

# A-Engrossed House Bill 2211

Ordered by the House March 27  
Including House Amendments dated March 27

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for State Department of Agriculture)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Revises language in statutes regulating manufacture, distribution and registration of fertilizer, agricultural amendment, agricultural mineral and lime products.

Expands definitions of "fertilizer" and "agricultural mineral." Changes measure for expression of nitrogen and calcium sulfate.

Specifies density standard for bulk liquids.

Revises label format and content requirements.

Limits time by which product laboratory analysis may precede submission of analysis to State Department of Agriculture.

Revises provisions regarding department access for inspections.

Allows withholding of licenses and product registrations if civil penalty remains unpaid.

## A BILL FOR AN ACT

1  
2 Relating to soil enhancing products; creating new provisions; and amending ORS 633.311, 633.321,  
3 633.331, 633.336, 633.341, 633.351, 633.362, 633.364, 633.366, 633.371, 633.385, 633.445, 633.461,  
4 633.471, 633.476, 633.479 and 633.994.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** ORS 633.311 is amended to read:

7 633.311. As used in ORS 633.311 to 633.479 [*and 633.994*]:

8 (1) "Agricultural amendment":

9 (a) Means a mixed or unmixed synthetic [*organic*] chemical substance, a chemically or physically  
10 modified natural substance, a naturally occurring substance or a manufacturing by-product, or  
11 [*combination thereof*] **a combination of those substances or by-products**, intended [*as a source of*  
12 *plant food*,] to induce crop yields or plant growth or to produce any physical, **microbial** or chemical  
13 change in the soil. [*"Agricultural amendment" does not include:*]

14 (b) **Does not mean any of the following:**

15 [(a)] (A) Fertilizer products.[:]

16 [(b)] (B) Agricultural mineral products.[:]

17 [(c)] (C) Lime products.[:]

18 [(d)] (D) Hays.[:]

19 [(e)] (E) Straws.[:]

20 [(f)] (F) Peat.[:]

21 [(g)] (G) Leaf mold.[:]

22 [(h)] (H) Sands.[:]

23 [(i)] (I) Expanded silicates.[:]

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1       [(j)] **(J)** Biosolids-derived products, compost and animal or vegetable manures that are not  
2 packaged and do not contain a grade statement or guaranteed analysis.[:]

3       [(k)] **(K)** Biosolids, domestic septage and domestic wastewater treatment facility solids regulated  
4 under ORS chapters 468 and 468B.[: and]

5       (L) Reclaimed water or treated effluent regulated under ORS [468.020,] 468B.010 and 468B.015  
6 **or rules adopted under ORS 468.020.**

7       (2) “Agricultural mineral”:

8       **(a)** Means a mineral substance, mixture of mineral substances or mixture of mineral and organic  
9 substances containing less than five percent of [*available*] **total** nitrogen (N), available phosphate  
10 ( $P_2O_5$ ) or soluble potash ( $K_2O$ ), singly, collectively or in combination, designed for use principally  
11 as a source of plant food, in inducing increased crop yields or plant growth or producing any phys-  
12 ical, **microbial** or chemical change in the soil. [*“Agricultural mineral” does not include:*]

13       **(b) Does not mean any of the following:**

14       [(a)] **(A)** Fertilizer products.[:]

15       [(b)] **(B)** Agricultural amendment products.[:]

16       [(c)] **(C)** Lime products.[:]

17       [(d)] **(D)** Sand.[:]

18       [(e)] **(E)** Soil.[:]

19       [(f)] **(F)** Biosolids-derived products, compost and animal or vegetable manures that are not  
20 packaged and do not contain a grade statement or guaranteed analysis.[:]

21       [(g)] **(G)** Biosolids, domestic septage and domestic wastewater treatment facility solids regulated  
22 under ORS chapters 468 and 468B.[: and]

23       [(h)] **(H)** Reclaimed water or treated effluent regulated under ORS [468.020,] 468B.010 and  
24 468B.015 **or rules adopted under ORS 468.020.**

25       (3) “Available phosphate” means the sum of the water soluble and citrate soluble phosphate.

26       (4) “Bulk” [or “*bulk sale*” is the sale, offering for sale or delivery of] **means** a fertilizer, agricul-  
27 tural [*mineral, agricultural*] amendment, **agricultural mineral** or lime product, or [of] a custom mix,  
28 **that is distributed** in unpackaged form, such as [*in open containers, closed or open tote boxes,*] **rail**  
29 **cars**, closed or open tanks, closed or open trailers, spreader trucks or other types of containers,  
30 vehicles or conveyances as determined by **the** State Department of Agriculture **by** rule.

31       (5) “Compost” means a substance derived primarily or entirely from the decomposition of  
32 vegetative or animal organic material that is [*sold or offered for sale*] **distributed** for the purpose  
33 of promoting or stimulating plant growth and to which no fertilizer, agricultural [*mineral, agricul-*  
34 *tural*] amendment, **agricultural mineral** or lime product is added other than to promote decompos-  
35 ition.

36       (6) “Custom mix” means a mixture of fertilizer, agricultural [*mineral, agricultural*] amendment,  
37 **agricultural mineral** or lime product, each lot or batch of which is mixed according to the specific  
38 instructions of or is prescribed for the special use of the final purchaser.

39       (7) “Department” means the State Department of Agriculture.

40       (8) “Director” means the Director of Agriculture.

41       **(9) “Distribute” means to import, consign, sell, offer for sale, barter, exchange or oth-**  
42 **erwise facilitate the supplying of fertilizer, agricultural amendment, agricultural mineral or**  
43 **lime products.**

44       [(9)] **(10)** “Distributor” means a person who [*imports, consigns, sells or offers for sale, barter,*  
45 *exchanges or otherwise facilitates the supply of*] **distributes** fertilizer, agricultural [*mineral, agricul-*

1 *tural*] amendment, **agricultural mineral** or lime [*product*] **products**.

2 [(10)] (11) “Fertilizer”:

3 (a) Means any substance, or any combination or mixture of substances, that is designed for use  
4 primarily as a source of plant food, in inducing increased crop yields or plant growth, or producing  
5 any physical, **microbial** or chemical change in the soil, and that contains five percent or more of  
6 [*available*] **total** nitrogen (N), available phosphate (P<sub>2</sub>O<sub>5</sub>) or soluble potash (K<sub>2</sub>O), singly, collectively  
7 or in combination. [*“Fertilizer” does not include:*]

8 (b) **Does not mean any of the following:**

9 [(a)] (A) Agricultural [*mineral*] **amendment** products.[:]

10 [(b)] (B) Agricultural [*amendment*] **mineral** products.[:]

11 [(c)] (C) Lime products.[:]

12 [(d)] (D) Hays.[:]

13 [(e)] (E) Straws.[:]

14 [(f)] (F) Peat.[:]

15 [(g)] (G) Leaf mold.[:]

16 [(h)] (H) Biosolids-derived products, compost and [*unpacked*] animal or vegetable manures that  
17 **are not packaged and** do not contain a grade statement or guaranteed analysis.[:]

18 [(i)] (I) Biosolids, domestic septage and domestic wastewater treatment facility solids regulated  
19 under ORS chapters 468 and 468B.[: *and*]

20 [(j)] (J) Reclaimed water [*and*] **or** treated effluent regulated under ORS [*468.020,*] 468B.010 and  
21 468B.015 **or rules adopted under ORS 468.020.**

22 [(11)] (12) “Grade” means the minimum percentage claimed for [*available*] **total** nitrogen (N),  
23 available phosphate (P<sub>2</sub>O<sub>5</sub>) or soluble potash (K<sub>2</sub>O) stated in the same terms, order and percentages  
24 as the guaranteed analysis.

25 [(12)] (13) “Guaranteed analysis” means the minimum percentage of the following claimed to be  
26 present in a product:

27 (a) Primary nutrients;

28 (b) Secondary nutrients;

29 (c) Micronutrients;

30 (d) Neutralizing [*capability*] **capacity**; or

31 (e) Substances claimed to induce crop yields or plant growth or to produce any physical,  
32 **microbial** or chemical change in the soil.

33 [(13)] (14) “Label” means all written, printed or graphic matter on the immediate container or  
34 on a [*statement or invoice*] **separate document** accompanying any fertilizer, agricultural [*mineral,*  
35 *agricultural*] amendment, **agricultural mineral** or lime product.

36 [(14)] (15) “Labeling” means a printed or verbal representation used to promote the [*sale*] **dis-**  
37 **tribution** of any fertilizer, agricultural [*mineral, agricultural*] amendment, **agricultural mineral** or  
38 lime product, including but not limited to a representation by means of:

39 (a) Brochures;

40 (b) Posters;

41 (c) Internet;

42 (d) Television; and

43 (e) Radio.

44 [(15)] (16) “Lime” means any substance or mixture of substances [*whose*] **having** calcium [*and*]  
45 **or** magnesium compounds [*are*] capable of neutralizing soil acidity.

1 [(16)] (17) “Lime score” means a numerical expression of the quality of lime, as determined by  
2 the department by rule.

3 [(17)] (18) “Manufacture” means to compound, produce, granulate, mix, blend, repackage or  
4 otherwise alter the composition of fertilizer, agricultural [*mineral, agricultural*] amendment, **agri-**  
5 **cultural mineral** or lime product.

6 [(18)] (19) “Micronutrient” means boron (B), chlorine (Cl), cobalt (Co), copper (Cu), iron (Fe),  
7 manganese (Mn), molybdenum (Mo), sodium (Na) or zinc (Zn).

8 [(19)] (20) “Official sample” means any representative sample of product taken by the depart-  
9 ment or a representative of the department and designated as official.

10 [(20)] “Package” means any closed container, regardless of size, but does not mean the receptacle  
11 in which bulk product is sold, offered for sale or delivered.]

12 (21) “Package” means any closed container, regardless of size, other than the receptacle  
13 of a bulk product.

14 [(21)] (22) “Percent” or “percentage” means percentage by weight.

15 [(22)] (23) “Phosphate” means the amount of pentavalent phosphorus present in the material  
16 calculated as phosphorus pentoxide (P<sub>2</sub>O<sub>5</sub>) and expressed as available phosphate.

17 [(23)] (24) “Primary nutrient” means **total** nitrogen (N), available phosphate (P<sub>2</sub>O<sub>5</sub>) or soluble  
18 potash (K<sub>2</sub>O).

19 [(24)] (25) “Product” means a readily distinguishable, individually labeled substance [*containing*  
20 *fertilizer, agricultural mineral, agricultural amendment or lime*].

21 [(25)] (26) “Registrant” means the person who registers a fertilizer, agricultural [*mineral, agri-*  
22 *cultural*] amendment, **agricultural mineral** or lime product under ORS 633.362.

23 [(26)] (27) “Secondary nutrient” means calcium (Ca), magnesium (Mg) or sulfur (S).

24 (28) “Soluble potash” means the portion of potash that is soluble in aqueous ammonium  
25 oxalate, aqueous ammonium citrate or water.

26 [(27)] (29) “Ton” means 2,000 pounds avoirdupois.

27 [(28)] (30) “Waste-derived product”:

28 (a) Means any of the following:

29 (A) Fertilizer, agricultural [*mineral, agricultural*] amendment, **agricultural mineral** or lime  
30 product derived in whole or in part from hazardous waste as defined in ORS 466.005 [(7)] or in rules  
31 adopted [*thereunder,*] **under ORS 466.015 and 466.020.**

32 (B) Solid waste as defined in ORS 459.005 [(24)] or in rules adopted [*thereunder, or*] **under ORS**  
33 **459.045.**

34 (C) Industrial waste as defined in ORS 468B.005 [(2)] or in rules adopted [*thereunder. “Waste-*  
35 *derived product” does not include:*] **under ORS 468B.035.**

36 (b) Does not mean:

37 [(a)] (A) Biosolids, biosolids-derived products, domestic septage and domestic wastewater treat-  
38 ment facility solids regulated under ORS chapters 468 and 468B; or

39 [(b)] (B) Reclaimed water or treated effluent regulated under ORS [468.020,] 468B.010 and  
40 468B.015 **or rules adopted under ORS 468.020.**

41 **SECTION 2.** ORS 633.321 is amended to read:

42 633.321. (1) [A person may not sell, offer for sale or distribute fertilizer, agricultural mineral, ag-  
43 ricultural amendment or lime product, in package or in bulk, unless there is a printed label attached  
44 or applied to the package, or, in the case of bulk sale, a separate document that] **A person may not**  
45 **distribute fertilizer, agricultural amendment, agricultural mineral or lime products in pack-**

1 **aged form unless there is a printed label attached or applied to the package. A person may**  
2 **not distribute fertilizer, agricultural amendment, agricultural mineral or lime products in**  
3 **bulk unless a label in the form of a separate document** physically accompanies the shipment and  
4 is furnished to the user or purchaser when each separate delivery is made, or when the last delivery  
5 **from the lot** is made *[of the entire lot or sale thereof]*. The *[printed]* label must include the following:

- 6 (a) The name under which the product is registered or *[sold]* **distributed**.
- 7 (b) The net weight or volume.
- 8 (c) The name and mailing address of the manufacturer, distributor or registrant.
- 9 (d) The product grade if primary nutrients are claimed.

10 (e) **The product density, in pounds per gallon at 68 degrees Fahrenheit, if the product is**  
11 **distributed as a bulk liquid.**

12 *[(e)]* (f) A guaranteed analysis. The guaranteed analysis must **immediately** follow the statement,  
13 “GUARANTEED ANALYSIS.” Guarantees must be based on a laboratory method of analysis ap-  
14 proved by the State Department of Agriculture. The guaranteed analysis shall be stated on an “as  
15 is” basis at the time the fertilizer, agricultural *[mineral, agricultural]* amendment, **agricultural**  
16 **mineral** or lime product is *[offered for sale or]* distributed into or within this state. Primary nutri-  
17 ents, secondary nutrients and micronutrients that are claimed or advertised must be individually  
18 guaranteed.

19 *[(f)]* (g) A derivation statement declaring the sources for all primary *[and]* **nutrients**, secondary  
20 nutrients<sup>[,]</sup> **and** micronutrients *[and non-plant food ingredients]* guaranteed. The statement must be  
21 listed **immediately** below the *[completed]* guaranteed analysis. Abbreviations, brand names, trade-  
22 marks and trade names may not appear in the derivation statement, but may appear as part of the  
23 product name in an area of the label that is separate from the derivation statement.

24 *[(g)]* (h) The identity and amount of ingredients other than primary nutrients, secondary nutri-  
25 ents and micronutrients that are claimed or advertised. The identity and amount must be guaranteed  
26 and determinable by laboratory methods approved by the department. The source of *[such]* **those**  
27 ingredients shall be *[placed]* **formatted** on the label as follows:

---

29

30 ALSO CONTAINS NON-PLANT  
31 FOOD INGREDIENT(S):  
32 \_\_\_\_\_% Humic Acids (Derived from \_\_\_\_\_)  
33 \_\_\_\_\_% Other Determinable Non-Plant  
34 Food Ingredients

---

35

36

37 *[(h)]* (i) A unique identifier for custom mixed products.

38 *[(i)]* (j) An Internet address that leads to a department website that is accessible to the public  
39 and contains product-specific information. The department shall adopt rules establishing the date for  
40 label compliance and the nature of product information that must be available through the website.  
41 The information<sup>[,]</sup> **must be** accessible by product name, ingredient or reportable substance<sup>[,]</sup> **and**  
42 shall include, at a minimum:

43 *[(A)]* *The name of any product identified as waste-derived in an application for registration as*  
44 *provided in ORS 633.362 (9);]*

45 *[(B)]* *The Standard Industrial Classification code of the facility that generated each waste-derived*

1 product or waste-derived ingredient of a product identified in subparagraph (A) of this paragraph;  
2 and]

3 [(C) The type and level of metals and other substances required by the department by rule to be  
4 reported for registration of any product as provided in ORS 633.362 (10).]

5 (A) For any product identified in an application for registration under ORS 633.362 as  
6 being waste-derived, the product name and the Standard Industrial Classification code or  
7 North American Industry Classification System code of each facility that generated the  
8 waste-derived product or any waste-derived ingredient of the product; and

9 (B) The types and levels of metals and other substances for which a statement is re-  
10 quired under ORS 633.362 (10) or required by department rule to be stated in the application  
11 for registration of a product.

12 (2)(a)(A) Primary nutrients that are claimed or advertised must be guaranteed and [placed] **for-**  
13 **matted** on the label as follows:

---

14  
15  
16 GUARANTEED ANALYSIS:

17 Total Nitrogen (N) \_\_\_\_\_%

18 \_\_\_\_\_% Ammoniacal Nitrogen

19 \_\_\_\_\_% Nitrate Nitrogen

20 \_\_\_\_\_% **Urea Nitrogen**

21 \_\_\_\_\_% **Slowly Available Water Soluble Nitrogen**

22 \_\_\_\_\_% **Water Insoluble Nitrogen**

23 \_\_\_\_\_% [Water Soluble Organic Nitrogen or]

24 Other recognized and determinable forms of  
25 Nitrogen

26 [\_\_\_\_\_% Water Insoluble Organic Nitrogen or]

27 [Water Insoluble Nitrogen]

28 Available Phosphate (P<sub>2</sub>O<sub>5</sub>) \_\_\_\_\_%

29 Soluble Potash (K<sub>2</sub>O) \_\_\_\_\_%

---

31  
32 (B) The guarantees for the forms of nitrogen must add up to the total nitrogen guarantee and  
33 may be shown by [subscript] **indentation**. The forms of nitrogen may be listed in an order other than  
34 the order listed in this subsection.

35 (b) In addition to guarantees of available phosphate (P<sub>2</sub>O<sub>5</sub>) and soluble potash (K<sub>2</sub>O), the per-  
36 centage of phosphorus (P) and potassium (K) may be shown by indentation [and subscript] **or**  
37 as prescribed by the department. Phosphorous acid (expressed as H<sub>3</sub>PO<sub>3</sub> or PO<sub>3</sub>) cannot be claimed as  
38 a source of available phosphate.

39 (c) Unacidulated mineral phosphatic materials, bone[, *tankage*] or other phosphatic materials  
40 [shall] **may** be guaranteed **and formatted** on the label as follows:

---

41  
42  
43 Available Phosphate (P<sub>2</sub>O<sub>5</sub>) \_\_\_\_\_%

44  
45 \_\_\_\_\_% Total Phosphate

\_\_\_\_\_ % Insoluble Phosphate

(3) The following secondary nutrients and micronutrients that are claimed or advertised must be guaranteed, *[must]* be placed on the label in the same order as listed in this subsection and *[must]* immediately follow the guaranteed analysis **for any primary nutrients claimed**. The guaranteed analysis of secondary nutrients and micronutrients shall be made on the elemental basis. When a chelated, water soluble or other form of plant nutrient is claimed or advertised in addition to the elemental form of the same secondary nutrient or micronutrient, the form and percentage must be guaranteed separately. Except for products defined by the department by rule, the minimum percentages that may be accepted for registration are as follows:

---

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%

---

(4) *[The label for any]* **If a** fertilizer, agricultural amendment, agricultural mineral or lime product *[with added]* **has** boron greater than 0.1 percent or *[added]* molybdenum greater than 0.001 percent, **the product label** must include a warning or cautionary statement that the product contains *[added]* boron or molybdenum and is to be used only according to the manufacturer’s recommendations or directions.

(5)(a) If a fertilizer, agricultural *[mineral or agricultural]* amendment **or agricultural mineral** product is intended to be microbiological inoculum, the label must include:

- (A) A product expiration date;
- (B) The number of each viable organism per milliliter for liquid products or per gram for dry products; and
- (C) The identification of each viable organism expressed as genus and species, and, if applicable, strain.

(b) If a fertilizer, agricultural *[mineral or agricultural]* amendment **or agricultural mineral** product is derived from a microbiological process or culture but is not intended to be a microbiological inoculum, the product label must include a statement that the product is not a viable culture.

(6) A product ingredient may not be listed, claimed or guaranteed on the label or labeling without prior approval by the department.

1        **SECTION 3.** ORS 633.331 is amended to read:

2        633.331. In addition to the [labeling] **label** requirements under ORS 633.321, the label for a lime  
3 product must include the following:

4        (1) The name of the particular form of lime. Forms of lime may include, but are not limited to,  
5 ground limestone, shells, burnt lime, lime hydrate, sugar lime, residue lime, dolomitic lime, lime  
6 sludge and waste lime.

7        (2) The guaranteed analysis, stating **the following**:

8        (a) The [minimum] percentage of calcium oxide (CaO) or calcium carbonate (CaCO<sub>3</sub>).[:]

9        (b) The [minimum] percentage of magnesium oxide (MgO) or magnesium carbonate (MgCO<sub>3</sub>).[:]

10       (c) The [minimum] total neutralizing [power] **capacity** expressed in terms of calcium carbonate  
11 equivalent (CCE).[:]

12       (d) The percentage of product that will pass, respectively, a 100-mesh, 40-mesh, 20-mesh and  
13 10-mesh sieve. The mesh size declaration may include a declaration of the percentage of product that  
14 will pass additional mesh sizes, but the mesh sizes specified in this paragraph must be included in  
15 the mesh size declaration.[:]

16       (e) The lime score.[: and]

17       (f) The maximum moisture content if the moisture content is more than two percent, expressed  
18 in whole numbers as follows[:] “Moisture content does not exceed \_\_\_\_\_ percent.”

19       **SECTION 4.** ORS 633.336 is amended to read:

20       633.336. In addition to the [labeling] **label** requirements under ORS 633.321, the label for an ag-  
21 ricultural amendment must include the following:

22       (1) A guaranteed analysis that contains the name and percentage of each substance intended  
23 [to be used as a source of plant food,] to induce crop yields or plant growth or to produce any  
24 physical, **microbial** or chemical change in the soil, listed consecutively, followed by the percentage  
25 of [other substances intended to be] inert ingredients.

26       (2) The purpose of the product.

27       (3) Directions for application.

28       **SECTION 5.** ORS 633.341 is amended to read:

29       633.341. In addition to the [labeling] **label** requirements under ORS 633.321, the label for an ag-  
30 ricultural mineral must include the following:

31       [(1) The percentage of sulfur contained in the product if the principal ingredient of the agricultural  
32 mineral is sulfur.]

33       [(2)] (1) The percentage of calcium sulfate, **expressed as CaSO<sub>4</sub>•2H<sub>2</sub>O or CaSO<sub>4</sub>**, if the product  
34 is gypsum, landplaster or plaster or is an agricultural mineral in which calcium sulfate  
35 [(CaSO<sub>4</sub>•2H<sub>2</sub>O)] is the principal ingredient.

36       [(3)] (2) The percentage of all ingredients contained in the product, in terms prescribed by the  
37 State Department of Agriculture, for all other agricultural minerals or mixtures of agricultural  
38 minerals with a principal ingredient other than [sulfur or] calcium sulfate.

39       **SECTION 6.** ORS 633.351 is amended to read:

40       633.351. A person may not [sell or offer for sale] **distribute** for agronomic purposes any leather,  
41 hair, wool waste, hoof, horn, urea-formaldehyde condensation products or similar materials, either  
42 singly or in combination, unless the products or materials have been processed in [such manner as  
43 to make] **a manner that makes** the plant food content available in conformity with the standards  
44 established by the State Department of Agriculture, taking into consideration the standards of ac-  
45 tivity recommended by recognized experts in the field.



1       **SECTION 7.** ORS 633.362 is amended to read:

2       633.362. (1) Each separately identifiable fertilizer, agricultural amendment, agricultural mineral  
3 or lime product, whether in package or in bulk, *[shall]* **must** be registered with the State Depart-  
4 ment of Agriculture. A person may not *[sell, offer for sale or]* distribute a fertilizer, agricultural  
5 amendment, agricultural mineral or lime product in this state *[until]* **unless** the fertilizer, agricul-  
6 tural amendment, agricultural mineral or lime product is registered with the department.

7       (2) The application for registration *[shall]* **must** be made on a form or forms provided by the  
8 department. The application for registration *[shall]* **must** include the following information:

9       (a) Product name and grade;

10       (b) Product label;

11       (c) Name and physical address of the registrant;

12       (d) Mailing address of the registrant;

13       (e) Product laboratory analysis;

14       (f) Supplier or suppliers of ingredients;

15       (g) Identification of the industry, industry process or industry processes and location of the fa-  
16 cility that generated any waste-derived ingredient or ingredients; and

17       (h) Other information required by the department by rule.

18       (3) The application for registration shall be accompanied by a nonrefundable registration fee  
19 established by department rule, not to exceed \$25 annually for each fertilizer, agricultural amend-  
20 ment, agricultural mineral or lime product. **In addition**, for a waste-derived product, the department  
21 shall *[also]* charge an annual product evaluation fee. For a fertilizer, agricultural *[mineral or agri-*  
22 *cultural]* amendment, **agricultural mineral or lime** product, the department may charge a product  
23 evaluation fee if supplementary research and evaluation by the department is required in order to  
24 determine product compliance with ORS 633.311 to 633.479 *[and 633.994]*. The department shall es-  
25 tablish product evaluation fees by rule, not to exceed \$50. The department shall review the regis-  
26 tration application form and product label for compliance with ORS 633.311 to 633.479 *[and*  
27 *633.994]*. If the department finds that the application information and product label comply with ORS  
28 633.311 to 633.479 *[and 633.994]*, the department shall issue a certificate of registration to the reg-  
29 istrant.

30       (4) Certificates of registration shall expire on December 31 of each year, except that the de-  
31 partment may grant a certificate of registration for two years. Certificates of registration for two  
32 years shall expire on December 31 of the last year in the two-year period.

33       (5) The department may assess a \$25 late registration fee for a product if the registrant has not  
34 paid the registration fee prior to the 30th day following the expiration of the certificate of regis-  
35 tration. A late registration fee assessed by the department under this subsection shall be added to  
36 the registration fee required under subsection (3) of this section and must be paid by the registrant  
37 before the department may issue a certificate of registration.

38       (6) The department may require proof of label or labeling statements or claims of the efficacy  
39 and usefulness of an ingredient prior to issuing a certificate of registration or at any time deemed  
40 necessary by the department. As proof, the department may request data from the registrant to  
41 support the label or labeling claims. The department may also rely on other experimental data, data  
42 from agricultural experiment stations, product review evaluations and advice from other authori-  
43 tative sources. The data must be from recognized, statistically designed and analyzed trials con-  
44 ducted by recognized experts in the field. All supporting data shall be representative of the soil,  
45 crops and climatic conditions found in the northwestern United States.

1 (7) In evaluating a label or labeling statement, claim or guarantee, the department may require  
 2 the submission of a written statement describing the methodology of the laboratory analysis used,  
 3 the source of the ingredient material and any reference material relied on to support the label or  
 4 labeling statement, claim or guarantee. Laboratory analyses submitted in support of an application  
 5 for registration must comply with laboratory methods of analysis approved by the department.

6 (8) Each registrant shall notify the department of any change that results in a laboratory anal-  
 7 ysis that differs from the laboratory analysis submitted in support of the related application for  
 8 registration or any change in sources of product ingredients declared on the application form. The  
 9 registrant must notify the department within 30 days following the change.

10 (9) The registrant shall identify as “waste-derived” in the application for registration any  
 11 fertilizer, agricultural amendment, agricultural mineral or lime product that is waste-derived and  
 12 distributed as a single ingredient product or blended with other fertilizer, agricultural amendment,  
 13 agricultural mineral or lime products. The application for registration must identify the industry, the  
 14 industry process or processes and the location of the facility that generated the waste and all in-  
 15 gredients of concern as identified [*and adopted*] **by the department** by rule.

16 (10) The initial application for registration of a fertilizer, agricultural amendment, agricultural  
 17 mineral or lime product must include a statement of the levels of metals in the product, including  
 18 but not limited to arsenic (As), cadmium (Cd), mercury (Hg), lead (Pb), nickel (Ni) or other metals  
 19 or substances identified by the department by rule. The registrant must provide a laboratory anal-  
 20 ysis report, in accordance with acceptable methods required by the department, to verify the levels  
 21 of metals or other substances in the product. Subsequent to initial product registration, [*such anal-*  
 22 *ysis shall be provided upon request by the department.*] **the registrant shall provide a laboratory**  
 23 **analysis report for the product to the department upon request. An initial or subsequent**  
 24 **laboratory analysis must have been conducted no more than 18 months prior to submission**  
 25 **of that analysis to the department.**

26 (11) The department shall establish by rule the level of metals or other substances permitted in  
 27 fertilizer, agricultural amendment, agricultural mineral and lime products registered with the de-  
 28 partment, including but not limited to the permitted levels of arsenic (As), cadmium (Cd), mercury  
 29 (Hg), lead (Pb), nickel (Ni) or other metals or substances identified by the department by rule for  
 30 the purpose of protecting humans, animals, water, aquatic life, soil or beneficial plant life. The de-  
 31 partment shall review the permitted level of metals or other substances in fertilizer, agricultural  
 32 amendment, agricultural mineral and lime products a minimum of **once** every five years.

33 (12) Notwithstanding subsection (1) of this section, a custom mix is not required to be registered  
 34 if all of the fertilizer, agricultural amendment, agricultural mineral or lime products contained in the  
 35 final product are registered in accordance with this section.

36 (13) The department may refuse to register any fertilizer, agricultural amendment, agricultural  
 37 mineral or lime product [*the sale, offering for sale or distribution of which would violate any of the*  
 38 *provisions*] **if distribution of the product would violate a provision** of ORS 633.311 to 633.479 [*and*  
 39 *633.994*]. The registration of each product is a distinct and separate registration.[, *and*] The refusal  
 40 **of the department** to register or reregister any product does not affect the registration of any  
 41 other product by the same person.

42 **SECTION 8.** ORS 633.364 is amended to read:

43 633.364. (1) Information required under ORS 633.362 (2)(f) and (g) and (6) is exempt from disclo-  
 44 sure under ORS 192.410 to 192.505. The State Department of Agriculture may not divulge any in-  
 45 formation provided to the department in accordance with ORS 633.362 (2)(f) and (g) and (6).

1 (2) Notwithstanding subsection (1) of this section, **the department may use** the information  
2 required under ORS 633.311 to 633.479 [*and 633.994 may be used by the department*] for any admin-  
3 istrative or enforcement action the department deems necessary. In addition, the department may:

4 (a) Accumulate and publish statistics from [*statements*] **semiannual tonnage reports** required  
5 by ORS 633.461 and 633.471 in a manner that does not divulge the business operations of the person  
6 submitting a report;

7 (b) Consult with the Department of Environmental Quality or other state or federal agencies in  
8 regard to information provided under ORS 633.362 (2)(f) and (g) to ensure compliance with applicable  
9 regulations; and

10 (c) Disclose data required under ORS 633.362 (6) to experts for the purpose of evaluating product  
11 data submitted in support of registration.

12 **SECTION 9.** ORS 633.366 is amended to read:

13 633.366. (1) A person may not:

14 (a) [*Sell, offer for sale or*] Distribute mislabeled products;

15 (b) Register or attempt to register any product using fraudulent or deceptive practices to evade  
16 or attempt to evade the requirements of ORS 633.311 to 633.479 [*and 633.994*] or rules adopted  
17 [*thereunder*] **under ORS 633.311 to 633.479**;

18 (c) [*Sell, offer for sale or*] Distribute adulterated products;

19 (d) Fail, refuse or neglect to deliver to a **user or** purchaser of a bulk fertilizer, agricultural  
20 amendment, agricultural mineral or lime product a printed label that complies with ORS 633.321 to  
21 633.341;

22 (e) [*Sell, offer for sale or*] Distribute a fertilizer, agricultural amendment, agricultural mineral  
23 or lime product that is not registered with the State Department of Agriculture under ORS 633.362;

24 (f) Fail, refuse or neglect to keep or maintain records as required under ORS 633.461, 633.471  
25 and 633.476 or refuse to make [*available such records pursuant to*] **the records available under** ORS  
26 633.385 upon request by the department;

27 (g) Make false or fraudulent applications, records, invoices or reports;

28 (h) Fail, refuse or neglect to provide notification to the department as required by ORS 633.318  
29 (5) or 633.362 (8);

30 (i) Fail, refuse or neglect to obtain a manufacturer-bulk distributor license required under ORS  
31 633.318;

32 (j) [*Sell,*] **Distribute**, use or remove any product subjected to a stop sale, use or removal order  
33 until the product has been released in accordance with ORS 633.445;

34 (k) Impede, obstruct, hinder or otherwise prevent or attempt to prevent the department from the  
35 performance of department duties under ORS 633.311 to 633.479 [*and 633.994*];

36 (L) Knowingly or intentionally make any false or misleading representations in connection with  
37 the [*sale, offer for sale or*] distribution of fertilizer, agricultural amendment, agricultural mineral or  
38 lime products;

39 (m) Fail, refuse or neglect to file a semiannual [*statement*] **tonnage report** with the department  
40 as required under ORS 633.461 or 633.471; or

41 (n) Fail, refuse or neglect to pay inspection fees required under ORS 633.461.

42 (2) A fertilizer, agricultural amendment, agricultural mineral or lime product may be considered  
43 mislabeled if the label or labeling:

44 (a) Is false, misleading or deceptive;

45 (b) Does not accurately reflect the composition of the product;

1 (c) Requires warning statements or directions for use that may be necessary to protect humans,  
2 animals, water, aquatic life, soil or beneficial plant life and [*such*] **the** warning statements or di-  
3 rections are not adequately stated on the label; or

4 (d) Does not comply with the requirements of ORS 633.321 to 633.341.

5 (3) A fertilizer, agricultural amendment, agricultural mineral or lime product may be considered  
6 adulterated if the product:

7 (a) Contains any deleterious or harmful ingredient in an amount that is injurious to humans,  
8 animals, water, aquatic life, soil or beneficial plant life when used in accordance with instructions  
9 for product use on the label;

10 (b) Differs in composition from [*that which is*] **the composition** claimed on the label;

11 (c) Differs in composition from [*that which is*] **the composition** claimed in the information pro-  
12 vided in accordance with ORS 633.362; or

13 (d) Contains unwanted crop seed or weed seed.

14 **SECTION 10.** ORS 633.371 is amended to read:

15 633.371. The State Department of Agriculture shall deposit revenues received under ORS 633.311  
16 to 633.479 and 633.994 in the Department of Agriculture Service Fund. The revenues [*shall be*] **de-**  
17 **posited under this section** are continuously appropriated to the department for the purpose of  
18 administering and enforcing ORS 633.311 to 633.479 and 633.994.

19 **SECTION 11.** ORS 633.385 is amended to read:

20 633.385. (1) The State Department of Agriculture shall have access at reasonable times to re-  
21 cords, premises, materials or conveyances as necessary for the purpose of [*implementing*] **adminis-**  
22 **tering and enforcing** ORS 633.311 to 633.479 and 633.994.

23 (2) The department may **inspect the records, premises, materials or conveyances of the**  
24 **manufacturer, distributor or registrant and may** take samples of any fertilizer, agricultural  
25 amendment, agricultural mineral or lime product or other substance [*sold, offered for sale or*] **man-**  
26 **ufactured, distributed [*into or within*] or registered in** this state [*at times*], **or samples of other**  
27 **substances, as** the department deems necessary for the purpose of [*determining compliance with*]  
28 **administering and enforcing** ORS 633.311 to 633.479 and 633.994.

29 (3) All sampling and analyses of fertilizer, agricultural amendment, agricultural mineral and lime  
30 products, **or of other substances**, shall be made according to methods approved by the department.

31 (4) **The department may obtain a warrant or subpoena to allow the entry, inspection,**  
32 **sampling or other purposes related to the administration and enforcement of ORS 633.311 to**  
33 **633.479 and 633.994.**

34 **SECTION 12.** ORS 633.445 is amended to read:

35 633.445. (1) When the State Department of Agriculture has reasonable cause to believe any  
36 quantity or lot of fertilizer, agricultural amendment, agricultural mineral or lime product is [*sold,*  
37 *offered for sale,*] stored, used or distributed in violation of ORS 633.311 to 633.479 [*and 633.994*] or  
38 rules adopted [*thereunder*] **under ORS 633.311 to 633.479**, the department may, in accordance with  
39 ORS 561.605 to 561.620, issue and enforce a stop sale, use or removal order prohibiting the disposal,  
40 distribution, use or removal of the quantity or lot of product in any manner. **The distributor must**  
41 **immediately remove from locations readily visible or accessible to the public any product in**  
42 **packaged form that the department places under a stop sale, use or removal order.** The de-  
43 partment may enforce the order until all actions against the order, including any contested case,  
44 are resolved or until the department gives written permission releasing the product for disposal,  
45 distribution, use or removal. The department shall [*given*] **give** written permission releasing the

1 product when ORS 633.311 to 633.479 [*and 633.994*] **and the rules adopted under ORS 633.311 to**  
 2 **633.479** are complied with.

3 (2) In accordance with ORS 561.605 to 561.620, the department may seize any quantity or lot of  
 4 product that the department determines does not comply with ORS 633.311 to 633.479 [*and*  
 5 *633.994*].

6 **SECTION 13.** ORS 633.461 is amended to read:

7 633.461. (1) [*An inspection fee in the amount set forth under subsection (2) of this section shall be*  
 8 *paid to*] **A person shall file a semiannual tonnage report with** the State Department of Agricul-  
 9 *ture [by any person who] if the person:*

10 (a) [*Sells or*] Distributes into this state, from foreign or domestic sources, a fertilizer, agricul-  
 11 *tural [mineral or agricultural] amendment or agricultural mineral* product used as an ingredient  
 12 in the in-state manufacture of a fertilizer, agricultural [*mineral or agricultural*] amendment **or ag-**  
 13 **ricultural mineral** product;

14 (b) [*Sells or*] Distributes into this state, from foreign or domestic sources, an end-use fertilizer,  
 15 agricultural [*mineral or agricultural*] amendment **or agricultural mineral** product for use within  
 16 this state; or

17 (c) [*Sells or*] Distributes into this state a fertilizer, agricultural [*mineral or agricultural*] amend-  
 18 **ment or agricultural mineral** product [*to the extent the product is*] composed of ingredients [*for*  
 19 *which an inspection fee was not charged*] **not described** under paragraph (a) or (b) of this subsection.

20 (2) **Except as provided in subsection (8) of this section,** a person described in subsection (1)  
 21 of this section shall pay the department an inspection fee in an amount established by rule:

22 (a) Not to exceed \$0.45 for each ton of fertilizer, agricultural [*mineral or agricultural*] amend-  
 23 **ment or agricultural mineral** products [*sold or*] distributed, of which, **after being advised by the**  
 24 **Fertilizer Research Committee created in ORS 633.479, the department may expend** an amount  
 25 not to exceed \$0.25 [*must be continuously appropriated to the department for the sole purpose of*  
 26 *funding*] **to fund** grants for research and development related to the interaction of fertilizer, agri-  
 27 *cultural [mineral or agricultural] amendment or agricultural mineral* products and ground water  
 28 or surface water [*as described in ORS 633.479 (1)*].

29 (b) Not to exceed \$0.05 for each ton of gypsum, land plaster [*and each*] **or an** agricultural min-  
 30 *eral with a principal ingredient of calcium sulfate (CaSO<sub>4</sub>•2H<sub>2</sub>O or CaSO<sub>4</sub>) [sold or] distributed.*

31 [*(3) Each person responsible for paying an inspection fee shall file a semiannual statement with the*  
 32 *department, on forms provided by the department, setting forth the total tonnage of each product dis-*  
 33 *tributed into or within the state during each reporting period. There will be two six-month reporting*  
 34 *periods, January 1 through June 30 and July 1 through December 31 of each year. Semiannual state-*  
 35 *ments and inspection fees are due within 30 days after the end of each reporting period.]*

36 (3) **Each person shall file a semiannual tonnage report required by subsection (1) of this**  
 37 **section with the department, on forms provided by the department, setting forth the total**  
 38 **tonnage of each product distributed into or within this state during the reporting period. The**  
 39 **reporting periods for each year are January 1 through June 30 and July 1 through December**  
 40 **31. Semiannual tonnage reports and inspection fees are due within 30 days after the end of**  
 41 **the reporting period.**

42 (4) Notwithstanding ORS 633.362, the department may suspend or deny registration of a product  
 43 until the [*statement*] **semiannual tonnage report** is filed and the inspection fee is paid as required  
 44 under this section.

45 [*(5) If a person required to file a semiannual statement under subsection (3) of this section does*

1 *not sell or distribute any fertilizer, agricultural amendment or agricultural mineral product during a*  
2 *reporting period, the person shall file a statement declaring that no sales or distribution occurred.]*

3 **(5) If a person described in subsection (1) of this section does not distribute any fertilizer,**  
4 **agricultural amendment or agricultural mineral product into or within this state during a**  
5 **reporting period, the person shall file a semiannual tonnage report declaring that no dis-**  
6 **tribution occurred.**

7 (6) If a person required to file a semiannual *[statement]* **tonnage report** or pay an inspection fee  
8 does not file the *[statement]* **report** or pay the fee within 30 days of the due date established by the  
9 department:[]

10 (a) The department may assess a collection fee of 10 percent of the amount due or \$25, which-  
11 ever is greater;[] and

12 (b) The department may withhold registration of the product until the report is filed and the fee  
13 is paid.

14 (7) A person required to file a semiannual *[statement]* **tonnage report** under *[subsection (3) of]*  
15 *this section shall maintain records and a bookkeeping system that accurately indicate the tonnage*  
16 *of fertilizer, agricultural [mineral or agricultural] amendment or agricultural mineral product that*  
17 *is subject to [annual] inspection fees. [Such records shall be maintained for a period of three years.*  
18 *The department may examine such records to verify the reported annual inspection fees related to the*  
19 *amounts of product sold or distributed in this state.]* **The person shall maintain the records for a**  
20 **period of three years.**

21 (8) **The department may not assess** inspection fees *[may not be assessed]* on any fertilizer,  
22 agricultural *[mineral or agricultural]* amendment **or agricultural mineral** product in commercial  
23 transit that is not intended for use or final distribution in this state.

24 (9) *[The provisions of]* ORS 561.450 *[apply]* **applies** to a person who refuses to pay inspection fees  
25 due to the department under this section.

26 (10) *[In the case of]* **If there are** duplicate inspection fee payments, an application **made** for a  
27 refund must be *[made]* on forms provided by the department and submitted to the department within  
28 180 days of the alleged overpayment.

29 **(11) If the inspection fees due under a semiannual tonnage report are \$5 or less, the**  
30 **person is not required to pay the inspection fees due under that report. However, a person**  
31 **exempted from paying inspection fees must still file the semiannual tonnage report.**

32 **SECTION 14.** ORS 633.471 is amended to read:

33 633.471. (1) A **person shall file a** semiannual *[statement shall be filed]* **tonnage report** with the  
34 State Department of Agriculture *[by any person who]* **if the person:**

35 (a) *[Sells or]* Distributes into this state, from foreign or domestic sources, lime products used as  
36 an ingredient in the in-state manufacture of a fertilizer, agricultural amendment, agricultural min-  
37 eral or lime product;

38 (b) *[Sells or]* Distributes into this state, from foreign or domestic sources, end-use lime products  
39 for use within this state; or

40 (c) *[Sells or]* Distributes into this state a lime product composed of ingredients not described  
41 under paragraph (a) or (b) of this subsection.

42 *[(2) Each person required to file a statement under this section shall file a semiannual statement*  
43 *with the department. The statement shall set forth the total tonnage of lime product sold or distributed*  
44 *into this state during the filing period. There will be two six-month reporting periods, January 1*  
45 *through June 30 and July 1 through December 31 of each year. Semiannual statements are due within*

1 30 days after the end of each reporting period.]

2 [(3) If a person required to file a semiannual statement under subsection (1) of this section does  
3 not sell or distribute lime products during a reporting period, the person shall file a statement declar-  
4 ing that no sales or distribution occurred.]

5 (2) A semiannual tonnage report filed under this section shall set forth the total tonnage  
6 of lime product distributed into or within this state during the reporting period. The re-  
7 porting periods for each year are January 1 through June 30 and July 1 through December  
8 31. Semiannual tonnage reports are due within 30 days after the end of each reporting period.

9 (3) If a person described in subsection (1) of this section does not distribute lime products  
10 into or within this state during a reporting period, the person shall file a semiannual tonnage  
11 report declaring that no distribution occurred.

12 (4) If a person does not file a semiannual **tonnage** report required under this section, the de-  
13 partment may assess a collection fee of \$25.

14 (5) A person required to file a semiannual *[statement]* **tonnage report** under this section shall  
15 maintain records and a bookkeeping system that accurately indicate the tonnage of lime product  
16 *[sold or]* distributed into this state. *[Such records shall be maintained for a period of]* **The person**  
17 **shall maintain the records for** three years.

18 **SECTION 15.** ORS 633.476 is amended to read:

19 633.476. (1) A person mixing or *[selling]* **distributing** a custom mix of fertilizer, agricultural  
20 amendment, agricultural mineral or lime products shall keep for a period of at least three years af-  
21 ter mixing a record showing:

22 (a) The name and address of the purchaser;

23 (b) The date of mixing;

24 (c) A unique identifier for each mixture;

25 (d) The guarantees and information required under ORS 633.321 to 633.341 *[or a list of the reg-*  
26 *istered ingredients showing the number of pounds and the grade of each ingredient in the mixture or*  
27 *batch]*; and

28 (e) Any other information required by the State Department of Agriculture.

29 (2) *[Undelivered]* **Undistributed** parts of a custom mixture or batch shall at all times be identi-  
30 fied with the purchaser's *[name and]* unique identifier.

31 (3) The **person mixing or distributing the custom mix shall make the** records required by  
32 this section *[shall be]* available for inspection during normal business hours by *[either]* the purchaser  
33 or the department.

34 **SECTION 16.** ORS 633.479 is amended to read:

35 633.479. (1) There is created the Fertilizer Research Committee to advise the Director of Agri-  
36 culture on the funding of grants for research and development related to the interaction of fertilizer,  
37 agricultural *[mineral and agricultural]* amendment **or agricultural mineral** products and ground  
38 water or surface water. The committee shall consist of *[seven]* **the director or the director's**  
39 **designee and six** members appointed by the director as follows:

40 *[(a) The Director of Agriculture or the director's designee;]*

41 *[(b)]* (a) Two members of the public who have no involvement in the manufacture[,]  
42 **or** distrib-  
43 **ution** *[or sale]* of fertilizer, agricultural *[mineral or agricultural]* amendment **or agricultural mineral**  
44 **products;**

45 *[(c)]* (b) Three members representing the fertilizer, agricultural *[mineral or agricultural]* amend-  
ment **or agricultural mineral** industry; and

1 [(d)] (c) One member representing Oregon State University.

2 (2) The term of each **appointed** member is two years, but a member serves at the pleasure of  
3 the director. Before the expiration of the term of a member, the director shall appoint a successor  
4 whose term begins on January 1 next following. A member is eligible for reappointment. If there is  
5 a vacancy for any cause, the director shall make an appointment to become immediately effective  
6 for the unexpired term.

7 (3) The committee shall select one of its members as chairperson and another as vice chair-  
8 person, for such terms and with duties and powers **the committee determines to be** necessary for  
9 the performance of the functions of [*such*] **those** offices [*as the committee determines*].

10 (4) A majority of the members of the committee constitutes a quorum for the transaction of  
11 business.

12 (5) The committee shall meet at times and places specified by the call of the chairperson or of  
13 a majority of the members of the committee.

14 (6) The director may appoint an alternate committee member for each member of the committee.

15 **SECTION 17.** ORS 633.994 is amended to read:

16 633.994. (1) In addition to any other liability or penalty provided by law, **the State Department**  
17 **of Agriculture may assess a civil penalty against** a person that violates a provision of ORS  
18 633.311 to 633.479 [*and 633.994 or rules adopted thereunder may be subject to a civil penalty of not*]  
19 **or rules adopted under ORS 633.311 to 633.479. The civil penalty may not be** more than:

20 (a) \$500 for the first violation within a three-year period;

21 (b) \$1,500 for the second violation within a three-year period; and

22 (c) \$10,000 for each subsequent violation within a three-year period.

23 [(2) *Enforcement guidance for civil penalty implementation consistency will be determined by*  
24 *rule.*]

25 **(2) The department shall adopt rules that determine guidelines for ensuring consistency**  
26 **in the assessment of civil penalties.**

27 (3) Notwithstanding subsection (1) of this section, [*any*] **for a** violation that arises from gross  
28 negligence or willful misconduct, [*and*] **or that** results in substantial harm to human health or the  
29 environment, [*may be subject to*] **the department may assess** a civil penalty of not more than  
30 \$10,000 for the initial violation or any subsequent violation.

31 (4) Each violation of a provision of ORS 633.311 to 633.479 [*and 633.994*] that results from an  
32 action is a separate and distinct violation. [*A continuing violation may be deemed a separate and*  
33 *distinct violation for each day's continued violation.*] **The department may deem each day of a**  
34 **continuing violation to be a separate and distinct violation.**

35 (5) A civil penalty [*imposed under ORS 633.311 to 633.479 and 633.994*] **assessed under this**  
36 **section** may be remitted or reduced upon [*such*] terms and conditions [*as*] **that** the Director of Ag-  
37 riculture considers proper and consistent with the public health and safety.

38 **(6) If a civil penalty assessed under this section remains unpaid after the issuance of the**  
39 **final order, the department may, until the civil penalty is paid in full:**

40 (a) **Refuse to issue the recipient of the final order a certificate of registration under ORS**  
41 **633.311 to 633.479 for a product; and**

42 (b) **Withhold from the recipient of the final order the issuance or renewal of a license**  
43 **under any program administered by the department.**

44 **SECTION 18.** (1) **The amendments to ORS 633.311, 633.321, 633.331, 633.336, 633.341 and**  
45 **633.351 by sections 1 to 6 of this 2009 Act apply to fertilizer, agricultural amendment, agri-**



1 **cultural mineral and lime products manufactured or distributed on or after the effective date**  
2 **of this 2009 Act.**

3 **(2) The amendments to ORS 633.362 and 633.364 by sections 7 and 8 of this 2009 Act apply**  
4 **to fertilizer, agricultural amendment, agricultural mineral and lime products that are dis-**  
5 **tributed in this state on or after the effective date of this 2009 Act or for which an applica-**  
6 **tion for registration is filed on or after the effective date of this 2009 Act.**

7 **(3) The amendments to ORS 633.445 by section 12 of this 2009 Act apply to orders of the**  
8 **State Department of Agriculture issued on or after the effective date of this 2009 Act.**

9 **(4) The amendments to ORS 633.461 and 633.471 by sections 13 and 14 of this 2009 Act**  
10 **apply to reports due for filing with the State Department of Agriculture on or after the ef-**  
11 **fective date of this 2009 Act.**

12 **(5) The amendments to ORS 633.994 by section 17 of this 2009 Act apply to civil penalties**  
13 **assessed under final orders issued on or after the effective date of this 2009 Act.**

14