



Making Claims With Your Compost Product — Legally!

Significant progress was made at the meeting of the Association of American Plant Food Control Officials with regard to regulation of compost products.

Ron Alexander

THE Association of American Plant Food Control Officials (AAPFCO) is an organization of State Department of Agriculture representatives responsible for the regulation of fertilizer and soil amendment sales/distribution. The organization seeks to protect consumers and assist in the creation of uniform legislation and

regulation. The U.S. Composting Council (USCC) has been engaged with AAPFCO to promote the uniform and scientifically valid regulation of compost, as well as to provide its membership with options related to product regulation. Articles in *BioCycle* have chronicled this long, and still evolving, development of require-

The goal of product labeling is to communicate soil amendment and nutrient claims accurately when selling compost.

ments for compost products (e.g., "AAPFCO Rule Making Process," May 1999; "Compost And The Fertilizer Regulation World," December 2003; "To Register Compost Or Not - That Is The Question," May 2004).

At the February 2005 AAPFCO meeting, significant headway was made on two initiatives. The first, under the jurisdiction of AAPFCO's Uniform Bills Committee, is development of a uniform regulation pertaining to the sale and distribution of compost. The goal is to allow for both soil amendment and nutrient claims to be made (more importantly, *accurate* nutrient claims to be made) when selling compost. The development of new language, which would be added to the Uniform State Fertilizer Bill, will allow just that. This new language has been approved by the AAPFCO Board, and as such, will be voted on by the entire association at its August meeting.

If approved, the language will go into AAPFCO's Official Publication in "tentative status" (for a minimum of a year, before it could become "official"). The second initiative pertains to the creation of a uniform list of scientifically verified compost benefits (or labeling claims) that could be used by composters across the country. This would, hopefully, reduce the negotiation phase that

many composters must go through when trying to have their compost label or end use literature approved by their State Control Official. A slate of 12 benefits (see sidebar) have been agreed upon by the Environmental Affairs Committee of AAPFCO. The committee has suggested that this list be included in to the new fertilizer regulation language.

Frequently Asked Questions

In order to provide some additional information about the AAPFCO initiatives, we have answered some of the more commonly asked questions about registering the sale of compost.

Q: Do I have to register my compost if I am going to sell it?

A: If you sell your compost in a state with a fertilizer or soil amendment law, and you make related claims, then the simple answer is yes! If you make soil amendment claims, you need to register as a soil amendment. If you make nutrient

Products that are given away (distributed), and not sold, still technically need to be registered.

Q: What registration options exist?

A: This depends on which states you manufacture and distribute the compost within. However, there is typically an option of registering compost as a soil amendment or a fertilizer. Some states may even require dual registration. The choice in registration will be dependent upon the product claims made. Right now, 48 states have fertilizer laws (Arizona and Hawaii do not) and 38 states have state soil amendment laws.

Q: What do the State Control Officials consider to be a label?

A: The definition within the AAPFCO Official Publication (No. 58) states the following: *Uniform State Fertilizer Bill*: The term "label" means the display of all written, printed, or graphic matter,

Q: Is a lab analysis sheet (containing nutrient data) considered to be a nutrient guarantee?

A: Yes, it has been made clear that *any* reference to the term nutrients or fertilizer is not allowable, unless the compost is registered as a fertilizer. Further, *any* written references to nutrient content could be deemed a claim or guarantee (which then would require registration as a fertilizer).

Q: Will the new draft compost language for the Uniform State Fertilizer Bill be automatically adopted by all states?

A: No, AAPFCO develops model legislation and regulation to assist in uniform regulation of products from state to state. However, AAPFCO does not have authority to require adoption of its model language. Therefore, if composters like the new regulatory language, and it has not been adopted by their state, then they need to lobby the Control Official to adopt the language for use in the state.

Q: What are the costs associated with registering compost?

A: Fees associated with registering both soil amendments and fertilizers vary from state to state. There may be a registration fee per product or company and/or a tonnage fee (known as an inspection fee). Often you pay both a registration fee (ranging from \$0 to \$250 per product and a tonnage fee (ranging from \$0 to \$0.90 per ton).

To avoid any conflict or fines from State Control Officials, we suggest that you get more familiar with the fertilizer and soil amendment registration regulations in the states in which you operate and sell your compost products. Also, if your products are registered, or if you plan to register them, use this fact as a marketing benefit. This is one way to regain the costs associated with the regulation fees. Although many feel that compost, as an environmental product, should be exempted from any such regulations, it is important to understand the current 'lay of the land'. ■

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Benefits to Compost Producers And Users

THE Environmental Affairs Committee of AAPFCO, at the association's semiannual meeting in February, agreed upon 12 benefits/claims that can be cited by composters in their product literature or labels, website, etc. The committee suggested this list be included in the new fertilizer regulation language being developed by AAPFCO's Uniform Bills Committee. The 12 claims/benefits are:

1. Improves soil structure and porosity — creating a better plant root environment.
2. Increases moisture infiltration and permeability, and reduces bulk density of heavy soils — improving moisture infiltration rates and reducing erosion and runoff.
3. Improves the moisture holding ca-

capacity of light soils — reducing water loss and nutrient leaching, and improving moisture retention.

4. Improves the cation exchange capacity (CEC) of soils.
5. Supplies organic matter.
6. Aids the proliferation of soil microorganisms.
7. Supplies beneficial microorganisms to soils and growing media.
8. Encourages vigorous root growth.
9. Allows plants to more effectively utilize nutrients, while reducing nutrient loss by leaching.
10. Enables soils to retain nutrients longer.
11. Contains humus — assisting in soil aggregation and making nutrients more available for plant uptake.
12. Buffers soil pH.

claims, then you register as a fertilizer. There are a few states that exempt compost from registration, but they are few and far between. Some states also allow a product to go unregistered, if no soil amending or fertilizer claims are made on its label or in other sales tools. Therefore, again, if your state has a soil amendment law and you are making soil amending claims, then technically you need to be registered. Two important notes. 1. Municipal composters are not exempt from registration and 2.

upon the immediate container, or a statement accompanying a fertilizer. *Uniform Soil Amendment Bill*: "Label" means the display of all written, printed or graphic matter upon the immediate container or statement accompanying a soil amendment.

In addition, through personal communications with State Control Officials, I have been told that they consider a label to be any information written (e.g., websites) or spoken about the product.