

# **OREGON FERTILIZER PROGRAM GUIDE**



**OREGON  
DEPARTMENT OF  
AGRICULTURE**

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Licensing, Registration, and Labeling  
of Fertilizing Materials

Oregon Department of Agriculture  
November 2021



**Fertilizer Program**  
635 Capitol St. NE  
Salem OR 97301-2532  
503-986-4635  
<https://oda.direct/Fertilizer>  
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# 1 Introduction

The Oregon Department of Agriculture (ODA) Fertilizer Program inspects and registers fertilizer, agricultural mineral, lime, and agricultural amendment products (referred to as “products” in this document) distributed in Oregon. “Distribution” includes import, consignment, sale, offer of sale, barter, or other exchange or facilitation to supply fertilizer, agricultural amendment, agricultural mineral, or lime products. All of these products must be registered with ODA before they can be distributed in Oregon. These materials are monitored and regulated to provide:

1. uniform and accurate product labeling.
2. assurance, through sampling and analysis, that products provide the nutrients and other benefits advertised.
3. protection for Oregon’s environment and natural resources from heavy metals and other contaminants.
4. support for a fertilizer research and development program that funds research projects on the interactions of products with ground or surface water.

This guide explains the process for registering products, including application requirements and labeling. Following the standards explained in this guide can significantly reduce the time and effort needed to successfully register a product in Oregon. There are also helpful notes—Western Interstate Requirements—explaining how, with minimal additional effort, a label may meet some of the additional labeling standards of California, Washington, and Idaho. However, please note that although this guide offers general advice, the laws of each state are the final standard for labeling, licensing, and registration requirements. Links to fertilizer laws and contact information for each state’s fertilizer program are listed as follows.

## Oregon

Oregon Department of Agriculture  
Fertilizer Program  
635 Capitol St. NE  
Salem, OR 97301-2532  
Phone: 503-986-4635  
Fax: 503-986-4735  
<https://oda.direct/Fertilizer>

## California

California Department of Food and Agriculture  
Feed, Fertilizer and Livestock Drug Program  
1220 N St.  
Sacramento, CA 95814  
Phone: 916-445-0444  
Fax: 916-445-2171  
<http://www.cdffa.ca.gov/is/fflders/fertilizer.html>  
Fertilizer Registration email: [fertilizer@cdffa.ca.gov](mailto:fertilizer@cdffa.ca.gov)

## Washington

Washington State Department of Agriculture  
Natural Resources Building  
1111 Washington St., PO Box 42589  
Olympia, WA 98504-2589  
Toll-free: 1-877-301-4555  
Fax: 360-902-2093  
<http://agr.wa.gov/PestFert/Fertilizers>  
Fertilizer Registration email: [fertreg@agr.wa.gov](mailto:fertreg@agr.wa.gov)

## Idaho

Idaho Department of Agriculture  
Division of Plant Industries  
Feed & Fertilizer Section  
P.O. Box 790  
Boise, ID 83701  
Phone: (208) 332-8625  
Fax: (208) 334-2283  
<http://www.agri.idaho.gov/Categories/PlantsInsects/FFSP/indexFeedFertSPHome.php>

# 2 Laws and Regulations

Oregon's Fertilizer Law protects consumers by ensuring that products are properly described and identified, the quality represented by the manufacturer is accurate, and human health and the environment are protected.

Oregon's Fertilizer Law is contained in Oregon Revised Statutes (ORS) Chapter 633, with the additional Oregon Administrative Rules required to administer the program in Oregon Administrative Rules (OAR) 603-059-0020 through 603-059-0100.

## Highlights

All products must be registered with the Oregon Department of Agriculture (ODA) prior to sale, offer of sale, or other distribution in Oregon. (Introduction, Page 1)

Application for registration for all products must include laboratory data on the total levels of arsenic (As), cadmium (Cd), mercury (Hg), lead (Pb), and nickel (Ni). (Registration, Page 3)

Each product label must have a valid heavy metals internet statement. (Labeling Requirements, Page 5)

Products containing waste-derived ingredients have special requirements for identifying and classifying those waste-derived ingredients. (Registration, Page 4)

A product label must be approved by ODA before the product may be registered, sold, or distributed. (Labeling Requirements, Page 5)

Ingredients other than primary nutrients, secondary nutrients, and micronutrients that are claimed or advertised must be guaranteed, determinable by lab analysis, and listed on the label as NON-PLANT FOOD INGREDIENT(S). (pages 6, 9, 13)

All labels must have a statement declaring the sources of all guaranteed primary nutrients, secondary nutrients, micronutrients, and non-plant food ingredients. (Labeling Requirements, Page 6)

Microbiological inoculum products have additional labeling requirements. (pages 7, 8, 14)

Manufacturers and bulk distributors of products must obtain a Manufacturer-Bulk Distributor License. (Manufacturer-Bulk Distributor Licenses, Page 21)

Custom mix products have special record-keeping requirements. (Custom Mixes, Page 22)

Inspection fees must be paid on all products manufactured, sold, or distributed into Oregon. (Tonnage Reporting and Inspection Fees, Page 23)

Tonnage reports on all products manufactured, sold, or distributed into Oregon must be submitted to ODA every six months. (Tonnage Reporting and Inspection Fees, Page 23)

# 3 General Product Registration Information

## Application Requirements

Note: Application must be approved by the department prior to any sale, offer of sale, or distribution of the product into Oregon. **Application is not registration.**

Provide to ODA (do not send product samples):

- ◆ a completed product registration application form
- ◆ a legible copy of each product label
- ◆ registration fees (see “registration fees” below)
- ◆ a laboratory analysis listing the total levels of arsenic (As), cadmium (Cd), mercury (Hg), lead (Pb), and nickel (Ni) in each product.

Registration application forms are available online at: <http://www.oregon.gov/ODA/programs/Pesticides/Fertilizers/Pages/ReportsPublicationsForms.aspx>

## Registration Fees

- ◆ The registration application fee is \$35 per product per calendar year.
- ◆ An additional product evaluation fee of \$50 per product per calendar year will be assessed for all waste-derived products. Beginning July 1, 2016, products claiming microbiological inoculum or fulvic acids will be assessed an evaluation fee of \$35. In the future, additional evaluation fees may be added for ingredients with more expensive analytical methods.
- ◆ If an application is incomplete, or does not comply with Oregon requirements, the registration will be refused (not registered). A new application may be submitted at any time.
- ◆ Registration fees and product evaluation fees are not refundable.

## Laboratory Analysis Requirements

A complete application for product registration must include a laboratory analysis listing the total levels of arsenic (As), cadmium (Cd), mercury (Hg), lead (Pb), and nickel (Ni) in each product.

The analysis must also indicate the laboratory methodology used and the minimum detection limits for each of the elements reported. Minimum detection limits are as follows:

Arsenic	10.0 ppm
Cadmium	5.0 ppm
Lead	5.0 ppm
Mercury	0.2 ppm
Nickel	5.0 ppm

Analysis must be conducted within the 18-month period prior to application submission.

## Annual Registration Renewal

Notices for re-registration of previously registered products are mailed to registrants in November. Applications to re-register products are considered delinquent if received after January 30 and may be assessed a late fee of \$25 per product.

## Registering Humic Acids Products

Registrants of products guaranteeing humic acids content should verify that the humic acids label guarantees have been developed using California Department of Food and Agriculture (CDFA) laboratory method HA4/JC. Other laboratory methods may produce significantly higher humic acids results than CDFA laboratory method HA4/JC.

ODA uses CDFA laboratory method HA4/JC for analyzing marketplace samples and any subsequent enforcement action. Products found in the marketplace with deficient guaranteed humic acids content are subject to enforcement action.

## Registering Products with Waste-derived Ingredients

- ◆ All waste-derived products require an additional \$50 annual fee for product evaluation and supplemental research.
- ◆ Registration of any product containing waste-derived ingredient(s) must identify the industry, industrial process, Standard Industrial Classification (SIC) or North American Industry Classification System (NAICS) code, and the location that generated the waste-derived ingredient.

An additional explanation can be found on Page 29.

## Registering Products with Hydrophobic Fulvic Acids

For a “Hydrophobic Fulvic Acids” product, the term needs to be consistent with the AAPFCO definition (AAPFCO Official Publication No. 71), and the concentration guaranteed needs to be consistent with amount measured by the analytical method Lamar et l. Journal of AOAC International Vol. 97, No. 3 2014 pp 721-730. AAPFCO defines “hydrophobic fulvic acids” as “the portions of humic substances that are soluble in both alkali and acidic aqueous solutions that are separated from non-humic aqueous substances in the fulvic fraction by selective adsorption onto a nonionic macroporous acrylic ester resin of moderate polarity i.e. DAX-8 resin, at low pH.”

In addition, with the regular application requirements in addition also include the following:

- ◆ \$35 per hydrophobic fulvic acid product evaluation fee
- ◆ A lab analysis of the raw product (product purchased containing hydrophobic fulvic acids/ not blended or diluted) for the total amounts of hydrophobic fulvic acids and sulfur.

- ◆ A blend sheet showing all ingredients in the product. (This information may be marked as “Confidential.” This information will be protected from further disclosure under Oregon Revised Statute 633.364.)
- ◆ Include the name of the supplier of the “hydrophobic fulvic acids.”

Note: Depending upon the review of the information above, an FTIR (Fourier-transform infrared spectroscopy) analysis of the undiluted/ not blended hydrophobic fulvic acid material may be requested. If you have already conducted this FTIR on the material, please include the report with the application packet.

The label guarantee should appear similar to the following:

CONTAINS NON-PLANT FOOD  
INGREDIENT(S):

X% Hydrophobic Fulvic Acids (derived from ... list source here...)

If the label also contains a GUARANTEED ANALYSIS for plant nutrients then it would look like,

ALSO CONTAINS NON-PLANT FOOD  
INGREDIENT(S):

X% Hydrophobic Fulvic Acids (derived from ... list source here...)

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**Western Interstate Requirements: The metals included in the required laboratory analysis vary between the states. California requires analysis for arsenic (As), cadmium (Cd), cobalt (Co), copper (Cu), lead (Pb), mercury (Hg), molybdenum (Mo), nickel (Ni), and selenium (Se). Washington requires analysis for arsenic (As), cadmium (Cd), cobalt (Co), mercury (Hg), molybdenum (Mo), nickel (Ni), lead (Pb), selenium (Se) and zinc (Zn). In Idaho, registration of waste-derived products requires an analysis for arsenic (As), cadmium (Cd), mercury (Hg), lead (Pb), and selenium (Se).**

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# 4 Labeling Requirements

Before a product may be sold or distributed in Oregon, the product label must be approved by ODA during the registration process. This is to ensure the product label complies with Oregon law and that the product is deemed reasonably effective for its intended purpose. Any changes made to a previously approved label must be reviewed and approved before product bearing the amended label can be sold or distributed in Oregon.

## What products must be labeled?

- ◆ All packaged materials must have an approved printed label attached or applied to the package.
- ◆ Bulk materials (such as unpackaged material in rail cars or trucks) must be physically accompanied by a separate label document which is furnished to the user or purchaser of each separate delivery, or when the last delivery is made of the entire lot or sale.

## What information needs to be on a label?

The printed label of both packaged and bulk products must include:

1. product name
2. net weight or volume in the lower 30 % of the principal display panel and be generally parallel to the base of the package
3. name and mailing address of the manufacturer, distributor or registrant
4. product grade if primary nutrients are claimed
5. guaranteed analysis

6. derivation statement declaring sources of primary nutrients, secondary nutrients, and micronutrients
7. identity and amount of ingredients other than primary nutrients, secondary nutrients and micronutrients that are claimed or advertised
8. heavy metals internet statement
9. Some microbiological inoculants that are also human pathogens require a cautionary statement on the product label. Oregon uses the precautionary statement requirements suggested by the Association of American Plant Food Control Officials (AAPFCO). This requires microorganisms that are listed as Risk Group Level 2 by the American Biological Safety Association (ABSA)\* on at least 3 of 9 reporting agencies, or Biosafety Level 2 as defined by the American Type Culture Collection (ATCC)\*\* must include the following precautionary statement on the product label:

“This product contains live microorganisms and may cause adverse effects to persons with a compromised immune system. Avoid contact with eyes, mouth, and broken skin. Do not inhale product. Wear eye and skin protection when handling. Wash hands after using.”

\* Riskgroup information available at: <http://www.absa.org>

\*\* Biosafety information for individual species available at: <http://www.atcc.org>

Examples of labels and the specific labeling requirements for each type of product—fertilizer, agricultural mineral (including gypsum), agricultural amendment, and lime—are shown on the following pages.

## Fertilizers

**Definition:** A product is considered a fertilizer in Oregon if it contains 5 percent or more of Total Nitrogen (N), Available Phosphate ( $P_2O_5$ ), or Soluble Potash ( $K_2O$ ), singly, collectively, or in combination. The term fertilizer does not include products registered as agricultural minerals, agricultural amendments, or limes; compost or unpackaged animal and vegetable manures that do not contain a grade statement or guaranteed analysis. (For a more complete definition, see ORS 633.311.)

### Specific labeling requirements

1. **Product name.** The name must not be misleading, as to the purpose and guarantees.
2. **Grade.** The grade must exactly match the guaranteed analysis for N— $P_2O_5$ — $K_2O$ . No numeral shall be used in the grade except those referring to Total Nitrogen (N), Available Phosphate ( $P_2O_5$ ), or Soluble Potash ( $K_2O$ ).
3. **Guaranteed Analysis.** The guaranteed analysis must list the minimum levels of any nutrients claimed.
  - a. The sum of the N— $P_2O_5$ — $K_2O$  values must be equal to or greater than 5 percent.
  - b. The sum of the guaranteed forms of nitrogen must equal the total nitrogen guarantee.
  - c. The guaranteed analysis of secondary or micronutrients must be made on an elemental basis. If chelated, water soluble or other forms are claimed or advertised, the form and percentage must be guaranteed separately.
  - d. The guaranteed analysis, and all other claims, must be stated on an “as-is” basis.
  - e. Zero guarantees are not allowed in the guaranteed analysis.

**Western Interstate Requirements: Oregon, Washington, California, and Idaho do not allow label guarantees of nutrients below a set minimum.**

- f. The identity and amount of ingredients other than primary, secondary or micronutrients that are claimed or advertised, including the percentage of all ingredients contained in the product, in terms prescribed by ODA should be listed as “ALSO CONTAINS NON-PLANT FOOD INGREDIENT(S).”

**Western Interstate Requirements: California requires the heading, “ALSO CONTAINS NON-PLANT FOOD INGREDIENT(S);” be in all capital letters.**

4. **Derivation Statement.** “Derived from...” List the ingredient sources for primary nutrients, secondary nutrients, and micronutrients guaranteed. No brand names, abbreviations, trademarks, or trade names may appear in the derivation statement.
5. **Heavy Metals Internet Statement.** Each product label must include the following statement:

Information regarding the contents and levels of metals in this product is available on the internet at <http://www.aapfco.org/metals.htm>

**Western Interstate Requirements: The first statement above—“Information regarding the contents and levels of metals in this product is available on the internet at <http://www.aapfco.org/metals.htm>”—satisfies the label requirements of Oregon, Washington, and California, assuming proper laboratory analysis has been submitted to the state in question. Idaho does not currently require a heavy metals internet statement. Using this commonly accepted statement may save you months of valuable time and costly label revisions.**

6. **Measurement.**
  - a. Net weight
  - b. Volume (for liquid products)
  - c. Density (lbs/gal at 68° F) for bulk liquids.

**Western Interstate Requirements: California requires measurements be provided in both US and metric measurements.**

# Label 1: Required Elements of a Fertilizer Product Label

**1 Product Name.**

**2 Grade Statement.**

**3 Guaranteed Analysis Statement**

The Guaranteed Analysis must be stated on an "as-is" basis.

The guarantees for the forms of nitrogen must add up to the total nitrogen guarantee.

The guaranteed analysis of secondary or micronutrients must be made on an elemental basis.

When chelated, water soluble or other forms are claimed or advertised, the form and percentage must be guaranteed separately.

**4 Derivation Statement.**

Source of ingredients providing nutrients claimed in guaranteed analysis.

No brand names, abbreviations, trademarks or trade names are allowed in the derivation statement.

**Bob's Best Blend**  
**12-4-9**  
**GUARANTEED ANALYSIS**

Total Nitrogen (N).....	12.0%
1.3% Ammoniacal Nitrogen	
1.3% Nitrate Nitrogen	
1.1% Urea Nitrogen	
1.9% Other Water Soluble Nitrogen*	
6.4% Water Insoluble Nitrogen*	
Available Phosphate (P <sub>2</sub> O <sub>5</sub> ) .....	4.0%
Soluble Potash (K <sub>2</sub> O) .....	9.0%
Calcium (Ca).....	5.8%
Magnesium (Mg).....	4.5%
Sulfur (S).....	4.3%
4.3% Combined Sulfur (S)	
Boron (B).....	0.14%
Cobalt (Co).....	0.017%
Copper (Cu).....	0.14%
Iron (Fe).....	1.50%
0.64% Chelated Iron (Fe)	
Molybdenum (Mo).....	0.02%
Zinc (Zn).....	1.0%
0.70% Water Soluble Zinc (Zn)	

Derived from: Triple Super Phosphate, Ureaform, Muriate of Potash, Sulfate of Potash Magnesia, Dolomite, Sodium Borate, Cobalt Sulfate, Copper Oxide, Iron Oxide, Iron EDTA, Sodium Molybdate, Zinc Oxide, and Zinc Sulfate.

\* 8.3% Slowly Available Nitrogen from Ureaform

**WARNING – Product contains boron and molybdenum. Do not apply to boron sensitive crops. Do not apply to crops that will be grazed by ruminant animals.**

Information regarding the contents and levels of metals in this product is available on the internet at  
<http://www.aapfco.org/metals.html>

Universal Exports  
P.O. Box 7  
Salem, OR 97007

Net Weight – 25 lb.

**8 Boron and Molybdenum.**

Products with boron levels over 0.1% or molybdenum levels over 0.001% must include a warning or cautionary statement indicating the product is to be used only according to the manufacturer's recommendations or directions.

**7 Name and mailing address of registrant, distributor or manufacturer.**

**6 Net Weight or Volume.**

**5 Heavy Metals Internet Statement.**

7. **Name and mailing address.** Name and mailing address of registrant, distributor, or manufacturer.
8. **Boron and molybdenum warnings.** Products with boron levels over 0.1 percent or molybdenum levels over 0.001 percent must include a warning or cautionary statement indicating that the product contains boron or molybdenum and is to be used only according to the manufacturer's recommendations or directions.

**Western Interstate Requirements: California requires that when cautionary or warning statements are required, CAUTION or WARNING must be in all capital letters.**

## Other label requirements

**Microbiological inoculum.** If the product contains, or is intended to be used as, a microbiological inoculum, include the following:

- ◆ a specific product expiration date (e.g. month/year)
- ◆ the number of viable organisms per milliliter for liquid products or per gram for dry products
- ◆ the identification of each viable organism expressed as genus and species, and if applicable, the specific strain storage conditions, such as temperature or other conditions required for inoculum to remain viable until expiration date
- ◆ for any strain of organism known to US EPA to have pesticidal properties, please submit a statement describing the non-pesticidal purpose(s) of the organism in the product
- ◆ Microorganisms listed as Risk Group Level 2 by the American Biological Safety Association (ABSA) on at least 3 of 9 reporting agencies, or Biosafety Level 2 as defined by the American Type Culture Collection (ATCC)\* must include the following precautionary statement on the product label:

“This product contains live microorganisms and may cause adverse effects to persons with a compromised immune system. Avoid contact with eyes, mouth, and broken skin. Do not inhale product. Wear eye and skin protection when handling. Wash hands after using.”

**Western Interstate Requirements: For registration of microbiological inoculum, California also requires the label include a statement of proper storage conditions, and a generally accepted laboratory method for assaying the viable and attenuated units and the by-products claimed.**

## Fertilizer product tonnage reporting and inspection fees

- ◆ An individual or company that creates a product in Oregon, or is the first to sell or distribute a product into Oregon, is responsible for payment of 45 cents per ton inspection fee. Beginning July 1, 2016, there is a minimum inspection fee of \$15 per reporting period.
- ◆ Products which are 100 percent compost have an inspection fee of 5 cents per ton.
- ◆ Inspection fees must be paid, and reports of tonnage submitted, two times a year. ODA may suspend or deny registration of products until the tonnage report is filed and any outstanding inspection fees are paid.
- ◆ A late fee of 10 percent or \$25, whichever is greater, is attached to unpaid inspection fees.

## Agricultural Minerals

**Definition:** Agricultural mineral products contain less than 5 percent total nitrogen (N), available phosphate ( $P_2O_5$ ), or soluble potash ( $K_2O$ ), singly, collectively, or in combination. They are also those products that may only contain secondary nutrients (calcium, magnesium, sulfur), and/or micronutrients (boron, chlorine, cobalt, copper, iron, manganese, molybdenum, sodium, zinc) as their primary ingredients.

## Specific labeling requirements

1. **Product Name.** The name must not be misleading as to the purpose and guarantees.
2. **Guaranteed Analysis.** Guaranteed analysis must list the minimum levels of any nutrients claimed.
  - a. The sum of the  $N-P_2O_5-K_2O$  (values must be less than 5 percent).
  - b. The sum of the guaranteed forms of nitrogen must equal the total nitrogen guarantee.
  - c. The guaranteed analysis of secondary or micronutrients must be made on an elemental basis. If chelated, water soluble or other forms are claimed or advertised, the form and percentage must be guaranteed separately.
  - d. The guaranteed analysis must be stated on an “as is” basis.
  - e. The guaranteed analysis of gypsum products may list the common name of the product as gypsum or calcium dihydrate (see Example Label 4), but the guaranteed analysis must be made in terms of calcium dihydrate ( $CaSO_4 \cdot 2H_2O$ ).
  - f. Zero guarantees are not allowed in the guaranteed analysis.

# Label 2: Required Elements of a Standard Agricultural Mineral Product

**1 Product Name.**

**2 Guaranteed Analysis Statement.**

The Guaranteed Analysis must be stated on an "as-is" basis.

The guarantees for the forms of nitrogen must add up to the total nitrogen guarantee.

The guaranteed analysis of secondary or micronutrients must be made on an elemental basis.

When chelated, water soluble or other forms are claimed or advertised, the form and percentage must be guaranteed separately.

**3 Derivation Statement.**

Source of ingredients providing nutrients claimed in guaranteed analysis.

No brand names, abbreviations, trademarks or trade names are allowed in the derivation statement.

**4 Heavy Metals Internet Statement.**

**Q's Pre Mix**  
**1-1-2**

**GUARANTEED ANALYSIS**

Total Nitrogen (N).....	1.0%
0.10% Ammoniacal Nitrogen	
0.30% Other Water Soluble Nitrogen	
0.60% Water Insoluble Nitrogen*	
Available Phosphate (P <sub>2</sub> O <sub>5</sub> ) .....	1.0%
Soluble Potash (K <sub>2</sub> O) .....	2.0%
Calcium (Ca).....	15.0%
Sulfur (S).....	5.0%
Boron (B).....	0.11%
Copper (Cu).....	0.17%
0.17% Water Soluble Copper (Cu)	
Iron (Fe).....	6.0%
6.0% Water Soluble Iron (Fe)	
Manganese (Mn).....	0.6%
0.6% Water Soluble Manganese (Mn)	
Molybdenum (Mo).....	0.003%
Zinc (Zn).....	0.5%
0.5% Chelated Zinc (Zn)	

Derived from: Composted Poultry Manure, Rock Phosphate, Sulfate of Potash, Calcium Sulfate, Boric Acid, Copper Sulfate, Ferrous Sulfate, Manganese Sulfate, Ammonium Molybdate, and Zinc EDTA.

\*0.60% Slowly Available Nitrogen from Composted Poultry Manure

ALSO CONTAINS NON-PLANT FOOD INGREDIENT(S):

- 5.0% Humic Acids (Derived from Leonardite)
- 0.055% Ethylene oxide-propylene oxide copolymer

**WARNING**—Product contains boron and molybdenum. Do not apply to boron sensitive crops. Do not apply to crops that will be grazed by ruminant animals. Use only according to manufacturer's directions.

Information regarding the contents and levels of metals in this product is available on the internet at <http://www.aapfco.org/metals.html>

Universal Exports  
P.O. Box 7  
Salem, OR 97007

Net Weight – 50 lb.

**5 Net Weight or Volume.**

**9 Grade Statement.**

**8 Boron and Molybdenum.**

Products with boron levels over 0.1% or molybdenum levels over 0.001% must include a warning or cautionary statement indicating the product is to be used only according to the manufacturer's recommendations or directions.

**7 Non-Plant Food Ingredients.**

Identity and amount of ingredients other than primary, secondary or micronutrients that are claimed or advertised.

**Surfactants.**

Guarantees must be made using the specific compound's CAS name. Brand, trade, and fictitious names are not permitted.

**6 Name and mailing address of registrant, distributor or manufacturer.**



**In general, many states follow the guidelines established by the Association of American Plant Food Control Officials (AAPFCO). Oregon, and most other states, use the AAPFCO standards for the minimum percentage of nutrients that may be claimed for a product. For Oregon requirements, see ORS 633.321(3) on Page 31.**

3. **Derivation Statement.** “Derived from...” List the ingredient sources for the above guarantees. No brand names, abbreviations, trademarks, or trade names may appear in the derivation statement.
4. **Heavy Metals Internet Statement.** Each product label must include the following statement:

Information regarding the contents and levels of metals in this product is available on the internet at <http://www.aapfco.org/metals.htm>

**Western Interstate Requirements: The first statement above—Information regarding the contents and levels of metals in this product is available on the internet at <http://www.aapfco.org/metals.htm>—satisfies the label requirements of Oregon, Washington, and California, assuming proper laboratory analysis has been submitted to the state in question. Idaho does not currently require a heavy metals internet statement. Using this commonly accepted statement may save you months of valuable time and costly label revisions.**

5. **Measurement.**
  - a. Net weight (dry products)
  - b. Volume (for liquid products)
  - c. Density (lbs/gal at 68° F) for bulk liquids.

**Western Interstate Requirements: California requires measurements be provided in both US and metric measurements.**

6. **Name and mailing address.** Name and complete mailing address of registrant, distributor, or manufacturer.
7. **Non-Plant Food ingredients.** The identity and amount of ingredients other than primary, secondary or micronutrients that are claimed or advertised.

**Western Interstate Requirements: California requires the heading, “ALSO CONTAINS NON-PLANT FOOD INGREDIENT(S);” be in all capital letters.**

8. **Boron and Molybdenum warnings.** Products with boron levels over 0.1 percent or molybdenum levels over 0.001 percent must include a warning or cautionary

statement indicating that the product contains boron or molybdenum and is to be used only according to the manufacturer’s recommendations or directions.

**Western Interstate Requirements: California requires that when cautionary or warning statements are required, CAUTION or WARNING must be in all capital letters.**

9. **Grade.** The grade should exactly match the guaranteed analysis for N—P<sub>2</sub>O<sub>5</sub>—K<sub>2</sub>O. No numeral shall be used in the grade except those referring to Total Nitrogen (N), Available Phosphate (P<sub>2</sub>O<sub>5</sub>), or Soluble Potash K<sub>2</sub>O).

## Other label requirements

**Microbiological inoculum.** If the product contains or is intended to be used as a microbiological inoculum, include the following:

- ◆ a specific product expiration date (e.g. month/year)
- ◆ the number of viable organisms per milliliter for liquid products or per gram for dry products
- ◆ the identification of each viable organism expressed as genus and species, and if applicable, the specific strain
- ◆ storage conditions such as temperature or other conditions required for inoculum to remain viable until expiration date
- ◆ for any strain of organism known to US EPA to have pesticidal properties, please include a statement describing the non-pesticidal purpose(s) of the organism
- ◆ Microorganisms listed as Risk Group Level 2 by the American Biological Safety Association (ABSA) on at least 3 of 9 reporting agencies, or Biosafety Level 2 as defined by the American Type Culture Collection (ATCC) must include the following precautionary statement on the product label:

“This product contains live microorganisms and may cause adverse effects to persons with a compromised immune system. Avoid contact with eyes, mouth, and broken skin. Do not inhale product. Wear eye and skin protection when handling. Wash hands after using.”

**Western Interstate Requirements: For registration of microbiological inoculum, California also requires the label include a statement of proper storage conditions, and a generally accepted laboratory method for assaying the viable and attenuated units and the by-products claimed.**

# Label 3: Required Elements of a Gypsum Agricultural Mineral Product Label

**1 Product Name.**

**2 Guaranteed Analysis Statement.**

The Guaranteed Analysis must be stated on an "as-is" basis.

**3 Derivation Statement.**

Source of ingredients providing nutrients claimed in guaranteed analysis.

**4 Heavy Metals Internet Statement.**

**Don't Get Gyped! Brand Gypsum**

**GUARANTEED ANALYSIS**

Calcium (Ca) .....	22%
Sulfur (S).....	16%
Calcium Sulfate Dihydrate (CaSO <sub>4</sub> • 2H <sub>2</sub> O) .....	84%

Derived from gypsum.

Information regarding the contents and levels of metals in this product is available on the internet at <http://www.aapfco.org/metals.html>

Universal Exports  
P.O. Box 7  
Salem, OR 97007

Net Weight – 50 lb.

**6 Name and mailing address of registrant, distributor or manufacturer.**

**5 Net Weight or Volume.**

—or—

**1 Product Name.**

**2 Guaranteed Analysis Statement.**

The Guaranteed Analysis must be stated on an "as-is" basis.

**3 Derivation Statement.**

Source of ingredients providing nutrients claimed in guaranteed analysis.

**4 Heavy Metals Internet Statement.**

**Don't Get Gyped! Brand Gypsum**

**GUARANTEED ANALYSIS**

Calcium (Ca) .....	22%
Sulfur (S).....	16%
Gypsum (CaSO <sub>4</sub> • 2H <sub>2</sub> O) .....	84%

Derived from gypsum.

Information regarding the contents and levels of metals in this product is available on the internet at <http://www.aapfco.org/metals.html>

Universal Exports  
P.O. Box 7  
Salem, OR 97007

Net Weight – 50 lb.

**6 Name and mailing address of registrant, distributor or manufacturer.**

**5 Net Weight or Volume.**

## Gypsum products

**Calcium sulfate.** The percentage of calcium sulfate, if the product is gypsum, landplaster or plaster, or is an agricultural mineral in which calcium sulfate dihydrate ( $\text{CaSO}_4 \cdot 2\text{H}_2\text{O}$ ) is the principal ingredient.

## Ag mineral tonnage reporting and inspection fees

- ◆ An individual or company that creates a product in Oregon, or is the first to sell or distribute a product into Oregon, is responsible for payment of 45 cents per ton inspection fee, except for gypsum products.
- ◆ The first individual or company to sell or distribute a gypsum product into Oregon, or if a gypsum product is created in Oregon, is responsible for payment of 5 cents per ton inspection fee.
- ◆ Registered products which are 100 percent compost have an inspection fee of 5 cents per ton.
- ◆ Inspection fees must be paid, and reports of tonnage submitted, two times a year. ODA may suspend or deny registration of products until the tonnage report is filed and any outstanding inspection fees are paid.
- ◆ A late fee of 10 percent or \$25, whichever is greater, is attached to unpaid inspection fees.

## Agricultural Amendments

**Definition:** A product is considered an agricultural amendment in Oregon if it does not contain guaranteed amounts of primary nutrients [Total Nitrogen (N), Available Phosphate ( $\text{P}_2\text{O}_5$ ), Soluble Potash ( $\text{K}_2\text{O}$ )], secondary nutrients (calcium, magnesium, sulfur), and/or micronutrients (boron, chlorine, cobalt, copper, iron, manganese, molybdenum, sodium, zinc), but may promote plant growth or produce physical, microbial, or chemical changes in the soil. Typical agricultural amendments are biological inoculums, surfactants, wetting agents, and humic acids. (For a more complete definition, see ORS 633.311.)

## Specific labeling requirements

1. **Product Name.** The name must not be misleading as to the purpose and guarantees.

2. **Guaranteed Analysis.** Guaranteed analysis must list the minimum levels of any substance claimed:
  - a. The guaranteed analysis must be stated on an “as is” basis.
  - b. The guaranteed analysis must contain the name and percentage of each substance intended to be used to induce crop yields or plant growth or to produce any physical, microbial, or chemical change in the soil, listed consecutively, followed by the percentage of other substances intended to be inert ingredients.
  - c. Guaranteed ingredients will be listed on label under the heading, “CONTAINS NON-PLANT FOOD INGREDIENT(S).”
3. **Non-Plant Food Ingredients.** The identity and amount of ingredients other than primary, secondary or micronutrients that are claimed or advertised, including the percentage of all ingredients contained in the product, in terms prescribed by ODA.

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**Western Interstate Requirements: California requires the heading, “CONTAINS NONPLANT FOOD INGREDIENT(S);” be in all capital letters**

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4. **Heavy Metals Internet Statement.** Each product label must include the statement:

Information regarding the contents and levels of metals in this product is available on the internet at <http://www.aapfco.org/metals.htm>

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**Western Interstate Requirements: The first statement above—Information regarding the contents and levels of metals in this product is available on the internet at <http://www.aapfco.org/metals.htm>—satisfies the label requirements of Oregon, Washington, and California, assuming proper laboratory analysis has been submitted to the state in question. Idaho does not currently require a heavy metals internet statement. Using this commonly accepted statement may save you months of valuable time and costly label revisions.**

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5. **Measurement.**
  - a. Net weight (dry products)
  - b. Volume (for liquid products)
  - c. Density (lbs/gal at 68° F) for bulk liquids.



# Label 4: Required Elements of an Agricultural Amendment Product Label

**SUPER—VAM!**

Product for establishing populations of ectomycorrhizal and endomycorrhizal fungi, and beneficial bacteria in steam sterilized potting media.

CONTAINS NON-PLANT FOOD INGREDIENT(S):

<i>Glomus intraradices</i> .....	60 spores/g
<i>Glomus mosseae</i> .....	60 spores/g
<i>Glomus aggregatum</i> .....	60 spores/g
<i>Pisolithus tinctorius</i> .....	60 spores/g
<i>Rhizopogon villosuli</i> .....	60 spores/g
<i>Rhizopogon fulvigleba</i> .....	60 spores/g
<i>Bacillus cereus</i> .....	10,000 cfu/g
<i>Bacillus subtilis</i> .....	10,000 cfu/g
5%.....	Humic acids (Derived from Leonardite)
1%.....	Vitamin B-1
1%.....	<i>Yucca schidigera</i> Extract
2%.....	Hydrophobic Fulvic Acids (Derived from Carbonaceous Shale)

Expiration Date: May 1, 2024  
After this date the microbial inoculant portion of this product may begin to lose effectiveness.

Storage: Keep product refrigerated below 60 degrees F. Do not freeze. Do not leave in direct sunlight.

Application Directions: Incorporate 2 pounds of SUPER-VAM! per yard of steam-sterilized soilless media. Use with 7 days of incorporation.

Do not swallow. Avoid breathing dust. Avoid contact with eyes, open sores, or cuts. Wash exposed skin thoroughly after use. Keep out of reach of children and pets.

Information regarding the contents and levels of metals in this product is available on the internet at <http://www.aapfco.org/metals.html>

Universal Experts  
P.O. Box 7  
Salem, OR 97007

Net Weight — 10 lb.

**1 Product Name.**

**2 Guaranteed Analysis Statement.**

**3 Non-Plant Food Ingredients.**  
Name and percentage of each substance intended to induce crop yields or plant growth, or to produce any physical, microbial, or chemical change in the soil, listed consecutively, followed by the percentage of other substances intended to be inert ingredients.

**4 Storage Directions.**

**5 Cautionary Statement.**  
Some species of beneficial bacteria require a cautionary statement.

**6 Heavy Metals Internet Statement.**

**7 Net Weight or Volume.**

**11 Purpose of the Product.**

**10 Microbiological Inoculum Product.**  
Include the following:

- The number of each viable organism per millimeter for liquid products or per gram for dry products; and
- The identification of each viable organism expressed as genus and species, and if applicable, strain.
- A product expiration date.

**Surfactants.**  
Guarantees must be made using the specific compound's CAS name. Brand, trade, and fictitious names are not permitted.

**9 Directions for Application.**

**8 Name and Mailing address of registrant, distributor or manufacturer.**

**Western Interstate Requirements: California requires measurements be provided in both US and metric measurements.**

6. **Name and mailing address.** Name and complete mailing address of registrant, distributor, or manufacturer.
7. **Directions for Application.**
8. **Microbiological inoculum.** If the product contains or is intended to be used as a microbiological inoculum, include the following:
  - a. A specific product expiration date (e.g. month/year).
  - b. The number of viable organisms per milliliter for liquid products or per gram for dry products.
  - c. The identification of each viable organism expressed as genus and species, and if applicable, strain.
  - d. storage conditions, such as temperature or other conditions required for inoculum to remain viable until expiration date
  - e. For any strain of organism known to US EPA to have pesticidal properties, please include a statement describing the non-pesticidal purpose(s) of the organism.
  - f. Microorganisms listed as Risk Group Level 2 by the American Biological Safety Association (ABSA) on at least 3 of 9 reporting agencies, or Biosafety Level 2 as defined by the American Type Culture Collection (ATCC)\* must include the following precautionary statement on the product label:
 

“This product contains live microorganisms and may cause adverse effects to persons with a compromised immune system. Avoid contact with eyes, mouth, and broken skin. Do not inhale product. Wear eye and skin protection when handling. Wash hands after using.”
9. **Purpose of the product.**

**Western Interstate Requirements: For registration of microbiological inoculum, California also requires the label include a statement of proper storage conditions, and a generally accepted laboratory method for assaying the viable and attenuated units and the by-products claimed.**

## Ag amendment tonnage reporting and inspection fees

- ◆ An individual or company that creates a product in Oregon, or is the first to sell or distribute a product into Oregon, is responsible for payment of 45 cents per ton inspection fee.
- ◆ Products which are 100 percent compost have an inspection fee of 5 cents per ton.
- ◆ Inspection fees must be paid, and reports of tonnage submitted, two times a year. ODA may suspend or deny registration of products until the tonnage report is filed and any outstanding inspection fees are paid.
- ◆ A late fee of 10 percent or \$25, whichever is greater, is attached to unpaid inspection fees.

# Label 5: Required Elements of a Lime Product Label

**1 Product Name.**

**2 Guaranteed Analysis Statement**

The Guaranteed Analysis must include

- Minimum percentage of calcium oxide (CaO) or calcium carbonate (CaCO<sub>3</sub>)
- Total neutralizing power expressed as calcium carbonate equivalent (CCE)
- Minimum percentage of Magnesium oxide (MgO) or magnesium carbonate (MgCO<sub>3</sub>)
- Percentage of the product that will pass 100-mesh, 40-mesh, 20-mesh and 10 mesh U.S. standard sieves.
- Lime Score. (See OSU Extension Publication FG 52, "Fertilizer and Lime Materials." <http://extension.oregonstate.edu/catalog/html/fg/fg52-e/>)
- The maximum moisture content, if greater than 2%. Express as whole numbers.

**Willamette Row**

**Dolomite Lime**

**GUARANTEED ANALYSIS**

Calcium (Ca).....	22.4%
Magnesium (Mg).....	12.7%
Calcium Carbonate (CaCO <sub>3</sub> ).....	56%
Calcium Carbonate Equivalent (CCE) .....	103%
Magnesium Carbonate (MgCO <sub>3</sub> ).....	44%
Passing 100 Mesh Sieve .....	80%
Passing 40 Mesh Sieve .....	80%
Passing 20 Mesh Sieve .....	80%
Passing 10 Mesh Sieve .....	80%
Lime Score.....	98
Moisture Content Does Not Exceed.....	2%
Derived from Dolomite	
Information regarding the contents and levels of metals in this product is available on the internet at <a href="http://www.aapfco.org/metals.html">http://www.aapfco.org/metals.html</a>	
Universal Exports P.O. Box 7 Salem, OR 97007	
Net Weight—2,000 lbs.	

**7 Specific Form of Lime.**

**6 Derivation Statement.**

Source of ingredients providing nutrients claimed in guaranteed analysis.

No brand names, abbreviations, trademarks or trade names may appear in the derivation statement.

**5 Name and mailing address of registrant, distributor or manufacturer.**

**3 Heavy Metals Internet Statement.**

**4 Net Weight or Volume.**

## Lime Products

**Definition:** A product is considered a lime in Oregon if its calcium and magnesium compounds are capable of neutralizing soil acidity. (For a more complete definition, see ORS 633.311.)

### Specific labeling requirements

1. **Product Name.** The name must not be misleading as to the purpose and guarantees.
2. **Guaranteed Analysis.** Guaranteed analysis must list the minimum levels of any nutrients claimed.
  - a. The guaranteed analysis must be stated on an “as is” basis.
  - b. The minimum percentage of calcium oxide (CaO) or calcium carbonate (CaCO<sub>3</sub>).
  - c. The minimum percentage of magnesium oxide (MgO) or magnesium carbonate (MgCO<sub>3</sub>).
  - d. The minimum total neutralizing power expressed in terms of calcium carbonate equivalent (CCE).
  - e. The percentage of product that will pass, respectively, a 100-mesh, 40-mesh, 20-mesh and 10-mesh sieve. The mesh size declaration may include a declaration of the percentage of product that will pass additional mesh sizes, but the mesh sizes specified in this paragraph must be included in the mesh size declaration.
  - f. The lime score (see OSU Extension Publication EM 9057 “Applying Lime to Raise Soil pH for Crop Production (Western Oregon)” at <https://catalog.extension.oregonstate.edu>).
  - g. The maximum moisture content if the moisture content is more than two percent, expressed in whole numbers as follows, “Moisture content does not exceed XX percent.
3. **Heavy Metals Internet Statement.** Each product label must include the following statement:

Information regarding the contents and levels of metals in this product is available on the internet at <http://www.aapfco.org/metals.htm>

**Western Interstate Requirements: The first statement above—Information regarding the contents and levels of metals in this product is available on the internet at <http://www.aapfco.org/metals.htm> satisfies the label requirements of Oregon, Washington, and California, assuming proper laboratory analysis has been submitted to the state in question. Idaho does not currently require a heavy metals internet statement. Using this commonly accepted statement may save you months of valuable time and costly label revisions.**

4. **Measurement.**
  - a. Net weight for dry products
  - b. Volume (for liquid products)
  - c. Density (lbs/gal at 68° F) for bulk liquids.

**Western Interstate Requirements: California requires measurements be provided in both US and metric measurements.**

5. **Name and mailing address.** Name and complete mailing address of registrant, distributor, or manufacturer.
6. **Derivation Statement.** “Derived from...” List the ingredient sources for the above guarantees. No brand names, abbreviations, trademarks, or trade names may appear in the derivation statement.
7. **Name of the specific form of lime.** Forms of lime may include, but are not limited to, ground limestone, shells, burnt lime, lime hydrate, sugar lime, residue lime, dolomitic lime, lime sludge and waste lime.

### Lime tonnage reporting and inspection fees:

- ◆ Until June 30, 2016, lime products are exempt from inspection fees. Beginning July 1, 2016, lime products will have an inspection fee of 5 cents per ton.
- ◆ Reports of tonnage are to be submitted two times a year, and late fees apply. ODA may suspend or deny registration of products until the tonnage report is filed and any outstanding fees are paid.
- ◆ A late fee of \$25

# 5

## Mislabeling and Adulteration

It is a violation of Oregon law to sell or distribute any product that:

- ◆ is mislabeled
- ◆ does not bear the label registered by ODA
- ◆ is not registered with ODA
- ◆ does not accurately reflect the composition of the product
- ◆ makes false or misleading claims
- ◆ does not have adequate warning statements or directions for use necessary to protect humans, animals, water, aquatic life, soil, or beneficial plant life.

If the contents, ingredients, name, grade, or claims on a product label do not match the registered label, the product is mislabeled or unregistered.

If the product label does not include all of the information required on the registered label, the product is mislabeled.

If the claims in any advertisement or promotional material do not match the registered label, the product is mislabeled.

If a microbiological inoculum product is missing the expiration date, or a required cautionary statement (see Item 8, Page 14), the product is mislabeled.

If a product label is missing an appropriate heavy metals internet statement, the product is mislabeled.

If a product label lists multiple products sizes with “check boxes” and it does not have a single clearly marked net weight or net contents, then the product is mislabeled.

**Western Interstate Requirements: In general, many states follow the guidelines established by the Association of American Plant Food Control Officials (AAPFCO). The general guidelines provided by the AAPFCO Uniform State Fertilizer Bill states no person shall distribute misbranded fertilizing materials. A product is misbranded if:**

- a. **Its labeling is false or misleading in any way.**
- b. **It is distributed under the name of another fertilizing material.**
- c. **It is not labeled as required by regulations of the state in which it is sold.**
- d. **It purports to be, or is represented as, a fertilizing material, or is represented as containing a primary or secondary plant nutrient or micronutrients, or both, unless the plant nutrients conform to the definition of identity, if any, prescribed by regulation.**

# 6 Guidance for Terms and Claims

**Western Interstate Requirements: Even where laws do not address specific label terms, there are prohibitions against false and misleading claims. Avoiding terms with potential problems may save you months of valuable time and costly label revisions.**

## Definitions for organic and natural products

**Organic.** Organic materials are the remains, residues, or waste products of any organism, have a carbon base, are 100 percent natural, and are allowed in organic crop production by the USDA National Organic Program (NOP). If mixed with synthetic materials, such as processing aids for extraction, stabilization, or isolation, the combined material is no longer considered organic. An example of an organic material would be ground kelp meal to which nothing has been added. Kelp extract, processed with potassium hydroxide or other extractants, is no longer an organic material.

**Natural.** Natural materials exist in nature and have been altered from their original structure only by physical manipulation (e.g. ground, or screened, or palletized), and may or may not have a carbon base. Natural materials are allowed as inputs in organic crop production under the USDA National Organic Program (NOP). If mixed with synthetic materials the combined material is no longer considered natural. Examples of non-carbon based materials would be mined limestone and mined potassium sulfate, to which nothing has been added.

**Organic-based.** A mixed product in which more than half of the materials are organic. If it is an organic-based fertilizer, more than half of the sum of the guaranteed primary nutrient percentages must be derived from organic materials. If it is an organic-based agricultural mineral, more than half of the sum of the guaranteed nutrient percentages must be derived from organic materials. If it is an agricultural amendment, more than half of the total materials must be derived from organic materials.

**Natural-based.** A mixed product in which more than half of the materials are natural. If it is a natural-based fertilizer, more than half of the sum of the guaranteed primary nutrient percentages must be derived from natural materials. If it is a natural-based agricultural mineral, more than half of the sum

of the guaranteed nutrient percentages must be derived from natural materials. If it is an agricultural amendment, more than half of the total materials must be derived from organic materials.

**Natural and organic.** Products containing both natural and organic ingredients may be listed as “natural and organic.” Product labels may list the proportions of these materials, e.g., “95 percent organic.” As an example a product made of 30 percent blood meal, 20 percent bone meal, 20 percent kelp meal, and 30 percent greensand could be described as “70 percent organic.”

**Organic input.** A product whose ingredients comply with the requirements of the NOP Final Rule as specified in 7 CFR Part 205.

**Synthetic.** A substance formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring plant, animal, or mineral sources, except that such term shall not apply to substances created by naturally occurring biological processes.

**Allowed in organic production.** This phrase is used to describe an input that complies with the requirements of the NOP Final Rule as specified in 7 CFR Part 205. Such ingredients may be used in organic production under certain circumstances, but may not be natural or organic. This definition also applies to other acceptable phrases used as descriptors which include, but are not limited to, “suitable for organic farming,” “acceptable for use in organic production,” “meets National Organic Program requirements for organic production,” “meets USDA standards for organic production,” or “suitable for organic gardening.” Product labels and labeling may not include any seal, logo, or similar device that would lead the consumer to believe the product has been approved for organic production under NOP.

**Appropriate for organic production.** An organic input that is evaluated by a USDA Accredited Certifying Agent (ACA) as meeting the requirements of the National Organic Program (NOP) Final Rule as specified in 7 CFR Part 205.

Only organic inputs that have been evaluated and deemed compliant with NOP may use the logos issued by ACAs. Only food, feed or fiber may be termed “organic certified.” The logo, or claim, may not state the input is “certified organic” unless it is certified as food, feed, or fiber.



## Other definitions

**Humic acids.** The portions of the alkali extracted humic substances that are insoluble in strongly acidic solution. They will precipitate from the alkali extract in acid solutions of pH 2 or less. They can be used as either soil amendments, foliar applications, or blended with liquid fertilizers.

**Western Interstate Requirements: Western Interstate Requirements: The amount of humic acids reported varies between analytical methods. When analyzing humic acid products for enforcement, Oregon and California use the humic acid analytical method CDFA HA4/JC. Unless the humic acid product guarantee is based on this analytical method, it is likely a product may be found deficient when sampled and analyzed by ODA or CDFA using method HA4JC.**

**Humate.** A salt or ester of humic acid.

**No phosphate fertilizer.** Fertilizer products with less than 0.5 percent Available Phosphate ( $P_2O_5$ ). This definition also applies to other acceptable phrases used as descriptors which include, but are not limited to, “phosphate free” and “phosphorus free.”

**Low phosphate fertilizer.** Fertilizer products with available phosphate levels ( $P_2O_5$ ) of 0.5 percent or greater, but less than 1 percent.

**Bioactive.** A product with a guaranteed content of microbiological inoculum.

**Biotic:** A product with a guaranteed content of microbiological inoculum.

**Enhanced, or enhanced efficiency.** Fertilizer products with characteristics that minimize the potential of nutrient losses to the environment, as compared to a “reference soluble” product. Enhanced efficiency products include those that are

- ◆ **Slow release.** Fertilizer products that release (convert to a plant-available form) their plant nutrients at a slower rate relative to a “reference soluble” product. Products with recognized slow release properties include:
  - ◆ water insoluble nitrogen, such as natural organics, ureaform materials, urea-formaldehyde products, IBDU, etc.
  - ◆ coated slow release, such as sulfur coated urea and other encapsulated soluble fertilizers
  - ◆ occluded slow release, where fertilizers, agricultural mineral, agricultural amendment, or lime materials are mixed with waxes, resins, or other inert materials and formed into particles

- ◆ products containing water soluble nitrogen such as urea-formaldehyde products, methyleneurea, etc.
- ◆ **Stabilized.** Products that have been amended with an additive that reduces the rate of transformation on fertilizer compounds, resulting in extended time of availability in the soil. Examples of stabilizing amendments are nitrification inhibitors, nitrogen stabilizers, or urease inhibitors.

**Western Interstate Requirements: Washington, Idaho and California all have specific language banning any statement that connotes or implies that certain plant nutrients contained in a fertilizer are released slowly over a period of time, unless the nutrient or nutrients are identified and guaranteed.**

## Pesticidal claims

With few exceptions, products that make pesticidal claims, or that have recognized pesticidal properties and no recognized non-pesticidal purpose, must be registered as pesticides by both the US Environmental Protection Agency and the ODA Pesticides Division. If a product ingredient, for example a microbiological inoculum, has recognized pesticidal purposes but the product is not registered as a pesticide, the registrant must provide a statement to ODA describing the non-pesticidal purpose(s) of this particular microbiological product.

## Vague and misleading terms

As general guidance for whether product claims are acceptable for product registration with the ODA Fertilizer Program, ODA uses the general principles described by the Federal Trade Commission. At a minimum, advertising claims must:

- ◆ tell the truth
- ◆ not be deceptive or mislead consumers
- ◆ be substantiated, that is the company must be able to verify the claims.

**Western Interstate Requirements: Avoid terms that may imply a purpose other than that intended for the product. For example the terms “health,” “healthy,” “healthier,” and “healthiest” imply disease free or disease resistance, which is not the intended purpose of fertilizing materials. These and similar terms should not be included on fertilizer labels.**

## Undefined terms

The following terms do not have broadly accepted definitions. They are considered misleading and their use is not allowed on product labels or labeling.

- ◆ Balanced (unless qualified)
- ◆ Health (e.g. healthy, healthier, healthiest)
- ◆ Stimulant (e.g. biostimulant, growth stimulant)
- ◆ Probiotic (unless qualified)
- ◆ Catalyst, except when used to describe a chemical reaction (e.g. biological catalyst, growth catalyst).

**Western Interstate Requirements: In designing labels, it is best to avoid terms that have no generally accepted official definition or are potentially misleading.**

## Terms requiring qualification

Some terms may be vague or misleading unless used within a context. Terms requiring qualification are those that need a reference to clarify the meaning of the term in this context. This policy applies to label and labeling claims, product names, and brand names.

Terms requiring qualification include, but are not limited to, complete, balanced, award winning, enhanced, enhanced efficiency, optimum, best, approved, safe, non-toxic, environmentally friendly, eco-safe, safe for children and pets. Explanatory language should be in a readable font and on the same side of the package.

## Kid, Pet, Earth, Safe or Friendly

The claim a product is “safe” or “friendly” for people or pets can be reasonably interpreted as meaning that the product is not capable of harming people or pets. As fertilizers are guaranteed on an “as-is” basis, the Department requires substantiation the product, as packaged, is incapable of harming the group specified in the claim.

Substantiation requires reliable and competent scientific documentation the product is incapable of causing harm through various methods of exposure, including skin and eye contact, ingestion, inhalation, or penetration through wounds. This documentation should include toxicological data for the group or groups claimed. Products likely to have a microbiological content, such as composts and soils, also require a laboratory analysis for common microbial species that may negatively impact human or animal health.

## Earth Friendly, Eco-Safe

Guidance from the Federal Trade Commission (FTC) establishes that claims suggesting a product is “safe” or “friendly” for the earth, or the environment, must qualify the claim by explaining the basis for the claim. The qualification must describe what specific aspects or attributes of the product make it “safe” or “friendly” and must be clear, prominent, and understandable. The statement should use plain language, in close proximity to the claim, and be in sufficiently large type to be easily read. For more guidance on environmental marketing see the FTC “Guides for the Use of Environmental Marketing Claims.”

## Non-toxic

In their guidance on environmental marketing claims, the Federal Trade Commission (FTC) suggests a non-toxic claim likely conveys that a product does not pose any risk to humans or the environment, including household pets. As fertilizers, agricultural minerals, agricultural amendments, and lime are applied to the environment, to be considered as non-toxic the claim must be substantiated by competent and reliable scientific evidence the product is incapable of harming people, pets, plants, soil microorganisms, wildlife, and aquatic organisms.

## Terms that must be supported with data

All products making expressed or implied claims, including claims of efficacy or endorsement, about the product must have a reasonable basis for their claims. The department may request supporting proof of claims at any time. Registrants should be prepared to support any label or labeling claims or representations with data or documentation.

**Western Interstate Requirements: Terms that can be viewed as claims of the efficacy or usefulness of an ingredient may require proof, such as research study data, to support the claims of their benefit to plants and soils. In general, this includes any product claiming to contain “amino acids,” “enzymes,” “organic acids,” and “vitamins” (with the exception of Vitamin B1 if nutrients are guaranteed on the product label.)**

## Claims of third-party approval, endorsements

Claims on labels and labeling must be stated accurately and must not falsely suggest or imply approval for a product by a third party organization, whether by words, symbols or other means.

If third-party claims or endorsements are made, product labels and labeling must include adequate information for the consumer to evaluate the purpose of the endorsement. Explanatory language should be in a readable font and on the same side of the package. All relationships between the product and the endorser must be disclosed.



## 7

## Manufacturer-Bulk Distributor License

A Manufacturer-Bulk Distributor License is required for:

1. any business (located in Oregon or out-of-state) that distributes fertilizer, agricultural amendment, agricultural mineral, or lime products in bulk in Oregon.
2. any business (located in Oregon) that manufactures any fertilizer, agricultural amendment, agricultural mineral, or lime products.

Any business that meets either, or both of these descriptions, must obtain a Manufacturer-Bulk Distributor License. Cost of the license is \$50 per calendar year. Only one Manufacturer-Bulk Distributor License is needed per business, regardless of the number of locations involved; however, each location needs to be identified. A license

certificate will be issued for each location. Changes in business locations (closures, new locations, etc.) must be reported to ODA within 30 days. Failure to obtain a Manufacturer-Bulk Distributor License is a violation of Oregon law subject to enforcement actions.

Bulk or bulk sale is defined as “the sale, offering for sale or delivery of a fertilizer, agricultural mineral, agricultural amendment or lime product or of a custom mix, in unpackaged form, such as in open containers, closed or open tote boxes, closed or open tanks, closed or open trailers, spreader trucks or other types of containers, vehicles or conveyances as determined by State Department of Agriculture rule.” (ORS 633.311(4))

## 8

## Custom Mixes

### Definition

A custom mix is a product mixed by the lot or batch to the specific instructions of a customer for their own use. Custom mix products do not require registration with ODA.

If a product meets this definition, it is a custom mix no matter the package size. Custom mixes can come in 50 lb. bags, super sacks, 2.5 gallon jugs, shuttles, bulk, etc. Custom mixes can be liquid or dry.

Even if a grower uses the same blend year after year it is still considered a custom mix as long as there is documentation to show each blend was individually requested by a particular grower. However, if the blend is recommended, or advertised to multiple growers in any manner, the product is no longer a custom mix and requires registration.

### Labeling custom products

With two exceptions, all labeling requirements that apply to registered products apply to custom mixed products as well. The exceptions are:

**Heavy Metals Internet Statement.** Since custom mixed products do not require registration, no heavy metals data is posted on ODA's web site. Therefore, a heavy metals internet statement cannot appear on the label.

**Identifier.** The second difference is that a custom mix must be identified with the purchaser's name and a unique identifier (mixing date, invoice number, symbol, etc.). This information can be included on a separate product label—either with every load (if the entire lot is delivered in one load), or once at the end of a multiload lot—or the bill of lading can be configured to contain all of the necessary label information.

### Record keeping for custom mixes

Records for custom mixed products must be kept for a period of at least three years after mixing and must include:

- the name and address of the purchaser
- the date the product was mixed
- the unique identifier for each mixture
- a copy of all product labeling information provided to the customer.

These records, must be available for inspection, by either ODA or the purchaser, during normal business hours.

Failure to keep records on custom mixes as outlined above and refusal to make such records available for inspection is prohibited under ORS 633.476 and subject to fines as described in the “Enforcement” section.

# 9 Tonnage Reporting and Inspection Fees

Payment of inspection fees on fertilizer, agricultural mineral, and agricultural amendment products is the responsibility of any business that:

1. sells or distributes into Oregon, from foreign or domestic sources, a fertilizer, agricultural mineral or agricultural amendment product used as an ingredient in the Oregon manufacture of a fertilizer, agricultural mineral or agricultural amendment product.
2. sells or distributes into Oregon, from foreign or domestic sources, an end-use fertilizer, agricultural mineral or agricultural amendment product for use in Oregon.
3. sells or distributes into Oregon a fertilizer, agricultural mineral or agricultural amendment product that is composed of ingredients for which an inspection fee was not charged under 1 or 2 above.

Inspection fees must be paid, and tonnage reported, for all fertilizer, agricultural mineral and agricultural amendment products. Tonnage reports must be filed, even if the tonnage reported is zero. ODA may suspend or deny registration of

products until the tonnage report is filed and any outstanding inspection fees are paid.

Failure to pay inspection fees or submit tonnage reports as required is prohibited under ORS 633.461 is a Category III (Minor) violation subject to civil penalties of up to \$2,500. (See Enforcement section, which follows.)

ODA will mail reporting forms to all registrants in early June and again in early December.

Inspection fees are as follows:

Product	Price (per ton)
Fertilizer	45¢
Agricultural Minerals	45¢
Agricultural Amendments	45¢
Gypsum	5¢
100% Compost	5¢
Lime	5¢

# 10 Enforcement

## Enforcement authority

ODA has the authority to access records, premises, materials and conveyances, and to sample fertilizer, agricultural amendment, agricultural mineral, and lime products.

When ODA finds any fertilizer, agricultural amendment, agricultural mineral or lime product that is sold, offered for sale, or distributed in violation of ORS 633 ODA may issue and enforce a stop sale, use or removal order prohibiting the disposal, distribution, use or removal of the quantity or lot of product in any manner. ODA may enforce the order until all actions against the order, including any contested case, are resolved or until ODA gives written permission releasing the product for disposal, distribution, use or removal.

## Product Sampling and Laboratory Analysis

Official samples of products are collected by the Department on a continuing basis. Samples are collected to determine if the guaranteed analysis identified on the product label is satisfied. Routine product sampling offers both consumer protection to buyers, and identifies potential process problems for blenders and manufacturers.

A sample is considered deficient and in violation if the lab analysis of any guaranteed element or ingredient is below the stated guarantee by an amount greater than the investigational allowance. The Department uses investigational allowances developed by the Association of American Plant Food Control Officials (AAPFCO). These allowances were adopted by the Department as OAR 603-059-0070 and are available at [http://arcweb.sos.state.or.us/pages/rules/oars\\_600/oar\\_603/603\\_059.html](http://arcweb.sos.state.or.us/pages/rules/oars_600/oar_603/603_059.html).

## Enforcement actions

Enforcement actions for violation of ORS 633 may include:

- ◆ Notice of Noncompliance
- ◆ Stop Sale, Use, or Removal Orders
- ◆ Notice of Violation
- ◆ Civil Penalty.

**Notice of Noncompliance (NON).** A NON may be issued when a party or product is not in compliance with Oregon's Fertilizer Law. A NON is a written document that describes the nature of the noncompliance and any actions required.

**Stop Sale, Use, or Removal Order (SSURO).** A SSURO may be issued when products are found being distributed in Oregon and are not registered as required. SSUROs may also be issued to products that are mislabeled, or products that cannot be registered. When a SSURO is issued, it is effective statewide. The product may not be sold, distributed, or otherwise removed or disposed of without prior written approval from the Department. When a SSURO is violated, a civil penalty will be issued.

**Notice of Violation (NOV).** A NOV is issued when the party involved has, or should reasonably have, previous knowledge of the responsibility to comply with state fertilizer laws. A NOV remains on file for a period of three years. A NOV increases the severity of subsequent enforcement actions (e.g. civil penalty) that may be issued to address repeat, continuing, or additional violations of ORS 633.

**Civil Penalty.** A civil penalty is issued only when all other efforts to gain compliance have been exhausted, or when a violation is severe enough to be considered a major violation. Civil penalties are separated into three categories of severity according to the magnitude of the violation. In addition to the magnitude of violation, the number of violations committed during the last three years is also taken into consideration when assessing a civil penalty.

## Penalties

### Category I (Major)

This category includes fraud or deceptive practices in registering products or in applications, reports or records; selling or removing products subjected to a stop sale, use, or removal order; or attempts to impede or prevent ODA from performing its legal duties.

Maximum penalties may not exceed:

- ◆ First violation: \$500
- ◆ Second violation: \$1,500
- ◆ Subsequent violations: \$10,000

### Category II (Moderate)

This category includes selling, offering for sale, or distributing adulterated products, failing to keep required records, knowingly making false or misleading product claims.

Maximum penalties may not exceed:

- ◆ First violation: \$250
- ◆ Second violation: \$750
- ◆ Subsequent violations: \$5,000

### Category III (Minor)

This category includes selling, offering for sale, or distributing products that are unlabeled, mislabeled, or not registered with ODA; failure to file a semiannual report.

Maximum penalties may not exceed:

- ◆ First violation: \$125
- ◆ Second violation: \$375
- ◆ Subsequent violations: \$2,500

A violation that is determined to be the result of gross negligence or willful misconduct or results in substantial harm to human health or the environment and is deemed to have arisen from gross negligence or willful misconduct, may be subject to a \$10,000 civil penalty for the initial violation and each subsequent violation.

For more information on penalties, see Oregon Administrative Rule (OAR) 603-059-0080(3) in Appendix C or this document, or online at [http://arcweb.sos.state.or.us/pages/rules/oars\\_600/oar\\_603/603\\_059.html](http://arcweb.sos.state.or.us/pages/rules/oars_600/oar_603/603_059.html)



# Appendix A: Oregon Revised Statutes

## Chapter 633 — Grades, Standards and Labels for Feeds, Soil Enhancers and Seeds

2015 edition

### Fertilizers and other soil-enhancing products

- 633.311 Definitions for ORS 633.311 to 633.479
- 633.315 Applicability of ORS 633.311 to 633.479 and 633.994
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633.465 Inspection fees; disposition; rules

633.476 Record keeping for custom mix products; product identification; records inspection

633.479 Fertilizer Research Committee

### 633.311 Definitions for ORS 633.311 to 633.479 and 633.994.

As used in ORS 633.311 to 633.479 and 633.994:

(1) “Agricultural amendment”:

- (a) Means a mixed or unmixed synthetic chemical substance, a chemically or physically modified natural substance, a naturally occurring substance or a manufacturing by-product, or a combination of those substances or by-products, intended to induce crop yields or plant growth or to produce any physical, microbial or chemical change in the soil.
- (b) Does not mean any of the following:
  - (A) Fertilizer products.
  - (B) Agricultural mineral products.
  - (C) Lime products.
  - (D) Biosolids-derived products, compost and animal or vegetable manures that are not packaged and do not contain a grade statement or guaranteed analysis.
  - (E) Biosolids, domestic septage and domestic wastewater treatment facility solids regulated under ORS chapters 468 and 468B.
  - (F) Reclaimed water or treated effluent regulated under ORS 468B.010 and 468B.015 or rules adopted under ORS 468.020.

(2) “Agricultural mineral”:

- (a) Means a mineral substance, mixture of mineral substances or mixture of mineral and organic substances containing less than five percent of total nitrogen (N), available phosphate (P<sub>2</sub>O<sub>5</sub>) or soluble potash (K<sub>2</sub>O), singly, collectively or in combination, designed for use principally as a source of plant food, in inducing increased crop yields or plant growth or

- producing any physical, microbial or chemical change in the soil.
- (b) Does not mean any of the following:
- (A) Fertilizer products.
  - (B) Agricultural amendment products.
  - (C) Lime products.
  - (D) Biosolids-derived products, compost and animal or vegetable manures that are not packaged and do not contain a grade statement or guaranteed analysis.
  - (E) Biosolids, domestic septage and domestic wastewater treatment facility solids regulated under ORS chapters 468 and 468B.
  - (F) Reclaimed water or treated effluent regulated under ORS 468B.010 and 468B.015 or rules adopted under ORS 468.020.
  - (G) Unpackaged animal manures from facilities required to have a permit issued under ORS 468B.050 and subject to State Department of Agriculture rules governing confined animal feeding operations.
- (3) “Available phosphate” means the sum of the water soluble and citrate soluble phosphate.
- (4) “Bulk” means a fertilizer, agricultural amendment, agricultural mineral or lime product, or a custom mix, that is distributed in unpackaged form, such as rail cars, closed or open tanks, closed or open trailers, spreader trucks or other types of containers, vehicles or conveyances as determined by the department by rule.
- (5) “Compost” means a substance derived primarily or entirely from the decomposition of vegetative or animal organic material that is distributed for the purpose of promoting or stimulating plant growth and to which no fertilizer, agricultural amendment, agricultural mineral or lime product is added other than to promote decomposition.
- (6) “Custom medium” means a custom mix that consists of a horticultural growing medium prepared to the exact specifications of a horticultural grower that plants into the medium and delivers the resulting product to the end user without further distribution.
- (7) “Custom mix” means a mixture of fertilizer, agricultural amendment, agricultural mineral or lime product, each lot or batch of which is mixed according to the specific instructions of or is prescribed for the special use of the final purchaser.
- (8) “Department” means the State Department of Agriculture.
- (9) “Director” means the Director of Agriculture.
- (10) “Distribute” means to import, consign, sell, offer for sale, barter, exchange or otherwise facilitate the supplying of fertilizer, agricultural amendment, agricultural mineral or lime products.
- (11) “Distributor” means a person who distributes fertilizer, agricultural amendment, agricultural mineral or lime products.
- (12) “Fertilizer”:
- (a) Means any substance, or any combination or mixture of substances, that is designed for use primarily as a source of plant food, in inducing increased crop yields or plant growth, or producing any physical, microbial or chemical change in the soil, and that contains five percent or more of total nitrogen (N), available phosphate ( $P_2O_5$ ) or soluble potash ( $K_2O$ ), singly, collectively or in combination.
  - (b) Does not mean any of the following:
    - (A) Agricultural amendment products.
    - (B) Agricultural mineral products.
    - (C) Lime products.
    - (D) Biosolids-derived products, compost and animal or vegetable manures that are not packaged and do not contain a grade statement or guaranteed analysis.
    - (E) Biosolids, domestic septage and domestic wastewater treatment facility solids regulated under ORS chapters 468 and 468B.
    - (F) Reclaimed water or treated effluent regulated under ORS 468B.010 and 468B.015 or rules adopted under ORS 468.020.
- (13) “Grade” means the minimum percentage claimed for total nitrogen (N), available phosphate ( $P_2O_5$ ) or soluble potash ( $K_2O$ ) stated in the same terms, order and percentages as the guaranteed analysis.
- (14) “Guaranteed analysis” means the minimum percentage of the following claimed to be present in a product:
- (a) Primary nutrients;
  - (b) Secondary nutrients;
  - (c) Micronutrients;
  - (d) Neutralizing capacity; or
  - (e) Substances claimed to induce crop yields or plant growth or to produce any physical, microbial or chemical change in the soil.
- (15) “Horticultural growing medium” means any substance or mix of substances that is promoted or intended to



function as artificial soil for the managed growth of horticultural crops.

- (16) “Label” means all written, printed or graphic matter on the immediate container or on a separate document accompanying any fertilizer, agricultural amendment, agricultural mineral or lime product.
- (17) “Labeling” means a printed or verbal representation used to promote the distribution of any fertilizer, agricultural amendment, agricultural mineral or lime product, including but not limited to a representation by means of:
- (a) Brochures;
  - (b) Posters;
  - (c) Internet;
  - (d) Television; and
  - (e) Radio.
- (18) “Lime” means any substance or mixture of substances having calcium or magnesium compounds capable of neutralizing soil acidity.
- (19) “Lime score” means a numerical expression of the quality of lime, as determined by the department by rule.
- (20) “Manufacture” means to compound, produce, granulate, mix, blend, repackage or otherwise alter the composition of fertilizer, agricultural amendment, agricultural mineral or lime product.
- (21) “Micronutrient” means boron (B), chlorine (Cl), cobalt (Co), copper (Cu), iron (Fe), manganese (Mn), molybdenum (Mo), sodium (Na) or zinc (Zn).
- (22) “Official sample” means any representative sample of product taken by the department or a representative of the department and designated as official.
- (23) “Package” means any closed container, regardless of size, other than the receptacle of a bulk product.
- (24) “Percent” or “percentage” means percentage by weight.
- (25) “Phosphate” means the amount of pentavalent phosphorus present in the material calculated as phosphorus pentoxide ( $P_2O_5$ ) and expressed as available phosphate.
- (26) “Primary nutrient” means total nitrogen (N), available phosphate ( $P_2O_5$ ) or soluble potash ( $K_2O$ ).
- (27) “Product” means a readily distinguishable, individually labeled substance.
- (28) “Registrant” means the person who registers a fertilizer, agricultural amendment, agricultural mineral or lime product under ORS 633.362.
- (29) “Secondary nutrient” means calcium (Ca), magnesium (Mg) or sulfur (S).
- (30) “Soluble potash” means the portion of potash that is soluble in aqueous ammonium oxalate, aqueous ammonium citrate or water.
- (31) “Ton” means 2,000 pounds avoirdupois.
- (32) “Waste-derived product”:
- (a) Means any of the following:
    - (A) Fertilizer, agricultural amendment, agricultural mineral or lime product derived in whole or in part from hazardous waste as defined in ORS 466.005 or in rules adopted under ORS 466.015 and 466.020.
    - (B) Solid waste as defined in ORS 459.005 or in rules adopted under ORS 459.045.
    - (C) Industrial waste as defined in ORS 468B.005 or in rules adopted under ORS 468B.035.
  - (b) Does not mean:
    - (A) Biosolids, biosolids-derived products, domestic septage and domestic wastewater treatment facility solids regulated under ORS chapters 468 and 468B; or
    - (B) Reclaimed water or treated effluent regulated under ORS 468B.010 and 468B.015 or rules adopted under ORS 468.020.

### 633.315 Applicability of ORS 633.311 to 633.479 and 633.994.

ORS 633.311 to 633.479 and 633.994 apply only to the extent that they are consistent with ORS chapter 634. The provisions of ORS 633.311 to 633.479 and 633.994 do not supersede the provisions of ORS chapter 634.

### 633.318 Licensing of manufacturers and bulk distributors; application; fee; change of location; rules.

(1) A manufacturer–bulk distributor license issued by the State Department of Agriculture is required for manufacturers or bulk distributors of registered or custom mixed fertilizer, agricultural amendment, agricultural mineral or lime products. A license is required for any business entity described by either or both of the following conditions:

- (a) Each out-of-state or in-state business entity that distributes fertilizer, agricultural amendment, agricultural mineral or lime in bulk.
- (b) Each in-state business entity that manufactures any fertilizer, agricultural amendment, agricultural mineral or lime product in this state.

- (2) An application for a manufacturer-bulk distributor license must be filed on forms provided by the department and must be accompanied by a nonrefundable license fee to be determined by rule, not to exceed \$50 for each business entity per year.
- (3) An application for a license must include but not be limited to:
- The name, physical address and mailing address of the business entity main office and primary contact;
  - A list of locations that are in operation for more than 90 days during a license period; and
  - Other information as required by the department to clarify the manufacturer's or bulk distributor's activities or location.
- (4) A manufacturer-bulk distributor license will expire on December 31 of each year or on such date as may be specified by department rule. A late fee of \$25 may be assessed by the department on or after the 30th day following the expiration of a license if the license fee has not been paid by the applicant. The late fee shall be added to the required license fee and must be paid by the applicant before the department may issue a license to the applicant.
- (5) Within 30 days, each license holder shall report any change to the department that results in the addition, removal or change of a location. [2001 c.914 §22; 2007 c.768 §38]
- (e) The product density, in pounds per gallon at 68 degrees Fahrenheit, if the product is distributed as a bulk liquid.
- (f) A guaranteed analysis. The guaranteed analysis must immediately follow the statement, "GUARANTEED ANALYSIS." Guarantees must be based on a laboratory method of analysis approved by the State Department of Agriculture. The guaranteed analysis shall be stated on an "as is" basis at the time the fertilizer, agricultural amendment, agricultural mineral or lime product is distributed into or within this state. Primary nutrients, secondary nutrients and micronutrients that are claimed or advertised must be individually guaranteed. A guarantee of a zero percentage may not appear in the guaranteed analysis statement.
- (g) A derivation statement declaring the sources for all primary nutrients, secondary nutrients and micronutrients guaranteed. The statement must be listed immediately below the guaranteed analysis. Abbreviations, brand names, trademarks and trade names may not appear in the derivation statement, but may appear as part of the product name in an area of the label that is separate from the derivation statement.
- (h) The identity and amount of ingredients other than primary nutrients, secondary nutrients and micronutrients that are claimed or advertised. The identity and amount must be guaranteed and determinable by laboratory methods approved by the department. The source of those ingredients shall be formatted on the label as follows:

### 633.321 Label requirements for fertilizer, agricultural amendment, agricultural mineral and lime products; rules.

- (1) A person may not distribute fertilizer, agricultural amendment, agricultural mineral or lime products in packaged form unless there is a printed label attached or applied to the package. A person may not distribute fertilizer, agricultural amendment, agricultural mineral or lime products in bulk unless a label in the form of a separate document physically accompanies the shipment and is furnished to the user or purchaser when each separate delivery is made, or when the last delivery from the lot is made. The label must include the following:
- The name under which the product is registered or distributed.
  - The net weight or volume.
  - The name and mailing address of the manufacturer, distributor or registrant.
  - The product grade if primary nutrients are claimed.

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#### ALSO CONTAINS NON-PLANT FOOD INGREDIENT(S):

\_\_\_\_% Humic Acids (Derived from \_\_\_\_ )  
 \_\_\_\_% Other Determinable Non-Plant Food Ingredients

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- A unique identifier for custom mixed products.
- An Internet address that leads to a department website that is accessible to the public and contains product-specific information. The department shall adopt rules establishing the date for label compliance and the nature of product information that must be available through the website. The information must be accessible by product name, ingredient or reportable substance and shall include, at a minimum:
  - For any product identified in an application for registration under ORS 633.362 as being waste-

derived, the product name and the Standard Industrial Classification code or North American Industry Classification System code of each facility that generated the waste-derived product or any waste-derived ingredient of the product; and

(B) The types and levels of metals and other substances for which a statement is required under ORS 633.362 (10) or required by department rule to be stated in the application for registration of a product.

(2)(a) Primary nutrients that are claimed or advertised must be guaranteed and formatted on the label as follows:

**GUARANTEED ANALYSIS:**

**Total Nitrogen (N)** \_\_\_\_\_ %  
 \_\_\_\_\_% Ammoniacal Nitrogen  
 \_\_\_\_\_% Nitrate Nitrogen  
 \_\_\_\_\_% Urea Nitrogen  
 \_\_\_\_\_% Slowly Available Water Soluble Nitrogen  
 \_\_\_\_\_% Water Insoluble Nitrogen  
 \_\_\_\_\_% Other recognized and determinable forms of Nitrogen

**Available Phosphate (P<sub>2</sub>O<sub>5</sub>)** \_\_\_\_\_ %  
**Soluble Potash (K<sub>2</sub>O)** \_\_\_\_\_ %

(b) The guarantees for the forms of nitrogen must add up to the total nitrogen guarantee and be shown by indentation. The forms of nitrogen may be listed in an order other than the order listed in this subsection.

(c) Phosphorous acid (expressed as H<sub>3</sub>PO<sub>3</sub> or PO<sub>3</sub>) cannot be claimed as a source of available phosphate.

(3) The following secondary nutrients and micronutrients that are claimed or advertised must be guaranteed, be placed on the label in the same order as listed in this subsection and immediately follow the guaranteed analysis for any primary nutrients claimed. The guaranteed analysis of secondary nutrients and micronutrients must be made on the elemental basis. When a chelated, water soluble or other form of plant nutrient is claimed or advertised in addition to the elemental form of the same secondary nutrient or micronutrient, the form and percentage must be guaranteed separately and shown by indentation. Zeros are required before decimal points for amounts that are less than one percent. Except for products identified in

subsection (4) of this section, the minimum percentages that may be accepted for registration are as follows:

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<b>Calcium (Ca)</b>	<b>1.0000%</b>
<b>Magnesium (Mg)</b>	<b>0.5000%</b>
<b>Sulfur (S)</b>	<b>1.0000%</b>
<b>Boron (B)</b>	<b>0.0200%</b>
<b>Chlorine (Cl)</b>	<b>0.1000%</b>
<b>Cobalt (Co)</b>	<b>0.0005%</b>
<b>Copper (Cu)</b>	<b>0.0500%</b>
<b>Iron (Fe)</b>	<b>0.1000%</b>
<b>Manganese (Mn)</b>	<b>0.0500%</b>
<b>Molybdenum (Mo)</b>	<b>0.0005%</b>
<b>Nickel (Ni)</b>	<b>0.0010%</b>
<b>Sodium (Na)</b>	<b>0.1000%</b>
<b>Zinc (Zn)</b>	<b>0.0500%</b>

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(4) The minimum percentages set forth in subsection (3) of this section do not apply to the following as defined by department rule:

(a) Guarantees for water soluble nutrients on labels for:

- (A) Ready to use foliar fertilizers or agricultural minerals;
- (B) Ready to use specialty liquid fertilizers or agricultural minerals; or
- (C) Products used for hydroponic or continuous liquid feed programs.

(b) Guarantees for soils and horticultural growing mediums.

(5) If a fertilizer, agricultural amendment, agricultural mineral or lime product has a boron concentration greater than 0.1 percent or a molybdenum concentration greater than 0.001 percent, the product label must include a warning or cautionary statement that the product contains boron or molybdenum and is to be used only according to the manufacturer's recommendations or directions.

(6)(a) If a fertilizer, agricultural amendment, agricultural mineral product or lime product is intended to be microbiological inoculum, the label must include:

- (A) A product expiration date;

- (B) The number of each viable organism per milliliter for liquid products or per gram for dry products; and
  - (C) The identification of each viable organism expressed as genus and species, and, if applicable, strain.
  - (D) Storage conditions; and
  - (E) For products containing organisms known to be human pathogens, a precautionary statement consistent with any department rules establishing statement requirements for the organisms or establishing the text of the statement.
- (b) If a fertilizer, agricultural amendment or agricultural mineral product is derived from a microbiological process or culture but is not intended to be a microbiological inoculum, the product label must include a statement that the product is not a viable culture.
- (7) A product ingredient may not be listed, claimed or guaranteed on the label or labeling without prior approval by the department.
- (8) The label information requirements established in subsections (1)(d) and (f), (2), (3) and (6)(b) of this section do not apply to the label of a custom medium for commercial production if the end user is provided with a statement of formulation that lists all of the materials in the custom medium and the amount of each material.

### 633.331 Additional labeling requirements for lime products.

In addition to the label requirements under ORS 633.321, the label for a lime product must include the following:

- (1) The name of the particular form of lime. Forms of lime may include, but are not limited to, burnt lime, dolomite, ground limestone, lime sludge, shells, sugar lime and waste lime.
- (2) The guaranteed analysis, stating the following:
  - (a) The percentage of calcium oxide (CaO) or calcium carbonate (CaCO<sub>3</sub>).
  - (b) The percentage of magnesium oxide (MgO) or magnesium carbonate (MgCO<sub>3</sub>).
  - (c) The total neutralizing capacity expressed in terms of calcium carbonate equivalent (CCE).
  - (d) The percentage of product that will pass, respectively, a 100-mesh, 40-mesh, 20-mesh and 10-mesh sieve. The mesh size declaration may include a declaration of the percentage of product that will pass additional mesh

sizes, but the mesh sizes specified in this paragraph must be included in the mesh size declaration.

- (e) The lime score.
- (f) The maximum moisture content if the moisture content is more than two percent, expressed in whole numbers as follows: "Moisture content does not exceed \_\_\_\_ percent."

### 633.336 Additional labeling requirements for agricultural amendment.

In addition to the label requirements under ORS 633.321, the label for an agricultural amendment must include the following:

- (1) A guaranteed analysis that contains the name and percentage of each substance intended to induce crop yields or plant growth or to produce any physical, microbial or chemical change in the soil, listed consecutively, followed by the percentage of inert ingredients.
- (2) The purpose of the product.
- (3) Directions for application.

### 633.341 Additional labeling requirements for agricultural mineral.

In addition to the label requirements under ORS 633.321, the label for an agricultural mineral must include the following:

- (1) The percentage of calcium sulfate, expressed as CaSO<sub>4</sub>·2H<sub>2</sub>O or CaSO<sub>4</sub>, if the product is gypsum, landplaster or plaster or is an agricultural mineral in which calcium sulfate is the principal ingredient.
- (2) The percentage of all ingredients contained in the product, in terms prescribed by the State Department of Agriculture, for all other agricultural minerals or mixtures of agricultural minerals with a principal ingredient other than calcium sulfate.

### 633.344 Label guarantees of additional plant nutrients.

In addition to the guarantees of plant nutrients required by ORS 633.321, label guarantees of other plant nutrients may be made from a list approved by the State Department of Agriculture.

### 633.362 Registration of fertilizer, agricultural amendment, agricultural mineral and lime products; application; fee; expiration; product contents; rules.

- (1) Each separately identifiable fertilizer, agricultural amendment, agricultural mineral or lime product, whether in package or in bulk, must be registered with the State Department of Agriculture. A person may not distribute a fertilizer, agricultural amendment, agricultural mineral or lime product in this state unless the fertilizer, agricultural amendment, agricultural mineral or lime product is registered with the department.
- (2) The application for registration must be made on a form or forms provided by the department. The application for registration must include the following information:
  - (a) Product name and grade;
  - (b) Product label;
  - (c) Name and physical address of the registrant;
  - (d) Mailing address of the registrant;
  - (e) Product laboratory analysis;
  - (f) Supplier or suppliers of ingredients;
  - (g) Identification of the industry, industry process or industry processes and location of the facility that generated any waste-derived ingredient or ingredients; and
  - (h) Other information required by the department by rule.
- (3) The application for registration shall be accompanied by a nonrefundable registration fee established by department rule, not to exceed \$50 annually for each fertilizer, agricultural amendment, agricultural mineral or lime product. In addition, for a waste-derived product, the department shall charge an annual product evaluation fee. For a fertilizer, agricultural amendment, agricultural mineral or lime product, the department may charge a product evaluation fee if supplementary research and evaluation by the department is required in order to determine product compliance with ORS 633.311 to 633.479. The department shall establish product evaluation fees by rule, not to exceed \$500. The department shall review the registration application form and product label for compliance with ORS 633.311 to 633.479. If the department finds that the application information and product label comply with ORS 633.311 to 633.479, the department shall issue a certificate of registration to the registrant.
- (4) Certificates of registration shall expire on December 31 of each year, except that the department may grant a certificate of registration for two years. Certificates of registration for two years shall expire on December 31 of the last year in the two-year period.
- (5) The department may assess a \$50 late registration fee for a product if the registrant has not paid the registration fee prior to the 30th day following the expiration of the certificate of registration. A late registration fee assessed by the department under this subsection shall be added to the registration fee required under subsection (3) of this section and must be paid by the registrant before the department may issue a certificate of registration.
- (6) The department may require proof of label or labeling statements or claims of the efficacy and usefulness of an ingredient prior to issuing a certificate of registration or at any time deemed necessary by the department. As proof, the department may request data from the registrant to support the label or labeling claims. The department may also rely on other experimental data, data from agricultural experiment stations, product review evaluations and advice from other authoritative sources. The data must be from recognized, statistically designed and analyzed trials conducted by recognized experts in the field. All supporting data shall be representative of the soil, crops and climatic conditions found in the northwestern United States.
- (7) In evaluating a label or labeling statement, claim or guarantee, the department may require the submission of a written statement describing the methodology of the laboratory analysis used, the source of the ingredient material and any reference material relied on to support the label or labeling statement, claim or guarantee. Laboratory analyses submitted in support of an application for registration must comply with laboratory methods of analysis approved by the department.
- (8) Each registrant shall notify the department of any change that results in a laboratory analysis that differs from the laboratory analysis submitted in support of the related application for registration or any change in sources of product ingredients declared on the application form. The registrant must notify the department within 30 days following the change.
- (9) The registrant shall identify as “waste-derived” in the application for registration any fertilizer, agricultural amendment, agricultural mineral or lime product that is waste-derived and distributed as a single ingredient product or blended with other fertilizer, agricultural amendment, agricultural mineral or lime products. The application for registration must identify the industry, the industry process or processes and the location of the facility that generated the waste and all ingredients of concern as identified by the department by rule.
- (10) The initial application for registration of a fertilizer, agricultural amendment, agricultural mineral or lime product must include a statement of the levels of metals in the product, including but not limited to arsenic (As), cadmium (Cd), mercury (Hg), lead (Pb), nickel (Ni) or

other metals or substances identified by the department by rule. The registrant must provide a laboratory analysis report, in accordance with acceptable methods required by the department, to verify the levels of metals or other substances in the product. Subsequent to initial product registration, the registrant shall provide a laboratory analysis report for the product to the department upon request. An initial or subsequent laboratory analysis must have been conducted no more than 18 months prior to submission of that analysis to the department.

- (11) The department shall establish by rule the level of metals or other substances permitted in fertilizer, agricultural amendment, agricultural mineral and lime products registered with the department, including but not limited to the permitted levels of arsenic (As), cadmium (Cd), mercury (Hg), lead (Pb), nickel (Ni) or other metals or substances identified by the department by rule for the purpose of protecting humans, animals, water, aquatic life, soil or beneficial plant life. The department shall review the permitted level of metals or other substances in fertilizer, agricultural amendment, agricultural mineral and lime products a minimum of once every five years.
- (12) Notwithstanding subsection (1) of this section, a custom mix is not required to be registered if all of the fertilizer, agricultural amendment, agricultural mineral or lime products contained in the final product are registered in accordance with this section.
- (13) The department may refuse to register any fertilizer, agricultural amendment, agricultural mineral or lime product if distribution of the product would violate a provision of ORS 633.311 to 633.479. The registration of each product is a distinct and separate registration. The refusal of the department to register or reregister any product does not affect the registration of any other product by the same person.

### 633.364 Confidentiality of certain information supplied in application for registration.

- (1) (1) Information required under ORS 633.362 (2) (f) and (g) and (6) is exempt from disclosure under ORS 192.410 to 192.505. The State Department of Agriculture may not divulge any information provided to the department in accordance with ORS 633.362 (2)(f) and (g) and (6).
- (2) Notwithstanding subsection (1) of this section, the department may use the information required under ORS 633.311 to 633.479 for any administrative or enforcement action the department deems necessary. In addition, the department may:
- (a) Accumulate and publish statistics from semiannual tonnage reports required by ORS 633.462 in a manner

that does not divulge the business operations of the person submitting a report;

- (b) Consult with the Department of Environmental Quality or other state or federal agencies in regard to information provided under ORS 633.362 (2)(f) and (g) to ensure compliance with applicable regulations; and
- (c) Disclose data required under ORS 633.362 (6) to experts for the purpose of evaluating product data submitted in support of registration.

### 633.366 Prohibitions; mislabeled products; adulterated products.

- (1) A person may not:
- (a) Distribute mislabeled products;
- (b) Register or attempt to register any product using fraudulent or deceptive practices to evade or attempt to evade the requirements of ORS 633.311 to 633.479 or rules adopted under ORS 633.311 to 633.479;
- (c) Distribute adulterated products;
- (d) Fail, refuse or neglect to deliver to a user or purchaser of a bulk fertilizer, agricultural amendment, agricultural mineral or lime product a printed label that complies with ORS 633.321 to 633.341;
- (e) Distribute a fertilizer, agricultural amendment, agricultural mineral or lime product that is not registered with the State Department of Agriculture under ORS 633.362;
- (f) Fail, refuse or neglect to keep or maintain records as required under ORS 633.462 and 633.476 or refuse to make the records available under ORS 633.385 upon request by the department;
- (g) Make false or fraudulent applications, records, invoices or reports;
- (h) Fail, refuse or neglect to provide notification to the department as required by ORS 633.318 (5) or 633.362 (8);
- (i) Fail, refuse or neglect to obtain a manufacturer-bulk distributor license required under ORS 633.318;
- (j) Distribute, use or remove any product subjected to a stop sale, use or removal order until the product has been released in accordance with ORS 633.445;
- (k) Impede, obstruct, hinder or otherwise prevent or attempt to prevent the department from the performance of department duties under ORS 633.311 to 633.479;

- (L) Knowingly or intentionally make any false or misleading representations in connection with the distribution of fertilizer, agricultural amendment, agricultural mineral or lime products;
  - (m) Fail, refuse or neglect to file a semiannual tonnage report with the department as required under ORS 633.462; or
  - (n) Fail, refuse or neglect to pay inspection fees required under ORS 633.462 and 633.465.
- (2) A fertilizer, agricultural amendment, agricultural mineral or lime product may be considered mislabeled if the label or labeling:
- (a) Is false, misleading or deceptive;
  - (b) Does not accurately reflect the composition of the product;
  - (c) Requires warning statements or directions for use that may be necessary to protect humans, animals, water, aquatic life, soil or beneficial plant life and the warning statements or directions are not adequately stated on the label; or
  - (d) Does not comply with the requirements of ORS 633.321 to 633.341.
- (3) A fertilizer, agricultural amendment, agricultural mineral or lime product may be considered adulterated if the product:
- (a) Contains any deleterious or harmful ingredient in an amount that is injurious to humans, animals, water, aquatic life, soil or beneficial plant life when used in accordance with instructions for product use on the label;
  - (b) Differs in composition from the composition claimed on the label;
  - (c) Differs in composition from the composition claimed in the information provided in accordance with ORS 633.362; or
  - (d) Contains unwanted crop seed or weed seed.

### 633.371 Disposition of revenues.

The State Department of Agriculture shall deposit revenues received under ORS 633.311 to 633.479 and 633.994 in the Department of Agriculture Service Fund. The revenues deposited under this section are continuously appropriated to the department for the purpose of administering and enforcing ORS 633.311 to 633.479 and 633.994.

### 633.385 Department access; sampling products.

- (1) The State Department of Agriculture shall have access at reasonable times to records, premises, materials or conveyances as necessary for the purpose of administering and enforcing ORS 633.311 to 633.479 and 633.994.
- (2) The department may inspect the records, premises, materials or conveyances of the manufacturer, distributor or registrant and may take samples of any fertilizer, agricultural amendment, agricultural mineral or lime product or other substance manufactured, distributed or registered in this state, or samples of other substances, as the department deems necessary for the purpose of administering and enforcing ORS 633.311 to 633.479 and 633.994.
- (3) All sampling and analyses of fertilizer, agricultural amendment, agricultural mineral and lime products, or of other substances, shall be made according to methods approved by the department.
- (4) The department may obtain a warrant or subpoena to allow the entry, inspection, sampling or other purposes related to the administration and enforcement of ORS 633.311 to 633.479 and 633.994.

### 633.388 Reports of official sample.

- (1) A report of official sample, signed and acknowledged by a chemist employed by the State Department of Agriculture, other state agency or laboratory facility designated by the department, relating to the analysis of any fertilizer, agricultural amendment, agricultural mineral or lime product is prima facie evidence that the sample identified in the report of official sample was properly analyzed and that the substance analyzed contained the constituent parts stated in the report of official sample.
- (2) A report of official sample, signed and acknowledged by the department, relating to the sampling of any product is prima facie evidence that the sample identified was taken from parcels, containers or lots identified in the official request for analysis.

### 633.441 Rules.

In accordance with the applicable provisions of ORS chapter 183, the State Department of Agriculture may adopt rules necessary to implement, administer and enforce ORS 633.311 to 633.479 and 633.994, including but not limited to rules for:

- (1) (1) Fertilizer, agricultural amendment, agricultural mineral and lime product:
  - (a) Handling;

- (b) Sampling;
  - (c) Storage;
  - (d) Labeling;
  - (e) Distribution;
  - (f) Definitions;
  - (g) Analysis;
  - (h) Records;
  - (i) Use;
  - (j) Minimum percentages;
  - (k) Investigational allowances; and
  - (L) Ingredients.
- (2) Public access to product information of any fertilizer, agricultural amendment, agricultural mineral or lime product.

### 633.445 Orders preventing sale or other disposition of product; seizure; hearing.

- (1) When the State Department of Agriculture has reasonable cause to believe any quantity or lot of fertilizer, agricultural amendment, agricultural mineral or lime product is stored, used or distributed in violation of ORS 633.311 to 633.479 or rules adopted under ORS 633.311 to 633.479, the department may, in accordance with ORS 561.605 to 561.620, issue and enforce a stop sale, use or removal order prohibiting the disposal, distribution, use or removal of the quantity or lot of product in any manner. The distributor must immediately remove from locations readily visible or accessible to the public any product in packaged form that the department places under a stop sale, use or removal order. The department may enforce the order until all actions against the order, including any contested case, are resolved or until the department gives written permission releasing the product for disposal, distribution, use or removal. The department shall give written permission releasing the product when ORS 633.311 to 633.479 and the rules adopted under ORS 633.311 to 633.479 are complied with.
- (2) In accordance with ORS 561.605 to 561.620, the department may seize any quantity or lot of product that the department determines does not comply with ORS 633.311 to 633.479.

### 633.462 Tonnage reports; records; fee; penalty.

- (1) A person shall file a semiannual tonnage report with the State Department of Agriculture if the person:

- (a) Distributes into this state, from foreign or domestic sources, a fertilizer, agricultural amendment, agricultural mineral or lime product used as an ingredient in the in-state manufacture of a fertilizer, agricultural amendment, agricultural mineral or lime product;
  - (b) Distributes into this state, from foreign or domestic sources, an end-use fertilizer, agricultural amendment, agricultural mineral or lime product for use within this state; or
  - (c) Distributes into this state a fertilizer, agricultural amendment, agricultural mineral or lime product composed of ingredients not described under paragraph (a) or (b) of this subsection.
- (2) If a person engaged in the business of making distributions described in subsection (1) of this section does not distribute any fertilizer, agricultural amendment, agricultural mineral or lime product into or within this state during a reporting period, the person shall file a semiannual tonnage report declaring that no distribution occurred.
- (3) A person shall file a semiannual tonnage report required under this section with the department, on forms provided by the department, setting forth the total tonnage of each product distributed into or within this state during the reporting period. The reporting periods for each year are January 1 through June 30 and July 1 through December 31.
- (4) Semiannual tonnage reports and inspection fees imposed under ORS 633.465 are due within 30 days after the end of the reporting period. If a person fails to file a semiannual tonnage report or pay an inspection fee on or before the due date:
- (a) The department may assess a collection fee of 10 percent of the amount due or \$25, whichever is greater; and
  - (b) Notwithstanding ORS 633.362, the department may suspend or deny registration of the product until the report is filed and the fee is paid.
- (5) ORS 561.450 applies to a person who refuses to pay inspection fees that are due under this section.
- (6) A person required to file a semiannual tonnage report under this section shall maintain records and a bookkeeping system that accurately indicate the tonnage of fertilizer, agricultural amendment, agricultural mineral or lime product that is subject to inspection fees. The person shall maintain the records for a period of three years.



**633.465 Inspection fees; disposition; rules.**

- (1) Except as provided in subsection (2) of this section, a person required to file a semiannual tonnage report under ORS 633.462 shall pay the State Department of Agriculture an inspection fee in an amount established by rule:
  - (a) Not to exceed \$0.45 for each ton of fertilizer, agricultural amendment or agricultural mineral product distributed, of which not more than \$0.25 may be expended for funding grants as provided in subsection (3) of this section.
  - (b) Not to exceed \$0.05 for each ton of gypsum or of an agricultural mineral with a principal ingredient of calcium sulfate ( $\text{CaSO}_4 \cdot 2\text{H}_2\text{O}$  or  $\text{CaSO}_4$ ) distributed.
  - (c) Not to exceed \$0.05 for each ton of lime product distributed, of which not more than \$0.025 may be expended for funding grants as provided in subsection (3) of this section.
- (2) If the total amount that would be due from a person under subsection (1) of this section for inspection fees is less than \$15, the person shall pay \$15.
- (3) After being advised by the Fertilizer Research Committee created in ORS 633.479, the department may use amounts made available under subsection (1)(a) and (c) of this section to fund grants for research and development related to the interaction of fertilizer, agricultural amendment, agricultural mineral or lime products and ground water or surface water.
- (4) The department may not assess inspection fees on any fertilizer, agricultural amendment, agricultural mineral or lime product in commercial transit that is not intended for use or final distribution in this state.
- (5) If there are duplicate inspection fee payments, an application made for a refund must be on forms provided by the department and submitted to the department within 180 days of the alleged overpayment.

**633.476 Record keeping for custom mix products; product identification; records inspection.**

- (1) A person mixing or distributing a custom mix of fertilizer, agricultural amendment, agricultural mineral or lime products shall keep for a period of at least three years after mixing a record showing:
  - (a) The name and address of the purchaser;
  - (b) The date of mixing;
  - (c) A unique identifier for each mixture;
  - (d) The guarantees and information required under ORS 633.321 to 633.341; and

(e) Any other information required by the State Department of Agriculture.

- (2) Undistributed parts of a custom mixture or batch shall at all times be identified with the purchaser's unique identifier.
- (3) The person mixing or distributing the custom mix shall make the records required by this section available for inspection during normal business hours by the purchaser or the department.

**633.479 Fertilizer Research Committee.**

- (1) There is created the Fertilizer Research Committee to advise the Director of Agriculture on the funding of grants for research and development related to the interaction of fertilizer, agricultural amendment or agricultural mineral products and ground water or surface water. The committee shall consist of the director or the director's designee and six members appointed by the director as follows:
  - (a) Two members of the public who have no involvement in the manufacture or distribution of fertilizer, agricultural amendment or agricultural mineral products;
  - (b) Three members representing the fertilizer, agricultural amendment or agricultural mineral industry; and
  - (c) One member representing Oregon State University.
- (2) The term of each appointed member is two years, but a member serves at the pleasure of the director. Before the expiration of the term of a member, the director shall appoint a successor whose term begins on January 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the director shall make an appointment to become immediately effective for the unexpired term.
- (3) The committee shall select one of its members as chairperson and another as vice chairperson, for such terms and with duties and powers the committee determines to be necessary for the performance of the functions of those offices.
- (4) A majority of the members of the committee constitutes a quorum for the transaction of business.
- (5) The committee shall meet at times and places specified by the call of the chairperson or of a majority of the members of the committee.
- (6) The director may appoint an alternate committee member for each member of the committee.

**633.992 Criminal penalties.**

Violation of any of the provisions of this chapter or regulations promulgated thereunder is a misdemeanor.

**633.994 Civil penalties for fertilizer law violations; rules; failure to pay penalty in full.**

- (1) In addition to any other liability or penalty provided by law, the State Department of Agriculture may assess a civil penalty against a person that violates a provision of ORS 633.311 to 633.479 or rules adopted under ORS 633.311 to 633.479. The civil penalty may not be more than:
  - (a) \$500 for the first violation within a three-year period;
  - (b) \$1,500 for the second violation within a three-year period; and
  - (c) \$10,000 for each subsequent violation within a three-year period.
- (2) The department shall adopt rules that determine guidelines for ensuring consistency in the assessment of civil penalties.
- (3) Notwithstanding subsection (1) of this section, for a violation that arises from gross negligence or willful

misconduct, or that results in substantial harm to human health or the environment, the department may assess a civil penalty of not more than \$10,000 for the initial violation or any subsequent violation.

- (4) Each violation of a provision of ORS 633.311 to 633.479 that results from an action is a separate and distinct violation. The department may deem each day of a continuing violation to be a separate and distinct violation.
- (5) A civil penalty assessed under this section may be remitted or reduced upon terms and conditions that the Director of Agriculture considers proper and consistent with the public health and safety.
- (6) If a civil penalty assessed under this section remains unpaid after the issuance of the final order, the department may, until the civil penalty is paid in full:
  - (a) Refuse to issue the recipient of the final order a certificate of registration under ORS 633.311 to 633.479 for a product; and
  - (b) Withhold from the recipient of the final order the issuance or renewal of a license under any program administered by the department.

# Appendix B: Additional Relevant Statutes

## Regulation of Vermiculture

ORS 561.258 Regulation of vermiculture.

- (1) As used in this section, “vermiculture” means the commercial raising and breeding of worms for use as bait or as an animal food protein source or to produce castings.
- (2) The practice of vermiculture is an agricultural activity that is subject to regulation by the State Department of Agriculture. Vermiculture products are subject to department regulation as agricultural commodities or agricultural products.

Note: 561.258 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 561 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

## Detention, Seizure or embargo of agricultural products

ORS 561.605 Detention, seizure or embargo of agricultural products.

- (1) In order that the rights of consumers, property owners or other affected persons may be protected and procedures made uniform the State Department of Agriculture, its agents, employees or officials, shall observe the procedure prescribed by ORS 561.605 to 561.620 whenever it becomes necessary for the department to detain, seize or embargo any food, article or product under any law the administration of which is vested in the department.
- (2) The department shall cause to be affixed to the products being detained, seized or embargoed, a notice that the products are being detained, seized or embargoed by the department and warning all persons that they may not be removed from the place at which they are being held without written permission from the department.
- (3) The department shall notify in writing the owner or person in possession of the products that the products are being detained, seized or embargoed by

the department. If the person in possession of the products is not the owner, the department shall make a reasonable effort to notify the owner. Such notice shall state the reason for the department’s action, and shall notify the owner or person in possession of the right to be heard before the department in opposition to the action. [Formerly part of 616.095]

## Anhydrous Ammonia

### 561.750 Definitions for ORS 561.750 to 561.760.

As used in ORS 561.750 to 561.760:

- (1) “Anhydrous ammonia”:
  - (a) Means a liquid or gaseous inorganic compound that is formed by the chemical combination of nitrogen and hydrogen in the molar proportion of one part nitrogen to three parts hydrogen.
  - (b) Does not mean ammonium hydroxide.
- (2) “Distributor” means a person that imports, consigns, sells, offers for sale, barter, exchanges or otherwise facilitates the supply of anhydrous ammonia to a user in this state.
- (3) “Nontoxic dye” means a biodegradable, clear liquid product that causes staining when exposed to air.
- (4) “Other additive” means a product other than a nontoxic dye that, when put in tanks containing anhydrous ammonia, renders the anhydrous ammonia nonreactive, unusable or undesirable for use as a precursor substance in the manufacture of methamphetamine.
- (5) “User” means a person that applies anhydrous ammonia as a plant nutrient in the course of engaging in agricultural activity in this state.

Note: 561.750 to 561.760 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 561 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

### 561.755 Certification of dyes or other additives; rules.

- (1) The State Department of Agriculture, by rule and in consultation with the Department of State Police, shall

certify each brand of nontoxic dye or other additive that a distributor or user may add to anhydrous ammonia.

(2) In accordance with applicable provisions of ORS chapter 183, the State Department of Agriculture shall adopt rules establishing standards to be used in making certifications under this section and for the administration of ORS 561.760. In establishing the standards, the State Department of Agriculture shall consult with the Anhydrous Ammonia Additive Review Committee established under ORS 561.760.

Note: See note under 561.750.

### 561.760 Anhydrous Ammonia Additive Review Committee.

- (1) The Director of Agriculture, in consultation with the Superintendent of State Police, shall appoint an Anhydrous Ammonia Additive Review Committee consisting of not fewer than six members. The term of a member is four years, but a member serves at the pleasure of the director.
- (2) Members of the committee are not entitled to compensation, but in the discretion of the director may be reimbursed from funds available to the State Department of Agriculture for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amount provided in ORS 292.495.
- (3) The members of the committee shall include at least one representative from each of the following:
  - (a) The Department of State Police.

- (b) The State Department of Agriculture.
  - (c) Manufacturers of anhydrous ammonia fertilizers.
  - (d) The Oregon State University Extension Service.
  - (e) Retail distributors.
  - (f) Users who are growers of agricultural commodities.
- (4) The committee:
- (a) May review all relevant scientific and economic data on nontoxic dyes or other additives for anhydrous ammonia that are submitted for certification to the State Department of Agriculture under ORS 561.755.
  - (b) Shall, at a minimum, require the manufacturer of any product submitted under ORS 561.755 to provide sufficient scientifically valid data for each submitted nontoxic dye or other additive to allow the State Department of Agriculture to determine the dye's or additive's:
    - (A) Impact on crop yield;
    - (B) Specific food crop residue analysis; and
    - (C) Impact on the environment.
  - (c) May issue recommendations to the director regarding whether a nontoxic dye or other additive to anhydrous ammonia should be certified by the State Department of Agriculture under ORS 561.755.

Note: See note under 561.750.

# Appendix C: Oregon Administrative Rules

## Division 59

### Fertilizers, Agricultural Minerals, and Limes

#### 603-059-0020 Inspection Fees

- (1) The inspection fees authorized to be established by ORS 633 and payable under ORS 633 are as follows:
  - (a) Forty five cents (\$0.45) for each ton of fertilizer;
  - (b) Forty five cents (\$0.45) for each ton of agricultural mineral;
  - (c) Forty five cents (\$0.45) for each ton of agricultural amendment;
  - (d) Five cents (\$0.05) for each ton of fertilizer, agricultural mineral, or agricultural amendment containing 100% “compost” as defined in ORS 633.311.
  - (e) Five cents (\$0.05) for each ton of gypsum.
  - (f) Five cents (\$0.05) for each ton of lime.
- (2) Any person required to pay inspection fees established in ORS 633 that distributes less than 33.34 tons of fertilizer, agricultural mineral or agricultural amendment products or less than 300 tons of lime, gypsum or compost products in any semi-annual reporting period, must pay a minimum inspection fee of fifteen dollars (\$15.00).
- (3) A portion of the inspection fees paid to the department for fertilizer, agricultural minerals and agricultural amendments shall be continuously appropriated for the purpose of funding grants for research and development related to the interaction of fertilizer, agricultural mineral or agricultural amendment products and ground water or surface water as described in ORS 633. The portion of fees so appropriated shall be determined by the Department based on the recommendation of the Fertilizer Research Committee (ORS 633.479).
- (4) The inspection fees specified in section (1) of this rule shall be in effect commencing July 1, 2016.

#### 603-059-0025 Declaration of Lime Score

- (1) In addition to the labeling requirements of ORS 633.330, the lime invoice or label shall also state the guarantee for

“Lime Score (Oregon)” which is defined as a numerical expression of the quality of lime.

- (2) The “Lime Score (Oregon)” shall be determined in accordance with the equations and calculations set forth in the Oregon State University Fertilizer Guide for Fertilizer and Lime Materials, FG52, as revised June 1990. [Publications: Publications referenced are available from the agency.]

#### 603-059-0030 Registration Fees

- (1) The registration fee authorized to be established by ORS 633 for each fertilizer, agricultural mineral, agricultural amendment or lime product is as follows: Thirty Five dollars (\$35.00) per year for each product registered;
- (2) The registration fee specified in section (1) of this rule shall be in effect commencing July 1, 2016.

#### 603-059-0040 Manufacturer/Bulk Distributor License Fee

- (1) The license fee authorized to be established by ORS 633 for each manufacturer/bulk distributor license is as follows: Fifty dollars (\$50.00) per year for each business licensed;
- (2) The license fee specified in section (1) of this rule shall be issued to a primary qualifying business entity. A separate and distinct license is not required for each facility location, however, all locations will be required to be identified on the license application.
- (3) The license fee specified in section (1) of this rule shall be in effect commencing January 1, 2002.

#### 603-059-0050 Evaluation Fee

- (1) The product evaluation fee authorized to be established by ORS 633 is as follows:
  - (a) Up to five hundred dollars (\$500.00) upon initial product registration;
  - (b) Up to five hundred dollars (\$500.00) upon product reregistration or reevaluation of product registration.
- (2) The fee specified in section (1) of this rule shall be in effect commencing July 1, 2016.

### 603-059-0055 Labeling Requirements

- (1) Any fertilizer, agricultural mineral, agricultural amendment or lime product distributed in this state must have the following information included as part of the product label required by ORS 633.321 to 633.341. At a minimum, one of the following labeling statements:
  - (a) “Information regarding the contents and levels of metals in this product is available on the internet at <http://www.regulatory-info-xx.com>”. Each registrant must substitute a unique alpha numeric identifier for “xx”. This statement may be used only if the registrant establishes and maintains the internet site and the internet site meets the following criteria:
    - (A) There is no advertising or company-specific information on the site;
    - (B) There is a clearly visible, direct hyperlink to the department’s internet site specified in (b) of this subsection (1); and
    - (C) Any other criteria adopted by the director by rule.
  - (b) “Information regarding the contents and levels of metals in this product is available at the Oregon Dept of Agriculture internet site: <http://oda.state.or.us/fertilizer>”
  - (c) “Information regarding the contents and levels of metals in this product is available on the internet at...” The Association of American Plant Food Control Officials’ hosted website developed to provide a uniform label internet address to access product content information is to be inserted to complete the above sentence. This specific address is the only AAPFCO web address that will be allowed for this product labeling purpose.
- (2) At a minimum, the following product information will be maintained by the Department on the internet:
  - (a) Product name including brand name;
  - (b) Registrant name;
  - (c) Guaranteed primary, secondary and micronutrients;
  - (d) Lime Score for lime products;
  - (e) Levels of arsenic, cadmium, lead, mercury, and nickel; and
  - (f) State registration status.
- (3) Any fertilizer, agricultural mineral, agricultural amendment, or lime product sold, offered for sale, or distributed in this state must be labeled in accordance to 603-059-0055(1).
- (4) Failure to label a fertilizer, agricultural mineral, agricultural amendment, or lime product pursuant to

603-059-0055(1) which is sold, offered for sale, or distributed in this state shall be considered mislabeled. Mislabeled of any fertilizer, agricultural mineral, agricultural amendment or lime product in this manner is a violation of ORS 633.366(1)(a) as a Category III violation.

- (5) Registrants of products that contain live microorganism(s) as active ingredients shall provide proof of the taxonomic identity of the organism(s) to the genus and species level and provide strain when known. Microorganisms that are listed as Risk Group Level 2 by the American Biological Safety Association (ABSA) on at least 3 of 9 reporting agencies or Biosafety Level 2 as defined by the American Type Culture Collection (ATCC) shall include the following precautionary statement on the label unless the department determines that the registrant provided sufficient safety information to waive the requirement or elements specified therein: “This product contains live microorganisms and may cause adverse effects to persons with a compromised immune system. Avoid contact with eyes, mouth, and broken skin. Do not inhale product. Wear eye and skin protection when handling. Wash hands after using.”

### 603-059-0060 Definition of Labeling Terms

- (1) For labels and labeling, the State Department of Agriculture uses the following definitions:
  - (a) Organic. Organic materials are the remains, residues, or waste products of any organism, have a carbon base, are 100% natural, and are allowed as inputs in organic crop production under the USDA National Organic Program. If mixed with synthetic materials, such as processing aids for extraction, stabilization, or isolation, the combined material is no longer considered organic. An example of an organic material would be ground kelp meal to which nothing has been added. An example of a non-organic material would be kelp extract, processed with potassium hydroxide, as the added potassium hydroxide is not an organic material.
  - (b) Natural. Natural materials exist in nature and have been altered from their original structure only by physical manipulation (e.g. ground, screened, or pelletized), and may or may not have a carbon base. Natural materials are allowed as inputs in organic crop production under the USDA National Organic Program and must not be mixed with synthetic materials. Examples of non-carbon based natural materials would be mined limestone and mined potassium sulfate, to which nothing has been added.

- (c) Organic-based. Organic-based materials are a mixed product in which more than half of the materials are organic. If it is an organic-based fertilizer, more than half of the sum of the guaranteed primary nutrient percentages must be derived from organic materials. If it is an organic-based agricultural mineral, more than half of the sum of the guaranteed nutrient percentages must be derived from organic materials. If it is an agricultural amendment, more than half of the total materials (by weight) must be derived from organic materials.
- (d) Natural-based. Natural-based materials are a mixed product in which more than half of the materials are natural. If it is a natural-based fertilizer, more than half of the sum of the guaranteed primary nutrient percentages must be derived from natural materials. If it is a natural-based agricultural mineral, more than half of the sum of the guaranteed nutrient percentages must be derived from natural materials. If it is an agricultural amendment, more than half of the total materials (by weight) must be derived from natural materials.
- (e) Natural and Organic. Products containing both natural and organic ingredients may be listed as “natural and organic.” Product labels may list the proportions of these materials, i.e., “95% organic.” As an example a product made of 30% blood meal, 20% bone meal, 20% kelp meal, and 30% greensand could be described as “70% organic.”
- (f) Organic Input. A product in which all ingredients comply with the requirements for producing organic agricultural products under the USDA National Organic Program Final Rule, 7 CFR Part 205.
- (g) Synthetic. A substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring plant, animal, or mineral sources, except that such term shall not apply to substances created by naturally occurring biological processes.
- (h) Biotic or Bioactive. A product with a guaranteed content of microbiological inoculum.
- (i) No Phosphate Fertilizer. Fertilizer products with less than 0.5% available phosphate (P<sub>2</sub>O<sub>5</sub>). This definition also applies to other acceptable phrases used as descriptors which include, but are not limited to, “phosphate free” and “phosphorus free”.
- (j) Low Phosphate Fertilizer. Fertilizer products with available phosphate levels (P<sub>2</sub>O<sub>5</sub>) equal to, or greater than, 0.5%, but less than 1%.
- (k) Non-toxic. Materials incapable of causing harmful effects to living organisms. As determined by

the department, the claim must be adequately substantiated by supporting data.

### 603-059-0070 Investigational Allowances, Minimum Detection Limits

(1) Investigational allowance means an allowance for variations inherent in the taking, preparation and analysis of an official sample. The following investigational allowances provide enforcement consistency in determining deficiencies in products addressed in the administration of ORS 633.311 to 633.479 and 633.994. Products will be deemed deficient if the analysis of any nutrient, or Lime Score calculation, is below the guarantee by an amount exceeding the following values:

(a) Investigational allowances for primary nutrients are as follows:

<b>% Guarantee</b>	<b>N</b>	<b>P<sub>2</sub>O<sub>5</sub></b>	<b>K<sub>2</sub>O</b>
4% or Less	0.49	0.67	0.41
5%	0.51	0.67	0.43
6%	0.52	0.67	0.47
7%	0.54	0.68	0.53
8%	0.55	0.68	0.60
9%	0.57	0.68	0.65
10%	0.58	0.69	0.70
12%	0.61	0.69	0.79
14%	0.63	0.70	0.87
16%	0.67	0.70	0.94
18%	0.70	0.71	1.01
20%	0.73	0.72	1.08
22%	0.75	0.72	1.15
24%	0.78	0.73	1.21
26%	0.81	0.73	1.27
28%	0.83	0.74	1.33
30%	0.86	0.75	1.39
32%	0.88	0.76	1.44
34%	*	0.79	1.46
36%	*	0.83	1.49
38%	*	0.86	1.51
40%	*	0.90	1.54
42%	*	0.93	1.56
44%	*	0.96	1.58
46%	*	1.00	1.46
48%	*	1.03	1.63
50%	*	1.07	1.66

52%	*	1.10	1.68
54%	*	#	1.70
56%	*	#	1.73
58%	*	#	1.75
60%	*	#	1.78
62%	*	#	1.80

\* For N guarantees above 32%, the investigational allowance shall be 0.88.

# For P<sub>2</sub>O<sub>5</sub> guarantees above 52%, the investigational allowance shall be 1.10.

For K<sub>2</sub>O guarantees above 62%, the investigational allowance shall be 1.80.

For guarantees not listed, calculate the appropriate value by interpolation.

(b) Investigational allowances for secondary nutrients and micronutrients are as follows:

Element	Investigational Allowance
Ca	0.2 Unit + 5% of Guarantee
Mg	0.2 Unit + 5% of Guarantee
S	0.2 Unit + 5% of Guarantee
B	0.003 Unit + 15% of Guarantee
Co	0.0001 Unit + 30% of Guarantee
Cl	0.005 Unit + 10% of Guarantee
Cu	0.005 Unit + 10% of Guarantee
Fe	0.005 Unit + 10% of Guarantee
Mn	0.005 Unit + 10% of Guarantee
Mo	0.0001 Unit + 30% of Guarantee
Na	0.005 Unit + 10% of Guarantee
Zn	0.005 Unit + 10% of Guarantee

“UNIT” is twenty (20) pounds of plant food or one percent (1%) of a ton

The maximum allowance when calculated in accordance to the above shall be 1 unit (1%).

(c) Investigational allowances for lime products are as follows:

- (A) When the Lime Score is found to be more than 5% deficient from the stated Lime Score.
- (B) When the amount of calcium carbonate, calcium oxide, magnesium carbonate or magnesium oxide content is found to be more than 10% below the guarantee.

(d) Investigational allowances for ingredients other than primary nutrients, secondary nutrients and micronutrients are as follows:

- (A) When the amount of other ingredients is found to be more than 15% below the guarantee.

(2) Minimum detection limits for laboratory analysis reports of metal levels required by the department in accordance with ORS 633.362 must be declared at, or below, the following:

Arsenic	10.0 ppm
Cadmium	05.0 ppm
Lead	05.0 ppm
Mercury	0.20 ppm
Nickel	05.0 ppm



## 603-059-0080 Enforcement Guidelines

- (1) In addition to any other penalty provided by law, the Director may assess civil penalties for prohibited acts identified in ORS 633.366. Civil penalties will be issued in accordance to the magnitude of the violation. The department is not precluded from utilizing other enforcement alternatives. Enforcement alternatives may include, but are not limited to, letter of advisement, notice of violation, stop sale, use or removal order, and license/registration revocation, suspension or denial. Commission of each prohibited act is a violation of ORS Chapter 633 and subject to a civil penalty. Prohibited acts are categorized as to the magnitude of violation as follows:
- (a) Category I (Major): The Department will issue a civil penalty for initial Category I violations in addition to any alternative enforcement action deemed necessary to protect the public interests. Category I violations include:
- (A) ORS 633.366(1)(b) Register or attempt to register any product using fraudulent or deceptive practices to evade or attempt to evade the requirements of ORS 633.311 to 633.479 and 633.994 or rules adopted thereunder;
  - (B) ORS 633.366(1)(g) Make false or fraudulent applications, records, invoices or reports;
  - (C) ORS 633.366(1)(j) Sell, use or remove any product subjected to a stop sale, use or removal order until the product has been released in accordance with ORS 633.445;
  - (D) ORS 633.366(1)(k) Impede, obstruct, hinder or otherwise prevent or attempt to prevent the department from the performance of department duties under ORS 633.311 to 633.479 and 633.994.;
- (b) Category II (Moderate): The Department may take initial alternative enforcement action and may allow a specified amount of time to take corrective action prior to issuance of a civil penalty for a Category II violation. Failure to complete the required corrective action within the specified time period, or repeat violations, will result in the immediate issuance of a civil penalty. Category II violations include:
- (A) Sell, offer for sale, or distribute adulterated products (ORS 633.366(1)(c));
  - (B) Fail, refuse, or neglect to keep or maintain records as required under ORS 633.476, Chapter 514, Oregon Laws 2015, section 2 and section 3 or refuse to make available such records pursuant to ORS 633.385 upon request by the department (ORS 633.366(1)(f));
  - (C) Knowingly or intentionally make any false or misleading representations in connection with the sale, offer for sale, or distribution of fertilizer, agricultural amendment, agricultural mineral, or lime products (ORS 633.366(1)(L)).
- (c) Category III (Minor): The Department will take initial alternative enforcement action in writing and will allow a specified amount of time to take corrective action prior to the issuance of a civil penalty for a Category III violation. Failure to complete the corrective action within the specified time period, or repeat violations, may result in the immediate issuance of a civil penalty. Category III violations include:
- (A) Sell, offer for sale, or distribute mislabeled products (ORS 633.366(1)(a)), including, but not limited to, when the product is:
    - (i) Deemed deficient as defined in 603-059-0070(1)(a)–(d);
    - (ii) Not labeled pursuant to 603-059-0055(1) or 603-059-0055(5)
  - (B) Fail, refuse, or neglect to deliver to a purchaser of a bulk fertilizer, agricultural amendment, agricultural mineral or lime product a printed label that complies with ORS 633.321 to 633.341 (633.366(1)(d));
  - (C) Sell, offer for sale, or distribute a fertilizer, agricultural amendment, agricultural mineral or lime product that is not registered with the State Department of Agriculture under ORS 633.362 (633.366(1)(e));
  - (D) Fail, refuse, or neglect to provide notification to the department as required by ORS 633.318(5) or 633.362(8) (633.366(1)(h));
  - (E) Fail, refuse, or neglect to obtain a manufacturer-bulk distributor license required under ORS 633.318 (633.366(1)(i));
  - (F) Fail, refuse, or neglect to file a semiannual statement with the department as required under Chapter 514, Oregon Laws 2015, section 2 and section 3 (ORS 633.366(1)(m));
  - (G) Fail, refuse, or neglect to pay inspection fees required under Chapter 514, Oregon Laws 2015, section 3 (ORS 633.366(1)(n)).
- (d) To “refuse,” in the context of these prohibited acts, constitutes a willful misconduct violation and is subject to a civil penalty of not more than \$10,000 for the initial violation or any subsequent violation.

(2) Maximum civil penalties are not to exceed the following:

Category	1st Violation	2nd Violation	3rd Violation
Category I (Major)	\$500	\$1500	\$10,000
Category II (Moderate)	\$250	\$750	\$5,000
Category III (Minor)	\$125	\$375	\$2,500

(3) As authorized by ORS 633.994(5) A civil penalty imposed under 633.311 to 633.479 and 633.994 may be remitted or reduced upon such terms and conditions as the Director of Agriculture considers proper and consistent with the public health and safety.

(4) As authorized by ORS 633.994(3), any violation that arises from gross negligence or willful misconduct and results in substantial harm to human health or the environment may be subject to a civil penalty of not more than \$10,000 for the initial violation or any subsequent violation.

### 603-059-0100 Limits of Non Nutritive Constituents

(1) Fertilizer, agricultural amendment, agricultural mineral and lime products sold or distributed in the state and required to be registered with the Department shall be limited in the level of the metals arsenic (As), cadmium (Cd), mercury (Hg), lead (Pb), and nickel (Ni), contained therein, specifically:

(a) When the product has a guaranteed analysis of available phosphate (P<sub>2</sub>O<sub>5</sub>), for each percent of P<sub>2</sub>O<sub>5</sub> guaranteed, the maximum allowed level of a metal, expressed in parts per million (ppm), must not exceed: 9 ppm arsenic, 7.5 ppm cadmium, 43 ppm lead, 0.7 ppm mercury, 175 ppm nickel.

(A) To determine the maximum allowed concentration of each metal in a product, multiply the percent guaranteed P<sub>2</sub>O<sub>5</sub> for the product by the maximum allowed level of the metal.

(B) For the purpose of calculating the maximum allowed concentration of a metal in a product with a guaranteed analysis of less than six percent P<sub>2</sub>O<sub>5</sub>, the minimum percent of P<sub>2</sub>O<sub>5</sub> utilized as a multiplier shall be 6.0.

(b) When the product has no guaranteed analysis of available phosphate (P<sub>2</sub>O<sub>5</sub>) but does have a guaranteed analysis of one micronutrient, for each percent of the micronutrient guaranteed, the maximum allowed level of a metal, expressed in parts per million (ppm), must not exceed: 76 ppm arsenic, 61 ppm cadmium, 340 ppm lead, 4.5 ppm mercury, 1330 ppm nickel.

(A) To determine the maximum allowed concentration of each metal in a product, multiply the percent of the micronutrient guaranteed for the product by the maximum allowed level of the metal.

(B) For the purpose of calculating the maximum allowed concentration of a metal in a product with less than one percent micronutrient guaranteed, the minimum percent of micronutrient utilized as a multiplier shall be 1.0.

(c) When the product has no guaranteed analysis of available phosphate (P<sub>2</sub>O<sub>5</sub>) but does have a guaranteed analysis of two or more micronutrients, for each percent of the micronutrient in the greatest concentration, the product shall not contain more than 76 parts per million (ppm) arsenic, 61 ppm cadmium, 340 ppm lead, 4.5 ppm mercury, 1330 ppm nickel.

(A) To determine the maximum allowed concentration of each metal in a product, multiply the percent of the micronutrient guaranteed for the product in the greatest concentration by the maximum allowed level of each metal.

(B) For the purpose of calculating the maximum allowed concentration of a metal in a product with less than one percent micronutrient guaranteed, the minimum percent of micronutrient utilized as a multiplier shall be 1.0.

(d) When the product has a guaranteed analysis of available phosphate (P<sub>2</sub>O<sub>5</sub>) and has a guaranteed analysis of one micronutrient, the product shall not contain more of any metal than the higher of the two resulting values as calculated in (a) or (b) above, specifically: To determine the maximum allowed concentration of a metal in a product, multiply the percent guaranteed P<sub>2</sub>O<sub>5</sub> for the product by the maximum allowed level of the metal as stated in (a) above. Then multiply the percent of the micronutrient guaranteed for the product by the maximum allowed level of the metal as stated in (b) above. Utilize the higher of the two resulting values as the maximum allowable metal concentration.

(e) When the product has a guaranteed analysis of available phosphate (P<sub>2</sub>O<sub>5</sub>) and has a guaranteed analysis of two or more micronutrients, the product shall not contain more of any metal than the higher of the resulting values as calculated in (a) or (c) above. To determine the maximum allowed concentration of each metal in a product, multiply the percent guaranteed P<sub>2</sub>O<sub>5</sub> for the product by the maximum allowed level of the metal as stated in (a) above. Then multiply the highest percent of a micronutrient guaranteed for the product by the maximum allowed level of the metal as stated in (c) above. Utilize

the higher of the resulting values as the maximum allowable metal concentration.

- (f) When the product has no guaranteed analysis of available phosphate ( $P_2O_5$ ) and no guaranteed analysis of a micronutrient, the product shall not contain more than: 54 parts per million (ppm) arsenic, 45 ppm cadmium, 258 ppm lead, 4.2 ppm mercury, 1050 ppm nickel.
- (2) Any fertilizer, agricultural amendment, agricultural mineral or lime product which is made from zinc recycled hazardous wastes as regulated under the Resource Conservation and Recovery Act (RCRA) must comply with the existing, applicable land disposal restriction (LDR) treatment standards for the hazardous wastes the products contain or comply with the conditions for excluding hazardous secondary materials as established in the Federal Register/Vol.67, No. 142/ Wednesday, July 24, 2002/Pages 48393–48415.
- (3) The department will review the permitted levels of metals or other substances in fertilizer, agricultural amendment, agricultural mineral and lime products every three years as authorized by ORS 633.362(11).
- (4) Registration of a fertilizer, agricultural amendment, agricultural mineral or lime product with the department does not entitle the user of such product to violate regulations administered by any other authority with jurisdiction, including Water Quality Standards administered by the Department of Environmental Quality.

