GEORGIA FERTILIZER ACT OF 1997 AND RULES AND REGULATIONS

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2-12-1. Short Title.
This article shall be known and may be cited as the "Georgia Fertilizer Act of 1997"

2-12-2. Definitions.
As used in this article, the term:

(1) "Brand" means a term, design, or trademark used in connection with one or several grades of fertilizer.

(2) "Bulk fertilizer" means a fertilizer distributed in a nonpackaged form.

(3) "Commercial value" means the average retail value per unit of primary plant nutrient in dollars and cents. Such values shall be established by the Commissioner annually and may be established without a hearing except where objections are filed thereto. In the event written objections are filed within 20 days after establishment of such values, those objecting shall be afforded a hearing in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," and the effective date of such values shall be postponed pending the outcome of such hearing. The values as established by the Commissioner shall be used in computing the dollar rates of penalties as provided in this article. The commercial value as established in accordance with this article is provided as a guide in determining the actual value of the product and shall not in any manner attempt to fix, regulate, or control the sales price of fertilizer or fertilizer materials. "Guaranteed commercial value" means the value of a ton of fertilizer calculated by multiplying the established commercial values of the primary plant nutrients by the primary plant nutrient guarantees. "Found commercial value" means the value of a ton of fertilizer calculated by multiplying the established commercial values of the primary plant nutrients by the percentages of primary plant nutrients found by laboratory analysis.

(4) "Custom-mixed specialty fertilizer" means a specialty fertilizer blended according to the specifications that are furnished to a licensee by or for a consumer prior to manufacturing.

(5) "Deficiency" means the amount of nutrient, found by analysis, less than that guaranteed, which may result from a lack of nutrient ingredients or from lack of uniformity.

(6) "Distribute" means to offer for sale, sell, exchange, barter, or otherwise supply or make available fertilizer in this state.

(7) "Distributor" means any person who distributes.

(8) "Fertilizer" means any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, boiler ashes produced by the pulp and paper industry, and other products exempted by regulation by the Commissioner.

(9) "Fertilizer material" means a fertilizer which either:

(A) Contains important quantities of no more than one of the primary plant nutrients: nitrogen (N), phosphate (P_2O_5), and potash (K_2O);

(B) Has 85% or more of its plant nutrient content present in the form of a single chemical compound; or

(C) Is derived from a plant or animal residue or by-product or natural material deposit which has been processed in such a way that its content of plant nutrients has not been materially changed except by purification and concentration.

(10) "Grade" means the percentage of total nitrogen (N), available phosphate (P_2O_5), and soluble potash (K_2O) stated in whole numbers in the same terms, order, and percentages as in the guaranteed analysis; provided, however, that specialty fertilizers, fertilizer materials, bone meal, manures, and similar materials may be guaranteed in fractional units of less than 1 % of total nitrogen (N), available phosphate (P_2O_5), and soluble potash (K_2O).

(11) "Guaranteed analysis" means the minimum percentage of plant nutrients claimed in the following order and form:

(A) Total nitrogen (N) ____Percent (%)
Available phosphate (P_2O_5) ____Percent (%)
Soluble potash (K_2O) ____Percent (%)

(B) For unacidulated mineral phosphatic material and basic slag, bone, tankage, and other organic phosphatic materials, the total phosphate or degree of fineness, or both, may also be guaranteed; and

(C) Guarantees for plant nutrients other than total nitrogen (N), available phosphate(P_2O_5), and soluble potash (K_2O) are permitted or may be required by regulation by the Commissioner. The guarantees for such other nutrients shall be expressed in the form of the element, or in other forms as the Commissioner may require by regulation. The source (oxides, salts, chelates, etc.) of such other nutrients may be required by regulation to be stated on the application for registration and may be included on the label. Other beneficial substances or compounds, determinable by laboratory methods, also may be guaranteed by permission of the Commissioner. When any plant nutrients or other substances or compounds are guaranteed, they shall be subject to inspection and analysis in accord with the methods and regulations prescribed by the Commissioner.

(12) "Industrial by-product" means any industrial waste or by-product which contains plant nutrients.

(13) "Investigational allowance" means an allowance for variations inherent in the taking, preparation, and analysis of an official sample of fertilizer.

(14) "Label" means the display of all written, printed, or graphic matter, upon the immediate container, or a statement accompanying a fertilizer.

(15) "Labeling" means all written, printed, or graphic matter, upon or accompanying any fertilizer or advertisements, brochures, posters, and television and radio announcements used in promoting the sale of such fertilizer.

(16) "Licensee" means the person who receives a license to distribute fertilizer under the provisions of this article.

(17) "Lot" means that amount of fertilizer on hand and actually covered by the official sample at the time and place of sampling. In determining plant nutrient deficiencies and penalties under this article, the term "lot" means that amount of fertilizer included in a single delivery. The amount of fertilizer in such delivery shall be deemed deficient and subject to the penalties provided by law, provided that at least 20 % of such delivery is on hand at the time the official sample is drawn.

(18) "Mixed fertilizer" means a fertilizer containing any combination or mixture of fertilizer materials.

(19) "Official sample" means a sample of fertilizer taken by the Commissioner using methods adopted by the Commissioner by regulation in accordance with subsection (b) of Code Section 2-12-7.

(20) "Percent" or "percentage" means the percentage by weight.

(21) "Person" means an individual, partnership, association, firm, corporation, or any combination thereof.

(22) "Primary plant nutrients" means total nitrogen (N), available phosphate (P_2O_5), and soluble potash (K_2O). .

(23) "Secondary" or "micro" plant nutrients means any elements or substances recognized by the Commissioner as being agronomically or horticulturally useful in promoting plant growth, other than primary plant nutrients.

(24) "Specialty fertilizer" means a fertilizer distributed for nonfarm use, such as, but not limited to, home gardens, household plants, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses, and nurseries. The term "specialty fertilizer" also includes any fertilizer distributed in packages having a net weight of 10 pounds or less.

(25) "Ton" means a net weight of 2,000 pounds avoirdupois.

(26) "Unit" of a plant nutrient means 20 pounds or 1% of a ton.

(27) "Unmanipulated manure" means the excreta of animals when not artificially mixed with any material or materials other than those which have been used for bedding, sanitary, or feeding purposes for such animals or for the preservation of the manure, or when such excreta has not been subjected to processing other than composting, and provided such composted products are distributed in bulk only.

2-12-3. Commissioner to administer article.
This article shall be administered by the Commissioner of Agriculture of the State of Georgia. In such administration, the Commissioner may use any employee of the Georgia Department of Agriculture or other designated agent.

2-12-4. Licensing requirements generally; fees; renewals; contents.
(a) No person whose name appears upon the label of a fertilizer shall distribute that fertilizer in Georgia until a fertilizer license has been obtained from the Commissioner. All licenses expire on the thirtieth day of June each year. The license fee shall be $100.00 per year, and must be renewed annually with fees paid by July 1 of each year. If the license renewal fee is not paid by July 1, the applicable license fee shall increase in the manner prescribed by regulation.

(b) An application for license shall be made on forms furnished by or otherwise acceptable to the Commissioner and shall include:

(1) The name and address of the licensee;

(2) The name and address of each production location in the state. The licensee shall inform the Commissioner in writing of any additional production locations established during the period of the license; and

(3) Any other information as prescribed by regulation.

(c)(1) No licensee shall distribute in this state a specialty fertilizer until it is registered with the Commissioner by the licensee whose name appears on the label, provided that custom-mixed specialty fertilizer shall not be required to be registered. An application for registration for each brand of each grade of specialty fertilizer shall be made on a form furnished by or otherwise acceptable to the Commissioner. Labels for each brand of each grade shall accompany the application. For all specialty products sold in container sizes of ten pounds or less, the annual registration fee shall be $60.00 for each brand of each grade. Such fee shall be submitted with the registration and a renewal fee of $60.00 shall be due each July 1.

(2) If the registration renewal fee is not paid by July 1, the registration fee shall increase in the manner prescribed by regulation. No registration fee is required on specialty products sold in container sizes of over 10 pounds. Upon the approval of the application for registration by the Commissioner, a copy of the registration shall be furnished to the applicant. Such

registration shall be considered permanent so long as no changes or deviations are made in the labels of such products and the required registration fee is paid.

(3) The application for registration shall include the following information:

(A) The brand and grade;

(B) The guaranteed analysis;

(C) The sources of all plant nutrients;

(D) The name and address of the licensee;

(E) The net weight or weights; and

(F) Any other information as prescribed by regulation.

2-12-5. Nonresident licensees.
Every nonresident licensee, at the time of licensing and before distributing his or her fertilizer product or products in this state, shall comply with Chapter 5 of this title, the "Department of Agriculture Registration, License, and Permit Act."

2-12-6. Labeling of fertilizer.
(a) Any fertilizer distributed in this state in containers shall have placed on or affixed to the container a label setting forth in clearly legible and conspicuous form the following information:

(1) Net weight;

(2) Brand and grade, provided that the grade shall not be required when no primary plant nutrients are claimed;

(3) Guaranteed analysis;

(4) Name and address of the licensee, provided that when the product is not actually manufactured by the licensee, the name of the licensee on the label may be further qualified by either of the following statements:

(A) Made for (name of licensee); or

(B) Distributed by (name of licensee);

(5) Sources from which all plant nutrients are derived, if added, guaranteed, claimed, or advertised; and

(6) Any other information as prescribed by regulation.

(b) In the case of bulk shipments, the information, as specified in paragraphs (1) through (5) of subsection (a) of this Code section in written or printed form shall accompany delivery and be supplied to the purchaser at time of delivery.

(c) Custom-mixed specialty fertilizer shall be labeled as specified in paragraphs (1) through (5) of subsection (a) of this Code section.

2-12-7. Inspection of fertilizer; methods of sampling and analysis; distribution of results.
(a) It shall be the duty of the Commissioner to sample, inspect, make analyses of, and test fertilizers distributed within this state and inspect the storage of bulk fertilizer at any time and place and to such extent as he or she may deem necessary to determine whether such fertilizers are in compliance with the provisions of this article. The Commissioner is authorized to enter upon any public or private premises or carriers during business hours in order to have access to fertilizers subject to provisions of this article and the regulations pertaining thereto, and to the records relating to their distribution and storage.

(b) The methods of sampling and analysis shall be those adopted by the Commissioner by regulation.

(c) The Commissioner, in determining for administrative purposes whether any fertilizer is deficient in plant food, shall be guided by the terms "lot" and "official sample" as defined in paragraphs (17) and (19) of Code Section 2-12-2.

(d) The results of official analysis of fertilizers and portions of official samples shall be distributed by the Commissioner as provided by regulation. Official samples establishing a penalty for nutrient deficiency shall be retained for a minimum of 90 days from issuance of a deficiency report.

2-12-8. Inspection fees; quarterly report; collection penalty; effect of failure to file report and pay assessment
(a) There shall be paid to the Commissioner for all fertilizer distributed in this state to nonlicensees an inspection fee at the rate of $0.60 per ton, provided that sales or exchanges between licensees and sales of containers of ten pounds or less are exempted from such fee; and provided, further, that the Commissioner may exempt by regulation certain other types of fertilizer from the inspection fee, when deemed appropriate.

(b)(1) Each licensee distributing fertilizer in this state shall file with the Commissioner a quarterly report of the total tons of fertilizer distributed by such licensee in the state to nonlicensees for the quarterly period ending on the last day of March, June, September, and December. This and such other information as the Commissioner may require by regulation shall be supplied on forms furnished by or acceptable to the Commissioner. A quarterly tonnage report is required even if no

reportable tonnage has been sold, provided that licensees which only distribute specialty fertilizer in containers of ten pounds or less shall not be required to submit these quarterly reports.

(2) The report shall be due on or before 30 days following the close of the filing period, and the inspection fee at the rate stated in subsection (a) of this Code section shall be included with the report. If the tonnage report is not filed and the payment of inspection fees is not made within 30 days after the end of the specified filing period, a penalty fee of 10% of the amount due or $10.00, whichever is greater, shall be assessed against the licensee and added to the amount due.

(3) A report not filed for six months or a fee or an assessed penalty which remains unpaid for six months shall constitute cause for the revocation of all registrations and licenses. Any fees owed shall constitute a debt to be collected by the Commissioner and may become the basis for legal action against the licensee.

(c) When more than one person is involved in the distribution of a fertilizer, the licensee who finally distributes a fertilizer to a nonlicensee shall be responsible for reporting the tonnage and paying the inspection fees.

2-12-9. Penalties for fertilizer deficiencies; time of payment; effect of failure to pay; alteration of content of fertilizer by recipient.

(a) Total nitrogen (N), available phosphate (P_2O_5), and soluble potash (K_2O).

(1) If the analysis of the official sample shows that a fertilizer is deficient in one or more of its guaranteed primary plant nutrients beyond the investigational allowances set forth in the regulations, the penalty shall be 10% of the guaranteed commercial value of the lot. In cases where the found commercial value of the lot is less than the guaranteed commercial value of the lot, an additional penalty of two times the difference in the found commercial value of the lot and the guaranteed commercial value of the lot shall be assessed.

(2) Where there is no deficiency in primary plant nutrients beyond the investigational allowances set forth in the regulations, but where the found commercial value of the lot is not at least 97% of the guaranteed commercial value of the lot the penalty for the lot sampled shall be four times the difference between the found commercial value of the lot and the guaranteed commercial value of the lot.

(b) Chlorine in tobacco fertilizer. If the chlorine content of any lot of fertilizer branded for tobacco is more than $5/10^{th}$ of 1% greater than the maximum amount guaranteed, a penalty shall be assessed equal to 10% of the guaranteed commercial value of the lot for each additional $5/10^{th}$ of 1%, or fraction thereof, of chlorine in excess.

(c) Secondary and micro plant nutrients. If the analysis of the official sample shows that a fertilizer is deficient in secondary or micro plant nutrients, beyond the investigational allowances as set forth in the regulations, a penalty of $5.00 per ton per each element found deficient shall be assessed.

(d) Payment of penalties. All penalties must be paid within 31 calendar days after notice of assessment is made to the licensee. Penalties are assessed to the licensee and must be paid to the consumer through the Commissioner by check, or in case of indebtedness of the consumer to the seller, a credit memorandum. If a consumer cannot be found, the amount of the penalty payment shall be paid to the Georgia Department of Agriculture. Failure to pay penalties within 60 days after notice shall be sufficient grounds for the revocation of the licensee's license. The licensee who finally distributes a fertilizer to the nonlicensee shall be responsible for paying the penalty.

(e) If upon satisfactory evidence, a person is shown to have altered the content of a fertilizer shipped to him or her by a licensee, either intentionally or unintentionally, or to have mixed or commingled fertilizer from two or more suppliers such that the result of either alteration changes the analysis of the fertilizer as originally guaranteed, then that person shall become responsible for obtaining a fertilizer license and shall be held liable for all penalty payments and be subject to other provisions of this article, including seizure, condemnation, and stop sale.

(f) A deficiency in an official sample of mixed fertilizer resulting from nonuniformity is not distinguishable from a deficiency due to actual plant nutrient shortage and is properly subject to official action.

2-12-10. Distribution of misbranded fertilizer prohibited; when misbranded.

No person shall distribute misbranded fertilizer. A fertilizer shall be deemed to be misbranded if:

(1) Its labeling is false or misleading in any particular;

(2) It is distributed under the name of another fertilizer product;

(3) It is not labeled as required in Code Section 2-12-6 and in accordance with regulations prescribed under this article; or

(4) It purports to be or is represented as a fertilizer or is represented as containing a plant nutrient or fertilizer, unless such plant nutrient or fertilizer conforms to the definition of identity, if any, prescribed by regulations of the Commissioner. In adopting such regulations the Commissioner shall give due regard to commonly accepted definitions and official fertilizer terms.

2-12-11. Distribution of adulterated fertilizer prohibition; when adulterated.
No person shall distribute an adulterated fertilizer product. A fertilizer shall be deemed to be adulterated if:

(1) It contains any deleterious or harmful ingredient in sufficient amount to render it injurious to beneficial plant, animal, human, or aquatic life or to soil or water when applied in accordance with directions for use on the label or if adequate warning statements or directions for use which may be necessary to protect plant, animal, human, or aquatic life or soil or water are not shown upon the label;

(2) Its composition falls below or differs from that which it is purported to possess by its labeling; or

(3) It contains unwanted crop seed or weed seed.

2-12-12. Determination of value of ingredients; prohibition of use or deletion from label.
The Commissioner is authorized to determine whether an ingredient listed on the label or otherwise advertised as an ingredient and used in the mixing of any fertilizer contributes to plant growth. If any such ingredient is found to be worthless, harmful, or deceptive, the Commissioner may prohibit its use or require that it be deleted from the label.

2-12-13. Short weight penalty; adjustment of invoice.
(a) If any fertilizer in the possession of the consumer is found by the Commissioner to be short in weight, the licensee of such fertilizer shall within 30 days after official notice from the Commissioner submit to the consumer a penalty payment of four times the commercial value of the shortage in weight of the lot.

(b) If any fertilizer offered for sale is found by the Commissioner to be short in weight, the fertilizer shall be returned for reprocessing at the expense of the licensee.

2-12-14. Exchange between licensees not restricted.
Nothing in this article shall be construed to restrict, subject to inspection fees, or regulate the sale or exchange of fertilizer to other licensees who mix fertilizer materials for sale or to prevent the free and unrestricted shipment of fertilizer to licensees.

2-12-15. Adoption and enforcement of rules and regulations generally.
For the enforcement and implementation of this article, the Commissioner is authorized to prescribe and adopt, according to the provisions of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," and enforce such reasonable rules and regulations relating to the distribution of fertilizers as the Commissioner finds necessary to carry into effect the full intent and meaning of this article and to ensure ethical practices in the sale, delivery, and return of fertilizer.

2-12-16. Revocation or denial of license; cancellation or refusal of registration.
The Commissioner is authorized to revoke the license and cancel registrations of any licensee or to refuse to register products or issue a plant food license upon satisfactory evidence that the licensee or person has used fraudulent or deceptive practices in the evasion or attempted evasion of this article or of any rules and regulations promulgated under this article. No license shall be revoked or denied or no registration shall be canceled or refused until the licensee or person has been notified by certified mail or statutory overnight delivery, return receipt requested, of the time and place of the hearing and has been given an opportunity to appear and be heard according to the provisions of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

2-12-17. Stop sale, stop use, or removal orders.
The Commissioner may issue and enforce a written or printed stop sale, stop use, or removal order to the owner or custodian of any lot of fertilizer and order such person to hold such lot at a designated place when the Commissioner finds said fertilizer is being offered or exposed for sale in violation of any of the provisions of this article until the law has been complied with and said fertilizer is released in writing by the Commissioner or said violation has been otherwise legally disposed of by written authority. The Commissioner shall release the fertilizer so withdrawn when the requirements of the provisions of this article have been complied with and all costs and expenses incurred in connection with the withdrawal have been paid.

2-12-18. Seizure, condemnation, and disposition of nonconforming fertilizer.
In addition to stop sale, stop use, or removal orders, any lot of fertilizer not in compliance with the provisions of this article shall be subject to seizure on complaint of the Commissioner to the court of competent jurisdiction in the area in which such fertilizer is located. If the court finds such fertilizer to be in violation of this article and orders the condemnation of such fertilizer, it shall be disposed of in any manner consistent with the quality of the fertilizer and the laws of this state, provided that in no instance shall the disposition of such fertilizer be ordered by the court without first giving the claimant an opportunity to apply to the court for release of such fertilizer or for permission to process or relabel such fertilizer to bring it into compliance with this article.

2-12-19. Injunctions.
The Commissioner is authorized to apply for and the court is authorized to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this article or any rule or regulation promulgated under this article notwithstanding the existence of other remedies at law. Any such injunction may be issued without bond.

2-12-20. Notice of violations, administrative hearing; penalty for violation; prosecution.
(a) If it shall appear from the examination of any fertilizer that any of the provisions of this article or the rules and regulations issued pursuant to this article have been violated, the Commissioner shall cause notice of the violations to be given to the licensee, distributor, or processor from whom such sample was taken. Any person so notified shall be given opportunity to be heard in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." If it appears after such hearing, either in the presence or absence of the person so notified, that any of the provisions of this article or the rules and regulations issued pursuant to this article have been violated, the Commissioner may certify the facts to the proper prosecuting attorney.

(b) Any person violating any of the provisions of this article shall be guilty of a misdemeanor.

(c) Nothing in this article shall be construed as requiring the Commissioner to report cases for prosecution or for the institution of seizure proceedings as a result of minor violations of this article when he or she believes that the public interest will be best served by a suitable notice of warning in writing or other methods.

(d) It shall be the duty of each prosecuting attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

2-12-21. Local Legislation – Prohibition.
(a) No county, municipal corporation, consolidated government, or other political subdivision of this state shall adopt or continue in effect any ordinance, rule, regulation, or resolution regulating the registration, labeling, packaging, sale, storage, transportation, distribution, use, or application of fertilizer.

(b) This Code section shall in no way prohibit or impair the legal right of any county, municipal corporation, consolidated government, or other political subdivision of this state to issue business licenses or to make zoning decisions.

SECTION 2

Notwithstanding the provisions of Code Section 1-3-4.1; this Act shall become effective on the first day of July following the date on which this Act is approved by the Governor or becomes law without such approval.

SECTION 3

All laws and parts of laws in conflict with this Act are repealed.
Approved July 1, 2005.

RULES AND REGULATIONS

40-6-1-.01 Definitions.
(1) Pursuant to O.C.G.A. § 2-12-10 (4), definitions applying to fertilizers and fertilizer materials and other products containing plant nutrients shall be those defined in O.C.G.A. § 2-12-1, the Georgia Fertilizer Act of 1997, those contained in the current edition of the Association of American Plant Food Control Officials' (AAPFCO) Official Publication, and the following:

(a) Slowly Released Plant Nutrients - means those plant nutrients contained in a fertilizer or fertilizer material, which are released slowly over a period of time. Types of such products shall include, but not be limited to:

1. Water insoluble, such as natural organic, urea form materials, urea formaldehyde products, isobutylidene diurea, oxamide, etc.
2. Coated slow release, such as sulfur coated urea and other encapsulated soluble fertilizers.
3. Occluded slow release, such as fertilizers or fertilizer materials mixed with waxes, resins, or other inert materials and formed into particles.
4. Products containing water soluble nitrogen, such as urea form materials, urea formaldehyde products, methylenediurea (MDU), dimethylenetriurea (DMTU), dicyanodiamide (DCD), etc.

5. The above terms will be accepted provided the licensee can show a testing program substantiating the claim (testing under guidance of Experiment Station personnel or any other researcher acceptable to the Commissioner for determining the release characteristics of the product(s) must also be provided to the Commissioner by the licensee.

40-6-2-.01 Exemption from Regulation
In accordance with O.C.G.A. § 2-12-2 (8), products regulated under the Georgia Horticultural Growing Media Act are exempted from regulation under the Georgia Fertilizer Act of 1997.

40-6-2-.02 Exemption from Inspection Fee
In accordance with O.C.G.A. § 2-12-8 (a), industrial by-products to be used for their nutrient content, which are not sold, but are given away, are exempt from payment of the $0.60 per ton inspection fee.

40-6-3-.01 Guarantees. Non-Tobacco Fertilizers
In support of O.C.G.A. § 2-12-2 (11), in addition to total Nitrogen (N), Available Phosphate (P_2O_5), and Soluble Potash (K_2O), any other plant nutrient mentioned in any form or manner in conjunction with a fertilizer product shall be guaranteed. Guarantees for such other nutrients shall be expressed in the elemental form and shall appear in the order listed below immediately following the guarantees for primary plant nutrients guaranteed, if any.

Except for ready to use foliar and ready to use liquid specialty fertilizers containing water soluble nutrients and for hydroponic or continuous liquid feed programs, and industrial by-products minimum percentage guarantees which will be accepted for registration and on labeling will be as follows:

Element	%
Calcium (Ca)	1.0000
Magnesium (Mg)	0.5000
Sulfur (S)	1.0000
Boron (B)	0.0200
Chlorine (Cl)	0.1000
Cobalt (Co)	0.0005
Copper (Cu)	0.0500
Iron (Fe)	0.1000
Manganese (Mn)	0.0500
Molybdenum (Mo)	0.0005
Sodium (Na)	0.1000
Zinc (Zn)	0.0500

40-6-3-.02 Guarantees - Tobacco Fertilizers.
(1) All fertilizers labeled for use on tobacco which contain all three of the primary plant nutrients, (nitrogen, phosphate and potash) and all fertilizers labeled for tobacco in which the total nitrogen guaranteed is more than 50% of the total primary plant nutrients guaranteed shall contain, and shall guarantee, not less than 50% of the total nitrogen in the nitrate form.

(2) All forms of nitrogen present in fertilizers labeled for use on tobacco shall be shown on the label as the percent nitrogen and the sum of the forms shall equal the total nitrogen guaranteed.

(3) If magnesium is claimed on fertilizers labeled for use on tobacco, both total magnesium and water-soluble magnesium shall be shown on the label.

(4) Maximum chlorine guarantees for fertilizers labeled for use on tobacco shall not exceed the following:

(a) Tobacco Plant Bed Fertilizers.
1. For tobacco fertilizers having total nitrogen guarantees up to and including 6% - maximum chlorine 0.5%.
2. For tobacco fertilizers having total nitrogen guarantees above 6% - maximum chlorine 1.0%.

(b) Field Crop Tobacco Fertilizers:
1. For field crop tobacco fertilizers having total nitrogen guarantees up to and including 4%- maximum chlorine 2%.
2. For field crop tobacco fertilizers having total nitrogen guarantees above 4% - maximum chlorine not more than one-half of the total nitrogen guaranteed.

(c) No tobacco fertilizer in which the total nitrogen guaranteed is more than 50% of the total primary plant nutrients guaranteed, shall contain chlorine in excess of 2%.

40-6-4-.01 Investigational Allowances.
As specified in O.C.G.A. § 2-12-9 (a) (1) and (c), a fertilizer shall be deficient if the analysis found is below the guarantee by an amount exceeding the values listed below:

(a) Primary Plant Nutrients.

Guaranteed Percent	Total Nitrogen %	Available Phosphate %	Soluble Potash %
04 or less	.67	1.27	1.40
05	.68	1.27	1.41
06	.69	1.27	1.42
07	.70	1.27	1.43
08	.71	1.28	1.45
09	.72	1.28	1.46
10	.73	1.28	1.48
11-12	.75	1.28	1.51
13-14	.77	1.29	1.54
15-16	.79	1.29	1.58
17-18	.81	1.30	1.61
19-20	.82	1.30	1.64
21-22	.84	1.30	1.67
23-24	.86	1.31	1.70
25-26	.88	1.31	1.74
27-28	.90	1.32	1.77
29-30	.92	1.32	1.80
31 or more	.92	1.32	1.80

(b) Secondary and Micro Plant Nutrients.

Element	Investigational Allowances
Calcium	25% of guarantee Not To Exceed 0.5%
Magnesium	25% of guarantee Not To Exceed 0.5%
Sulfur	25% of guarantee Not To Exceed 0.5%
Boron	25% of guarantee Not To Exceed 0.5%
Cobalt	25% of guarantee Not To Exceed 0.5%
Chlorine	25% of guarantee Not To Exceed 0.5%
Copper	25% of guarantee Not To Exceed 0.5%
Iron	50% of guarantee Not To Exceed 1.0%
Manganese	25% of guarantee Not To Exceed 0.5%
Molybdenum	25% of guarantee Not To Exceed 0.5%
Sodium	25% of guarantee Not To Exceed 0.5%
Zinc	25% of guarantee Not To Exceed 0.5%

40-6-5-.01 Labeling.
(1) All fertilizer in containers distributed in this State, including custom mixed specialty fertilizers, shall be labeled in clearly legible and conspicuous form with the following information, as specified in O.C.G.A. § 2-12-6

(a) Net weight.

(b) Brand and grade, provided the grade shall not be required when no primary plant nutrients are claimed.

(c) Guaranteed analysis. When forms of nutrients are claimed or required, the form should be shown as a percentage on the left side of the form per the following examples:

1. Total Nitrogen (N) ---- _____%

_____% Ammoniacal Nitrogen

_____% Nitrate Nitrogen

_____% Water Insoluble Nitrogen

_____% Urea Nitrogen

_____% Other recognized or determinable form of Nitrogen

2. Secondary and micro nutrients
Magnesium (Mg) -------- _____%
_____% Water soluble Magnesium (Mg)
Sulfur (S) -------- _____%
_____% Free Sulfur (S)
_____% Combined Sulfur (S)
Iron (Fe) -------- _____%
_____% Chelated Iron (Fe)
Manganese (Mn) -------- _____%
_____% Water soluble Manganese (Mn)

(d) Name and address of licensee or when applicable, the terms "made for" or "distributed by" followed by the name of the licensee.

(e) The source(s) of all primary, secondary and micro plant nutrients guaranteed.

(2) All shipments of bulk fertilizers shall be accompanied by the information prescribed in (1) above. Such information may be placed on the invoice, bill of lading or any other document accompanying the fertilizer and must be supplied to the purchaser at the time of delivery, in accordance with O.C.G.A. § 2-12-6 (b).

(3) Slowly released nutrients, if added or claimed, shall be listed on the label and guaranteed if any slowly released nutrient is guaranteed at 15% or more of the total guarantee for that nutrient. Such guarantees shall be in accordance with the definition of slowly released nutrients as stipulated in Rule 40-6-1-.01(a).

(4) All industrial by-products containing plant nutrients shall be labeled in accordance with the above requirements to show the percentage of all nutrients claimed.

40-6-6-.01 License Application and Renewal Fees.
(1) Pursuant to O.C.G.A. § 2-12-4, all applications for a Fertilizer License shall be submitted to the Georgia Department of Agriculture, Plant Food, Feed and Grain Division, Agriculture Building, Capitol Square, Atlanta, Georgia 30334, and shall contain the following:

(a) Name, physical and mailing address and telephone number of licensee, and the type of business (individual, partnership, corporation, etc.);

(b) Name and physical address of each production location in Georgia;

(c) Telephone and facsimile number of the licensee's representative;

(d) Name, title and complete mailing address of licensee's representative;

(e) Signature of licensee's representative;

(f) Types of fertilizer to be distributed by licensee;

(g) Fertilizer Licensee Number on all license renewal applications;

(h) Licensee's Federal Employer's Identification Number or licensee's Social Security Number;

(2) All applications shall be accompanied by the required license fee of $100.00, as stipulated in O.C.G.A. § 2-12-4 (a).

(3) All applications for new licenses shall be accompanied by a copy of the label for each package and sample copies of labels for bulk products to be distributed.

(4) As specified in O.C.G.A. § 2-12-4 (a), the renewal of all licenses and the payment of all license renewal fees shall be due on July 1, 1998 and each July 1 thereafter, and renewals and fees received after July 1 each year shall be:

Date Fee Received	Renewal Fee Required
July 2 - July 31	$150.00
August 1 through August 31	$200.00
September 1 and after	$250.00

40-6-6-.02 Product Registration and Renewal Fees.
(1) Pursuant to O.C.G.A. § 2-12-4 (c) (3), all specialty fertilizers are subject to product registration and applications for registration shall contain the following information:

(a) Brand, product name and grade;

(b) Guaranteed analysis;

(c) Sources of all plant nutrients guaranteed;

(d) Name and address of licensee;

(e) Net weight(s) of packages to be distributed;

(f) Telephone and facsimile numbers of licensee;

(g) Name, title, and complete address of licensee's representative;

(h) Signature of licensee's representative.

(2) All applications for specialty product registration shall be accompanied by an exact copy of the product label or an actual empty bag or package for the product, as stipulated in O.C.G.A. § 2-12-4 (c) (1).

(3) The renewal of registration for all specialty fertilizers for which there has been a major change, such as change in product name or change in guaranteed analysis shall require a complete new application for registration, per O.C.G.A. § 2-12-4 (c) (2).

(4) As specified in O.C.G.A. § 2-12-4 (c) (2), the renewal of product registration and the payment of product registration renewal fees for products in container sizes of 10 pounds or less shall be due on July 1 each year, and renewals and fees received after July 1 each year shall be:

Date Fee Received	Renewal Fee Required
July 2 - July 31	$90.00
August 1 through August 31	$120.00
September 1 and after	$150.00

The renewal fees specified above shall apply to all product registration applications remaining incomplete on July 2 of each year.

40-6-7-.01 Sampling.
In accordance with O.C.G.A. § 2-12-7 (b), sampling equipment and procedures used for taking official fertilizer samples shall be those specified by the Commissioner after giving due consideration to those adopted by the AOAC International.

40-6-7-.02 Analysis.
In accordance with O.C.G.A. § 2-12-7 (b), all methods of analysis used for assaying of fertilizer samples shall be those specified by the Commissioner after giving due consideration to those adopted by the AOAC International or published in scientific journals.

40-6-7-.03 Reporting.
(1) When the analysis shows that an official sample meets the analytical guarantee within the established investigational allowances, the laboratory report shall show only that the lot is found in compliance with the Act.

(2) When the analysis shows that any official sample is deficient in the analytical guarantee beyond the established investigational allowances, the laboratory report shall show the analytical results and such report shall be forwarded by the Commissioner to the licensee at least 15 days before the report is submitted to the purchaser.

(3) Laboratory reports covering the assay of all unofficial samples shall show the actual analysis found by the laboratory, and such reports shall be clearly marked to indicate that the sample is unofficial.

(4) Upon the request of a licensee within 10 business days after the licensee's receipt of a laboratory report indicating a deficiency, the Commissioner shall submit representative portions of the official fertilizer sample analyzed to 2 referee chemists. The licensee requesting the analysis shall pay a fee of $50.00 to cover administrative costs. The three chemical analyses obtained may be considered in determining whether a violation has occurred. If, as a result of the independent analysis, the Commissioner determines a violation has not occurred, the fee will be waived.

40-6-8-.01 Tonnage Reports. Amended.
(1) In support of O.C.G.A.§ 2-12-8 (a) and (b)(1), every licensee that distributes fertilizer in Georgia, except those licensees that distribute only specialty fertilizers in packages of 10 pounds or less, shall file a quarterly report to the nearest whole ton to the Commissioner covering fertilizer distributed within Georgia in containers over 10 pounds in weight, and in bulk, and shall submit the tonnage fee calculated at $0.60 per ton for the tonnage distributed to non-licensees. Such report shall include the following:

(a) Licensee's name and address;

(b) Licensee's number assigned by the Department;

(c) Name, title and signature of licensee's representative;

(d) Telephone and facsimile numbers of the licensee;

(e) Breakdown of tonnage distributed as follows:

1. Total tonnage of fertilizer distributed during the quarter.
2. Total tonnage of dry mixed grades.
3. Total tonnage of liquid mixed grades.
4. Total tonnage of materials.
5. Total tonnage of nitrogen containing materials as follows:
   (i) Urea;
   (ii) Ammonium nitrate;
   (iii) Ammonium sulfate;
   (iv) Anhydrous Ammonia;
   (v) Nitrogen solutions;
   (vi) Any other nitrogen containing material;
   (vii) Total Nitrogen containing materials.
6. Phosphate materials:
   (i) Ammonium polyphosphate (10-34-0):
   (ii) Diammonium phosphate (18-46-0);
   (iii) Triple superphosphate;
   (iv) Any other phosphate containing materials;
   (v) Total phosphate containing materials.
7. Potash materials:
   (i) Muriate of potash;
   (ii) Sulphate of potash magnesia;
   (iii) Any other potash containing materials;
   (iv) Total potash containing materials.
8. Gypsum (CaS04 $2H_20$).
9. Secondary and micro nutrient materials.
10. Organic materials.
11. Miscellaneous nutrient containing materials not otherwise identified.

(2) All tonnage reports and tonnage fees as required by O.C.G.A. § 2-12-8 (b) (2), shall be provided to the Commissioner no later than the 30th day after the end of the quarter, as follows:

(a) For the period July - September	Due October 30
(b) For the period October - December	Due January 30
(c) For the period January - March	Due April 30
(d) For the period April - June	Due July 30

(3) Tonnage Reports filed with the Commissioner and lacking any of the required information shall be considered incomplete and the licensee which filed such report shall be considered in violation if the report is not complete or the tonnage fee has not been received by the Commissioner on or before the due date listed above.

40-6-9-.01 Regulation of Licensees.

(1) In accordance with O.C.G.A. § 2-12-7 and 2-12-14, any blending or manufacture of commercial fertilizer by a licensee shall be regulated to ensure the manufacturer, distributor and consumer of the correct quantity and quality in agreement with the label.

(2) Pursuant to O.C.G.A. § 2-12-7 and 2-12-16, any attempt to avoid, restrict or impede regulatory inspection at a commercial fertilizer plant or sampling of commercial fertilizer during regular business hours by any evasive action may result in revocation of license, cancellation of registration(s) or other appropriate administrative action, following a hearing to consider the details of each case.