



DATE: June 3, 2019

ACTION: Notice of Intent to Amend Soil Amendment Regulations

TO ALL INTERESTED PERSONS AND PARTIES:

Pursuant to the Official Code of Georgia Annotated, O.C.G.A. §§ 2-12-80 and 50-13-4, notice is hereby given that the Georgia Department of Agriculture will be accepting written comments regarding the amendment of Chapter 40-31 entitled *Soil Amendments*. The Department will be accepting written comments from June 3, 2019, to close of business (4:30 p.m. EST) on July 5, 2019.

SYNOPSIS, MAIN FEATURES, AND DIFFERENCES:

The Department is proposing to amend current Chapter 40-31 entitled *Soil Amendments* by incorporating the following changes:

The Department is proposing to amend current Subject 40-31-1 entitled *General Provisions* by repealing current Rule 40-31-1-.01 entitled *Soil Amendment Sampling*, adopting proposed Rule 40-31-1-.01 entitled *Definitions*, adopting proposed Rule 40-31-1-.02 entitled *General Prohibitions*, and adopting proposed Rule 40-31-1-.03 entitled *Sampling and Analysis*.

- Proposed Rule 40-31-1-.01 entitled *Definitions* would provide definitions for necessary terminology.
- Proposed Rule 40-31-1-.02 entitled *General Prohibitions* would set forth general prohibitions regarding the distribution and application of soil amendments. Prohibited acts would include distribution of an unregistered soil amendment; distribution of an unlabeled or improperly labeled soil amendment; distribution of a misbranded soil amendment; distribution of an adulterated soil amendment; application of an adulterated soil amendment derived from an industrial by-product; distribution or application of a soil amendment derived from human waste; and failure to comply with a stop sale, use, or removal order.
- Proposed Rule 40-31-1-.03 entitled *Sampling and Analysis* would establish the Commissioner's authority to sample and analyze soil amendments, including those derived from industrial by-products.

The Department is proposing to adopt Subject 40-31-2 entitled *Registration, Labeling, and Records*. In structuring this proposed Subject, the Department is proposing to adopt proposed Rule 40-31-2-.01 entitled *Registration and Renewal*, proposed Rule 40-31-2-.02 entitled *Labeling*, and proposed Rule 40-31-2-.03 entitled *Records*.

- Proposed Rule 40-31-2-.01 entitled *Registration and Renewal* would require each soil amendment registrant submit a copy of a soil amendment's label alongside the

registration request. The proposed rule would also require each registrant submit experimental data providing evidence of each claim by the soil amendment if required by the Commissioner. The proposed rule would require each registrant of a soil amendment derived from an industrial by-product submit the following alongside the registration request: a copy of the product's label, experimental data providing evidence of each claim made by the product, a current representative analysis, and experimental data providing evidence that the soil amendment does not contain any deleterious or harmful agent in sufficient quantity to be injurious to beneficial plants, animals, or aquatic life found in Georgia when applied in accordance with the direction for use shown on the label. Any renewal request regarding a soil amendment derived from an industrial by-product would require a current representative analysis. The proposed rule would require each experiment providing data as proof of a soil amendment's claims be conducted under conditions identical or closely related to those conditions present in Georgia. The proposed rule would require a registrant to indicate on an application if a soil amendment has been derived from an industrial by-product. If a registrant indicates the product was derived from an industrial by-product, the proposed rule would also require the registrant identify the industry producing the by-product, the industry process or processes generating the by-product, and the location of the facility generating the by-product. Finally, the proposed rule would clarify that registration of a soil amendment with the Department does not entitle a person using the product to violate laws or regulations administered by another authority holding jurisdiction.

- Proposed Rule 40-31-2-.02 entitled *Labeling* would establish minimum application directions for soil amendments, including those derived from industrial by-products. The proposed rule would also establish labeling requirements for bulk shipments.
- Proposed Rule 40-31-2-.03 entitled *Records* would establish recordkeeping requirements for distribution of all soil amendments and application of soil amendments derived from industrial by-products. The proposed rule would require each application record for a soil amendment derived from an industrial by-product have a specified certification statement signed by the person supervising the application. The proposed rule would also establish retention, submission, and inspection requirements for both types of records.

The Department is proposing to adopt Subject 40-31-3 entitled *Additional Provisions*. In structuring this proposed Subject, the Department is proposing to adopt proposed Rule 40-31-3-.01 entitled *Soil Amendments Derived from Industrial By-Products*.

- Proposed Rule 40-31-3-.01 entitled *Soil Amendments Derived from Industrial By-Products* would establish a cost-free, site-specific permitting system for application of soil amendments derived from industrial by-products. The application of these products would be subject to provisions specified under the proposed rule, including the following: (1) public access restrictions; (2) monitoring,

recordkeeping, and reporting requirements; (3) storage, transport, and physical application requirements; (4) buffer zone requirements; and (5) pH and pollutant soil loading rates and limits.

COMMENT PERIOD AND ADDITIONAL INFORMATION:

The Department will be accepting written comments from June 3, 2019, to close of business (4:30 p.m. EST) on July 5, 2019. Comments will be considered on July 8, 2019. Please submit written comments to:

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Interested persons may call or submit a written request to obtain a copy of the proposed rule changes. A copy of the synopsis and the proposed rule changes may be downloaded from the Georgia Department of Agriculture website at www.agr.georgia.gov.

This notice is given in compliance with the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-4.