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RULE ADOPTIONS

**AGRICULTURE
DIVISION OF MARKETING AND DEVELOPMENT**

49 N.J.R. 329(a)

Readoption with Amendments: N.J.A.C. 2:69

Commercial Fertilizers and Soil Conditioners

Proposed: October 3, 2016, at 48 N.J.R. 1987(a).

Adopted: January 25, 2017, by the State Board of Agriculture and Douglas H. Fisher, Secretary, Department of Agriculture.

Filed: January 26, 2017, as R.2017 d.033, **without change**.

Authority: N.J.S.A. 4:9-15.26 and 15.33.

Effective Dates: January 26, 2017, Readoption;

February 21, 2017, Amendments.

Expiration Date: January 26, 2024.

Summary of Public Comments and Agency Responses:

The Department received comments from a Jean Public in response to the proposed readoption.

N.J.A.C. 2:69-1.8

COMMENT: The commenter does not believe that AAPFCO is an advocate for public health or safety and believes

that AAPFCO should not be regarded for soil safety issues.

RESPONSE: The Association of American Plant Food Control Officials (AAPFCO) itself does not advocate for public health or safety. AAPFCO does however facilitate the activities of fertilizer control officials from each state in the United States, from Canada, and from Puerto Rico who are actively engaged in the administration of fertilizer laws and regulations; and research workers employed by these governments who are engaged in any investigation concerning mixed fertilizers, fertilizer materials, their effect, and/or their component parts. AAPFCO works with the state officials to enable them to reach uniformity among each of these entities without compromising the needs of the consumers, protection of the environment, or fair competition among the industry. These standards guide fertilizer inspection techniques, as well as adequate labeling.

General Comments

COMMENT: The commenter expressed concerns over the toxic chemicals in soils and cited examples such as roundup and Rutgers' IR-4.

RESPONSE: Roundup is a pesticide and Rutgers' IR-4 project is a major resource for supplying pest management tools for specialty crops. Neither of these is a fertilizer or soil conditioner and, therefore, this comment is outside of this rulemaking.

COMMENT: The commenter wrote that all rules on soil should be easier to find and should be located on the New Jersey Department of Agriculture website.

RESPONSE: All New Jersey Department of Agriculture (NJDA) rulemaking actions are on the NJDA website at <http://www.nj.gov/agriculture/rule/>. In addition, the NJDA website has the following link: www.lexisnexis.com/njoal/, which is a link to the New Jersey Administrative Code and New Jersey Register. The New Jersey Administrative Code contains all of the rules of the Department of Agriculture in Title 2.

COMMENT: The commenter discussed the history of farm and non-farm soil mismanagement and expressed concerns regarding soils being physically lost, degraded, and losing their mineral and organic matter.

RESPONSE: The Department appreciates the discussion on the history of farm and non-farm soil mismanagement. However, this is not part of this rulemaking.

Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-23 (P.L. 1995, c. 65) require administrative agencies which adopt, readopt, or amend State rules that exceed any Federal standards or requirements to include in the rulemaking document a comparison with Federal law.

The rules readopted with amendments are dictated by the New Jersey Commercial Fertilizer and Soil Conditioner Law, N.J.S.A. 4:9-15.26 and 15.33, and are not subject to any Federal standards. Therefore, no Federal standards analysis is required.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 2:69.

Full text of the adopted amendments follows:

SUBCHAPTER 1. GENERAL PROVISIONS

2:69-1.6 Slowly available plant nutrients

(a)-(g) (No change.)

(h) The term "water insoluble nitrogen" is acceptable only when material in (g)1 above is used. Until more appropriate methods are developed, AOAC International Method 970.04 (18th Edition) is to be used to test coated-slow release and occluded slow release nutrients in (g)2 and 3 above. AOAC International Method 945.01 (18th Edition) is to be used to test coated-slow release and occluded slow release nutrients in (g)2 and 3 above. AOAC International Method 945.01 (18th Edition) shall be used to determine the water insoluble nitrogen in (g)1 above.

2:69-1.7 General methodology for sampling and laboratory analyses

(a) (No change)

(b) A copy of the 18th (2015) edition of the Official Methods of Analysis of AOAC (Association of Official Analytical Chemists), International is on file in the State Chemists Office, New Jersey Public Health, Environmental, and Agricultural Laboratories (NJPHEAL), 3 Schwarzkopf Drive, Ewing, New Jersey 08628. Copies can be procured by contacting AOAC Customer Service at (301) 924-7077 Ext. 170, or by ordering on-line at <http://www.aoac.org>.

2:69-1.8 General rules regarding fertilizers

(a) (No change.)

(b) A copy of the 2016 edition of the Official Publication of the American Plant Food Control Officials is on file in the State Chemists Office, NJPHEAL, 3 Schwarzkopf Drive, Ewing, New Jersey 08628. Copies may be procured by writing to Jamey Johnson, No. 1 Natural Resources Dr., Little Rock, AR 72205 or by ordering on-line at <http://aapfco.org>.

2:69-1.11 Commercial values

(a) The State Board of Agriculture, pursuant to N.J.S.A. 4:9-15.26, annually determines the commercial values of primary plant nutrients. The commercial values are determined by first conducting a survey within New Jersey and obtaining regional values through a survey of Pennsylvania, Delaware, and Maryland. These values are then assessed by the State Chemist and evaluated in accordance with recognized mathematical principles. The values recommended to the State Board by the State Chemist are to be reported at the open public meeting of the State Board. The State Board will consider the recommendation of the State Chemist and determine the commercial values to be in effect for that year at a subsequent open public meeting of the State Board.

(b) Public comments on the recommendation from the State Chemist may be submitted to the State Board in written or oral form. Oral comments shall be submitted at the open public meeting when the recommendation from the State Chemist is reported. Written comments shall be submitted at least 10 days prior to the next scheduled open public meeting of the State Board and sent to: agchem@ag.state.nj.us. The Board shall respond to all public comment through inclusion of comment and response in the minutes of the open public meeting at which the State Board determines the commercial values to be in effect for that year. These values shall be posted at <http://www.nj.gov/agriculture/>, pursuant to this subsection. These commercial values are provided each year per unit for the following:

[page=330] 1. Nitrogen;

2. Slowly released nitrogen:

i. Water insoluble nitrogen;

ii. Coated available nitrogen;

3. Available phosphoric acid;

4. Soluble potash.

(c) Values approved under this section shall be valid from July 1 (or when approved, whichever is later) through June 30.