



Brian Schweitzer
Governor

Ron de Yong
Director

406.444.3144 • Fax: 406.444.5409 • agr@mt.gov • www.agr.mt.gov

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TO: Fertilizer entities licensed in Montana

FR: Andy Gray, Bureau Chief
Commodity Services Bureau

RE: Amendments to the Montana Commercial Fertilizer Act

Two legislative bills affecting the fertilizer industry were introduced during the 2009 Montana Legislative Session. Both bills, Senate Bill 55 and Senate Bill 300, contained amendments to Montana's Commercial Fertilizer Act (Title 80, Chapter 10 of the Montana Code Annotated) and will become effective on July 1, 2009. Although the changes within SB 55 and SB 300 may not apply to you directly, we wanted to be assured that you were informed of the recent changes.

Senate Bill 55 was sponsored by Senator Steinbeisser on behalf of the Montana Department of Agriculture (department) with the support of both state and national industry associations and producer groups. Most of the technical language within this act had not been updated since the 1970s. Although there were many amendments within this bill, the intent of the bill was not to change the overall purpose of the act, but to address the needs of the department and to reflect today's terminology, technology and current business practices within the fertilizer industry. The amended language within the SB 55 will help make the department more efficient in its day-to-day business. The department strives to maintain an equal playing field across the fertilizer industry and believes that these changes will help to achieve that goal.

Some key points of SB 55 were to update definitions, update labeling requirements, reduce the frequency of tonnage reporting by businesses, implement a process for a referee analysis of contested sample analysis of products, add a preemption clause so that political subdivisions could not pass local regulation that undermines state law, repeal of the license exemption for product manufacturers, and improve the efficiency for determining penalty amounts in regard to deficient products and reports.

Another change to the law was to better define the responsible party for the payment of tonnage assessment fees. This change allows the department to more easily assure that tonnage assessment fees are being paid and assessed equally across the fertilizer industry. As a result, effective July 1, 2009 there will be a new category of commercial fertilizer licensee, "supplier." A supplier is defined as, "a person who distributes fertilizers or soil amendments into Montana". In others words, the supplier is the person responsible for the actual delivery of product into Montana and will also be responsible for filing the new

'quarterly commercial fertilizer tonnage report' and paying the fertilizer assessment fee. This report, formerly the 'monthly tonnage report' is to be filed by each in-state manufacturer and each out-of-state supplier who distributes a soil amendment or commercial fertilizer (specialty fertilizers are exempt) in this state, regardless of the receiver's license status.

The 'semi-annual commercial fertilizer tonnage report' is still required from each licensee who distributes a soil amendment or commercial fertilizer (specialty fertilizers are exempt) to the end consumer. No fees are associated with the semi-annual report.

Senate Bill 300 was also sponsored by Senator Steinbeisser and was introduced on behalf of the Fertilizer Advisory Committee with the support of industry associations and producer groups. SB 300 increased the total fertilizer assessment fee by \$0.40. The fertilizer assessment fee funds both the department's inspection program and Montana State University's (MSU) research and education programs. The 40 cent increase was to provide additional funding for MSU's Agricultural Extension Service and Agricultural Research Stations. The bill did not increase the department's share of the assessment fee.

Effective July 1, 2009, the resulting fertilizer tonnage assessment fees, due with the quarterly tonnage report, will be:

- Commercial Fertilizer \$1.00/ton
- Anhydrous Ammonia \$1.70/ton
- Soil Amendments \$0.10/ton (if reporting more than 50 tons per quarter)
- Specialty Fertilizer none

This letter is to notify you that amendments have been made to the Montana Commercial Fertilizer Act and to summarize those changes. For more information on the updated fertilizer laws and regulations, or to acquire the proper forms for licensing, registration and assessments, please contact Levi Ostberg at (406) 444-3730, or visit our website at <http://www.agr.mt.gov/pestfert/fertilizer.asp>. Final versions of SB 55 and SB 300 can be found online at <http://data.opi.mt.gov/bills/2009/billhtml/SB0055.htm> and <http://data.opi.mt.gov/bills/2009/billhtml/SB0300.htm>. The updated version of the Commercial Fertilizer Act will be available on the department's website as soon as it is available from the Secretary of State's Office.