



Ron Alexander

TO REGISTER COMPOST OR NOT — THAT IS THE QUESTION

THE use of compost as a soil amendment has become popular in the horticulture and turf industries over the past 25 years. Of course, compost also has similar applications in many other markets, and can be used as a media component and nutrient source (fertilizer). The nutrient content in compost has proven to be of greater interest to certain end user groups (e.g., agriculture), and has become increasingly more necessary to track. Composters and end users must understand the amount of nutrient(s) "loaded" into soil, and mineralized on an annual basis, during normal use applications. This is necessary for product efficacy and environmental purposes, as well as to meet the growing trend of nutrient management.

Although the vast majority of compost is not used for its nutrient value (agriculture being the typical exception here), being able to provide nutrient data to end users is key towards the successful and environmentally sound use of the product. Doing so, however, requires composters to register their products as a fertilizer with their state Department of Agriculture — something many composters don't want to do. Technically, unless your compost product is registered as a fertilizer, the terms "fertilizer" or "nutrients" may not appear on your product

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label or any piece of printed promotional material. Further, we are not even supposed to provide laboratory analyses — which identify nutrient content — to customers. These statements hold true for both public and private composting facilities, in all states, except several (Washington and Minnesota in some cases) that specifically exempt compost from the state's fertilizer law.

Several of us within the composting industry have been trying to address this registration issue by working with the American Association of Plant Food Control Officials (AAPFCO). However, progress has been slow up to this point because most state Departments of Agriculture (DOAs) don't want to modify their existing fertilizer or soil amendment laws to deal with our nutrient issue, nor do they want to create a new compost law. In either of these cases, state DOAs would be required to work through their state's legislature — which they seem to avoid like the plague.

SO WHAT ARE THE OPTIONS?

Over the years, the U.S. Composting Council (USCC) has engaged AAPFCO to try to address this issue by creating a compost law, by suggesting modifications to the Uniform Soil Amendment Bill and by other related mechanisms — all to no avail thus far. As the primary representative of the USCC at AAPFCO meetings, the goal has always been to have compost recognized as a mainstream horticultural/agricultural product, as well as to have both compost's soil amending claims and nutrient content be represented to customers. Having been involved in compost marketing for 20 years, and working with both state DOAs and AAPFCO, I believe that the composting industry has several potential directions to go in if it wants to be able to legally make nutrient statements or claims. Here are the options as I see them:

1. *Continue to cheat* — Certainly every composter has the ability to provide nutrient data to their end users, without being registered as a fertilizer. *Actually, most state DOAs don't even have a great enforcement capability.* But, arguably, this tactic does not move our industry forward.

2. *Go after a uniform compost bill, again* — The USCC could reinstitute its

efforts on the development of a uniform compost bill. The goal here would be for the bill to address the specific requirements of compost.

3. *Get compost written out of the state fertilizer law* — Approach state environmental regulators — those entities promoting composting as a waste management tool (e.g., Pennsylvania Department of Environmental Protection) — to regulate the sale/distribution of compost outside the state DOAs (or work with another entity to exempt compost from fertilizer law).

4. *Modify the Uniform Fertilizer Bill* — Follow AAPFCO's current suggestion and work with them to modify the Uniform Fertilizer Bill's regulations (which would not require state legislature involvement) to meet the needs of the composting industry.

Obviously, option 1 is really a nonoption since it is only a matter of time before composters get caught providing nutrient data. Both options 2 and 3 would be difficult to accomplish without a significant investment in time and money. Option 4, which is definitely the most viable short-term option, would require composters to pay fees for distributing their products, and accept being distributed under a fertilizer law (even though they are selling their product as a soil amendment — which is legal to do). Having reviewed the AAPFCO Uniform Fertilizer Bill, which most states have adopted in some form or another, various issues would need to be addressed to allow the sale of compost to be regulated under it. Here are some thoughts:

- The current law requires sale of fertilizer only on a weight basis, whereas compost is typically sold using volume based units, especially when sold in bulk form.

- Allow for standard soil amending claims to be made. Even though compost would be registered as a fertilizer, it would be distributed primarily as a soil amendment.

- Require or allow TMECC test methods to be used for sampling and analyzing compost (not current AOAC methods).

- Modify the way that nutrient guarantees could be made. Compost is more likely to have nutrient variability than fertilizer (feedstock variance, moisture content variance because of

outdoor storage).

- Consider softening the (adulteration) language of the law. If held to the letter of the law, this would allow compost that contains some weeds ("unwanted crop seed or weed seed") in it to be considered adulterated, which would allow for state DOAs to put a 'Stop Sale' on the product.

NEGOTIATING THE OBSTACLES

Through discussions with AAPFCO representatives, it seems likely that the composting industry could negotiate acceptable solutions to the obstacles identified above. Working through the USCC, we have begun discussions to do so. Of course, even if we succeed in getting these changes adopted within the Uniform Fertilizer Bill, composters would still have to lobby their individual state DOAs to adopt them. We do not anticipate this being difficult. Further, the modification *would not* require composters to register their products as fertilizers. It would simply give them the ability to do so, if they want to legally provide nutrient data.

Another issue that may need to be addressed at the individual state level — if we are successful in this effort — is whether the current fertilizer inspection and distribution fees covering fertilizer are appropriate for compost (which is sold for a lower unit value). Regardless, success in this effort would allow for the development of a more uniform playing field for the distribution of compost and allow for the legal disclosure of nutrient data. Many composters are not even aware of how state DOA regulations impact their composting operations. I encourage all composters to get educated on these issues. We invite your feedback! ■

Ron Alexander is president of R. Alexander Associates, Inc. in Apex, North Carolina (919-367-8350, alexassoc@earthlink.net; www.alexassoc.net), a consulting firm specializing in market research and development for organic recycled products. He currently serves as an Industry Liaison to AAPFCO representing the US Composting Council and is the author of The Practical Guide to Compost Marketing and Sales.