

Effective 7/1/2017

Chapter 13 Utah Fertilizer Act

4-13-101 Title.

This chapter is known as the "Utah Fertilizer Act."

Renumbered and Amended by Chapter 345, 2017 General Session

4-13-102 Definitions.

As used in this chapter:

- (1) "Adulterated fertilizer" means a fertilizer or soil amendment that:
 - (a) contains a deleterious or harmful substance in sufficient amount to render it injurious to beneficial plant life, animals, humans, aquatic life, soil, or water when applied in accordance with the directions for use on the label;
 - (b) has a composition that falls below or differs from that which the composition is purported to possess by the composition's labeling;
 - (c) contains unwanted crop or weed seed; or
 - (d) exceeds levels of metals permitted by the United States Environmental Protection Agency.
- (2) "Beneficial substances or compounds" means a substance or compound other than primary, secondary, and micro plant nutrients that can be demonstrated by scientific research to be beneficial to one or more species of plants when applied exogenously.
- (3) "Biostimulant" means a product containing naturally-occurring substances and microbes that are used to stimulate plant growth, enhance resistance to plant pests, and reduce abiotic stress.
- (4) "Blender" means a person engaged in the business of blending or mixing fertilizer, soil amendments, or both.
- (5) "Brand" means a term, design, or trade mark used in connection with one or several grades of fertilizer or soil amendment.
- (6) "Bulk fertilizer" means fertilizer delivered to the purchaser either in solid or liquid state in a non-packaged form to which a label cannot be attached.
- (7) "Custom blend" means a fertilizer blended according to specification provided to a blender in a soil test nutrient recommendation or to meet the specific consumer request before blending.
- (8) "Deficiency" means the amount of nutrient found by analysis to be less than that guaranteed.
- (9) "Derivation" means the source from which the guaranteed nutrients are derived.
- (10) "Distribute" means to import, consign, manufacture, produce, compound, mix, blend, or to offer for sale, sell, barter, or supply fertilizer or soil amendments in the state.
- (11) "Distributor" means a person who distributes.
- (12) "Fertilizer" means a substance that contains one or more recognized plant nutrients that is used for the substance's plant nutrient content and is designed for use or claimed to have value in promoting plant growth, exclusive of unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, gypsum, and other products exempted by rule.
- (13) "Fertilizer material" means a fertilizer that contains:
 - (a) quantities of no more than one of the primary plant nutrients, nitrogen (N), phosphate (P₂O₅), Potash (K₂O);
 - (b) 85% plant nutrients in the form of a single chemical compound; or

- (c) plant or animal residues or by-products, or a natural material deposit that is processed so that its primary plant nutrients have not been materially changed, except through purification and concentration.
- (14) "Grade" means the percentage of total nitrogen, available phosphate and soluble potash stated in the same terms, order, and percentages as in the guaranteed analysis.
- (15)
 - (a) "Guaranteed analysis" means the minimum percentage by weight of plant nutrients claimed in the following order and form:

Total Nitrogen (N)	_____ percent
Available Phosphate (P ₂ O ₅)	_____ percent
Soluble Potash (K ₂ O)	_____ percent
 - (b) For unacidulated mineral phosphatic material and basic slag, bone, tankage, and other organic phosphate or degree of fineness may also be guaranteed.
 - (c)
 - (i) Guarantees for plant nutrients other than nitrogen, phosphorus, and potassium may be permitted or required by rule of the department.
 - (ii) The guarantees for such other nutrients shall be expressed in the form of the element.
 - (iii) The sources of such other nutrients, such as oxides, salt, chelates, may be required to be stated on the application for registration and may be included as a parenthetical statement on the label.
 - (iv) Other beneficial substances or compounds, determinable by laboratory methods, also may be guaranteed by permission of the department.
 - (v) Any plant nutrients or other substances or compounds guaranteed are subject to inspection and analysis in accord with the methods and rules prescribed by the department.
- (16) "Investigational allowance" means an allowance for variations inherent in the taking, preparation, and analysis of an official sample of fertilizer or soil amendment.
- (17) "Label" means the display of the written, printed, or graphic matter upon the immediate container or statement accompanying a fertilizer or soil amendment.
- (18) "Labeling" means the written, printed, or graphic matter upon or accompanying fertilizer or soil amendment, or advertisements, brochures, posters, television and radio announcements used in promoting the sale of fertilizers or soil amendments.
- (19) "Lot" means a definite quantity identified by a combination of numbers, letters, characters, or amount represented by a weight certificate from which every part is uniform within recognized tolerances from which the distributor can be determined.
- (20) "Micro plant nutrient" means boron, chlorine, cobalt, copper, iron, manganese, molybdenum, nickel, sodium, and zinc.
- (21) "Mixed fertilizer" means a fertilizer containing any combination or mixture of fertilizer materials.
- (22) "Nonplant food ingredient" means a substance or compound other than the primary, secondary, or micro nutrients.
- (23) "Official sample" means a sample of fertilizer or soil amendment taken by the department and designated as "official."
- (24) "Other ingredients" means the non-soil amending ingredients present in soil amendments.
- (25) "Percent" or "percentage" means the percentage by weight.
- (26) "Plant amendment" means a substance applied to plants or seeds that is intended to improve growth, yield, product quality, reproduction, flavor, or other favorable characteristics of plants

except fertilizer, soil amendments, agricultural liming materials, animal and vegetable manure, pesticides, or plant regulators.

- (27) "Primary nutrient" includes total nitrogen, available phosphate, and soluble potash.
- (28) "Registrant" means a person who registers a fertilizer or a soil amendment under this chapter.
- (29) "Secondary nutrient" includes calcium, magnesium, and sulfur.
- (30) "Slow release fertilizer" means a fertilizer in a form that releases, or converts to a plant-available form, plant nutrients at a slower rate relative to an appropriate reference soluble product.
- (31) "Soil amending ingredient" means a substance that will improve the physical, chemical, biochemical, biological, or other characteristics of the soil.
- (32) "Soil amendment" means a substance or a mixture of substances that is intended to improve the physical, chemical, biochemical, biological, or other characteristics of the soil, except fertilizers, agricultural liming materials, unmanipulated animal manures, unmanipulated vegetable manures, or pesticides.
- (33) "Specialty fertilizer" means fertilizer distributed primarily for non-farm use, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses, and nurseries.
- (34) "Ton" means a net weight of 2,000 pounds avoirdupois.

Amended by Chapter 528, 2023 General Session

4-13-103 Distribution of fertilizer or soil amendment -- Registration required -- Application -- Fees -- Expiration -- Renewal -- Exemptions specified -- Blenders and mixers.

- (1)
 - (a) A brand and grade of fertilizer or soil amendment shall be registered in the name of the person whose name appears upon the label before being distributed in this state.
 - (b) The application for registration shall be submitted to the department on a form prescribed and furnished by the department, and shall be accompanied by a fee determined by the department pursuant to Subsection 4-2-103(2) for each brand and grade.
 - (c) Upon approval by the department, a copy of the registration shall be furnished to the applicant.
 - (d)
 - (i) A registration expires at midnight on December 31 of the year in which issued.
 - (ii) A registration is renewable for a period of one year upon the payment of an annual registration renewal fee in an amount equal to the current applicable original registration fee.
 - (iii) A renewal fee shall be paid on or before December 31 of each year.
- (2) A distributor is not required to register fertilizer that has been registered by another person under this chapter if the label does not differ in any respect.
- (3)
 - (a) A blender is not required to register each grade of fertilizer or soil amendment formulated according to specifications provided by a consumer before mixing, but is required to:
 - (i) license the name under which the business of blending or mixing is conducted;
 - (ii) pay an annual blenders license fee determined by the department pursuant to Subsection 4-2-103(2); and
 - (iii) label the fertilizer or soil amendment as provided in Section 4-13-104.
 - (b)
 - (i) A blenders license expires at midnight on December 31 of the year in which the license is issued.

- (ii) A blenders license is renewable for a period of one year upon the payment of an annual license renewal fee in an amount equal to the current applicable original blenders license fee.
 - (iii) A renewal fee shall be paid on or before December 31 of each year.
- (4)
- (a) A tonnage fee shall be assessed on fertilizer and soil amendment products sold in the state.
 - (b) The fee shall be determined by the department pursuant to Subsection 4-2-103(2).
 - (c) When more than one person is involved in the distribution of a fertilizer or soil amendment, the final person who has the fertilizer or soil amendment registered and distributed to a non-registrant or consumer is responsible for reporting the tonnage and paying the tonnage fee, unless the report and payment is made by a prior distributor of the fertilizer or soil amendment.
 - (d) The tonnage report shall be submitted on a form provided by the department on or before December 31 annually covering shipments made during the preceding 12-month period from November 1 to October 31.
 - (e) Revenue generated by the fee shall be deposited into the General Fund as dedicated credits to be used by the department for education and research about and promotion of proper fertilizer and soil amendment distribution, handling, and use.

Amended by Chapter 311, 2020 General Session

4-13-104 Labeling requirements for fertilizer and soil amendments specified.

- (1) A container of fertilizer distributed in this state shall bear a label in clearly legible and conspicuous form setting forth the:
 - (a) brand name and grade;
 - (b) guaranteed analysis, except that:
 - (i) sources of nutrients, when shown on the label, shall be listed below the completed guaranteed analysis in order of predominance;
 - (ii) guarantees of zeros may not be made and may not appear in statement except in nutrient guarantee breakdowns; and
 - (iii) if chemical forms of nitrogen are claimed or required, the form shall be shown, but no implied order of the forms of nitrogen is intended;
 - (c) derivation statement of guaranteed nutrients, nonplant food ingredients, and beneficial substances or compounds if present;
 - (d) directions for use when applicable;
 - (e) caution or warning statement when applicable;
 - (f) name and address of the registrant or the manufacturer, if different from the registrant;
 - (g) net weight or volume; and
 - (h) lot number.
- (2) A container of specialty fertilizer distributed in this state shall bear a label in clear, legible, and conspicuous form setting forth the information specified in Subsections (1)(a) through (h).
- (3) A shipment of custom blend fertilizer shall be accompanied by a printed or written statement setting forth the:
 - (a) information specified in Subsections (1)(a) through (c);
 - (b) name and address of the licensed blender;
 - (c) net weight or volume; and
 - (d) lot number.

- (4) A shipment of fertilizer material shall be accompanied by a printed or written statement setting forth the:
 - (a) information specified in Subsections (1)(a) through (c);
 - (b) name and address of the registrant if different from the supplier or shipper;
 - (c) net weight or volume; and
 - (d) lot number.
- (5) The grade is not required on a fertilizer label when no primary nutrients are claimed or are less than one percent.
- (6) Additional nutrient guarantees may not be an extension of the grade statement and shall be a separate line or include terms such as "plus," "with," or "including."
- (7) A soil amendment distributed in the state shall bear a label in clearly legible and conspicuous form setting forth the:
 - (a) brand name;
 - (b) guaranteed analysis, which includes:
 - (i) nonplant food ingredients separated out by soil amending ingredients and other total ingredients, in that order, by percentages; and
 - (ii) nonsoil amending ingredients separating out beneficial substances and beneficial compounds, in that order, by percentage or acceptable units;
 - (c) purpose of product;
 - (d) direction for application;
 - (e) caution or warning statement when applicable;
 - (f) name and address of registrant; and
 - (g) net weight or volume.
- (8) The department may require proof of claims made, usefulness, and value of the soil amendments.
- (9) For evidence of proof the department may rely on experimental data, evaluations, or advice supplied from such sources as the director of the Agricultural Experiment Station. The experimental design shall be related to state conditions for which the product is intended.
- (10) Information or a statement may not appear on a package, label, delivery slip, or advertising matter that is false or misleading to the purchaser as to the use, value, quality, analysis, type, or composition of the soil amendment.
- (11) A fertilizer is misbranded if:
 - (a) the fertilizer's labeling is false or misleading in any particular;
 - (b) the fertilizer is distributed under the name of another fertilizer product;
 - (c) the fertilizer is not labeled as required; or
 - (d) the fertilizer purports to be or is represented as fertilizer, or is represented as containing a plant nutrient fertilizer that does not conform with the definition of identity or any commonly accepted definitions of official fertilizer terms.

Amended by Chapter 311, 2020 General Session

4-13-105 Enforcement -- Inspection and samples authorized -- Methods for sampling and analysis prescribed -- Warrants.

- (1) The department shall periodically sample, inspect, analyze, and test fertilizers and soil amendments distributed within this state to determine if they comply with this chapter.
- (2)
 - (a) The methods of sampling and analysis shall be those adopted by the AOAC International.

- (b) In a case not covered by the methods adopted under Subsection (2)(a), or in a case when a method is available in which improved applicability has been demonstrated, the department may adopt appropriate methods from other sources.
- (3) In determining whether a fertilizer or soil amendment is deficient, the department shall be guided solely by the official sample.
- (4)
 - (a) The department may enter any public or private premises or carriers during regular business hours to have access to fertilizers or soil amendments and records relating to the distribution of fertilizers and soil amendments subject to this chapter.
 - (b) If admittance is refused, the department may proceed immediately to obtain an ex parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises for the purpose of making inspections and obtaining samples.
- (5) The department shall distribute the results of an official sample.
- (6) The department shall retain an official sample for a minimum of 90 days from the issuance of a report.

Amended by Chapter 311, 2020 General Session

4-13-106 Distribution of fertilizers not complying with labeling requirements prohibited -- Penalty assessed -- Court action to vacate or amend finding authorized.

- (1) A person may not distribute in this state a fertilizer, fertilizer material, soil amendment, or specialty fertilizer if the official sample thereof establishes that the fertilizer, fertilizer material, soil amendment, or specialty fertilizer is deficient in the nutrients or ingredients guaranteed on the label by an amount exceeding the values established by rule.
- (2) The department shall evaluate and take administrative action the department prescribes for a deficiency beyond the investigational allowances established by the department.
- (3) A registrant aggrieved by the finding of an official sample deficiency may file a complaint with a court of competent jurisdiction to vacate or amend the finding of the department.

Amended by Chapter 311, 2020 General Session

4-13-108 Denial, suspension, or revocation authorized -- Grounds -- Stop sale, use, or removal order authorized -- Court action -- Procedure -- Costs.

- (1) The department may deny, revoke, or suspend the license for a blender or the registration of a brand of fertilizer or soil amendment upon satisfactory evidence that the licensee or registrant has used fraudulent or deceptive practices in licensure, registration, or distribution in this state.
- (2)
 - (a) The department may issue a "stop sale, use, or removal order" to the owner or person in possession of any designated lot of fertilizer or soil amendment that the department finds or has reason to believe is being offered or exposed for sale in violation of this chapter.
 - (b) The order shall be in writing and fertilizer or soil amendment subject to the order may not be moved or offered or exposed for sale, except upon the subsequent written release of the department.
 - (c) Before a release is issued, the department may require the owner or person in possession of the "stopped" lot to pay the expense incurred by the department in connection with the withdrawal of the product from the market.
- (3)

- (a) The department may seek in a court of competent jurisdiction an order of seizure or condemnation of any fertilizer that violates this chapter or, upon proper grounds, to obtain a temporary restraining order or permanent injunction, to prevent violation of this chapter.
- (b) A bond may not be required of the department in any injunctive proceeding under this section.
- (4) If condemnation is ordered, the fertilizer or soil amendment shall be disposed of as the court directs, except that the court may not order condemnation without giving the claimant of the fertilizer or soil amendment an opportunity to apply to the court for permission to relabel, reprocess, or otherwise bring the product into conformance, or to remove the fertilizer or soil amendment from the state.
- (5) If the court orders condemnation of the fertilizer or soil amendment, court costs, fees, storage, and other expenses shall be awarded against the claimant of the fertilizer or soil amendment.

Amended by Chapter 311, 2020 General Session

4-13-109 Sales or exchanges of fertilizers or soil amendments between manufacturers, importers, or manipulators permitted.

This chapter may not be construed to restrict or avoid sales or exchanges of fertilizers or soil amendments to each other by importers, manufacturers, or manipulators who mix fertilizer or soil amendment materials for sale or as preventing the free and unrestricted shipment of fertilizer or soil amendments to manufacturers or manipulators who have registered their brands as required by this chapter.

Amended by Chapter 311, 2020 General Session

4-13-110 Department may make and enforce rules -- Cooperation with state and federal agencies authorized.

- (1)
 - (a) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and enforce the rules to administer and enforce this chapter.
 - (b) The department shall by rule adopt the official terms, tables, definitions, and statements adopted by the Association of American Plant Food Control officials and published in the official publications of that organization.
- (2) The department may enter into agreements with other agencies of the state, other states, and agencies of the federal government to administer and enforce this chapter.
- (3) The department may use the following terms in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to the extent that the department is authorized to make rules by a provision other than this Subsection (3):
 - (a) biostimulant;
 - (b) bulk fertilizer;
 - (c) plant amendment;
 - (d) secondary nutrient; and
 - (e) slow release fertilizer.

Enacted by Chapter 311, 2020 General Session