

DEPARTMENT OF FOOD AND AGRICULTURE

CALIFORNIA CODE OF REGULATIONS
TITLE 3. FOOD AND AGRICULTURE
DIVISION 4. PLANT INDUSTRY
CHAPTER 1. CHEMISTRY
SUBCHAPTER 1. FERTILIZING MATERIALS
ARTICLE 1. STANDARDS AND LABELING
ARTICLE 2. SAMPLES
ARTICLE 4. REGISTRATION
ARTICLE 6. ADMINISTRATIVE PENALTIES

PROPOSED REGULATION TEXT

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ARTICLE 1. STANDARDS AND LABELING

§ 2303. Labeling Requirements.

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(d) The ~~licensee's~~ licensed label guarantor's name and address.

(1) For bulk commercial fertilizers and bulk agricultural minerals, the last licensee distributing the fertilizing material is required to be represented as the label guarantor.

(i) A guaranteed analysis using the following format, terminology, and order presented:

...

(3) Liming material guarantees: (if claimed)

Compound(s) composing material.....%
(state specific compounds)

Calcium carbonate equivalent (CCE)..... %

Lime Score (BULK ONLY).....

Sieve Analysis (BULK ONLY) Minimum % Passing:

10 mesh.....%

20 mesh.....%

40 mesh.....%

60 mesh....._____%
100 mesh....._____%
Moisture, maximum (BULK ONLY)_____%

(A) The Lime Score is a numerical expression of the quality of lime and 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, reprinted 1998, as revised June 1990.

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Note: Authority cited: Sections 407, 14502, 14601 and 14631, Food and Agricultural Code. Reference: Section 14631, Food and Agricultural Code.

§ 2309. Phosphorous Materials.

(a) Products that contain phosphorous acid shall state on the label the percentage of “Total phosphoric acid”, upon conversion of phosphorous acid.

Total phosphoric acid (P₂O₅) _____%

In addition, the label shall state the following:

(1) Phosphorous acid products are for use as a supplemental fertilizer treatment.

(2) Upon foliar application, the phosphite ions are taken up directly by the plant foliage and may undergo a degree of conversion to phosphate ions, or will be used directly by plants, as phosphite ions.

(3) As a soil application to annual crops, a lesser response from the initial crop, with a corresponding superior response from succeeding crops, may be observed. In addition, placement close to seeds or root zones may be injurious to crops. The effect may be aggravated by a soil pH below 6.5.

(A) The grade of a product containing phosphorous acid shall either possess an asterisk by the available phosphoric acid percentage expressed as total phosphoric acid (X – X* – X) or it shall represent the amount of guaranteed available phosphoric acid (“0”, if no available phosphoric acid is guaranteed). The asterisk from the grade shall also appear in front of the statements described in (1), (2), and (3) of this section.

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Note: Authority cited: Sections 407, 14502 and 14631, Food and Agricultural Code.
Reference: Section 14631, Food and Agricultural Code.

ARTICLE 2. SAMPLES

§ 2315. Sampling Procedure.

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(b) Sampling Dry Fertilizing Materials in Bulk Lots. Dry bulk material samples shall consist of not less than one pound and be obtained by one of the following methods:

(1) Use a bulk cup-type sampler with an opening width at least three times the diameter of the largest particle being sampled and long enough to “cut” the complete stream. The ~~delivery~~ stream must be “cut” with the sampler at least ten times at equal intervals ~~during the delivery~~. The ~~registrant person or distributor in possession of~~ mixing the material must supply a safe and convenient access to a stream of the material being loaded or unloaded for the sampler.

(2) Use a “Missouri D” probe or sampling scoop according to the following system:

(i) At least 12 cores must be drawn in different locations.

(ii) When a single lot of fertilizing material is in two separate compartments, piles, windrows, or bulk bags, take a minimum of six cores from each compartment, pile, windrow, or bulk bag.

(iii) When a single lot of fertilizing material is in three or more compartments, piles, windrows, or bulk bags, take a minimum of four cores from each compartment, pile, windrow, or bulk bag.

(c) When sampling gypsum, the following procedure is acceptable:

(1) Scrape the outer surface aside to expose representative material before inserting the sampler.

(2) Take at least 20 approximately equal cores from fairly evenly distributed parts of the quantity.

~~(3) Portions may be taken with a trowel when the material contains large lumps or when for other reasons it is not possible to use a sampler.~~

(43) Place all portions cores into a sample container and send to the laboratory for mixing and quartering.

(d) Liquid fertilizing materials must be sampled by one of the following systems:

(1) Full horizontal cylindrical or spherical tanks or containers are sampled with a restricted fill liquid sampling device. Lower the liquid sampler just below the surface and allow to fill, the liquid sampler is then recovered and emptied into a suitable container. This process is repeated twice at the center level of the tank or container and once at the bottom. All four aliquots are thoroughly mixed and tested; or a sample of the four aliquots consisting of not less than one pint shall be sent to the laboratory for testing.

(2) Sample vertical cylindrical, cubic or rectangular shaped tanks or containers by proceeding as in “(1)” except one aliquot is taken from the center level rather than taking two aliquots from the center level.

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Note: Authority cited: Sections 407, 140502, 14645 and 14646, Food and Agricultural Code.
 Reference: Section 14645, 146406, Food and Agricultural Code.

§ 2317.5. Investigational Allowances

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(b) Secondary and micronutrients shall be deemed deficient if the analysis of any element is below the guarantee by an amount exceeding the values calculated according to the following schedule:

Secondary and Micronutrients

<i>Element</i>	<i>Investigational Allowance</i>
Calcium	0.2 unit + 5% of guaranteed analysis
Magnesium	0.2 unit + 5% of guaranteed analysis
Sulfur	0.2 unit + 5% of guaranteed analysis
Boron	0.003 unit + 15% of guaranteed analysis
Cobalt	0.0001 unit + 30% of guaranteed analysis
Molybdenum	0.0001 unit + 30% of guaranteed analysis
Chlorine	0.005 unit + 10% of guaranteed analysis
Copper	0.005 unit + 10% of guaranteed analysis
Iron	0.005 unit + 10% of guaranteed analysis
Manganese	0.005 unit + 10% of guaranteed analysis
Sodium	0.005 unit + 10% of guaranteed analysis

Zinc	0.005 unit + 10% of guaranteed analysis
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The maximum allowance when calculated in accordance to the above shall be 1 unit (one percentage point).

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(c) Other guarantees or claims shall be deemed deficient if any ingredient or claim is below the guaranteed by an amount exceeding the values in the following schedule:

Other Ingredient Guarantees or Claims

<i>Ingredient or Claim</i>	<i>Investigational Allowance</i>
Humic Acid	10% of guaranteed analysis
<u>Soluble Silicon</u>	<u>10% of guarantee</u>
Gypsum <u>Calcium Sulfate Dihydrate (CaSO₄ · 2H₂O)</u>	5% of guaranteed analysis
Gypsum Equivalent	5% of guaranteed analysis
Calcium Carbonate Equivalent	5% of guaranteed analysis
<u>Lime Score</u>	<u>5% of guarantee</u>
Vitamin B-1 (<i>thiamine hydrochloride</i>)	30% of guaranteed analysis
<u>Total Phosphoric Acid (P₂O₅)</u>	<u>Refer to 3 CCR Section 2317.5(a), Available Phosphoric Acid (P₂O₅). The same investigational allowances apply.</u>
pH	pH 3.14% of required
	National Organic Program value
	(3.5 pH) (<i>only required for organic input material liquid fish products</i>)

- (1) The investigational allowance for pH is applied as follows:
- (A) For organic input material liquid fish products, the National Organic Program states that the pH cannot be lowered below 3.5. $3.5 \text{ pH} - 3.5(3.14\%) = 3.3901$ pH. Any value below 3.3901 pH would be in violation of the National Organic Program rule (7 CFR 205.601(j)(78)). Any value between 3.3901 to 3.4999 is within investigational allowance.

Note: Authority cited: Sections 407, 14502, 14645 and 14647, Food and Agricultural Code. Reference: Sections 14645 and 14646, Food and Agricultural Code.

ARTICLE 4. REGISTRATION

§ 2320.2. Registration Application for Organic Input Material Product Label.

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(b) Product label registration for Organic Input Material shall be made on an application designated by the department, Organic Input Material, ~~Fertilizing Materials~~ Label Registration Application, 513-026 (Rev. 06/197/13), which is hereby incorporated by reference. Applications must be accompanied by the appropriate fee and shall include:

(1) A copy of the label accompanying the material and a statement of all claims to be made for it, including the directions and precautions for use.

(2) The complete formula of the material including the active, inert ingredients, the name, source, and function of every substance that is added in creation of the final product. This includes primary ingredients and feedstocks, growth media, substrates, extractants, solvents, emulsifiers, precursors, reactants and stabilizers, as well as any chelating, complexing, crystallizing, granulating, hydrolyzing, flowing, or floating agents, or any other additives.

(A) The complete formula shall provide the accurate manufacturing/production location(s) for the final product.

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Note: Authority cited: Sections 407, 14502 and 14601, Food and Agricultural Code.
Reference: Sections 14550.5, 14601 and 14631 Food and Agricultural Code.

§ 2320.4. Use of the Term “Organic” on Labels and/or Labeling.

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(c) The use of the term “organic” on fertilizing material labels and/or labeling, as described in (a) and (b) of this section, not meeting NOP standards shall include one of the following declarations: “NOT FOR USE IN ORGANIC CROP AND ORGANIC FOOD PRODUCTION IN THE STATE OF CALIFORNIA ~~Not for use in organic crop and organic food production in the State of California~~” or “NOT FOR USE IN ORGANIC CROP AND ORGANIC FOOD PRODUCTION. ~~Not for use in organic crop and organic food production.”~~

(1) The declaration shall appear in the display panel of the label, as well as on any labeling, including webpages or marketing material, that identify applicable products.

(2) The declaration shall be in such a style of type of lettering as to be clearly and conspicuously presented with respect to other type, lettering, or graphic material on the label.

Note: Authority cited: Sections 407, 14502, 14550.5 and 14601, Food and Agricultural Code. Reference: Sections 14601, 14550.5 and 14631, Food and Agricultural Code.

ARTICLE 6. ADMINISTRATIVE PENALTIES

§ 2322. Administrative Penalty Guidelines

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(b) Table A: Violations Matrix provides the level of severity of a particular violation and the corresponding penalty range for serious, moderate, and minor violation classes. Except where specific violation parameters are provided, the description of violation column in Table A: Violations Matrix is an abbreviated description of the corresponding section in Division 7, Chapter 5, ~~Article 10~~ of the California Food and Agricultural Code and Title 3, Division 4, Chapter 1 of the California Code of Regulations.

Table A: Violations Matrix

Section Code	Description of Violation	Min.	Mod.	Ser.	Penalty
<u>3 CCR § 2303(d)(1) Last Licensee as Label Guarantor</u>	<u>For bulk commercial fertilizers and bulk agricultural minerals, the last licensee distributing the fertilizing material is required to be represented as the label guarantor.</u>	<u>X</u>			<p><u>First violation shall receive a notice of warning / notice of violation with 30 days to comply. For each subsequent violation, the violations matrix for FAC § 14681(a) and/or (c) applies as follows: \$1,000 for the second violation. \$2,500 for the third violation. \$5,000 for each subsequent violation. For violations that arise from fraud, willful misconduct, gross negligence, or are a threat to public safety, the secretary shall assess a penalty of \$5,000 for the initial or any subsequent violation.</u></p> <p><u>Sources: FAC §§ 14533, 14534, 14540, 14542, 14651.5, 14681 3 CCR §§ 2322(a)(3), 2322(a)(2), 2322(a)(1)</u></p>

Section Code	Description of Violation	Min.	Mod.	Ser.	Penalty
3 CCR § 2309 Phosphorous materials	<p>(a) Products that contain phosphorous acid shall state on the label the percentage of "Total Phosphoric Acid", upon conversion of phosphorous acid. In addition, the label shall state the following:</p> <p>(1) Phosphorous acid products are for use as a supplemental fertilizer treatment.</p> <p>(2) Upon foliar application, the phosphite ions are taken up directly by the plant foliage and may undergo a degree of conversion to phosphate ions, or will be used directly by plants, as phosphite ions.</p> <p>(3) As a soil application to annual crops, a lesser response from the initial crop, with a corresponding superior response from succeeding crops, may be observed. In addition, placement close to seeds or root zones may be injurious to crops. The effect may</p>	X			<p>First violation shall receive a notice of warning / notice of violation with 30 days to comply. For each subsequent violation, the violations matrix for FAC § 14681(a) and/or (c) applies as follows: \$1,000 for the second violation. \$2,500 for the third violation. \$5,000 for each subsequent violation. For violations that arise from fraud, willful misconduct, gross negligence, or are a threat to public safety, the secretary shall assess a penalty of \$5,000 for the initial or any subsequent violation.</p> <p>Sources: FAC §§ 14533, 14540, 14542, 14651.5, 14681 3 CCR §§ 2322(a)(3), 2322(a)(2), 2322(a)(1)</p>

	<p>be aggravated by a soil pH below 6.5.</p> <p><u>(A) The grade of a product containing phosphorous acid shall either possess an asterisk by the available phosphoric acid percentage expressed as total phosphoric acid (X – X* – X) or it shall represent the amount of guaranteed available phosphoric acid ("0", if no available phosphoric acid is guaranteed). The asterisk from the grade shall also appear in front the statements described in (1), (2), and (3) of this section.</u></p> <p>(b) Products that contain Phosphoric acid shall state on the label the percentage of "Available Phosphoric Acid". If, in addition, a percentage of "Total Phosphoric Acid" is stated, the percentage of "Insoluble Phosphoric Acid" (Citrate-Insoluble Phosphorus) must be stated immediately below.</p>				
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Section Code	Description of Violation	Min.	Mod.	Ser.	Penalty
<u>3 CCR § 2320.2(b)(2)(A) Production Location for OIM Product Manufacturing</u>	<u>The complete formula shall provide the accurate manufacturing/production location(s) for the final product.</u>			<u>X</u>	<p><u>The penalties shown in the violations matrix for FAC § 14681(a) and/or (c) apply as follows: \$1,000 for the first violation. \$2,500 for the second violation. \$5,000 for each subsequent violation. For violations that arise from fraud, willful misconduct, gross negligence, or are a threat to public safety, the secretary shall assess a penalty of \$5,000 for the initial or any subsequent violation.</u></p> <p><u>Sources: FAC §§ 14533, 14550.5, 14601, 14651.5, 14681</u> <u>3 CCR §§ 2322(a)(1), 2323</u></p>

Section Code	Description of Violation	Min.	Mod.	Ser.	Penalty
3 CCR § 2320.4 Use of the term "Organic"	<p>(a) Fertilizing material labels and/or labeling displaying the term "organic" in the licensee's name on the label, logos, slogans, or brand names, shall be registered as an organic input material or shall comply with subsection (c) by December 31, 2015.</p> <p>(b) Label and labeling claims implying that a product is suitable for organic crop and food production shall be registered as an organic input material or shall comply with subsection (c). Organic claims include, but are not limited to, the following: Organic gardening, certified organic, and compliance with National Organic Program (NOP) standards.</p> <p>(c) The use of the term "organic" on fertilizing materials labels and/or labeling, as described in sections (a) and (b) of this section, not meeting the NOP standards shall include one of the following declarations:</p>			X	<p>The penalties shown in the violations matrix for FAC § 14681(a) and/or (c) apply as follows: \$1,000 for the first violation. \$2,500 for the second violation. \$5,000 for each subsequent violation. For violations that arise from fraud, willful misconduct, gross negligence, or are a threat to public safety, the secretary shall assess a penalty of \$5,000 for the initial or any subsequent violation.</p> <p>Sources: FAC §§ 14533, 14540, 14542, 14550.5, 14601, 14651.5, 14681 3 CCR §§ 2300.1(g), 2322(a)(1)</p>

	<p><u>“NOT FOR USE IN ORGANIC CROP AND ORGANIC FOOD PRODUCTION IN THE STATE OF CALIFORNIA</u> Not for use in organic crop and organic food production in the State of California” or <u>“NOT FOR USE IN ORGANIC CROP AND ORGANIC FOOD PRODUCTION.</u> Not for use in organic crop and organic food production.”</p> <p>(1) The declaration shall appear in the principal display panel of the label, <u>as well as on any labeling, including webpages or marketing material, that identify applicable products.</u></p> <p>(2) The declaration shall be in such a style of type of lettering as to be clearly and conspicuously presented with respect to other type, lettering, or graphic material on the label.</p>				
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Note: Authority cited: Sections 407, 14502, 14651, 14651.5 and 14655, Food and Agricultural Code. Reference: Sections 14601, 14613, 14623, 14641, 14651.5, 14653, 14655, 14681 and 14682, Food and Agricultural Code.