



WS Associates LLC - Winning Solutions

T. 804.747.4830 M. 302.983.3349

wayne.surles@gmail.com

www.waynesurles.com

United States Fertilizer Regulatory Practices

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Labels: The United States (USA) has no federal regulations regarding the labeling of fertilizers, soil amendments and similar plant nutrition products. Thus any product has to be approved by each state agency, territories and the District of Columbia before it can be sold. The Association of American Plant Control Officials (AAPFCO) provides the guiding rules under which these agencies operate. However these are not legal obligations for the state/territorial/district agencies. Therefore in the process of preparing to sell a fertilizer or similar plant nutrient related product it is imperative to develop a single label that will be approved by all agencies. Most states abide by AAPFCO guidelines while some even go as far as immediately incorporating these guidelines into the laws of that state. **Thus it is imperative to prepare a label that complies with the most demanding requirements.** There is a hierarchy of approvals that should be pursued to develop such a uniform, one-size-fits-all label. This hierarchy varies dependent upon label claims. Legally, labels as well as “labeling” (supportive promotional literature) must be approved by most states. Label approval is on an annual basis that either begins on January 1 or July 1, dependent upon the unique state laws. The cost of a label averages approximately \$75/state. Financial penalties are imposed on non-compliance and Stop Sale actions can be imposed upon unlabeled products.

Licenses: Any organization that plans to sell fertilizer products must be licensed in all legal entities. The business licensing is relatively simple for most states, but one state is more complicated as the business must be registered through their State Department. The business license costs an average of \$70-\$80 per state and must be renewed annually. Non-compliance financial penalties can be imposed.

Tonnage/Mill Taxes: Once registered and sold the product must be closely monitored by the seller as to its ultimate usage destination, as tonnage taxes are imposed by most states and reports may be required on a monthly, quarterly, semi annual and/or annual basis. These tonnage tax filings may request data that drills down to the actual county in which the fertilizer has been sold. Tonnage taxes may be paid by either the registrant or the distribution/dealer chain; therefore, in establishing a chain of distribution the label holder should agree with its customers as to which entity will incur sales tax obligations. There are financial penalties imposed on non-compliant parties.

E-sales: Many sales organizations may choose to ignore state laws and sell via the Internet without compliance with labeling, licensing and tonnage taxes. **This is a violation in every state of our knowledge and we strongly advise restraint from such practices.**