



## ATCP 40 – Fertilizer and Related Products

### Frequently Asked Questions – Bulk Fertilizer Requirements

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#### BACKGROUND

The Wisconsin Department of Agriculture, Trade and Consumer Protection (ATCP) issued a revised administrative rule, Chapter ATCP 40, in September 2005. This new rule better clarifies the requirements for bulk fertilizer licensing, tonnage reporting, and labeling. This fact sheet is only a summary and does not include all of the requirements for bulk fertilizer.

#### DEFINITIONS

##### *What is “Bulk Fertilizer?”*

Bulk fertilizer is distributed in unpackaged form, or in a container that holds more than 55 gallons of liquid or 100 pounds of dry material. This applies to fertilizer and fertilizer combined with other material.

#### LICENSE REQUIREMENTS

##### *Do bulk fertilizer facilities need to be licensed?*

A separate license is required for each business location and each mobile unit at which bulk fertilizer is manufactured (processed, granulated, formulated, mixed or blended) or distributed. “Distribute,” by law, means “to import, consign, sell, offer for sale, solicit orders for sale or supply for sale or use in this state.” For this reason **a separate license is also required if a company has a separate office location, even if fertilizer is not on the premises.** Licenses expire every year on August 14 and must be renewed annually. If a facility relocates, the license is not transferable; a new license must be issued.

There are exemptions to requiring a fertilizer license which include:

1. Distributing fertilizer to another licensed facility for further manufacture.
2. Distributing packaged fertilizer in its original package, as packaged and labeled by a person who holds a fertilizer license and applicable product permits, unless additional content or performance claims are made.

3. Distributing bulk fertilizer obtained from another licensed facility as long as label information is provided by the licensed supplier, including the supplier's name, product name, fertilizer grade and guaranteed analysis, and the fertilizer is not further blended or mixed except to combine identically labeled lots of bulk fertilizer received from the same licensed supplier.

## PERMIT REQUIREMENTS

### *Are permits required for either liquid or dry bulk fertilizers?*

For mixed fertilizers that have combined total nitrogen, available phosphate, and soluble potash content equal to or greater than 24%, no fertilizer permit is required. If the combined NPK content is less than 24%, a non-agricultural or special-use permit is required for each grade distributed.

There are exemptions to requiring a fertilizer permit which include:

1. Providing fertilizer at no cost to a recognized research institution solely for the purpose of conducting scientific research.
2. Distributing a fertilizer derived from a single source material of uniform plant nutrient content that is accurately described by a term defined in the Official Publication of the Association of American Plant Food Control Officials, No.57 (2004).
3. Distributing a fertilizer conspicuously labeled, **“This product is intended for use according to an approved organic system plan.”** The fertilizer or all of its ingredients must qualify under 7 CFR 205 for use in organic crop production. The manufacturer or distributor cannot make any performance claims, verbally or in writing, for the product. The product label must provide use directions, including use rates and methods of application.
4. Distributing a fertilizer labeled with the statement **“for further manufacture”** to a licensed fertilizer manufacturer. The facility that further manufactures a fertilizer (including a lawn care company that reformulates a fertilizer by adding water) *does* require a fertilizer permit and is responsible for reporting and paying fees for tonnage.

### *What are the permitting requirements for fertilizer combined with other material?*

- A fertilizer can be combined with a soil or plant additive (SPA). A SPA is defined as “a substance, intended for application to seeds, soil or plants, that is designed for use or claimed to have value in promoting or sustaining plant growth, improving crop yield or quality, promoting or sustaining the fertility of soil, or favorably modifying the structural, physical or biological properties of the soil for agronomic or horticultural purposes. ‘Soil or plant additive’ includes a combination product containing a soil or plant additive, and also includes any product represented to contain humate, humin, humic acid, fulvic acid or other humic substances.”

A permit is required for the SPA portion of the product regardless if the fertilizer alone would require a permit or not. In addition, the facility must hold a soil or plant additive

license. An annual tonnage report is required for the SPA, *in addition to* the tonnage report for fertilizer/fertilizer ingredients.

- A facility may also manufacture or blend a fertilizer impregnated with pesticide. In this case, the facility is responsible to make sure all pesticide products are registered with the US EPA and licensed for use in Wisconsin. The individual impregnating a fertilizer with a pesticide must also be certified and licensed. The *fertilizer* component of the product would only require a permit if the combined NPK was less than 24%.

In addition, if an employee of the bulk fertilizer facility applies the fertilizer-pesticide to a farmer's property, the bulk fertilizer facility must hold a pesticide business license and the employee applying the product must hold a certification and license as a commercial pesticide applicator. Additional information regarding pesticide licensing may be found in Chapter ATCP 29.

- Fertilizers may also be combined with lime. The facility would be required to have, along with the fertilizer license, an annual lime license and be responsible for reporting and paying all fees for lime tonnage, **only if lime claims are made (not if lime is used as filler)**. A permit is not required for lime; if NPK is less than 24%, then a fertilizer permit is required.

#### ***What about bulk fertilizer combined with other plant nutrients?***

Fertilizers may be combined with secondary nutrients such as calcium (other than calcium nitrate), gypsum (calcium sulfate), sulfur, and magnesium; the enhancing elements aluminum, cobalt, selenium, silicon or sodium; and/or micronutrients such as boron, chlorine, copper, iron, manganese, molybdenum, nickel, and zinc. If these nutrients are added to a fertilizer that has a combined NPK content equal to or greater than 24%, an additional permit is not required for the added nutrients. If they are added to a fertilizer with a combined NPK grade less than 24%, or if they are distributed without the primary nutrients N, P, and K, a permit would be required for *each formulation*.

## **TONNAGE REPORTING AND FEES**

#### ***Do bulk fertilizer facilities need to report tonnage and pay tonnage fees to the department?***

A person required to hold a fertilizer license is required to report the number of tons of each grade of fertilizer distributed in Wisconsin. For bulk fertilizer facilities, they must report the tons of fertilizer materials distributed. Tonnage reports and fees are due every year on August 14 and cover the period July 1 of the previous year through June 30 of the current year. Reports must be filed in writing on a form provided by the department, even if the amount of fertilizer or fertilizer materials distributed in the 12 month period is "zero." A minimum fee is required for as little as one pound of fertilizer. Fee rates and calculation instructions are included on the reporting form. **Failure to file a correctly completed tonnage report will delay the renewal of the license.**

## **LABELING REQUIREMENTS FOR FERTILIZER SALES & STORAGE**

### ***What labeling information is required for the sale of a bulk fertilizer?***

A facility that manufactures or distributes bulk fertilizer must provide the recipient a written statement with each delivery. The written label statement must include:

1. The name and address of the licensed manufacturer or distributor
2. The name and address of the recipient
3. The date of the delivery
4. The product name, if any
5. \*The fertilizer grade, expressed in whole numbers, and conforming to the guaranteed analysis for total nitrogen (N), available phosphate (P<sub>2</sub>O<sub>5</sub>), and soluble potash (K<sub>2</sub>O).
6. \*A guaranteed analysis (**Note: Fertilizer grade and guaranteed analysis are NOT the same.**)
7. \*Instead of items 5 and 6 above, a manufacturer who custom mixes bulk fertilizer, may provide the purchaser with a written statement listing the weight and grade of each ingredient included in the custom blend, unless the purchaser contracts for a specific grade of custom mixed fertilizer
8. The net weight of each lot or load included in the delivery

### ***How must bulk fertilizer be labeled while it is being stored?***

A manufacturer or distributor who stores bulk fertilizer must attach, to each storage bin or container, a label that clearly and conspicuously identifies the name or grade of the fertilizer stored in that bin or container. The grade, if stated, must be stated in whole numbers.

### ***How must fertilizer with other plant nutrients be labeled?***

In addition to the labeling information required for bulk fertilizers given previously, bulk fertilizers that have additional plant nutrients or enhancing elements added must have a guaranteed analysis that follows the format given below. While N, P, and K must be expressed as “total,” “available,” and “soluble,” respectively, these terms cannot be used for the other nutrients listed. In addition, the various forms of nitrogen must appear as they do on the example given.

If the combined NPK content is less than 24% or if the fertilizer is labeled as containing an organic or slow released plant nutrient, the label must also contain a nutrient source statement that identifies the source material from which the guaranteed plant nutrients are derived, in descending order of content and using only terms defined in the Official Publication of the Association of American Plant Food Control Officials, No.57 (2004).

### ***How must fertilizer/SPA products be labeled?***

Bulk fertilizer/SPA combinations must have labeling information for bulk fertilizers given above in addition to a guaranteed analysis and additional information regarding the active and inert ingredients of the SPA, as in the example provided. If the SPA’s active ingredient is a microorganism, the microorganism must be identified by genus, and if any activity is unique to a species, the species must also be identified. The guaranteed analysis must also include the

number of viable microorganisms or colony forming units (CFU's), of each identified genus or species, per milliliter of liquid product or per gram of non-liquid product.

The guaranteed analysis for a fertilizer/SPA combination must also include a nutrient source statement described on page 4.

Labeling information must include purposes for which the soil or plant additive is recommended and effective, unless it is distributed solely for organic crop production, and complete use directions to ensure that the product is effective for the purposes recommended. Use directions must identify recommended application sites, methods, rates and frequencies.

***How must a pesticide-impregnated fertilizer be labeled?***

In addition to all the bulk fertilizer labeling information cited previously, when a facility distributes a bulk fertilizer/pesticide product, the facility must also provide the purchaser with a copy of the pesticide label. If the facility applies the fertilizer/pesticide product, they must make the application information available, if requested, and offer to give a copy of the label to the recipient before application is made. **(Note: Extreme care must be taken to prevent subsequent batches of mixed fertilizer from containing residual pesticides, which would be a violation of Chapter ATCP 29.)**

***How must a fertilizer with lime be labeled?***

Bulk fertilizer/lime combination products must have all the bulk fertilizer labeling material in addition to the net weight and index zone of the lime, **only if lime claims are made (not if lime is used as filler).**

**GUARANTEED ANALYSIS**

PLANT NUTRIENTS

Total Nitrogen (N) . . . . . \_\_\_\_ %  
 \_\_\_\_ % Ammoniacal Nitrogen  
 \_\_\_\_ % Nitrate Nitrogen  
 \_\_\_\_ % Water Insoluble Nitrogen  
 \_\_\_\_ % (Other recognized and determinable forms of nitrogen)  
 Available Phosphate (P2O5) . . . . . \_\_\_\_ %  
 Soluble Potash (K2O) . . . . . \_\_\_\_ %  
  
 Calcium (Ca) . . . . . \_\_\_\_ %  
 Magnesium (Mg) . . . . . \_\_\_\_ %  
 Sulfur (S) . . . . . \_\_\_\_ %  
 Boron (B) . . . . . \_\_\_\_ %  
 Chlorine (Cl) . . . . . \_\_\_\_ %  
 Cobalt (Co) . . . . . \_\_\_\_ %  
 Copper (Cu) . . . . . \_\_\_\_ %  
 Iron (Fe) . . . . . \_\_\_\_ %  
 Manganese (Mn) . . . . . \_\_\_\_ %  
 Molybdenum (Mo) . . . . . \_\_\_\_ %  
 Nickel (Ni) . . . . . \_\_\_\_ %  
 Sodium (Na) . . . . . \_\_\_\_ %  
 Zinc (Zn) . . . . . \_\_\_\_ %

SOURCE OF PLANT NUTRIENTS:  
 (A listing of the sources of all elements listed above in a descending order of content by weight for each plant nutrient source)

SOIL ADDITIVE ACTIVE INGREDIENTS  
 or  
 PLANT ADDITIVE ACTIVE INGREDIENTS  
 or  
 SOIL OR PLANT ADDITIVE ACTIVE INGREDIENTS  
 Common Name (Chemical Name) . . . . . \_\_\_\_ %  
 Common Name (Chemical Name) . . . . . \_\_\_\_ %  
 INERT INGREDIENTS  
 Common Name (Chemical Name) . . . . . \_\_\_\_ %  
 Common Name (Chemical Name) . . . . . \_\_\_\_ %

***What information is required on a guaranteed analysis?***

- For bulk fertilizer only, use only the portion of the guaranteed analysis example that pertains to the primary nutrients, total nitrogen (including the various forms), available phosphorous, and soluble potash. For fertilizer/pesticide products and fertilizer/lime products, this portion of the guaranteed analysis is also used in addition to label requirements for pesticides and lime.
- For bulk fertilizer with additional nutrients or enhancing elements, use the format for the primary nutrient and add only the elements, and their percentages, that pertain to the specific formulation. Complete the “SOURCE OF PLANT NUTRIENTS” section, if required.
- For bulk fertilizer/SPA products, the guaranteed analysis must contain the portion pertaining to the primary nutrients NKP, the “SOURCE OF PLANT NUTRIENTS” section, if required, and the soil or plant additive “ACTIVE INGREDIENTS’ and “INERT INGREDIENTS.”

**FOR MORE INFORMATION:**

Permit questions – Andrew Dal Santo (608) 224-4541, [andrew.dalsanto@wisconsin.gov](mailto:andrew.dalsanto@wisconsin.gov) or

License and tonnage questions – Myranda Luoma (608) 224-4537,  
[myranda2.luoma@wisconsin.gov](mailto:myranda2.luoma@wisconsin.gov)

Pesticide product registration – Monica Sipes (608) 224-4536, [monica.sipes@wisconsin.gov](mailto:monica.sipes@wisconsin.gov)

Visit our web site at <http://www.datcp.wi.gov> and search on ATCP 40 for FERTILIZER AND RELATER PRODUCTS, ATCP 41 for LIMING MATERIALS, or ATCP 29 for PESTICIDE USE AND CONTROL

Association of American Plant Food Control Officials (AAPFCO) <http://www.aapfco.org>

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