WEST VIRGINIA CODE: §19-15-1

§19-15-1. Definitions of words and terms.

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

(b) "Bulk fertilizer" means fertilizer delivered to the purchaser either in solid or liquid state in a nonpackage form to which a label cannot be attached.

(c) "Commissioner" means the commissioner of agriculture of the State of West Virginia or his or her duly authorized agent.

(d) "Compost" means a biologically stable material derived from the composting process.

(e) "Custom media" means a horticultural growing medium prepared to exact specifications of the person who will be planting in the medium.

(f) "Department" means the Department of Agriculture of the State of West Virginia.

(g) "Distribute" means to import, consign, to offer for sale, sell, barter, warehouse or otherwise supply a regulated product in this state.

(h) "Distributor" means any person who distributes a regulated product in this state.

(i) "Embargo" means a written stop sale order issued by the commissioner of agriculture prohibiting the sale, use of or transportation of any regulated product in any manner until the embargo is released by the commissioner.

(j) "Fertilizer" means any substance containing one or more recognized plant nutrients, including natural organic fertilizer, 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 and gypsum and other products exempted by rule of the commissioner.

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

(1) Contains important quantities of no more than one of the primary plant nutrients: (nitrogen (N), available phosphate (P205) and soluble potash (K20); or

(2) Has eighty-five percent or more of its plant nutrient content present in the form of a single chemical compound; or

(3) Is derived from a plant or animal residue or by-product or a natural material deposit which has been processed in such a way that its content of primary plant nutrients has not

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been materially changed except by purification and concentration.

(l) "Grade" means the percentage of total nitrogen, available phosphate and soluble potash stated in whole numbers in the same terms, order and percentages as in the guaranteed analysis: Provided, That specialty fertilizers may be guaranteed in fractional units of less than one percent of total nitrogen, available phosphate and soluble potash: Provided, however, That fertilizer materials, bone meal, manures and similar raw materials may be guaranteed in fractional units.

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

(1) Total nitrogen (N) percent

Available phosphate (P205) percent

Soluble potash (K201) percent

(2) For unacidulated mineral phosphatic materials and basic slag, bone, tankage and other organic phosphatic materials, the total available phosphate or degree of fineness may also be guaranteed.

(3) Guarantees for other plant nutrients may be permitted or required by rule of the commissioner and shall be expressed in the form of the element. The sources of such other nutrients (oxides, salt, chelates, etc.) may be required to be stated on the application for registration and may be included as a parenthetical statement 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 rules prescribed by the commissioner.

(n) "Horticultural growing medium" means any substance or mixture of substances promoted as or intended to function as a commercial or consumer growing medium for the managed growth of horticultural crops in containers.

(o) "Investigational allowance" means an allowance for variations inherent in the collection, preparation and analysis of an official sample of regulated product.

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

(q) "Labeling" means all written, printed or graphic matter, upon or accompanying any regulated product, or advertisements, brochures, posters or electronic announcements used in promoting the sale of regulated products.

(r) "Local legislation" means, but not limited to, any ordinance, motion, resolution,

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amendment, regulation or rule adopted by a political subdivision.

(s) "Manufacture" means to produce, compound, mix, blend or in any way alter the chemical or physical characteristics of a regulated product.

(t) "Manufacturer" means any person who manufactures a regulated product.

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

(v) "Natural organic fertilizer" means materials derived from either plant or animal products containing one or more elements other than carbon, hydrogen and oxygen which are essential for plant growth. These materials may be subjected to biological degradation processes under normal conditions of aging, rainfall, sun-curing, air drying, composting, rotting, enzymatic or anaerobic/aerobic bacterial action or any combination of these. These materials may not be mixed with synthetic materials or changed in any physical or chemical manner from their initial state except by manipulations such as drying, cooking, chopping, grinding, shredding, hydrolysis or pelleting.

(w) "Official sample" means any sample of regulated product collected by the commissioner or his or her agent and designated as "official" by the commissioner.

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

(y) "Person" means an individual, partnership, association, firm or corporation.

(z) "Political subdivision" means any local government entity which includes, but is not limited to, any city, county or municipal corporation and any other body corporate and politic that is responsible for government activities in a geographical area smaller than that of the state.

(aa) "Primary nutrients" means nitrogen (N), available phosphate (P205) and soluble potash (K20).

(bb) "Registrant" means the person who registers regulated products under the provisions of this article.

(cc) "Regulated product" means any product governed by this article, including any fertilizer, specialty fertilizer, soil amendment and horticultural growing medium.

(dd) "Soil amendment" means any substance or mixture of substances, imported, manufactured, prepared or sold for manurial, soil enriching or soil corrective purposes, or intended to be used for promoting or stimulating the growth of plants, increasing the productivity of plants, improving the quality of crops or producing any chemical or physical change in the soil. The following are exempt from the definition of "soil amendment": Fertilizer, unmanipulated animal manures, horticultural growing medium, agricultural

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liming materials, unmixed mulch and unmixed peat.

(ee) "Specialty fertilizer" means a fertilizer distributed primarily for nonfarm use, such as home gardens, lawns, shrubbery, flowers, house plants, golf courses, municipal parks, cemeteries, greenhouses and nurseries.

(ff) "Synthetic" means any substance generated from another material or materials by means of a chemical reaction.

(gg) "Ton" means a net weight of two thousand pounds avoirdupois.

(hh) "Unmanipulated manure" means substances composed of the excreta of domestic animals, or domestic fowls, which has not been processed or conditioned in any manner, including, but not limited to, processing or conditioning by drying, grinding, pelleting, shredding, addition of plant food, mixing artificially with any material or materials, other than those which have been used for bedding, sanitary or feeding purposes for animals or fowls or by any other means.

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