

Wisconsin Administrative Code ATCP 40 Fertilizer & Soil or Plant Additive Programs

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Mission and Goal

Mission:

To protect consumers from fraud and deception and to prevent the distribution of mislabeled products in Wisconsin.

Goal:

To further improve industry compliance with laws regulating the manufacture, labeling and distribution of fertilizers and soil or plant additives in the state.

Summary of Changes

- **Clarifies standards & procedures for licensing, permitting & labeling**
- **Exempts unpackaged, manipulated manure applied to land under a Nutrient Management Plan**
- **Exempts federally listed organic products labeled solely for organic production from permits**
- **Prohibits excessive concentrations of Heavy Metals**

License Requirements

- **Annual license required for any person who manufactures and/or distributes fertilizer and/or soil or plant additives in Wisconsin**
 - **Distribute means to sell or give away**
- **Rule clarifies current licensing requirements and procedures**

Manure

- **Defines manipulated and unmanipulated manure**
- **Manipulated Manure is Fertilizer**
- **Exempts unpackaged bulk manipulated manure used on land under a Nutrient Management Plan from requirements (License & Tonnage Fee not required)**

Manipulated Manure

- **Manure that is ground, pelletized, mechanically dried, packaged, supplemented with plant nutrients or other substances, or treated to facilitate sale or distribution as a fertilizer or soil or plant additive.**
 - **Needs Fertilizer and/or Soil or Plant Additive License**
 - **Exempt from licensing and tonnage fee if distributed to land under Nutrient Mgmt Plan**

Unmanipulated Manure

- **On-farm practices of animal husbandry, livestock facility cleaning, manure handling, manure storage or odor control on the farm where the manure is produced:**
 - adding bedding, sand or water.
 - Shredding, grinding or agitating for purposes of manure handling or removal from a manure storage system.
 - Drying incidental to mechanical ventilation of animal confinement areas.

License Required for Manure - Examples

- **Mixed with another ingredient**
 - Compost, Sand, Nutrient, etc
 - Distributed as packaged or bulk
- **Distributed to Land Not Under a Nutrient Management Plan**
 - Sold or Given Away
- **Separating Solids From Liquids is Manipulated; Tonnage On Each**

Product Specific Permits

- **Soil or Plant Additive**
- **Low-nutrient mixed fertilizers**
 - **Product specific permit to distribute fertilizers with *less than 24* total units of N, P and K**
 - **Nonagricultural or agricultural special-use fertilizer**
 - **Exempts federally listed “organic” product labeled solely for organic crop production**

Permit Review Timeframe

- **30 days to determine and notify applicant if application is incomplete**
- **Applicant must respond in 30 days if incomplete or DATCP may deny**
- **Complete application reviewed & decision made within 60 working days**
- **Supplementary review, if needed, to be completed within 120 days and grant or deny permit**

Organic Fertilizer Requirements

- **Exempts federally listed organic products from permit requirements and some labeling requirements if the following occur:**
 - **Product is federally listed for organic crop production or is approved by an accredited agency**
 - **Product label states “This product is intended for use according to an approved organic system plan.”**
 - **No performance claims**
 - **Includes use instructions**
 - **All other labeling requirements apply**

Substantiation Requirements

- **Before DATCP issues a permit, the applicant must be able to submit credible and reputable field research to verify that the proposed directions and application rates, as well as all product claims, are scientifically valid.**

Fertilizer Labeling Requirements

- **All fertilizers must be labeled with the following:**
 - **Name and address of licensed manufacturer**
 - **Brand or product name**
 - **N-P-K grade**
 - **Guaranteed analysis**
 - **Net weight**
 - **Any statements/disclaimers required by rule**

Soil or Plant Additive Labeling Requirements

- **Similar to fertilizer labeling except:**
 - **Specific purpose for which product is claimed to be effective.**
 - **Complete and acceptable directions and application rates.**
- **This rule clarifies current labeling requirements.**

Special Provisions

- **Foliar fertilizers**
- **Phosphite or phosphorous acid**
- **Soil or Plant Additive's containing humic substances**

Content Deficiencies

- **An “official test” fertilizer is mislabeled if:**
 - **Contains less than 90% of guarantee or 2 percentage points (whichever is less)**
 - **The economic value of NPK is less than 98% of the amounts guaranteed**
 - **Non NPK are specified in the rule**
 - **Soil or Plant Additive mislabeled if it contains less than 98% of labeled active ingredient**

Toxic Substances

- **No Product may contain:**
 - Toxic concentrations of *metals* as specified in rule
 - A substance that is toxic or injurious to plants, animals or humans when the fertilizer or soil or plant additive is handled or applied under reasonably foreseeable use conditions, unless the substance and its hazards are identified on the product label.

Enforcement Actions

- **Warning Letters/Notices**
- **Stop Sales/Holding Orders**
- **Special Orders**
- **Injunctions**
- **Forfeitures/Fines**
- **License Suspension/License Revocation**