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## MEMORANDUM

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**DATE:** February 16, 2004  
**TO:** USCC Board of Directors Executive Committee and Dr. Stuart Buckner, Executive Director  
**FROM:** Ron Alexander, USCC Market Development Committee & Industry Liaison to AAPFCO  
**RE:** Update from the AAPFCO Annual Meeting

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### *Uniform Bills Committee*

The Uniform Bills Committee met to continue its discussion of the uniform regulation of compost products, among other subjects. During the previous meeting, it was suggested that we (the USCC) develop some suggested language, with assistance from Teresa Crenshaw (the Committee Chair) that could be used in an SUIP that would address this issue. This text was to be modeled after the Idaho Law, allowing the distribution of nutrient data along with compost, without having to register it as a fertilizer (see draft below).

Teresa introduced the SUIP to the Committee and the commercial fertilizer industry took great exception to it. Because of the great negativity from commercial fertilizer companies, and since only one or two *Control Officials* got involved in the discussion, the SUIP was killed in Committee. However, something good did come out of it. Teresa Crenshaw (DE, Chair Uniform Bills Committee), Bill Goodman (OH) and I organized a breakfast meeting of key Control Officials on Sunday morning. Aside from those just listed, David Terry (KY, AAPFCO Secretary), Joe Slater (MO), Roger Hostenbach (TX, AAPFCO Board Member) and Ricky Schroeder (TX) also attended. The idea of the meeting was to try to re-work the Compost SUIP, based on comments provided by the State of Texas at the Committee meeting on Saturday, this time *without fertilizer company representatives being present*.

David Terry asked some excellent background questions regarding the size and needs of the composting industry. Several of the other Control Officials also asked questions and made it clear that they had composters in their individual states which could benefit from some sort of action by AAPFCO. However, instead of discussions on the proposed SUIP, discussions went back to the Uniform Fertilizer Bill (UFB). This occurred, in my judgment, because of the belief that there will always be backlash to anything we do about stating nutrient content outside of the UFB. David and Roger discussed the possibility of writing a special section to the UFB Regulations covering compost just like what was done for pet foods under the Uniform Animal Feed Bill. *By placing the text in the regulations, and not the legislation, States would not have to open their associated Laws (this would make it easier to do, just like the SUIP concept)*. Basically, States wanted pet food to fall under the animal feed laws, but certain items just didn't fit. Therefore, within the regulations, the law was modified to meet the needs of pet food manufacturers. They would suggest doing the same with compost under the UFB. I reviewed the UFB last year in order to identify what items would need to be addressed if we were to be fit within it. Please review the section 'Comments on the Uniform Fertilizer Bill' on page 4 of this memo. At the breakfast meeting, we reviewed all of the 8 of these items and came up with solutions to all of them. By the way, because of the hard time we were given at the Committee meeting, Teresa and I were told to come up

with the necessary language by the end of March and they would circumvent the AAPFCO 'system' and present it to the Board at the August meeting (trying to fast track it).

As I see it, we have several choices, 1) follow the lead we were just given (knowing that the many composters are not thrilled about being placed under the UFB), 2) go after the Uniform Compost Bill again, 3) drop all AAPFCO efforts, or 4) lobby composters to try to circumvent State DOAs (and push for compost to be written out of their laws because it is a recycled product). Both 2 and 4 would be difficult to accomplish without a significant investment. I need Board comments on this issue – can we get this e-mailed out to the Board and/or perhaps discuss it at the upcoming Board meeting? Teresa wants me to assist her in writing the draft compost-fertilizer regulations language over the next 2 weeks.

### *Environmental Affairs Committee*

The Environmental Affairs Committee's By-Products and Recycled Materials Subcommittee met to discuss several issues, with microbial screening of biohazards and verification of claims for composts (and related products) being the most relative to the USCC. We were able to have Pat Milner of the USDA present a Powerpoint presentation via the telephone related to the USDA's experience with human and animal pathogen management. Her presentation basically illustrated that composting, as well as some other treatments, were excellent methods to destroy pathogens. It also outlined research issues relative to prions, in which BSE is the most 'scary' type right now. The Control Officials are concerned because many of them also regulate animal feed.

The Subcommittee Chair, David Howle (SC) also presented a list of uniform compost claims (benefits). In past meetings, both the USCC and National Bark & Soil Council have mentioned that well-documented and acknowledged benefits of soil amendments should be automatically accepted by State DOAs, and not require further research by product manufacturers (thereby streamlining product registration, and hopefully, reducing costs to composters). The list that he presented was developed by my company after being successfully negotiated and approved by the Minnesota Department of Agriculture. The primary source of the list was the *Field Guide to Compost Use*. There was good discussion regarding the list, but no further action was taken by the Subcommittee. Our goal is to have a proposal made by a Control Official to request that a standard list be developed by a Task Force for use by Control Officials around the country. We have a month to get a Control Official to make such a request to the Subcommittee Chair.

Manufacturers may provide technical data or a typical laboratory analysis of their compost, provided that all of the following conditions are met:

1. The compost meets the definition of AAPFCO Official Term T-34 Compost and is clearly and conspicuously labeled as a compost; and
2. The compost contains no added fertilizer nutrients and contains a total NPK [%Total Nitrogen + % Available Phosphate (P<sub>2</sub>O<sub>5</sub>) + % Soluble K<sub>2</sub>O] of 5% or less (wet basis); and
2. The compost is labeled as a soil amendment with no reference made to the term "fertilizer" on the label or in the product labeling, and the compost is registered (and/or the company is licensed) in those states authorized to regulate commercial soil amendments; and
3. The technical data or typical laboratory analysis depicts only the naturally occurring nutrient content of the final compost product, and all such nutrient claims and estimates must be supported by laboratory analysis or documentation; and
4. The technical data or typical laboratory analysis is not presented as part or total of the product label, and the product label includes no mention of the nutrient content of the compost in any form or manner; and
5. The technical data or typical laboratory analysis information includes in a clear and conspicuous manner the following verbatim statement: "This compost is recognized for its soil amending characteristics, but it is also understood that it contains nutrient value. However, any nutrient content disclosed, verbal or written, are estimates and not guarantees."

Manufacturers whose compost and compost label meet all of the conditions noted above are not required to register or label their compost as a commercial fertilizer under the state's commercial fertilizer law.

(End of SUIP)

**Justification:** This SUIP acknowledges that commercial compost sold for its soil amending characteristics innately contains plant nutrients. Ongoing analyses confirm that compost contains nutrients and possesses other chemical characteristics (e.g., pH, soluble salts) that should be disclosed to a purchaser to improve the product's efficacy and to comply with state/federal nutrient management requirements. In addition, the processes employed to manufacture commercial compost typically result in a product that has a more variable and higher moisture content as compared to fertilizer. Such manufacturing processes make it difficult to guarantee compost's chemical and physical characteristics, especially the compost's nutrient content without underestimating it to a point of uselessness.

Therefore, this SUIP allows for the legal distribution of technical data or a typical laboratory analysis 1) to ensure that the consumer is fully informed about the compost they have purchased, 2) to improve the most efficacious use of the compost, and 3) to protect the environment from excess application of nutrients.

# COMPOST'S POSITIONING WITHIN AAPFCO REGULATIONS

## CURRENT OPTIONS

Attempt:

- Minor modifications to the Uniform Soil Amendment Bill
- Total re-write of the Uniform Soil Amendment Bill
- Modify Uniform Fertilizer Bill (regulations)

*The Uniform Bills Committee has asked the USCC to review the current Uniform Fertilizer Bill, and outline the issues that would need to be addressed to allow compost to be regulated within this Bill.*

## Comments on the Uniform Fertilizer Bill

- Requires sale (and indication on label) of product by weight – compost is typically sold using volume based units, especially in bulk
  - Change this aspect of the Bill/Regulations, or allow for standard conversions from volume to weight
- Must allow for standard soil amending claims to be made
  - Improves the soil structure; improves water holding capacity; modifies the bulk density of the soil; supplies organic matter, improves cation exchange capacity (CEC) of soils and growing media; improves drainage.
- Require/allow TMECC test methods for sampling and analyzing (not AOAC)
- Guaranteed analysis – how can we guarantee an analysis knowing that feedstocks may vary, and with a moisture content that will vary (and may change while in storage)
  - Guarantee lowest analysis (minimum), range/average, reporting dry/wet (both) weight?
  - Allow for wider investigational allowances if nutrient level is deficient? (H<sub>2</sub>O variances)
  - Allow for lower guarantees for other macro (non-N-P-K) and micronutrients
- Reduce inspection (tonnage) fees – compost has a lower per ton value compared to dry fertilizer
- Adulteration language must be ‘softened’ to deal with compost containing ‘unwanted crop seed or weed seed’ – compost is often stored outdoors
- Refer to compost as a specialty fertilizer so fractional nutrient claims can be made
- Define the term ‘lot’ as it refers to compost

## MORE INFORMATION NEEDED

- Are there other requirements (tests to be completed) by the DOA inspector to evaluate if the product being sampled/analyzed is actually a ‘proper’ compost product (aside from the typical testing for deficient nutrient content)
- Biological claims