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## Kansas Fertilizer Law

### Article 12. FERTILIZERS

## Kansas Statutes Annotated

**2-1201. Definitions.** (1) The term "commercial fertilizer" means any substance designed, intended, used or susceptible for use to supply food for plants or to increase crops produced by land, except the following: (a) Limestone (calcium carbonate), (b) dolomite (calcium magnesium carbonate), (c) lime (calcium oxide), (d) slaked lime (calcium hydroxide), (e) gypsum (calcium sulphate), (f) the dung of domestic animals, (g) compost, and (h) fertilizer materials. The term commercial fertilizer shall also include specialty fertilizer as defined below.

(2) The term "fertilizer materials" means any substance containing plant food elements or compounds in possession of manufacturers for use in compounding mixed commercial fertilizers.

(3) The term "brand" means the name, number, trademark, trade name or other designation of a commercial fertilizer.

(4) The term "grade" means the minimum percentages of total nitrogen, available phosphoric acid, and soluble potash, stated in the order given in this definition. When applied to mixed or blended fertilizers, whole numbers only shall be given.

(5) The term "person" includes individual, partnership, association, firm and corporation.

(6) The term "secretary" means the secretary of agriculture.

(7) The term "label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial fertilizer is distributed, or on the invoice slip or delivery slip with which a commercial fertilizer or custom blended fertilizer is distributed.

(8) The term "custom blended fertilizer" means a fertilizer blended according to specifications furnished by the customers prior to blending.

(9) The term "custom blender" means any person who blends only registered commercial fertilizers at the request of and according to specifications furnished by the customer-purchaser.

(10) The term "specialty fertilizer" means a commercial fertilizer distributed primarily for nonfarm use, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses and nurseries, and may include commercial fertilizers used for research or experimental purposes and is not used primarily for application to crops produced for commercial value.

(11) The term "process tankage" means a product made under steam pressure from crude inert nitrogenous materials such as horn, hoof, hair, feathers or other similarly inert nitrogenous matter, for the purpose of increasing the activity of nitrogen. The water-insoluble nitrogen in these products shall test at least 50% by the alkaline method or at least 80% by the neutral permanganate method.

(12) The term "ammonium nitrate" means chiefly the ammonium salt of nitric acid and contains not less than 33% nitrogen, 1/2 of which is in the ammonium form and 1/2 in the nitrate form.

(13) The term "ammonium nitrate dealer" means any person operating a business that is engaged in the distribution or sale of ammonium nitrate. The term "ammonium nitrate dealer" shall not include an end-user who is engaged in the physical act of application of ammonium nitrate as a commercial fertilizer and is not also engaged in further sale or distribution of ammonium nitrate.

**History:** L. 1927, ch. 14, § 1; L. 1949, ch. 2, § 1; L. 1963, ch. 5, § 1; L. 1992, ch. 195, § 2; L. 2004, ch. 101, § 21; L. 2007, ch. 136, § 1; July 1.

**2-1201a. Custom blender; license; fee; label or delivery slips; contents.** Any person desiring to operate as a custom blender shall file an application with the secretary for a license, said application to show the name and address of the applicant and request that a license be issued. The secretary shall issue the license upon receipt of the license fee of twenty-five dollars (\$25), which license shall expire on December 31 of the year issued. A separate license shall be required for each place of business. The person to whom a license has been issued shall not be required to register the grades of custom blended fertilizers made by him or her, as provided by K.S.A. [2-1202](#). Each person selling or distributing custom blended fertilizers shall furnish the customer-purchaser with a label showing the information as required by K.S.A. [2-1204](#), or shall furnish a label or delivery slip showing the following: (1) The name and address of the custom blender; (2) the date; (3) the weight and guaranteed analysis of each ingredient; (4) the grade of the custom blended fertilizer; (5) and in case the custom blended fertilizer contains any ingredient which is injurious to plants, (a) the name and percentage of each such active ingredient; (b) adequate directions for use; and (c) adequate warnings against misuse; (6) and the minimum percentage or quantity of any other material or plant food element contributing to the value of the commercial fertilizer.

**History:** L. 1963, ch. 5, § 2; July 1.

**2-1201b. Custom blenders; unlawful acts; civil penalty.** (a) It shall be deemed a violation of K.S.A. 2-1201 and 2-1201a, and amendments thereto, for any person to: (1) Sell or distribute in this state any custom blended fertilizer when such person does not hold a valid license as required by this act; or (2) fail to comply with the requirements of K.S.A. 2-1201a, and amendments thereto, and, except as otherwise provided, the provisions of K.S.A. 2-1208, and amendments thereto. Failure to comply with the provisions of K.S.A. 2-1208(1)(a), and amendments thereto, shall not be deemed a violation of this section. The penalties as provided in K.S.A. 2-1208, and amendments thereto, shall apply to persons as described in this section who fail to comply with the provisions of K.S.A. 2-1208, and amendments thereto.

(b) On and after July 1, 2003, any person or custom blender who violates any provision of article 12 of chapter 2 of Kansas Statutes Annotated, and amendments thereto, or the rules and regulations adopted pursuant thereto, after notice and opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act, may incur a civil penalty in an amount not more than \$5,000 per violation. In the case of a continuing violation, every day such violation continues may be deemed a separate violation. Such civil penalty may be assessed in addition to any other penalty provided by law. Any order issued by the secretary assessing a civil penalty pursuant to this subsection is subject to review in accordance with the Kansas judicial review act. The secretary shall remit any civil penalty collected pursuant to this act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

**History:** L. 1963, ch. 5, § 3; L. 2002, ch. 144, § 2; L. 2010, ch. 17, § 5; July 1; L. 2017, ch. 23, § 1; July 1.

**2-1201c. Ammonium nitrate dealers; registration; storage, security; records of sale; right to refuse sale.** (a) Ammonium nitrate dealers shall register with the secretary of agriculture. Registration shall be required for each business location selling ammonium nitrate. Each registration shall expire on December 31 following issuance unless the registration is renewed annually. A registration fee not to exceed \$25 shall accompany the application for registration for any ammonium nitrate dealer that is not registered as a custom blender, if the fee is fixed by the secretary in rules and regulations.

(b) Ammonium nitrate storage shall be secured to provide reasonable protection against vandalism, theft and unauthorized access.

(c) Ammonium nitrate dealers shall obtain the following regarding any sale of ammonium nitrate:

(1) Date of sale;

(2) quantity purchased;

(3) license number of the purchaser's valid state or federal driver's license or other picture identification card number deemed acceptable by the secretary in rules and regulations;

(4) the purchaser's name, current physical address and telephone number;

(5) if the ammonium nitrate is received to a person other than the purchaser, the name, current physical address, telephone number and license number of that person's valid state or federal driver's license or other picture identification card number deemed acceptable by the secretary in rules and regulations; and

(6) the physical address of the person to whom the ammonium nitrate is delivered if different than the physical address of the purchaser.

(d) Ammonium nitrate dealers shall maintain records of all information required to be obtained pursuant to subsection (c) for a minimum of three years. The records shall be subject to inspection upon request by the secretary of agriculture or the secretary's designee.

(e) Ammonium nitrate dealers may refuse to sell to any person attempting to purchase ammonium nitrate out of season, in unusual quantities or under suspect purchase patterns.

(f) In addition to any other penalties provided by law, each ammonium nitrate dealer registration shall be subject to denial, suspension or revocation, after notice and opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act, for any violation of this act whether committed by the dealer or by the dealer's officers, agents or employees.

(g) The provisions of this section are part of and supplemental to article 12 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto.

**History:** L. 2007, ch. 136, § 2; July 1; L. 2017, ch. 23, § 2; July 1.

**2-1202. Registration; application; annual fee; revocations; tonnage reports.** (1) Application for registration shall be filed with the secretary and shall set forth:

(a) The brand and grade of the commercial fertilizer;

(b) the name and address of the person making application for registration of the commercial fertilizer;

(c) the guaranteed analysis including:

(A) The minimum percentage of nitrogen,

(B) the minimum percentage of total phosphorus pentoxide ( $P_2O_5$ ), which is more commonly known and which shall be shown as total phosphoric acid;

(C) the minimum percentage of available phosphorus pentoxide ( $P_2O_5$ ), which is more commonly known and which shall be shown as available phosphoric acid;

(D) the minimum percentage of dipotassium oxide ( $K_2O$ ), which is more commonly known and which shall be shown as water soluble potash;

(E) the kind and minimum percentage of any and all other plant food elements or compounds contributing to the value of the commercial fertilizer, expressed separately;

(F) a statement authorizing the secretary or an authorized representative of the secretary to examine all records of the applicant necessary for the purpose of verifying and determining the inspection fee; and

(G) such other information as may be prescribed by rules and regulations. The total phosphoric acid need not be shown on the application for registration of commercial fertilizers other than unacidulated mineral phosphatic materials, basic slag, bone, tankage, and other natural organic phosphate materials.

(2) If the application meets the requirements of this act, and the person making application shall pay a registration fee of \$5 for each commercial fertilizer, the secretary shall register each such product. Such registration may be revoked for failure to comply with requirements of article 12 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto. All registrations shall expire on June 30 of each year. Each person who secures registration of a commercial fertilizer shall semiannually submit to

the secretary a written statement of the tonnage of each kind or grade of commercial fertilizer, shipped to or sold within this state. The registrant shall not be required to report direct shipments of commercial fertilizer and fertilizer materials to fertilizer manufacturers or mixers, but such fertilizer manufacturers or mixers shall report this tonnage of such commercial fertilizers shipped, sold or distributed by them in this state and not used in manufacturing processes. Such statements shall respectively include all shipments or sales for the six-month periods beginning July 1 to and including December 31, and six-month periods beginning January 1 to and including June 30. The secretary may cancel the registrations of any person failing to file the tonnage statement within 30 days from the date of the close of each period. The secretary may grant a reasonable extension of time. Information furnished to the secretary shall not be disclosed in such a way as to divulge the operations of any person.

**History:** L. 1927, ch. 14, § 2; L. 1949, ch. 2, § 2; L. 1992, ch. 195, § 1; April 30.

**2-1204. Labeling.** (1) Every package or container of commercial fertilizer shall bear a distinctly printed label in the English language on a tag attached to the package or container, or distinctly printed on the package or container. The label shall show and state:

- (a) The name and address of the person registering the commercial fertilizer;
- (b) the brand and grade of the commercial fertilizer;
- (c) the net weight in the package or container;
- (d) the registered guaranteed analysis. The guaranteed analysis shall include the minimum percentages of plant foods in the following order and form:

Nitrogen, minimum ..... \_\_\_\_ percent  
Available phosphoric acid, minimum ..... \_\_\_\_ percent  
Soluble potash, minimum ..... \_\_\_\_ percent,  
except (A) unacidulated mineral phosphatic materials and basic slag shall show the guaranteed analysis in the following order and form:

Total phosphoric acid, minimum ..... \_\_\_\_ percent  
Available phosphoric acid, minimum ..... \_\_\_\_ percent

Fineness of grind: \_\_\_\_ percent through mesh screen, and (B) bone, tankage, and other natural organic phosphate materials shall show the guaranteed analysis in the following form:

Total phosphoric acid, minimum ..... \_\_\_\_ percent;

(e) commercial fertilizers containing any ingredient which is injurious to plants, shall be labeled to show, (A) the name and percentage of each such active ingredient; (B) adequate directions for use, and (C) adequate warnings against misuse;

(f) the minimum percentage of any and all other plant food elements or compounds contributing to the value of the commercial fertilizer; and

(g) such other information as may be prescribed by rules and regulations.

(2) Bulk lots shall be accompanied by a label which shall be delivered to the purchaser showing the information required by this section.

(3) No commercial fertilizer, except a specialty fertilizer, shall contain or be manufactured from process tankage.

**History:** L. 1927, ch. 14, § 3; L. 1949, ch. 2, § 3; L. 1992, ch. 195, § 3; April 30.

**2-1205. Commercial fertilizers; inspection fee, increase or decrease in amount; records and reports; revocation of registration; penalties; disposition of moneys received.** (a) An inspection fee shall be collected upon all commercial fertilizers sold, offered or exposed for sale, or distributed in Kansas, which shall be at a rate per ton fixed by rules and regulations adopted by the secretary of agriculture, except that such rate shall not exceed \$1.67 per ton. The secretary of agriculture may adopt rules and regulations establishing the inspection fee rate under this section. Each person registering any commercial fertilizer shall pay the inspection fee on such commercial fertilizer sold, offered or exposed for sale, or distributed in Kansas. Each such registrant shall keep adequate records showing the tonnage of each commercial fertilizer shipped to or sold, offered or exposed for sale, or distributed in Kansas. The secretary, and duly authorized representatives of the secretary, shall have

authority to examine such records and other pertinent records necessary to verify the statement of tonnage.

(b) Each person registering any commercial fertilizer shall file an affidavit semiannually, with the secretary, within 30 days after each January 1 and each July 1, showing the tonnage of commercial fertilizer sold or distributed in Kansas for the preceding six-month period. Each such registrant shall pay to the secretary the inspection fee due for such six month period, except that the registrant shall not be required to pay the inspection fee or report the tonnage of commercial fertilizers or fertilizer materials sold and shipped directly to fertilizer manufacturers or mixers. The fertilizer manufacturers or mixers shall keep adequate records of the commercial fertilizers sold or distributed in this state, and report to the secretary the tonnage and pay the inspection fee due. If the affidavit is not filed and the inspection fee is not paid within the 30-day period, or if the report of tonnage is false, the secretary may revoke the registrations filed by such person. If the affidavit is not filed and the inspection fee is not paid within the 30-day period, or any extension thereof granted by the secretary, a penalty of \$10 per day shall be assessed against the registrant, except that on and after July 1, 2028, a penalty of \$5 per day shall be assessed against the registrant, and the inspection fee and penalty shall constitute a debt and become the basis for a judgment against such person. The secretary may grant a reasonable extension of time.

(c)(1) The secretary shall remit all moneys received by or for the secretary under article 12 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and shall credit such remittance as follows:

(A) An amount equal to \$1.40 per ton shall be credited to the state water plan fund created by K.S.A. 82a-951, and amendments thereto;

(B) an amount equal to \$.04 per ton shall be credited to the fertilizer research fund; and

(C) the remainder shall be credited to the fertilizer fee fund.

(2) All expenditures from the fertilizer fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture or by a person or persons designated by the secretary.

(3) The secretary of agriculture shall reduce the inspection fee by adopting rules and regulations under this section whenever the secretary determines that the inspection fee is yielding more than is necessary for the purpose of administering the provisions of this act.

(4) The secretary may increase the inspection fee by adopting rules and regulations under this section when the secretary finds that such increase is necessary to produce sufficient revenues for the purpose of administering the provisions of this act, except that the inspection fee shall not be increased in excess of the maximum fee prescribed by this section.

**History:** L. 1927, ch. 14, § 4; L. 1949, ch. 2, § 4; L. 1973, ch. 2, § 4; L. 1982, ch. 4, § 4; L. 1989, ch. 186, § 27; L. 1990, ch. 4, § 1; L. 1999, ch. 97, § 1; L. 2000, ch. 111, § 2; L. 2001, ch. 5, § 11; L. 2002, ch. 181, § 1; L. 2004, ch. 85, § 1; L. 2004, ch. 180, § 1; L. 2009, ch. 128 § 1, July 1; L. 2017, ch. 86, § 1; July 1; L. 2022, ch. 9, § 1; July 1.

**2-1206. Inspections; evidence; stop sale orders; judicial review.** (a) The secretary and authorized representatives of the secretary shall make such inspection of commercial fertilizers as may be deemed necessary to ascertain whether manufacturers and others are complying with all of the provisions of this act. The secretary or authorized representatives of the secretary shall procure annually samples of commercial fertilizer and cause analyses to be made. A certified statement of the results of such analysis shall be prima facie evidence in any action within the state of Kansas concerning such commercial fertilizer.

(b) The secretary or a duly authorized representative of the secretary, acting as the enforcing officer, may issue and enforce a written or printed stop sale order to the owner or custodian of any quantity of any commercial fertilizer which the secretary or duly authorized representative determines is not registered, is not labeled as required, is misbranded or bears a false or misleading statement on the application for registration, the label or the accompanying advertising in violation of the provisions of the statutes contained in article 12 of chapter 2 of the Kansas Statutes Annotated and amendments

thereto, or any rules and regulations adopted thereunder. The stop sale order shall prohibit further sale and movement of such commercial fertilizer, except on approval of the enforcing officer, until the enforcing officer has evidence that the law and rules and regulations have been complied with and issues a release from the stop sale order. Any stop sale order issued pursuant to this subsection is subject to review in accordance with the Kansas judicial review act. The provisions of this subsection shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other provisions to the statutes contained in article 12 of chapter 2 of the Kansas Statutes Annotated and amendments thereto.

**History:** L. 1927, ch. 14, § 5; L. 1949, ch. 2, § 5; L. 1985, ch. 9, § 2; L. 1986, ch. 318, § 11; L. 2010, ch. 17, § 6; July 1.

**2-1207. Samples for inspection; refusal to permit.** In sampling commercial fertilizers packed in packages of twenty-five (25) pounds or less, an original unbroken package may be taken as the official sample and the ordinary retail price tendered therefor. When the fertilizer is in packages of over twenty-five (25) pounds in weight, portions for the official sample shall be taken from at least ten packages, if there be that many in the lot. In sampling fertilizers in bulk, not less than ten portions shall be drawn, and these from various parts, so as to represent fairly the whole. The owner of the fertilizer or a representative of the owner may be present, but any refusal by such owner or representative to permit sampling shall be taken as sufficient evidence of violation of the law by him or her.

**History:** L. 1927, ch. 14; § 6; June 1.

**2-1208. Violations; misdemeanor; seizure; injunction.** (1) It shall be deemed a violation of this act for any person to sell, offer or expose for sale, or distribute in this state any commercial fertilizer or to take or receive from any person in this state any order for any commercial fertilizer, or to directly or indirectly contract with any person for the sale of any commercial fertilizer which commercial fertilizer: (a) Is not registered; (b) is not labeled as required by the provisions of this act and the authorized rules and regulations; (c) bears a false or misleading statement on the application for registration, the label or the advertising accompanying the commercial fertilizer.

(2) It shall be deemed a violation of this act for any person to: (a) Mutilate, destroy, obliterate or remove the label or any part thereof; or do any act which may result in the misbranding or false labeling of any commercial fertilizer; (b) fail or neglect to file the tonnage reports or affidavit or pay the inspection fee as required by this act; (c) impede, obstruct, hinder or otherwise prevent or attempt to prevent the secretary or authorized agents of the secretary in the performance of their duty in connection with the administration of the provisions of this act.

(3) Any person who shall violate any of the provisions of this act or the rules and regulations issued thereunder, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than one hundred dollars for the first violation and not less than one or more than five hundred dollars for each subsequent violation.

(4) Any commercial fertilizer not in compliance with the provisions of this act shall be deemed a nuisance and shall be subject to seizure in a proceeding before a court of competent jurisdiction. In the event the said court finds the commercial fertilizer to be in violation of law the court may release the commercial fertilizer, after the filing of a bond by a proper claimant to insure compliance with the order of the court and to insure that the product will be sold or disposed of in compliance with law. The district courts of the state of Kansas shall have jurisdiction to restrain violations of this act by injunction without any criminal proceedings being first initiated.

(5) It shall not be deemed a violation of this act for the secretary or authorized representatives of the secretary to remove a label or any part thereof from a package or container of commercial fertilizer as evidence in connection with the administration of the provisions of this act.

**History:** L. 1927, ch. 14, § 8; L. 1949, ch. 2, § 6; July 1.

**2-1208a. Notice before prosecution; hearing; cancellation of registration; reports to county attorney.** If it shall appear to the secretary or an authorized representative of the secretary from examination or analysis of an official sample of a commercial fertilizer that the commercial fertilizer is

falsely labeled or fails to comply with the provisions of this act, the secretary shall have power to cancel the registration of such brand or brands of commercial fertilizer after notice and opportunity for a hearing in accordance with the Kansas administrative procedure act. The secretary may report the facts, the results of any analysis or other examination and the record of any proceedings to the proper prosecuting attorney. Prosecution may be instituted under the provisions of this act in the district court of the county where the offense is alleged to have been committed, upon complaint of the secretary or an authorized representative of the secretary or any citizen of this state, or by any county attorney and shall be prosecuted by the county attorney in the name of the state of Kansas.

**History:** L. 1927, ch. 14, § 7; L. 1949, ch. 2, § 7; L. 1988, ch. 356, § 28; L. 2004, ch. 145, § 7; July 1, 2005; L. 2017, ch. 23, § 3; July 1.

**2-1209. Publication of reports.** The secretary of agriculture shall at the secretary's discretion publish a report of the analysis of official samples of commercial fertilizer, a list of the commercial fertilizers registered in this state with their guaranteed composition, and such other information as may be deemed valuable to the public concerning fertilizers and their use.

**History:** L. 1927, ch. 14, § 10; L. 2004, ch. 101, § 22; July 1.

**2-1209a. Invalidity of 2-1201 to 2-1209.** Should it be decided upon final judicial hearing that any section or clause of this act is invalid, such decisions shall only apply to the section or clause so found to be invalid and shall not invalidate the entire act.

**History:** L. 1927, ch. 14, § 11; June 1.

**2-1210. Trademarks; change of analysis; rules and regulations.** The secretary shall refuse to register any commercial fertilizer under a name, brand or trademark which may appear to be misleading or deceptive. The secretary shall refuse to allow any person to change the guaranteed analysis of any brand of commercial fertilizer registered for sale in this state within the period for which registered. The secretary is hereby authorized and empowered to enforce the provisions of this act, and amendments thereto, and to prescribe and enforce such rules and regulations relating to commercial fertilizers as he or she may deem necessary to carry into effect the full intent and meaning of this act.

**History:** L. 1927, ch. 14, § 9; L. 1949, ch. 2, § 8; July 1.

**2-1212. Anhydrous ammonia; regulations.** The board is authorized and directed to make and promulgate regulations (a) for the safe handling, storage and transportation of anhydrous ammonia; (b) for establishment of minimum general safety standards covering the design, construction, location, installation and operation of equipment for the storage, handling and transportation of such product by tank truck, tank trailer, or otherwise, and for the utilization of anhydrous ammonia; and (c) to modify and amend such regulations to the end that said anhydrous ammonia shall be handled, stored and transported with safety.

Said regulations shall be such as are reasonably necessary for the safety of the public and persons using such material.

**History:** L. 1953, ch. 9, § 1; L. 1969, ch. 6, § 2; July 1.

**2-1215. Same; power of municipalities to regulate.** A municipality or other political subdivision, shall not enact or enforce any ordinance inconsistent with the regulations promulgated and adopted pursuant to this act. Nothing in this act shall in any way impair the power of any municipality or other political subdivision, (1) to prohibit the use of land for anhydrous ammonia storage or handling, or (2) to impose more stringent limitations within its jurisdiction, by zoning regulations, or by building or other regulatory codes.

**History:** L. 1969, ch. 6, § 4; July 1.

**2-1216. Same; duties of secretary; employees.** It shall be the duty of the secretary (1) to administer this act, and the rules and regulations adopted thereunder, and (2) to employ the necessary personnel.

Such employees are hereby authorized and directed to inspect the facilities and equipment used in the handling, storage and transportation of anhydrous ammonia.

**History:** L. 1969, ch. 6, § 5; July 1.

**2-1217. Same; inspection of facilities and equipment; duties of employees, owners and operators.** For the purposes of administering this act, the administrative personnel and employees shall have the right to enter private property and to inspect facilities and equipment. It shall be the duty of employees to notify the owner or operator, of any anhydrous ammonia facility or equipment, (1) of any defect or deficiency in the construction, installation or operation of any such facility or equipment, and (2) of any defect or deficiency in the safety equipment or in the use thereof. The owner or operator of such facility or equipment may be given a specified reasonable time within which to comply with the rules and regulations.

**History:** L. 1969, ch. 6, § 6; July 1.

**2-1218. Same; unlawful acts.** It shall be unlawful, and a violation of this act, for any person;

(a) to operate any anhydrous ammonia facility, any transportation equipment, or to sell or offer to sell any anhydrous ammonia, unless

(1) the product container, piping, valves, hose, appurtenances and equipment are constructed and installed in accordance with the regulations adopted under the provisions of K.S.A. 2-1212, as supplemented and amended; and

(2) the product container, piping, valves, hose, appurtenances and other equipment are adequately maintained; and

(3) the stationary product container is located as required in the regulations adopted pursuant to K.S.A. 2-1212, as supplemented and amended: *Provided*, This subsection shall not apply

(A) to a stationary product container located prior to the adoption of the regulations, or

(B) to a stationary product container properly located at the time of its installation.

(b) To use any product container, piping, valve, hose, appurtenances or other equipment for handling anhydrous ammonia which is defective or which is otherwise unsafe.

(c) To fail to provide or fail to have available, for use such safety material and such effective safety equipment, as required by regulation.

(d) To impede, obstruct or hinder, or to otherwise prevent or to attempt to prevent, any authorized state administrative personnel or employee in the performance of his or her duties in connection with the administration of this act.

**History:** L. 1969, ch. 6, § 7; July 1.

**2-1219. Same; penalty for violations; injunctions; jurisdiction; hearings.** Any person violating or failing to comply with, any of the provisions of this act, or any rule or regulation adopted thereunder, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five hundred dollars (\$500). If any person owning or operating an anhydrous ammonia facility, including transports, tank trailers and applicators, shall fail to make the changes, additions and alterations necessary (a) to correct the defects, and (b) to supply the deficiencies, within the specified time as directed, then the county attorney of the county in which the facility or equipment is located is authorized to file a petition in the district court setting forth the facts and praying for an injunction. The district courts of this state shall have jurisdiction to hear such matters, and may temporarily restrain and temporarily and permanently enjoin the operator or owner from operating such facility or equipment until such time as the defects are corrected and the deficiencies supplied. Before the secretary reports a violation for such prosecution, an opportunity shall be given the person to present his or her views. Nothing in this act shall be construed as requiring the secretary to report for prosecution minor violations of the act whenever the secretary believes that the public interest will be best served by other actions.

**History:** L. 1969, ch. 6, § 8; July 1.



**2-1220. Definitions.** Unless the context otherwise requires, as used in this act, the following definitions shall apply:

(a) "Person" means any individual, any association of persons or any corporation.

(b) "Anhydrous ammonia" and "product" means the compound formed by the combination of the two gaseous elements, nitrogen and hydrogen, in the proportion of one part nitrogen to three parts hydrogen (by volume), and used or intended for use as an agricultural fertilizer. Anhydrous ammonia is ammonia gas in compressed and liquefied form. It does not include aqueous ammonia which is a solution of ammonia gas in water.

(c) "Department" means the Kansas department of agriculture.

(d) "Secretary" means the secretary of agriculture.

**History:** L. 1969, ch. 6, § 1; L. 2004, ch. 101, § 23; July 1.

**2-1221. Fertilizer research fund; creation; use of moneys; expenditures.** There is hereby created a fertilizer research fund. All moneys credited to the fund shall be expended to the agricultural experiment station under the supervision of Kansas state university for the purpose of conducting research on fertilizers, anhydrous ammonia and related materials concerning efficient methods of application, storage and handling, their effect upon environmental quality, and efficiency and safety in the use of fertilizers, anhydrous ammonia and related materials in crop production. All expenditures shall be made in accordance with the appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the director of the agricultural experiment station of Kansas state university or by a person or persons designated by the director.

**History:** L. 1990, ch. 4, § 5; L. 1994, ch. 106, § 1; July 1.

**2-1222. Issuance of stop sale or stop use orders** (a) The secretary or a duly authorized representative of the secretary, acting as the enforcing officer, may issue and enforce a written or printed stop sale or stop use order to the owner or custodian of any facility or equipment used for the storage, handling or transportation of anhydrous ammonia which the secretary or duly authorized representative determines is not in compliance with the provisions of K.S.A. [2-1212](#) through [2-1220](#), and amendments thereto, or any rules and regulations adopted thereunder. The stop sale or stop use order shall prohibit the sale of anhydrous ammonia or prohibit further use of such facility or equipment for the handling, storage or transportation of anhydrous ammonia, except on approval of the enforcing officer, until the enforcing officer has evidence that the law and rules and regulations have been complied with and issues a release from the stop sale or stop use order. Any stop sale or stop use order issued pursuant to this subsection is subject to review in accordance with the Kansas judicial review act. The provisions of this subsection shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other provisions of the statutes contained in article 12 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto.

(b) This section shall be part of and supplemental to the provisions of K.S.A. [2-1212](#) through [2-1220](#), and amendments thereto.

**History:** L. 1991, ch. 1, § 1; L. 2010, ch. 17, § 7; July 1.

## **HANDLING, STORAGE AND DISPOSAL OF COMMERCIAL AND BULK FERTILIZERS**

**2-1226. Definitions.** As used in this act: (a) "Commercial fertilizer" shall have the meaning ascribed to such term under K.S.A. 2-1201 and amendments thereto.

(b) "Fertilizer materials" shall have the meaning ascribed to such term under K.S.A. 2-1201 and amendments thereto.

(c) "Bulk fertilizer" means any liquid, blended or dry fertilizer or fertilizer material stored in a fluid or dry nonpackage form.

(d) "Facility" means a place where commercial fertilizer materials are stored, mixed, blended, manufactured, weighted or handled.

(e) "Department" means the Kansas department of agriculture.

(f) "Secretary" means the secretary of agriculture.

(g) "Person" means any individual, partnership, association of persons, governmental agency or corporation.

**History:** L. 1989, ch. 3, § 1; L. 1994, ch. 115, § 2; L. 2004, ch. 101, § 24; July 1.

**2-1227. Rules and regulations.** The secretary is authorized to adopt rules and regulations: (a) For the safe handling and storage of commercial fertilizers and fertilizer materials in bulk;

(b) for the establishment of minimum general standards covering the design, construction, location, installation and operation for the storage and handling of commercial fertilizer and fertilizer in bulk and the prevention of commercial fertilizer, fertilizer materials or fertilizer in bulk from being introduced into the ground or surface waters of the state;

(c) for the establishment of minimum general standards covering the design, construction, location and installation of a structure constructed for the purpose of confining any spills or discharged fertilizer or fertilizer material within a specified area;

(d) for the prompt recovery of fertilizer or fertilizer materials spilled within a specified area;

(e) for dates by which the owners or operators, or both, of facilities and equipment subject to the provision of this act and in existence prior to the effective date of this act shall comply with this act;

(f) for the issuance of a stop sale order or stop use order, pursuant to K.S.A. 2-1232; and

(g) for the administration of this act.

**History:** L. 1989, ch. 3, § 2; L. 1994, ch. 115, § 3; L. 2004, ch. 101, § 25; July 1.

**2-1228. Approval of construction or alteration by the secretary; transferable.** (a) A person beginning construction of or substantial alteration to an existing facility or equipment used for the manufacture, blending, handling or bulk storage of commercial fertilizer or fertilizer materials shall apply to the secretary, on forms provided by the secretary, for approval of such construction or alteration. The person shall provide the secretary with such information as the secretary deems necessary. The secretary shall approve the construction or alteration of the facility or equipment if such construction or alteration is consistent with the standards and other requirements established by rules and regulations under K.S.A. 2-1227, and amendments thereto.

(b) The approval shall be transferable from the owner issued the approval to another owner if the new owner notifies the department within 30 days after the facility has changed ownership. Approval shall not be transferable from one location to another.

(c) The owner or operator of a facility or equipment used for the manufacture, blending, handling or bulk storage of commercial fertilizer or fertilizer materials established prior to the effective date of this act shall obtain the secretary's approval of the facility or equipment according to the dates specified in rules and regulations.

**History:** L. 1989, ch. 3, § 3; L. 2004, ch. 101, § 26; July 1.

**2-1229. Secretary's right to enter property; notice; compliance.** For the purposes of administering this act, the secretary or a person or persons designated by the secretary shall have the right to enter private property and to inspect facilities and equipment. It shall be the duty of the secretary or any such designated person or persons to notify the owner or operator of any facility or equipment:

(1) Of any defect or deficiency in the construction, installation or operation of any such facility or equipment; and

(2) of any defect or deficiency in the safety equipment or in the use thereof. The owner or operator of such facility or equipment may be given a specified reasonable time within which to comply with the rules and regulations.

**History:** L. 1989, ch. 3, § 4; July 1.

**2-1230. Unlawful acts.** It shall be unlawful, and a violation of this act, for any person: (a) To operate any facilities or equipment unless:

(1) The facilities and equipment are constructed and installed in accordance with the rules and regulations adopted under the provisions of K.S.A. 2-1227 and amendments thereto; and

(2) the facilities and equipment are adequately maintained; and

(3) the facilities and equipment are approved under K.S.A. 2-1228 and amendments thereto.

(b) To use any product container, piping, valve, hose, appurtenances or other equipment for handling and storage of commercial fertilizer and fertilizer materials which is defective or which is otherwise unsafe.

(c) To fail to provide, or fail to have available, for use such safety material and such effective safety equipment, as required by rules and regulations.

(d) To violate any rule and regulation adopted under K.S.A. 2-1227 and amendments thereto.

(e) To impede, obstruct or hinder, or to otherwise prevent or to attempt to prevent, any authorized state personnel or employee in the performance of duties in connection with the administration of this act.

(f) To fail to comply with a stop sale order or stop use order issued pursuant to K.S.A. 2-1232.

**History:** L. 1989, ch. 3, § 5; L. 1994, ch. 115, § 4; July 1.

**2-1231. Penalties; injunction.** Any person violating or failing to comply with any of the provisions of this act, or any rule and regulation adopted under this act, shall be guilty of a class B misdemeanor. If any person owning or operating a facility or equipment used for manufacture, blending, handling or bulk storage of commercial fertilizer or fertilizer materials fails to make the changes, additions and alterations necessary to correct any defects or to correct the deficiencies, within the specified time as directed, then the county or district attorney of the county in which the facility or equipment is located shall seek an injunction.

**History:** L. 1989, ch. 3, § 6; July 1.

**2-1232. Secretary may issue a stop sale or stop use order; judicial review.** (a) The secretary or a duly authorized representative of the secretary, acting as the enforcing officer, may issue and enforce a written or printed stop sale order or stop use order when there is reason to believe, based on inspections or tests, that the facility or equipment for the transporting, handling, distributing, dispensing, selling, storage or disposal of commercial fertilizer or bulk fertilizer has been, is currently or intends to be in violation of any provision of K.S.A. 2-1226 through 2-1231, and amendments thereto, or the rules and regulations adopted thereunder.

(b) The stop sale order or stop use order shall prohibit further sale of commercial fertilizer or bulk fertilizer or prohibit further use of such facility or equipment for the transporting, handling, distributing, dispensing, selling, storage or disposal of commercial fertilizer or bulk fertilizer, except in accordance with the provisions of the order or on approval of the enforcing officer, until the enforcing officer has evidence that the law and rules and regulations have been complied with and issues a release from the stop sale order or stop use order.

(c) The stop sale order or stop use order may be issued to any person who runs, controls, operates or has custody of any facility or equipment or may be posted in a conspicuous place in, on or about the facility or equipment affected by the order.

(d) Any order issued pursuant to this subsection is subject to review in accordance with the Kansas judicial review act.

(e) The provisions of this subsection shall not be construed as limiting the right of the enforcing officer to proceed as authorized by other provisions of the statutes contained in article 12 of chapter 2 of the Kansas Statutes Annotated and amendments thereto.

**History:** L. 1994, ch. 115, § 1; L. 2010, ch. 17, § 8; July 1.

**2-1234. Storage of liquid fertilizers; mobile containers; requirements.** If the secretary of agriculture does not adopt a revised regulation related to storage of liquid fertilizer in mobile containers prior to February 1, 2003, then the requirements provided in K.A.R. 4-4-900 et seq. shall be applicable to each mobile container or combination of mobile containers which has a combined capacity of 2,000 gallons or more which is used to store liquid fertilizer for more than 60 consecutive days.

**History:** L. 2002, ch. 144, § 3; July 1.

**2-1235. Uniformity of fertilizer law; exclusive jurisdiction of state.** (a) On and after the effective date of this section, the provisions of the Kansas fertilizer law, and any rules and regulations promulgated thereunder relating to fertilizer sale or use, including, but not limited to, application of fertilizers, storage of fertilizers, transportation of fertilizers and disposal of fertilizers within the state of Kansas, shall be applicable and uniform throughout this state and in all cities, counties and political subdivisions therein. No local authority shall enact or enforce any law, ordinance, rule, regulation or resolution in conflict with, in addition to, or supplemental to, the provisions of the Kansas fertilizer law unless expressly authorized by law to do so. Any law, ordinance, rule, regulation or resolution in conflict with, in addition to, or supplemental to, the provisions of the Kansas fertilizer law is hereby declared to be invalid and of no effect. Any amendment to the Kansas fertilizer law or any amendment of the rules and regulations promulgated thereunder, shall supersede and preempt the conflicting, additional or supplemental provisions of any law, ordinance, rule, regulation or resolution enacted by any city, county or other political subdivision of this state. As used in this section, "Kansas fertilizer law" means the statutes contained in article 12 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto.

(b) Nothing in this section shall be construed to preempt or otherwise limit the authority of any city, county or political subdivision therein to adopt and enforce zoning regulations, fire codes or hazardous waste disposal restrictions.

(c) The provisions of this section are part of and supplemental to the Kansas fertilizer law.

**History:** L. 2005, ch. 105, § 1; July 1.

**74-568. State board of agriculture and secretary of the state board of agriculture abolished; transfer of powers and duties to the department of agriculture and secretary of agriculture.** (a) The state board of agriculture created by K.S.A. 74-503, and amendments thereto, and the office of the secretary of the state board of agriculture created by K.S.A. 74-503, and amendments thereto, are hereby abolished.

(b) Except as otherwise provided by this act, all of the powers, duties and functions of the existing state board of agriculture and the existing secretary of the state board of agriculture are hereby transferred to and conferred and imposed upon, the department of agriculture and the secretary of agriculture established by this act.

(c) Except as otherwise provided by this act, the department of agriculture and the secretary of agriculture established by this act shall be the successor in every way to the powers, duties and functions of the state board of agriculture and the secretary of agriculture in which the same were vested prior to the effective date of this act. Every act performed in the exercise of such powers, duties and functions by or under the authority of the department of agriculture or the secretary of agriculture established by this act shall be deemed to have the same force and effect as if performed by the state board of agriculture or the secretary of the state board of agriculture, respectively, in which such powers, duties and functions were vested prior to the effective date of this act.

(d) Except as otherwise provided by this act, whenever the state board of agriculture, or words of the like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the secretary of agriculture established by this act.

(e) Except as otherwise provided by this act, whenever the secretary of the state board of agriculture, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the secretary of agriculture established by this act.

(f) All rules and regulations of the state board of agriculture or the secretary of the state board of agriculture in existence on the effective date of this act shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary of agriculture by this act until revised amended or nullified pursuant to law.

(g) All rules and regulations of the division of water resources of the state board of agriculture or the chief engineer of the division of water resources of the state board of agriculture in existence on the effective date of this act shall continue to be effective and shall be deemed to be duly adopted rules

and regulations of the chief engineer of the division of water resources of the department of agriculture established by this act until revised, amended, revoked or nullified pursuant to law.

(h) All orders and directives of the state board of agriculture or the secretary of the state board of agriculture in existence in the effective date of this act shall continue to be effective and shall be deemed to be orders and directives of the secretary of agriculture established by this act, until revised, amended or nullified pursuant to law.

(i) On the effective date of this act, the secretary of agriculture shall succeed to whatever right, title or interest the state board of agriculture has acquired in any real property in this state, and the secretary shall hold the same for and in the name of the state of Kansas. On and after the effective date of this act, whenever any statute, contract, deed or other document concerns the power or authority of the state board of agriculture or the secretary of the state board of agriculture to acquire, hold or dispose of real property or any interest therein, the secretary of agriculture shall succeed to such power or authority.

(j) The secretary of agriculture established by this act shall be continuations of the state board of agriculture and the secretary of the state board of agriculture.

**History:** L. 1995, ch. 236, § 9; May 4.