



Ohio Revised Code Section 905.50 Mislabeled fertilizer.

Effective: August 21, 2014

Legislation: Senate Bill 150 - 130th General Assembly

If the director of agriculture has taken an official sample of a fertilizer or mixed fertilizer and determined that it constitutes mislabeled fertilizer pursuant to rules, the person who labeled the fertilizer or mixed fertilizer shall pay a penalty to the consumer of the mislabeled fertilizer or, if the consumer cannot be determined with reasonable diligence or is not available, to the director to be credited to the pesticide, fertilizer, and lime program fund created under section 921.22 of the Revised Code. The amount of the penalty shall be calculated in accordance with either division (A) or (B) of this section, whichever method of calculation yields the largest amount.

(A)(1) A penalty required to be paid under this section may be calculated as follows:

- (a) Five dollars for each percentage point of total nitrogen or phosphorus in the fertilizer that is below the percentage of nitrogen or phosphorus guaranteed on the label, multiplied by the number of tons of mislabeled fertilizer that have been sold to the consumer;
 - (b) Three dollars for each percentage point of potash in the fertilizer that is below the percentage of potash guaranteed on the label, multiplied by the number of tons of mislabeled fertilizer that have been sold to the consumer.
- (2) In the case of a fertilizer that contains a quantity of nitrogen, phosphorus, or potash that is more than five percentage points below the percentages guaranteed on the label, the penalties calculated under division (A)(1) of this section shall be tripled.
- (3) No penalty calculated under division (A) of this section shall be less than twenty-five dollars.

(B) A penalty required to be paid under this section may be calculated by multiplying the market value of one unit of the mislabeled fertilizer by the number of units of the mislabeled fertilizer that have been sold to the consumer.



(C) Upon making a determination under this section that a person has mislabeled fertilizer or mixed fertilizer, the director shall determine the parties to whom the penalty imposed by this section is required to be paid and, in accordance with division (A) or (B) of this section, as applicable, shall calculate the amount of the penalty required to be paid to each such party. After completing those determinations and calculations, the director shall issue to the person who allegedly mislabeled the fertilizer or mixed fertilizer a notice of violation. The notice shall be accompanied by an order requiring, and specifying the manner of, payment of the penalty imposed by this section to the parties in the amounts set forth in the determinations and calculations required by this division. The order shall be issued in accordance with Chapter 119. of the Revised Code.

No person shall violate a term or condition of an order issued under this division.