



## **NOTICE OF PUBLIC RULEMAKING HEARING**

### **FOR AMENDMENTS TO**

### **Rules Pertaining to “Fertilizers and Soil Conditioners” 8 CCR 1202-4, Parts 2, 6, and 9.8**

Notice is hereby given pursuant to § 24-4-103 C.R.S. that the Department of Agriculture will hold a public rulemaking hearing:

DATE: October 1, 2020  
TIME: 10:30 am  
LOCATION: This hearing will be held by telephone.  
CALL INFORMATION: 1-617-675-4444 PIN: 433 812 868 5986#

In order to maintain a proper hearing record you are encouraged to pre-register by completing this [Google form](#). If you do not have access to Google you may send your name and telephone number to [Jenifer.Gurr@state.co.us](mailto:Jenifer.Gurr@state.co.us)  
Pre-registration is not required to participate in the hearing.

The purpose of this rulemaking is to update the language to properly incorporate the Association of American Plant Food Control Officials Official Publication, effective January 1, 2017, by reference.

The statutory authority for these rules is § 35-12-114 C.R.S.

Any interested party may file written comment with the Commissioner’s office prior to the hearing, or present at the aforementioned hearing written data, views or arguments. Emailed comments should be sent to the hearing officer at [Jenifer.Gurr@state.co.us](mailto:Jenifer.Gurr@state.co.us). A copy of the proposed rule is available on the Department of Agriculture’s website at [www.colorado.gov/ag](http://www.colorado.gov/ag) or may be obtained by calling 303-869-9004. The proposed rule shall be available for public inspection at the Colorado Department of Agriculture at 305 Interlocken Parkway, Broomfield, Colorado during regular business hours.



## COLORADO DEPARTMENT OF AGRICULTURE

### Inspection and Consumer Services Division

#### Fertilizers and Soil Conditioners

#### 8 CCR 1202-4

### Part 2. DEFINITIONS

- 2.1 The Official Publication of the Association of American ~~p~~Plant ~~f~~Food Control Officials, Inc. shall mean the 2017 Official Publication of the Association of American ~~p~~Plant ~~f~~Food Control Officials, Inc. ("AAPFCO"), effective January 1, 2017. This Rule incorporates by reference the AAPFCO standards and guidelines. The Rule does not adopt any later amendments to, or editions of, the AAPFCO standards and guidelines. ~~Additionally, anyone seeking to review a copy of the referenced material may contact the Inspection and Consumer Services Division of the Department of Agriculture, located at 2331 West 31st Avenue, Denver, Colorado 80211 to learn how this information~~ A copy of the Official Publication of the Association of American Plant Food Control Officials, Inc. shall be kept In the Department of Agriculture, located at 305 Interlocken Parkway, Broomfield Colorado 80021, and shall be open to public inspection, and available for copying, during normal business hours. A copy of the official publication shall also be available online at: <http://www.aapfco.org/>. This, and any other material that is incorporated by reference, may be examined at any state publications depository library.
- 2.2 These Rules incorporate the official terms and official fertilizer definitions as published in the 2017 Official Publication of the Association of American Plant Food Control Officials, Inc. (AAPFCO), , except as the Commissioner of Agriculture ("Commissioner") designates otherwise in specific cases.
- 2.3 "Index value" means the comparison of the sum of the actual values found for total nitrogen, available phosphate and soluble potash over the sum of the guaranteed values for the same, expressed as a percentage.
- 2.4 "Soil conditioner" means a substance intended to improve the chemical or physical characteristics of the soil for the purpose of growing plants. "Soil conditioner" is synonymous with "soil amendment." It does not include commercial fertilizers, plant amendments, untreated manures, compost and treated manures that are distributed without soil conditioner labeling claims.
- 2.5 "Potting Soil" and "Planting Mix" means a material suitable for holding and growing plants. It may include small amounts of fertilizer or pesticide.
- 2.6 "Beneficial Substances or Compounds" means any substance or compound, other than primary, secondary and mirco plant nutrients, that can be demonstrated by peer reviewed scientific research to be beneficial to one or more species or plants, when applied exogenously.
- 2.7 "Ingredient Statement" means a collective and contiguous listing of the ingredients of which a soil conditioner or plant amendment is composed listed in descending order by their predominance by volume or weight as appropriate in non-quantitative terms.

### Part 6 Analytical and Sampling Methods

- 6.1 The methods of sampling for fertilizers, soil conditioners and plant amendments shall be those set forth in the 20~~th~~<sup>th</sup> Edition of the Official Methods of Analysis of the Association of Analytical Communities (AOAC) International, or such other methods adopted by the Commissioner from

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authoritative sources that the Commissioner deems reliable including but not limited to Colorado State University. This Rule incorporates by reference the AOAC methods of analysis, 20<sup>th</sup> edition. This Rule does not adopt any later amendments to, or editions of, the AOAC methods of analysis. ~~Additionally, anyone seeking to review a copy of the referenced material may contact the Inspection and Consumer Services Division of the Department of Agriculture, located at 2331 West 31st Avenue, Denver, Colorado 80211 to learn how this information may be obtained or reviewed. A copy of the 20<sup>th</sup> edition of the AOAC shall be kept on file at the Department of Agriculture, located at 305 Interlocken Parkway, Broomfield Colorado 80021, and shall be open to public inspection, and available for copying, during normal business hours. A copy of the official publication shall also be kept at AOAC International, located at 2275 Research Blvd., suite 300, Rockville Maryland 20850 and is available online at: AOAC.org.~~ This, and any other material that is incorporated by reference, may be examined at any state publications depository library.

6.2 The methods for sampling and analysis of compost shall be those specified in Test Methods for the Examination of Composting and Compost, U. S. Composting Council Research and Education Foundation (CCREF), and United States Department of Agriculture (USDA) (TMECC, 2002) ~~incorporated herein by reference (later amendments not included);~~ or such other methods adopted by the Commissioner from authoritative sources that the Commissioner deems reliable, including but not limited to Colorado State University. ~~The Commissioner shall maintain a current public list of official methods used by the Department and make such list available on the Department Internet site and from the Department office. The above mentioned TMECC publication is available for public inspection at the Department office at 2331 West 31st Avenue, Denver, Colorado 80211. Copies of this publication are available for a reasonable charge from the Department or from CCREF at 5400 Grosvenor Lane, Bethesda, MD 20814. The Test Methods for the Examination of Composting and Compost, U.s. Composting Council Research and Education Foundation (CCREF), and United States Department of Agriculture (USDA) (TMECC, 2002) is herein incorporated by reference. It does not include later amendments or editions of the publication. A copy of the 2002 edition of the TMECC shall be kept on file at the Department of Agriculture, located at 305 Interlocken Parkway, Broomfield Colorado 80021, and shall be open to public inspection, and available for copying, during normal business hours. A copy of the official publication shall also be kept with the U.S. Composting Council, located at 1053 East Whitaker Mill Road, suite 115, Raleigh North Carolina 27604, and is available online at: [compostingcouncil.org](http://compostingcouncil.org). This, and any other material that is incorporated by reference, may be examined at any state publications depository library.~~

6.3 Investigational Allowances

6.3.1 A commercial fertilizer shall be deemed deficient if the analysis of any nutrient is below the guarantee percent by an amount exceeding the applicable value specified in the following schedule, or if the index value of the fertilizer is below 98%:

<u>Guarantee percent</u>	<u>Nitrogen percent</u>	<u>Available Phosphate percent</u>	<u>Soluble Potash percent</u>
4 or less	0.49	0.67	0.41
5	0.51	0.67	0.43
6	0.52	0.67	0.47
7	0.54	0.68	0.53
8	0.55	0.68	0.60
9	0.57	0.68	0.65
10	0.58	0.69	0.70
12	0.61	0.69	0.79
14	0.63	0.70	0.87

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16	0.67	0.70	0.94
18	0.70	0.71	1.01
20	0.73	0.72	1.08
22	0.75	0.72	1.15
24	0.78	0.73	1.21
26	0.81	0.73	1.27
28	0.83	0.74	1.33
30	0.86	0.75	1.39
32 or more	0.88	0.76	1.44

For guarantees not listed, calculate the appropriate value by Interpolation.

6.3.2 Other elements shall be deemed deficient if any element is below the guarantee by an amount exceeding the applicable value specified in the following schedule:

<u>ELEMENT</u>	<u>GUARANTEE</u>	<u>ALLOWABLE DEFICIENCY</u>
Calcium and Sulfur	1% and up	0.2 units + 5% of guarantee
Magnesium	0.5% and up	0.2 units + 5% of guarantee
Boron	.02% to 5%	.003 units + 15% of guarantee
	5.0% and up	Potash Schedule 6.3 (a)
Cobalt and Molybdenum	.0005% to 1.0%	.0001 units + 30% of guarantee
	1.0% to 4.0%	.2 units + 10% of guarantee
	4.1% and up	Potash Schedule 6.3 (a)
Chlorine, Iron & Sodium	0.1% to 4.0%	.005 units + 10% of guarantee
	4.1% and up	Potash Schedule 6.3 (a)
Copper, Manganese, & Zinc	.05% to 4.0%	.005 units + 10% of guarantee
	4.1% and up	Potash Schedule 6.3 (a)

6.3.3 The above tolerances listed in 6.3.1. and 6.3.2 are for single samples run in duplicate.

## **Part 7.0 Adulteration**

## **Part 9. STATEMENTS OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE**

*The Statements of Basis, Specific Statutory Authority and Purpose for rulemaking activity from 1971 to 1984 are no longer in the Department's files.*

**9.8 Adopted October 14, 2020 – Effective December 15, 2020**

Statutory Authority

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The commissioner's authority for the adoption of these permanent rule amendments is set forth in section 35-12-114, C.R.S. of the Colorado Commercial Fertilizer, Soil Conditioner, and Plant Amendment Act.

#### Purpose

The purpose of this rulemaking is to update the language required by §24-4-103(12.5), C.R.S., to properly incorporate the AAPFCO Official Publication, effective January 1, 2017, by reference.

#### Factual and Policy Issues

Section 24-4-103 (12.5), C.R.S., requires specific language to properly incorporate a publication by reference. This rulemaking ensures the rules meet those statutory requirements, and updates the current address for the Inspection and Consumer Services Division within the Department of Agriculture, which changed in October 2018.