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AN ACT

RELATING TO AGRICULTURE; AMENDING AND ENACTING SECTIONS OF  
THE NEW MEXICO FERTILIZER ACT; CHANGING DEFINED TERMS; ADDING  
DEFINITIONS; PROVIDING PENALTIES FOR ALTERING FERTILIZERS TO  
BE PAID TO CONSUMERS; LIMITING ADULTERATION OF FERTILIZERS;  
PROVIDING FOR COOPERATION WITH OTHER GOVERNMENTAL ENTITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 76-11-1 NMSA 1978 (being Laws 1963,  
Chapter 184, Section 1, as amended) is amended to read:

"76-11-1. SHORT TITLE.--Chapter 76, Article 11 NMSA  
1978 may be cited as the "New Mexico Fertilizer Act"."

SECTION 2. Section 76-11-3 NMSA 1978 (being Laws 1963,  
Chapter 184, Section 3, as amended) is amended to read:

"76-11-3. DEFINITIONS.--As used in the New Mexico  
Fertilizer Act:

A. "board" means the board of regents of New  
Mexico state university;

B. "department" means the New Mexico department of  
agriculture;

C. "fertilizer" means any substance that contains  
one or more recognized plant nutrients and that is used for  
its plant nutrient content and is designed for use or claimed  
to have value in promoting plant growth, except unmanipulated  
animal and vegetable manures, marl limes, limestone, wood

1 ashes, gypsum and other products exempt by rule of the board;

2 D. "fertilizer material" means a fertilizer that  
3 either:

4 (1) contains important quantities of no more  
5 than one of the primary plant nutrients: nitrogen (N),  
6 phosphate ( $P_2O_5$ ) and potash ( $K_2O$ );

7 (2) has eighty-five percent of its plant  
8 nutrient content present in the form of a single chemical  
9 compound; or

10 (3) is derived from a plant or animal  
11 residue or byproduct or a natural material deposit that has  
12 been processed in such a way that its content of plant  
13 nutrients has not been materially changed except by  
14 purification and concentration;

15 E. "specialty fertilizer" means a fertilizer  
16 distributed primarily for nonfarm use such as home gardens,  
17 lawns, shrubbery, flowers, golf courses, municipal parks,  
18 cemeteries, greenhouses and nurseries and may include  
19 fertilizers used for research or experimental purposes;

20 F. "bulk fertilizers" means fertilizers  
21 distributed in a nonpackaged form;

22 G. "brand" means a term, design or trademark under  
23 which one or more fertilizers or soil conditioners are  
24 distributed in New Mexico;

25 H. "guaranteed analysis" means the minimum

1 percentage of plant nutrients claimed in the order and form  
2 as prescribed by the board;

3 I. "grade" means the percentages of total  
4 nitrogen, available phosphorus or phosphate and soluble  
5 potassium or soluble potash stated in whole numbers in the  
6 same terms, order and percentages as in the guaranteed  
7 analysis; provided, however, that fertilizer materials, bone  
8 meal, manures and similar raw materials may be guaranteed in  
9 fractional units;

10 J. "official sample" means any sample of  
11 fertilizer or soil conditioner taken by the department unless  
12 designated otherwise;

13 K. "ton" means a net weight of two thousand pounds  
14 avoirdupois;

15 L. "percent" or "percentage" means the percentage  
16 by weight;

17 M. "person" includes individual, partnership,  
18 association, firm and corporation;

19 N. "distributor" means a person that imports,  
20 consigns, manufactures, produces, compounds, mixes or blends  
21 fertilizer or soil conditioner or that offers for sale,  
22 sells, barter or otherwise supplies fertilizer or soil  
23 conditioner in the state;

24 O. "registrant" means the person that registers a  
25 fertilizer or soil conditioner under the provisions of the

1 New Mexico Fertilizer Act;

2 P. "label" means the display of all written,  
3 printed or graphic matter upon the immediate container or  
4 statement accompanying a fertilizer or soil conditioner;

5 Q. "labeling" means all written, printed or  
6 graphic matter upon or accompanying a fertilizer or soil  
7 conditioner;

8 R. "soil conditioner" means a substance or mixture  
9 of substances intended for sale, offered for sale or sold for  
10 manurial, soil enriching or soil corrective purposes or  
11 intended to be used for promoting or stimulating the growth  
12 of plants, increasing the productivity of plants, improving  
13 the quality of crops or producing a chemical or physical  
14 change in the soil, except fertilizer as defined in this  
15 section, unmanipulated animal and vegetable manures and other  
16 products exempted by rules of the board;

17 S. "blender" means a person or system engaged in  
18 the business of blending fertilizer, including both mobile  
19 and fixed equipment used in blending;

20 T. "blending" means the physical mixing or  
21 combining of fertilizer materials and filler materials as  
22 provided in Paragraphs (1) through (3) of this subsection,  
23 including mixing through the simultaneous or sequential  
24 application of any of the combinations provided in this  
25 subsection, to produce a uniform mixture:

1                   (1) one or more fertilizer materials and one  
2 or more filler materials;

3                   (2) two or more fertilizer materials; or

4                   (3) two or more fertilizer materials and  
5 filler materials;

6                   U. "custom blend" means a fertilizer blended  
7 according to specifications provided to a blender in a soil  
8 test nutrient recommendation or to meet the specific  
9 consumer's request prior to blending;

10                  V. "deficiency" means the amount of nutrient found  
11 by analysis to be less than the guaranteed amount, which may  
12 result from a lack of nutrient ingredients or from lack of  
13 uniformity;

14                  W. "investigational allowance" means an allowance  
15 for variations inherent in the taking, preparation and  
16 analysis of an official sample of fertilizer; and

17                  X. "primary nutrient" means total nitrogen,  
18 available phosphate and soluble potash."

19                  SECTION 3. Section 76-11-4 NMSA 1978 (being Laws 1963,  
20 Chapter 184, Section 4, as amended) is amended to read:

21                  "76-11-4. REGISTRATION.--

22                  A. Each brand and grade of fertilizer and each  
23 soil conditioner product shall be registered before being  
24 distributed in the state. The application for registration  
25 shall be submitted to the department on a form furnished by

1 the department and shall be accompanied by a fee of five  
2 dollars (\$5.00) per brand or grade, except that those brands  
3 or grades sold in packages of five pounds or less shall be  
4 registered at a fee of fifteen dollars (\$15.00) each. Upon  
5 approval by the department, a copy of the registration shall  
6 be furnished to the applicant. All registrations expire on  
7 December 31 of each year.

8 B. A distributor shall not be required to register  
9 a brand of fertilizer or soil conditioner that is already  
10 registered under the New Mexico Fertilizer Act by another  
11 person.

12 C. A distributor shall not be required to register  
13 a fertilizer formulated according to specifications that are  
14 furnished by a consumer prior to mixing but shall be required  
15 to label the fertilizer as provided in Subsection C of  
16 Section 76-11-5 NMSA 1978."

17 SECTION 4. Section 76-11-5 NMSA 1978 (being Laws 1963,  
18 Chapter 184, Section 5, as amended) is amended to read:

19 "76-11-5. LABELING.--

20 A. A fertilizer distributed in this state in  
21 containers shall have placed on or affixed to the container a  
22 label setting forth in clearly legible and conspicuous form  
23 the following information:

24 (1) the net weight or other measure  
25 prescribed as satisfactory to the board;

1 (2) brand and grade;  
2 (3) guaranteed analysis;  
3 (4) name and address of the registrant; and  
4 (5) directions for use for fertilizer  
5 distributed to a consumer.

6 B. If a fertilizer is distributed in bulk, a  
7 written or printed statement of the information required by  
8 Subsection A of this section shall accompany delivery and be  
9 supplied to the purchaser at time of delivery.

10 C. A fertilizer formulated according to  
11 specifications that are furnished by a consumer prior to  
12 mixing shall be labeled to show the net weight, guaranteed  
13 analysis and the name and address of the distributor.

14 D. Each brand of soil conditioner distributed in  
15 the state shall be accompanied by a legible label bearing the  
16 following information:

17 (1) net weight or other measure prescribed  
18 as satisfactory by the board;

19 (2) the brand name under which the soil  
20 conditioner is distributed;

21 (3) an accurate statement of composition and  
22 purpose; and

23 (4) the name and address of the registrant."

24 SECTION 5. Section 76-11-6 NMSA 1978 (being Laws 1963,  
25 Chapter 184, Section 6, as amended) is amended to read:

1 "76-11-6. INSPECTION FEES.--

2 A. There shall be paid to the department for all  
3 fertilizer and soil conditioner distributed in the state an  
4 inspection fee set by the board at a rate not to exceed  
5 thirty-five cents (\$.35) a ton; provided that sales to  
6 manufacturers or exchanges between them are exempted. Fees  
7 so collected shall be used for the payment of the costs of  
8 inspection, sampling and analysis and other expenses  
9 necessary for the administration of the New Mexico Fertilizer  
10 Act.

11 B. On individual packages of fertilizer or soil  
12 conditioner containing five pounds or less, there shall be  
13 paid in lieu of the annual registration fee of five dollars  
14 (\$5.00) per brand and grade of fertilizer and each soil  
15 conditioner product and the required inspection fee an annual  
16 registration fee and inspection fee of fifteen dollars  
17 (\$15.00). Where a person sells fertilizer or soil  
18 conditioner in packages of five pounds or less and in  
19 packages over five pounds, the annual registration and  
20 inspection fee of fifteen dollars (\$15.00) applies only to  
21 that portion sold in packages of five pounds or less, and  
22 that portion sold in packages over five pounds is subject to  
23 the inspection fee.

24 C. A person who distributes a fertilizer or soil  
25 conditioner in the state shall file with the department on

1 forms furnished by the department a quarterly statement for  
2 the periods ending March 31, June 30, September 30 and  
3 December 31 setting forth the number of net tons of each  
4 fertilizer or soil conditioner distributed in the state  
5 during the quarter. The report is due on or before the last  
6 day of the month following the close of each quarter. The  
7 inspection fee shall be paid at the time of filing of the  
8 statement. If the tonnage report is not filed and the  
9 payment of inspection fee is not made within thirty days  
10 after the end of the quarter, a collection fee amounting to  
11 ten percent, but not less than ten dollars (\$10.00), of the  
12 amount shall be assessed against the registrant, and the  
13 amount of fees due constitutes a debt and becomes the basis  
14 of a judgment against the registrant.

15 D. When more than one person is involved in the  
16 distribution of fertilizer or soil conditioner, the first  
17 person who has the fertilizer or soil conditioner registered  
18 and who distributes to a nonregistrant dealer or consumer is  
19 responsible for reporting the tonnage and paying the  
20 inspection fee unless the report and payment have been  
21 previously made by a prior distributor."

22 SECTION 6. Section 76-11-7 NMSA 1978 (being Laws 1963,  
23 Chapter 184, Section 7, as amended) is amended to read:

24 "76-11-7. INSPECTION--SAMPLING--ANALYSIS.--

25 A. The department shall sample, inspect, make

1 analyses of and test fertilizers and soil conditioners  
2 distributed within the state at a time and place and to the  
3 extent necessary to determine whether the fertilizer or soil  
4 conditioner is in compliance with the New Mexico Fertilizer  
5 Act. The department may enter upon public or private  
6 premises or carriers during the regular business hours in  
7 order to have access to fertilizer or soil conditioners and  
8 may examine records relating to the distribution of  
9 fertilizer and soil conditioners subject to the provisions of  
10 the New Mexico Fertilizer Act and the rules adopted pursuant  
11 to that act.

12 B. The methods of analysis and sampling shall be  
13 those adopted by the department from sources such as the  
14 association of official agricultural chemists. In cases not  
15 covered by such methods, or in cases where methods in which  
16 improved applicability has been demonstrated are available,  
17 the department may adopt such appropriate methods from other  
18 sources.

19 C. The department, in determining for  
20 administrative purposes whether a fertilizer is deficient in  
21 plant food, shall be guided solely by the official sample, as  
22 defined by Section 76-11-3 NMSA 1978, obtained and analyzed  
23 as provided for in Subsection B of this section.

24 D. Upon request, the department shall furnish to  
25 the registrant a portion of any sample found subject to

1 penalty or other legal action. Official samples establishing  
2 a penalty for nutrient deficiency shall be retained for a  
3 minimum of ninety days from issuance of a deficiency report."

4 SECTION 7. Section 76-11-8 NMSA 1978 (being Laws 1963,  
5 Chapter 184, Section 8, as amended) is amended to read:

6 "76-11-8. PLANT FOOD DEFICIENCY.--

7 A. If the analysis shows that a fertilizer falls  
8 short of the guaranteed analysis in any one ingredient,  
9 penalty shall be assessed in accordance with the following:

10 (1) total nitrogen: a penalty of three  
11 times the value of the deficiency, if the deficiency is in  
12 excess of 0.20 of one percent on goods that are guaranteed  
13 two percent; 0.25 of one percent on goods that are guaranteed  
14 three percent; 0.35 of one percent on goods that are  
15 guaranteed four percent; 0.40 of one percent on goods that  
16 are guaranteed five percent up to and including eight  
17 percent; 0.50 of one percent on goods guaranteed above eight  
18 percent up to and including thirty percent; and 0.75 of one  
19 percent on goods guaranteed over thirty percent;

20 (2) available phosphoric acid or available  
21 phosphorus: a penalty of three times the value of the  
22 deficiency, if the deficiency exceeds 0.40 of one percent of  
23 available phosphate on goods that are guaranteed up to and  
24 including ten percent; 0.50 of one percent of available  
25 phosphate on goods that are guaranteed above ten percent up

1 to and including twenty-five percent; and 0.75 of one percent  
2 of available phosphate on goods guaranteed over twenty-five  
3 percent. If guarantees are for available phosphorus, the  
4 deficiencies shall be calculated for the appropriate  
5 percentage of elemental phosphorus;

6 (3) soluble potash or soluble potassium: a  
7 penalty of three times the value of the deficiency, if the  
8 deficiency is in excess of 0.20 of one percent of soluble  
9 potash on goods that are guaranteed two percent; 0.30 of one  
10 percent of soluble potash on goods that are guaranteed three  
11 percent; 0.40 of one percent of soluble potash on goods  
12 guaranteed four percent; 0.50 of one percent of soluble  
13 potash on goods guaranteed above four percent up to and  
14 including eight percent; 0.60 of one percent of soluble  
15 potash on goods guaranteed above eight percent up to and  
16 including twenty percent; and 1.00 of one percent of soluble  
17 potash on goods guaranteed over twenty percent. If  
18 guarantees are for soluble potassium, the deficiencies shall  
19 be calculated for the appropriate percentage of elemental  
20 potassium; and

21 (4) deficiencies in any other constituent  
22 shall be evaluated by the department and penalties therefor  
23 prescribed by the board.

24 B. Nothing contained in this section shall prevent  
25 a person from appealing to a court of competent jurisdiction

1 praying for judgment as to the justification of the  
2 penalties.

3 C. All penalties assessed under this section shall  
4 be paid to the consumer of the lot of fertilizer represented  
5 by the sample analyzed within three months after the date of  
6 notice from the department to the registrant. Receipts taken  
7 for penalty payments shall be promptly forwarded to the  
8 department. If the consumer cannot be found, the amount of  
9 the penalty shall be paid to the current school fund. If  
10 upon satisfactory evidence a person is shown to have altered  
11 the content of a fertilizer shipped to the person by a  
12 registrant or to have mixed or commingled fertilizer from two  
13 or more suppliers so that the result of either alteration  
14 changes the analysis of the fertilizer as originally  
15 guaranteed, that person shall be responsible for obtaining a  
16 registration and shall be held liable for all penalty  
17 payments and be subject to other provisions of the New Mexico  
18 Fertilizer Act, including seizure, condemnation and stop  
19 sale; provided that this provision does not apply to a  
20 consumer who mixes or otherwise alters fertilizer for use on  
21 property owned or leased by the consumer."

22 SECTION 8. Section 76-11-9 NMSA 1978 (being Laws 1963,  
23 Chapter 184, Section 9, as amended) is amended to read:

24 "76-11-9. COMMERCIAL VALUE.--For the purpose of  
25 determining the commercial values to be applied under the

1 provisions of Section 76-11-8 NMSA 1978, the department shall  
2 determine and publish annually the values per pound of  
3 nitrogen, available phosphate and soluble potash in  
4 fertilizers in the state. If guarantees are provided, the  
5 values shall be per pound of nitrogen, phosphorus and  
6 potassium. The values determined and published shall be used  
7 in determining and assessing penalties."

8 SECTION 9. Section 76-11-10 NMSA 1978 (being Laws 1975,  
9 Chapter 181, Section 10) is amended to read:

10 "76-11-10. MISBRANDING.--A person shall not distribute  
11 misbranded fertilizer or soil conditioner. A fertilizer or  
12 soil conditioner is misbranded if:

13 A. its labeling is false or misleading in any  
14 particular;

15 B. it is distributed under the name of another  
16 fertilizer or soil conditioner product;

17 C. it is not labeled as required in Section  
18 76-11-5 NMSA 1978 and in accordance with rules prescribed  
19 under the New Mexico Fertilizer Act; or

20 D. it purports to be or is represented as a  
21 fertilizer or soil conditioner or is represented as  
22 containing a plant nutrient, fertilizer or soil conditioner  
23 unless such plant nutrient, fertilizer or soil conditioner  
24 conforms to the definition of identity, if any, prescribed by  
25 rule of the board; in adopting such rules, the board shall

1 give due regard to commonly accepted definitions and official  
2 fertilizer terms such as those issued by the association of  
3 American plant food control officials."

4 SECTION 10. Section 76-11-11 NMSA 1978 (being Laws  
5 1963, Chapter 184, Section 11, as amended) is amended to  
6 read:

7 "76-11-11. TONNAGE REPORTS.--The person transacting,  
8 distributing or selling fertilizer or soil conditioner to a  
9 nonregistrant shall mail the department a report showing the  
10 county of the consignee, the amounts in tons of each grade of  
11 fertilizer and each soil conditioner product and the form in  
12 which the fertilizer or soil conditioner was distributed such  
13 as bags, liquid, bulk or other forms. This information shall  
14 be reported by one of the following methods:

15 A. submitting a summary report approved by the  
16 department on or before the fifteenth day of each month  
17 covering shipments made during the preceding month; or

18 B. submitting a copy of the invoice within five  
19 business days after shipment. Information furnished to the  
20 department under this section shall not be disclosed in such  
21 a way as to divulge the operation of any person."

22 SECTION 11. Section 76-11-12 NMSA 1978 (being Laws  
23 1963, Chapter 184, Section 12, as amended) is amended to  
24 read:

25 "76-11-12. PUBLICATIONS.--The board shall publish at

1 least annually and in a form it deems proper:

2 A. information concerning the distribution of  
3 fertilizers and soil conditioners; and

4 B. results of analysis based on official samples  
5 of fertilizers and soil conditioners distributed within the  
6 state as compared with the analysis guaranteed in the  
7 registration and the label."

8 SECTION 12. Section 76-11-13 NMSA 1978 (being Laws  
9 1963, Chapter 184, Section 13, as amended) is amended to  
10 read:

11 "76-11-13. RULES.--For the enforcement of the New  
12 Mexico Fertilizer Act, the board may prescribe and, after  
13 public hearing following due public notice, adopt the rules  
14 relating to the distribution of fertilizers and soil  
15 conditioners that it may find necessary to carry into effect  
16 the full intent and meaning of the New Mexico Fertilizer Act.  
17 Under this section, the board may promulgate rules for the  
18 storing, hauling and handling of anhydrous ammonia and other  
19 gaseous or liquid fertilizers, and they shall have the same  
20 effect as law."

21 SECTION 13. Section 76-11-14 NMSA 1978 (being Laws  
22 1963, Chapter 184, Section 14, as amended) is amended to  
23 read:

24 "76-11-14. SHORT WEIGHT.--If a fertilizer or soil  
25 conditioner in the possession of the consumer is found by the

1 department to be short in weight or other measure prescribed  
2 by the board, the registrant of the fertilizer or soil  
3 conditioner shall, within thirty days after official notice  
4 from the department, pay to the consumer a penalty equal to  
5 four times the value of the actual shortage."

6 SECTION 14. Section 76-11-15 NMSA 1978 (being Laws  
7 1963, Chapter 184, Section 15, as amended) is amended to  
8 read:

9 "76-11-15. CANCELLATION OF REGISTRATIONS.--The  
10 department may cancel the registration of any brand of  
11 fertilizer or soil conditioner or refuse to register any  
12 brand of fertilizer or soil conditioner upon satisfactory  
13 evidence that the registrant has used fraudulent or deceptive  
14 practices in the evasions or attempted evasions of the  
15 provisions of the New Mexico Fertilizer Act or any rules  
16 promulgated under that act; provided that no registration  
17 shall be revoked or refused until the registrant is given an  
18 opportunity to appear for a hearing by the department."

19 SECTION 15. Section 76-11-16 NMSA 1978 (being Laws  
20 1963, Chapter 184, Section 16, as amended) is amended to  
21 read:

22 "76-11-16. STOP SALE ORDERS.--The department may issue  
23 and enforce a written or printed "stop sale, use or removal"  
24 order to the owner or custodian of any lot of fertilizer or  
25 soil conditioner and to be held at a designated place when

1 the department finds the fertilizer or soil conditioner is  
2 being offered or exposed for sale in violation of any of the  
3 provisions of the New Mexico Fertilizer Act until the law has  
4 been complied with and the fertilizer or soil conditioner is  
5 released in writing by the department or the violation has  
6 been otherwise legally disposed of by written authority. The  
7 department shall release the fertilizer or soil conditioner  
8 so withdrawn when the requirements of the provisions of the  
9 New Mexico Fertilizer Act have been complied with and all  
10 costs and expenses incurred in connection with the withdrawal  
11 have been paid."

12 SECTION 16. Section 76-11-17 NMSA 1978 (being Laws  
13 1963, Chapter 184, Section 17, as amended) is amended to  
14 read:

15 "76-11-17. SEIZURE--CONDEMNATION--SALE.--

16 A. Any lot of fertilizer or soil conditioner not  
17 in compliance with the provisions of the New Mexico  
18 Fertilizer Act is subject to seizure on complaint of the  
19 department to a court of competent jurisdiction in the area  
20 in which the fertilizer or soil conditioner is located.

21 B. In the event the court finds the fertilizer or  
22 soil conditioner to be in violation of the New Mexico  
23 Fertilizer Act and orders the condemnation of the fertilizer  
24 or soil conditioner, it shall be disposed of in any manner  
25 consistent with the quality of the fertilizer or soil

1 conditioner and the laws of the state.

2 C. In no instance shall the disposition of the  
3 fertilizer or soil conditioner be ordered by the court  
4 without first giving the claimant an opportunity to apply to  
5 the court for release of the fertilizer or soil conditioner  
6 or for permission to process or relabel the fertilizer or  
7 soil conditioner to bring it into compliance with the New  
8 Mexico Fertilizer Act."

9 SECTION 17. Section 76-11-18 NMSA 1978 (being Laws  
10 1963, Chapter 184, Section 18, as amended) is amended to  
11 read:

12 "76-11-18. VIOLATIONS.--

13 A. If it appears from the examination of a  
14 fertilizer or soil conditioner that any of the provisions of  
15 the New Mexico Fertilizer Act or the rules issued pursuant to  
16 that act have been violated, the department shall cause  
17 notice of the violations to be given to the registrant,  
18 distributor or possessor from whom the sample was taken; a  
19 person notified shall be given opportunity to be heard under  
20 the rules prescribed by the board. If it appears after the  
21 hearing, either in the presence or the absence of the person  
22 notified, that any of the provisions of the New Mexico  
23 Fertilizer Act or rules issued pursuant to that act have been  
24 violated, the department may certify the facts to the proper  
25 district attorney.

1           B. A person convicted of violating any provision  
2 of the New Mexico Fertilizer Act or the rules issued pursuant  
3 to that act is guilty of a misdemeanor.

4           C. Nothing in the New Mexico Fertilizer Act shall  
5 require the department or its representative to report for  
6 prosecution or for the institution of seizure proceedings as  
7 a result of minor violations of the New Mexico Fertilizer Act  
8 when it believes that the public interests will be best  
9 served by a suitable notice of warning in writing.

10           D. The department may apply for and the court may  
11 grant a temporary or permanent injunction restraining a  
12 person from violating or continuing to violate any of the  
13 provisions of the New Mexico Fertilizer Act or any rule  
14 promulgated pursuant to that act, notwithstanding the  
15 existence of other remedies at law. The injunction shall be  
16 issued without bond."

17           SECTION 18. Section 76-11-19 NMSA 1978 (being Laws  
18 1963, Chapter 184, Section 19, as amended) is amended to  
19 read:

20           "76-11-19. EXCHANGES BETWEEN MANUFACTURERS.--Nothing in  
21 the New Mexico Fertilizer Act shall be construed to restrict  
22 or avoid sales or exchanges of fertilizers or soil  
23 conditioners to each other by importers, manufacturers or  
24 manipulators that mix those materials for sale or as  
25 preventing the free and unrestricted shipments of fertilizer

1 or soil conditioners to manufacturers or manipulators that  
2 have registered their brands as required by the provisions of  
3 the New Mexico Fertilizer Act."

4 SECTION 19. A new section of the New Mexico Fertilizer  
5 Act is enacted to read:

6 "ADULTERATION.--No person shall distribute an  
7 adulterated fertilizer product. A fertilizer shall be deemed  
8 to be adulterated if:

9 A. it contains any deleterious or harmful  
10 substance in sufficient amount to render it injurious to  
11 beneficial plant life, animals, humans, aquatic life, soil or  
12 water when applied in accordance with directions for use on  
13 the label or if adequate warning statements or directions for  
14 use that may be necessary to protect beneficial plant life,  
15 animals, humans, aquatic life, soil or water are not shown on  
16 the label;

17 B. its composition falls below or differs from  
18 that which it is purported to possess by its labeling; or

19 C. it contains unwanted crop seed or weed seed."

20 SECTION 20. A new section of the New Mexico Fertilizer  
21 Act is enacted to read:

22 "COOPERATION WITH OTHER AGENCIES.--The department may  
23 cooperate with and enter into agreements with other state  
24 agencies, other states and agencies of the federal government  
25 to carry out the provisions of the New Mexico Fertilizer

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