

AAPFCO BREAK THREW

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As many of you already know, the AAPFCO (Association of American Plant Food Control Officials) is a 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 US Composting Council (USCC) has been engaged with this organization in order to promote the uniform and scientifically valid regulation of compost, as well as to provide its membership with options related to the products regulation.

At the February AAPFCO meeting, the USCC made significant headway on two outstanding initiatives it has been promoting. First, it has been working with the Uniform Bills Committee for several years to try to develop uniform regulation pertaining to the sale and distribution of compost. The goal being to allow for both soil amending 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 their August meeting. If approved, the language will go into their 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 they are trying to have their compost label or end use literature approved by their State *Control Official*. A slate of twelve (12) benefits have been agreed upon by the Environmental Affairs Committee of AAPFCO. They have suggested that this list be included in to the new fertilizer regulation language.

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.

1. Do I have to register my compost if I am going to sell it?

Answer: If you sell your compost in a State that has a fertilizer or soil amendment law, and you make related claims – then the simple answer is YES. If you make soil amendment claims, you register as a soil amendment. If you make nutrient 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 you don't make any soil amending or fertilizer claims on its label or other sales tools. Therefore, 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. Products that are given away (distributed) and not sold, still technically need to be registered.

2. What registration options exist?

Answer: This depends on which states you manufacture and distribute within. However, there is typically an option of registering your compost as a soil amendment or a fertilizer. Some states may even require dual registration. The choice in registration will be dependant upon the product claims that you make. *For your information, 48 States have state fertilizer laws (AZ & HI do not) and 38 States have state soil amendment laws.*

3. What do the State Control Officials consider to be a label?

Answer: 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, 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.

Let me further state that Control Officials have told me on a *one to one basis* that they consider a label to be any information written (e.g., websites) or spoken about the product.

4. Is a lab analysis sheet (containing nutrient data) considered to be a nutrient guarantee?

Answer: Yes, it has been made clear to me that any reference to the term nutrients or fertilizer are 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 would then require registration as a fertilizer).

5. Will the new draft compost language for the Uniform State Fertilizer Bill be automatically adopted by all of the U.S. States?

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

6. What are the verified compost benefits / labeling claims that have been negotiated thus far?

Answer:

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 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

7. What are the costs associated with registering compost?

Answer: 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, remember that 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 these 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'.