

11           (a) The net weight of the contents of the package, except that  
12 **SOIL CONDITIONERS**, peat, or peat moss ~~shall~~ **MAY** be designated by  
13 volume.

14           (b) Brand or product name.

15           (c) Name and address of the licensed manufacturer or  
16 distributor.

17           (d) Grade. **HOWEVER, THE GRADE IS NOT REQUIRED WHEN NO PRIMARY**  
18 **NUTRIENTS ARE CLAIMED.** This subdivision does not apply to peat or  
19 peat moss, ~~or~~ material sold as a soil conditioner, **OR FERTILIZER**  
20 **FOR WHICH NO PRIMARY NUTRIENTS ARE CLAIMED.**

21           (e) Guaranteed analysis. This subdivision does not apply to  
22 peat or peat moss or material sold as a soil conditioner.

23           (2) A fertilizer distributed in this state in bulk, **EXCEPT A**  
24 **CUSTOM BLEND**, shall be accompanied by a written or printed invoice  
25 or statement to be furnished to the purchaser at the time of  
26 delivery containing in clearly legible and conspicuous form ~~all of~~  
27 the following information:

1 (a) Name and address of the licensed manufacturer or  
2 distributor.

3 (b) Name and address of purchaser.

4 (c) Date of sale.

5 (d) Brand or product name.

6 (e) Grade. **HOWEVER, THE GRADE IS NOT REQUIRED WHEN NO PRIMARY**  
7 **NUTRIENTS ARE CLAIMED.**

8 (f) Guaranteed analysis.

9 (g) Net weight.

10 (3) A CUSTOM BLEND SHALL BE ACCOMPANIED BY A WRITTEN OR  
11 PRINTED INVOICE OR STATEMENT TO BE FURNISHED TO THE PURCHASER AT  
12 THE TIME OF DELIVERY CONTAINING IN CLEARLY LEGIBLE AND CONSPICUOUS  
13 FORM THE FOLLOWING INFORMATION:

14 (A) NAME AND ADDRESS OF THE LICENSED MANUFACTURER OR  
15 DISTRIBUTOR.

16 (B) NAME AND ADDRESS OF PURCHASER.

17 (C) DATE OF SALE.

18 (D) EITHER THE NET WEIGHT AND GUARANTEED ANALYSIS OF THE  
19 CUSTOM BLEND OR THE GUARANTEED ANALYSIS AND NET WEIGHT OF EACH  
20 MATERIAL USED IN THE FORMULATION OF THE CUSTOM BLEND OR BOTH.

21 (4) ~~—(3)—~~ Fertilizer in bulk storage shall be identified with  
22 a label attached to the storage bin or container giving the name  
23 and address of the licensed manufacturer or distributor and the  
24 name and grade of the product.

25 Sec. 8503. (1) The guaranteed analysis ~~—for the primary~~  
26 ~~nutrients of nitrogen, available phosphoric acid,  $P_2O_5$ , and soluble~~  
27 ~~potash,  $K_2O$ , shall be expressed as whole numbers on the label—~~ **SHALL**

SHOW THE MINIMUM PERCENTAGE OF PLANT NUTRIENTS CLAIMED in the following order and form:

(A) Total nitrogen ~~—, N—~~ (N) . \_\_\_\_\_ %

Available ~~phosphoric acid,  $P_2O_5$ —~~ PHOSPHATE ( $P_2O_5$ ) . \_\_\_\_\_ %

Soluble potash ~~—,  $K_2O$ —~~ ( $K_2O$ ) . \_\_\_\_\_ %

~~(2) A mixed fertilizer may not be sold if the sum of the guarantees for the nitrogen, available phosphoric acid, and soluble potash totals less than 20%, except specialty fertilizers permitted to be sold by product registration issued by the department.~~

~~(3) If elemental guarantees are required by rules, as authorized by section 8516, the guaranteed analysis shall be expressed in terms of percentage of available phosphorus, P, and soluble potassium, K.~~

(B) WHEN APPLIED TO MIXED FERTILIZERS, GRADE SHALL BE GIVEN IN WHOLE NUMBERS ONLY. HOWEVER, SPECIALTY FERTILIZERS WITH A GUARANTEE OF LESS THAN 1% OF TOTAL NITROGEN, AVAILABLE PHOSPHATE, AND SOLUBLE POTASH MAY USE FRACTIONAL UNITS. FERTILIZER MATERIALS, BONE MEAL, MANURES, AND SIMILAR MATERIALS MAY BE GUARANTEED IN FRACTIONAL UNITS.

(C) WHEN APPLIED TO CUSTOM BLENDS, GRADE CAN EITHER BE GIVEN IN WHOLE NUMBERS OR IN NUMBERS EXPRESSED TO THE NEAREST 1/10 OF A PERCENT IN THE FORM OF A DECIMAL IN THE ANALYSIS.

(D) FOR UNACIDULATED MINERAL PHOSPHATIC MATERIAL AND BASIC SLAG, BONE, TANKAGE, AND OTHER ORGANIC PHOSPHATIC MATERIALS, THE TOTAL PHOSPHATE OR DEGREE OF FINENESS, OR BOTH, MAY ALSO BE GUARANTEED.

~~(2) —(4)—~~ Additional plant nutrients, other than nitrogen,

1 phosphorus, and potassium, claimed to be present in any form or  
2 manner shall be guaranteed on the elemental basis, at levels not  
3 less than those established by rules. ~~The materials shall be~~  
4 ~~approved by the director of the department, by and with the advice~~  
5 ~~of the director of the Michigan agricultural experiment station.~~

6 **OTHER BENEFICIAL COMPOUNDS OR SUBSTANCES, DETERMINABLE BY**  
7 **LABORATORY METHODS, MAY BE GUARANTEED IF APPROVED BY THE DIRECTOR.**

8       Sec. 8505. (1) A person shall not distribute a specialty  
9 fertilizer or soil conditioner ~~until~~ **UNLESS** it is registered ~~by~~  
10 ~~the manufacturer or distributor~~ with the department. ~~and the~~  
11 ~~appropriate groundwater protection fees provided for in section~~  
12 ~~8715 have been submitted.~~ An application ~~in duplicate~~ listing  
13 each brand and product name of each grade of specialty fertilizer  
14 or soil conditioner shall be made on a form furnished by the  
15 director and shall be accompanied with ~~a fee of \$25.00~~ **THE FEES**  
16 **DESCRIBED IN SUBSECTION (2)** for each brand and product name of each  
17 grade. Labels for each brand and product name of each grade shall  
18 accompany the application. Upon approval of an application by the  
19 director, a copy of the registration **APPROVAL** shall be furnished to  
20 the applicant. All registrations expire on December 31 of each  
21 year.

22       (2) A PERSON APPLYING FOR A REGISTRATION UNDER SUBSECTION (1)  
23 **SHALL PAY THE FOLLOWING ANNUAL FEES FOR EACH BRAND AND PRODUCT NAME**  
24 **OF EACH GRADE:**

25       (A) REGISTRATION FEE OF \$25.00.

26       (B) APPROPRIATE GROUNDWATER AND FRESHWATER PROTECTION FEES  
27 **PROVIDED FOR IN SECTION 8715.**

1           (3) A DISTRIBUTOR IS NOT REQUIRED TO REGISTER A BRAND OF  
2 FERTILIZER THAT IS REGISTERED UNDER THIS PART BY ANOTHER PERSON, IF  
3 THE LABEL DOES NOT DIFFER IN ANY RESPECT.

4           (4) A MANUFACTURER OR DISTRIBUTOR OF CUSTOM BLEND SPECIALTY  
5 FERTILIZERS FOR HOME LAWNS, GOLF COURSES, RECREATIONAL AREAS, OR  
6 OTHER NONFARM AREAS SHALL NOT BE REQUIRED TO REGISTER EACH GRADE  
7 DISTRIBUTED BUT SHALL LICENSE THEIR FIRM ON AN APPLICATION  
8 FURNISHED BY THE DIRECTOR FOR AN ANNUAL FEE OF \$100.00 AND LABEL  
9 THE FERTILIZER AS PROVIDED IN SECTION 8502. THE LABEL OF EACH  
10 FERTILIZER DISTRIBUTED UNDER THIS SUBSECTION SHALL BE MAINTAINED BY  
11 THE MANUFACTURER OR DISTRIBUTOR FOR 1 YEAR FOR INSPECTION BY THE  
12 DIRECTOR.

13           (5) A MANUFACTURER OR DISTRIBUTOR OF CUSTOM BLEND SOIL  
14 CONDITIONERS SHALL NOT BE REQUIRED TO REGISTER EACH BRAND OR BLEND  
15 DISTRIBUTED BUT SHALL LICENSE ITS FIRM ON AN APPLICATION FURNISHED  
16 BY THE DIRECTOR FOR AN ANNUAL FEE OF \$100.00 AND LABEL THE SOIL  
17 CONDITIONER AS PROVIDED IN SECTION 8502. THE LABEL OF EACH SOIL  
18 CONDITIONER DISTRIBUTED UNDER THIS SUBSECTION SHALL BE MAINTAINED  
19 BY THE MANUFACTURER OR DISTRIBUTOR FOR 1 YEAR FOR INSPECTION BY THE  
20 DIRECTOR.

21           Sec. 8506. (1) An inspection fee of 10 cents per ton shall be  
22 paid to the department for all fertilizers or soil conditioners  
23 sold or distributed in this state. For peat or peat moss, the  
24 inspection fee shall be 2 cents per cubic yard. This fee shall not  
25 apply to registered specialty fertilizers or soil conditioners sold  
26 or distributed only in packages of 10 pounds or less.

27           (2) Payment of the inspection fee shall be made on the basis

1 of tonnage reports setting forth the number of tons of each grade  
2 of fertilizer and soil conditioner and the number of cubic yards of  
3 peat or peat moss sold or distributed in this state. The reports  
4 shall cover the periods of the year and be made in a manner  
5 specified by the director ~~of the department~~ in rules, and shall  
6 be filed with the department not later than 30 days after the close  
7 of each period. The time may be extended for cause for an  
8 additional 15 days only on written request to, and approval by, the  
9 department. Remittance to cover the inspection fee shall accompany  
10 each tonnage report. Payments due of less than ~~\$1.00~~ **\$5.00 ARE**  
11 **WAIVED, -or- AND** refunds ~~resulting from overpayment~~ of less than  
12 ~~\$1.00, are waived~~ **\$5.00 WILL NOT BE PROCESSED, UNLESS REQUESTED IN**  
13 **WRITING. A penalty of 10% of the amount due, with a minimum of**  
14 ~~\$10.00, shall be assessed against the licensee for all amounts not~~  
15 ~~paid when due.~~ **FOR ANY REPORT NOT FILED WITH THE DEPARTMENT BY THE**  
16 **DUE DATE, A PENALTY OF \$50.00 OR 10% OF THE AMOUNT DUE, WHICHEVER**  
17 **IS GREATER, SHALL BE ASSESSED.** Unpaid fees and penalties constitute  
18 a debt and become the basis of a judgment against the licensee.  
19 Records upon which the statement of tonnage is based are subject to  
20 department audit.

21 (3) When more than 1 person is involved in the distribution of  
22 fertilizer or soil conditioners, the last person who is licensed or  
23 has the fertilizer or soil conditioner registered and who  
24 distributes to a nonlicensee **OR NONREGISTRANT** is responsible for  
25 reporting the tonnage and paying the inspection fee.

26 Sec. 8507. (1) Each licensee **AND REGISTRANT** shall maintain for  
27 a period of 3 years a record of quantities and grades of fertilizer

1 and soil conditioner sold or distributed by the licensee **OR**  
2 **REGISTRANT** and shall make the records available for inspection and  
3 audit **DURING NORMAL BUSINESS HOURS** on request of the department.  
4 Each ~~vendor of fertilizer and soil conditioner~~ **DISTRIBUTOR** shall  
5 maintain for a period of 3 years shipping data such as invoices and  
6 freight bills pertaining to fertilizer and soil conditioner that  
7 establish date and origin of the shipment, and shall make the  
8 records available for inspection and audit on request of the  
9 department.

10 (2) Tonnage payments, tonnage reports, or other information  
11 furnished or obtained under this part shall not be disclosed in a  
12 way that will divulge the business operations of any ~~one~~ **1**  
13 person.

14 Sec. 8509. A person shall not do any of the following:

15 (a) Sell, ~~or~~ distribute, **OR USE** fertilizer or soil  
16 conditioner in violation of the requirements of this part or the  
17 rules promulgated under this part.

18 (b) Make a guarantee, claim, or representation in connection  
19 with the sale of fertilizer or soil conditioner, or in ~~their~~ **ITS**  
20 labeling, which is false, deceptive, or misleading.

21 (c) Manufacture or distribute a fertilizer or soil conditioner  
22 without a license as required by this part or distribute a  
23 specialty fertilizer or soil conditioner unless registered as  
24 required by this part.

25 (d) Make a false or misleading statement in an application for  
26 a license or in an inspection fee or statistical report or in any  
27 other statement or report filed with the department pursuant to

1 this part.

2 (e) Attach or cause to be attached an analysis stating that a  
3 fertilizer contains a higher percentage of a plant nutrient than it  
4 in fact contains.

5 **(F) DISTRIBUTE AN ADULTERATED PRODUCT.**

6 Sec. 8510. (1) The ~~department~~ **DIRECTOR** shall inspect,  
7 sample, and analyze fertilizers and soil conditioners distributed  
8 within this state at a time and place and to the extent necessary  
9 to determine compliance with this part.

10 **(2) THE METHODS OF SAMPLING AND ANALYSIS UNDER SUBSECTION (1)**  
11 **SHALL BE THOSE AS ESTABLISHED BY THE ASSOCIATION OF AMERICAN PLANT**  
12 **FOOD CONTROL OFFICIALS OR THE ASSOCIATION OF ANALYTICAL**  
13 **COMMUNITIES, INTERNATIONAL, AS THOSE STANDARDS EXIST ON THE**  
14 **EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION,**  
15 **AND ARE INCORPORATED BY REFERENCE. THE DEPARTMENT MAY PROMULGATE**  
16 **RULES TO UPDATE THESE STANDARDS. IN CASES NOT COVERED BY SUCH**  
17 **METHODS, OR IN CASES WHERE METHODS ARE AVAILABLE IN WHICH IMPROVED**  
18 **APPLICABILITY HAS BEEN DEMONSTRATED, THE DIRECTOR MAY ADOPT, BY**  
19 **RULE, SUCH OTHER METHODS AS ARE CONSIDERED APPROPRIATE.**

20 **(3) —(2)—** Department representatives and inspectors shall have  
21 free access during regular business hours **AND EXTENDED OPERATING**  
22 **HOURS** to all premises where fertilizers or soil conditioners are  
23 manufactured, sold, or stored, and to all trucks or other vehicles  
24 and vessels used in the transportation of a fertilizer or soil  
25 conditioner in this state, to determine compliance with this part.  
26 Department representatives and inspectors may stop any conveyance  
27 transporting fertilizer or soil conditioner for the purpose of



1 inspecting and sampling the products and examining their labeling.

2       (4) ~~—(3)—~~ A manufacturer or distributor of fertilizer or soil  
3 conditioner shall submit to the department, upon request, product  
4 samples, copies of labeling, or any other data or information that  
5 the department may request concerning composition and claims and  
6 representations made for fertilizers and soil conditioners  
7 manufactured or distributed by the manufacturer or distributor  
8 within this state.

9       (5) ~~—(4)—~~ The director may, upon reasonable notice, require a  
10 person to furnish any information relating to the identification,  
11 nature, and quantity of fertilizers that are or have been used on a  
12 particular site and to current or past practices that may have  
13 affected groundwater quality. Information required under this  
14 subsection is confidential business information and is not subject  
15 to the freedom of information act, ~~Act No. 442 of the Public Acts~~  
16 ~~of 1976, being sections 15.231 to 15.246 of the Michigan Compiled~~  
17 ~~Laws—~~ 1976 PA 442, MCL 15.231 TO 15.246.

18       Sec. 8513. (1) The department may promulgate rules regarding  
19 the bulk storage of fertilizers, **ANHYDROUS AMMONIA STORAGE, AND**  
20 **TRANSFER AND APPLICATION EQUIPMENT.**

21       (2) **SUBJECT TO SUBSECTION (3), THE FOLLOWING MANAGEMENT**  
22 **PRACTICES APPLY ONLY TO FERTILIZER USE ON GENERAL TURF:**

23       (A) **APPLICATION SHALL BE IN A MANNER THAT PREVENTS FERTILIZER**  
24 **FROM REMAINING ON A HIGHWAY, STREET, SIDEWALK, PARKING LOT,**  
25 **CONCRETE, OR OTHER SURFACE MATERIAL THAT OBSTRUCTS OR PREVENTS THE**  
26 **FILTRATION OF WATER INTO THE SOIL.**

27       (B) **APPLICATION SHALL BE IN A MANNER THAT PREVENTS THE**

1 DISCHARGE OF WASH WATER FROM FERTILIZER OR A FERTILIZER SPREADER  
2 INTO WATERS OF THE STATE.

3 (C) APPLICATION SHALL NOT BE MADE ON SOIL THAT IS FROZEN OR  
4 SATURATED TO FIELD CAPACITY.

5 (D) APPLICATION OF PHOSPHORUS FERTILIZER SHALL NOT BE MADE AT  
6 A RATE IN EXCESS OF 0.5 POUNDS PER 1,000 SQUARE FEET PER YEAR,  
7 EXCEPT WHEN THE NEED FOR PHOSPHORUS FERTILIZER IS INDICATED BY A  
8 SOIL TEST CONDUCTED BY A LABORATORY AND METHOD APPROVED BY THE  
9 DEPARTMENT.

10 (E) APPLICATION OF FERTILIZER SHALL NOT BE MADE WITHIN 10 FEET  
11 OF WATERS OF THE STATE UNLESS APPROVED BY THE DEPARTMENT.

12 (3) NOTWITHSTANDING SUBSECTION (2) AND IN AREAS SUBJECT TO A  
13 PHOSPHORUS TMDL, A PERSON SHALL NOT USE OR APPLY FERTILIZER  
14 CONTAINING ANY AMOUNT OF PHOSPHORUS EXCEPT WHEN THE NEED FOR  
15 PHOSPHORUS FERTILIZER IS INDICATED BY SOIL TESTS CONDUCTED BY A  
16 LABORATORY AND METHOD APPROVED BY THE DEPARTMENT.

17 Sec. 8517. (1) Except as otherwise provided in this section,  
18 ~~it is the express legislative intent that this part preempt~~  
19 **PREEMPTS** any local ordinance, regulation, or resolution that  
20 purports to duplicate, extend, or revise in any manner the  
21 provisions of this part. Except as otherwise provided for in this  
22 section, a local unit of government shall not enact, maintain, or  
23 enforce an ordinance, regulation, or resolution that contradicts or  
24 conflicts in any manner with this part.

25 (2) If a local unit of government is under contract with the  
26 department to act as its agent or the local unit of government has  
27 received prior written authorization from the department, that

1 local unit of government may enact an ordinance that is identical  
2 to this part and rules promulgated under this part, except as  
3 prohibited in subsection (6). The local unit of government's  
4 enforcement response for a violation of the ordinance that involves  
5 the manufacturing, storage, distribution, **USE**, or sale of products  
6 regulated by this part is limited to issuing a cease and desist  
7 order in the manner prescribed in section 8511.

8 (3) A local unit of government may enact an ordinance  
9 prescribing standards different from those contained in this part  
10 and rules promulgated under this part and that regulates the  
11 manufacturing, storage, distribution, **USE**, or sale of a product  
12 regulated by this part under either or both of the following  
13 circumstances:

14 (a) Unreasonable adverse effects on the environment or public  
15 health will exist within the local unit of government. The  
16 determination that unreasonable adverse effects on the environment  
17 or public health will exist shall take into consideration specific  
18 populations whose health may be adversely affected within that  
19 local unit of government.

20 (b) The local unit of government has determined that the  
21 manufacturing, storage, distribution, **USE**, or sale of a product  
22 regulated by this part within that unit of government has resulted  
23 or will result in the violation of other existing state or federal  
24 laws.

25 (4) An ordinance enacted pursuant to ~~subsections~~ **SUBSECTION**  
26 (2) ~~and~~ **OR** (3) shall not conflict with existing state laws or  
27 federal laws. An ordinance enacted pursuant to subsection (3) shall

1 not be enforced by a local unit of government until approved by the  
2 commission of agriculture. The ~~commission of agriculture~~  
3 **DEPARTMENT** shall provide a detailed explanation of the basis of the  
4 denial within 60 days.

5 (5) Upon identification of unreasonable adverse effects on the  
6 environment or public health by a local unit of government as  
7 evidenced by a resolution submitted to the department, the  
8 department shall hold a local public meeting within 60 days after  
9 the submission of the resolution to determine the nature and extent  
10 of unreasonable adverse effects on the environment or public health  
11 due to the manufacturing, storage, distribution, **USE**, or sale of a  
12 product regulated by this part. Within 30 days after the local  
13 public meeting, the department shall issue a detailed opinion  
14 regarding the existence of unreasonable adverse effects on the  
15 environment or public health as identified by the resolution of the  
16 local unit of government.

17 (6) The director may contract with a local unit of government  
18 to act as its agent for the purpose of enforcing this part and the  
19 rules promulgated under this part. The department shall have sole  
20 authority to assess fees, register fertilizer or soil conditioner  
21 products, cancel or suspend registrations, and regulate and enforce  
22 all provisions of section 8512.

23 (7) For any ordinance enacted pursuant to this section, the  
24 local unit of government shall provide that persons enforcing the  
25 ordinance comply with the training and enforcement requirements as  
26 determined appropriate by the director.

27 **SEC. 8519. A PERSON AGGRIEVED BY AN ORDER ISSUED PURSUANT TO**

1 THIS PART MAY REQUEST A HEARING PURSUANT TO THE ADMINISTRATIVE  
2 PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328.

3 SEC. 8520. (1) THE DIRECTOR, UPON FINDING AFTER NOTICE AND AN  
4 OPPORTUNITY FOR AN ADMINISTRATIVE HEARING THAT A PERSON HAS  
5 VIOLATED ANY PROVISION OF THIS PART OR A RULE PROMULGATED UNDER  
6 THIS PART, MAY IMPOSE AN ADMINISTRATIVE FINE OF NOT MORE THAN  
7 \$1,000.00 FOR EACH VIOLATION.

8 (2) IF THE DIRECTOR FINDS THAT A VIOLATION HAS OCCURRED  
9 DESPITE THE EXERCISE OF DUE CARE OR DID NOT RESULT IN SIGNIFICANT  
10 HARM TO HUMAN HEALTH OR THE ENVIRONMENT, THE DIRECTOR MAY ISSUE A  
11 WARNING INSTEAD OF IMPOSING AN ADMINISTRATIVE FINE.

12 (3) THE DIRECTOR SHALL ADVISE THE ATTORNEY GENERAL OF THE  
13 FAILURE OF ANY PERSON TO PAY AN ADMINISTRATIVE FINE IMPOSED UNDER  
14 THIS SECTION. THE ATTORNEY GENERAL SHALL BRING AN ACTION IN A COURT  
15 OF COMPETENT JURISDICTION TO RECOVER THE FINE.

16 (4) A PERSON WHO KNOWINGLY VIOLATES THIS PART OR A RULE  
17 PROMULGATED UNDER THIS PART IS GUILTY OF A MISDEMEANOR PUNISHABLE  
18 BY A FINE OF NOT MORE THAN \$5,000.00 FOR EACH OFFENSE, IN ADDITION  
19 TO ANY ADMINISTRATIVE FINES IMPOSED.

20 (5) A PERSON WHO KNOWINGLY AND WITH MALICIOUS INTENT VIOLATES  
21 THIS PART OR A RULE PROMULGATED UNDER THIS PART IS GUILTY OF A  
22 MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN \$25,000.00 FOR  
23 EACH OFFENSE.

24 (6) THE DIRECTOR MAY BRING AN ACTION TO ENJOIN THE VIOLATION  
25 OR THREATENED VIOLATION OF THIS PART OR A RULE PROMULGATED UNDER  
26 THIS PART IN A COURT OF COMPETENT JURISDICTION OF THE COUNTY IN  
27 WHICH THE VIOLATION OCCURS OR IS ABOUT TO OCCUR.

1           (7) THE ATTORNEY GENERAL MAY FILE A CIVIL ACTION IN WHICH THE  
2 COURT MAY IMPOSE ON ANY PERSON WHO VIOLATES THIS PART OR A RULE  
3 PROMULGATED UNDER THIS PART A CIVIL FINE OF NOT MORE THAN \$5,000.00  
4 FOR EACH VIOLATION.

5           (8) IN DEFENSE OF AN ACTION FILED UNDER THIS SECTION, IN  
6 ADDITION TO ANY OTHER LAWFUL DEFENSE, A PERSON MAY PRESENT EVIDENCE  
7 AS AN AFFIRMATIVE DEFENSE THAT, AT THE TIME OF THE ALLEGED  
8 VIOLATION, HE OR SHE WAS IN COMPLIANCE WITH THIS PART AND RULES  
9 PROMULGATED UNDER THIS PART.

10          (9) A PERSON WHO VIOLATES THIS PART IS LIABLE FOR ALL DAMAGES  
11 SUSTAINED BY A PURCHASER OF A PRODUCT SOLD IN VIOLATION OF THIS  
12 PART. IN AN ENFORCEMENT ACTION, A COURT, IN ADDITION TO OTHER  
13 REMEDIES OR PENALTIES PROVIDED BY LAW, MAY ORDER RESTITUTION TO A  
14 PARTY INJURED BY THE PURCHASE OF A PRODUCT SOLD IN VIOLATION OF  
15 THIS PART.

16          SEC. 8521. THE PENALTIES AND SANCTIONS PROVIDED FOR VIOLATIONS  
17 OF THIS PART DO NOT APPLY TO ANY OF THE FOLLOWING:

18          (A) A COMMERCIAL CARRIER WHILE LAWFULLY ENGAGED IN  
19 TRANSPORTING A COMMERCIAL FERTILIZER WITHIN THIS STATE, IF THE  
20 CARRIER, UPON REQUEST, PERMITS THE DIRECTOR TO COPY ALL RECORDS  
21 SHOWING THE TRANSACTIONS IN AND MOVEMENT OF THE COMMERCIAL  
22 FERTILIZER.

23          (B) THE SHIPMENT OR MOVEMENT OF ANY COMMERCIAL FERTILIZER  
24 CONSIDERED TO BE IN VIOLATION OF THIS PART, FOR THE SPECIFIC  
25 PURPOSES OF DISPOSAL OR STORAGE WHEN CONDUCTED UNDER THE APPROVAL  
26 OF THE DIRECTOR.

27          (C) PUBLIC OFFICIALS OF THIS STATE AND THE FEDERAL GOVERNMENT

1 WHILE ENGAGED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES IN  
2 ADMINISTERING THIS PART OR RULES PROMULGATED UNDER THIS PART.

3 SEC. 8522. A COURT SHALL NOT ALLOW THE RECOVERY OF DAMAGES BY  
4 A PERSON AGAINST WHOM AN ADMINISTRATIVE ACTION WAS BROUGHT  
5 RESULTING IN AN ORDER STOPPING THE SALE OR USE OF FERTILIZER OR  
6 FERTILIZER MATERIAL OR REQUIRING ITS SEIZURE IF THE COURT FINDS  
7 THAT THERE WAS PROBABLE CAUSE FOR THE ACTION OR ORDER.

8 Enacting section 1. Section 8514 of the natural resources and  
9 environmental protection act, 1994 PA 451, MCL 324.8514, is  
10 repealed.