

# NEWS, NOTES & QUOTES



National Newsletter of the Mulch & Soil Council

August 2024

## COUNCIL NEWS

### CERTIFICATION COMMITTEE REPORT

On July 18, the MSC Certification Committee meeting opened with an encouraging update on the certification program. The number of certified products has grown to 287, a notable increase from the 268 certified products in June 2023. Despite this growth, the program had also seen 23 products decertified since January, a necessary step to maintain high standards. Currently, 10 new products are undergoing rigorous review and testing for potential certification.

The Council has successfully conducted certified product audits across all five regions: Southeastern, Southern, Western, Northeastern, and Central. In a significant development, Lowe's Corp. is completing the national certification of its Sta-Green Premium Black, Brown & Red Mulch labels. This expansion represents a major milestone in retailer support for the MSC Product Certification Program.

The committee reviewed the revised *All-Natural Mulch Certification* Application, incorporating changes recommended in the January meeting. The application now includes a detailed classification of product inputs and suppliers, requiring each product component and supplier to be listed for review. Vendor invoices or third-party certifications will serve as proof of input origin.

During the review of the all-natural ingredients list, yard waste was added as a "Possible" natural ingredient, contingent on the process and origin of the material. Concerns were raised about verifying the process for handling curbside pickup yard waste, which may contain unacceptable materials without proper sorting. The committee proposed that applicants using such materials provide a zoom video tour of their facility to demonstrate proper processing.

The committee also discussed the importance of a clear and informative logo for the MSC *Certified All-Natural* program. A professional marketing company presented several design proposals, and the committee quickly reached a consensus on a preferred design. The selected logo will be refined and presented at the next meeting.

The committee outlined the next steps, including refining the application form and process for the next meeting. The final logo design will be reviewed by the committee and then the Board of Directors before the trademark application is submitted. The next meeting of the MSC Certification Committee is scheduled for October 8th at the MSC Annual Meeting in San Antonio, TX.

###

### BULK MEASURE COMMITTEE REPORT

MSC Bulk Measure Committee convened July 18 in Dublin, OH, to address pivotal issues shaping the bulk materials sector. Chaired by Ben Ballard, the gathering encompassed a wide array of discussions and decisions pivotal to the future of bulk material sales.

**Member Survey and NIST Inquiry**

An initial portion of the meeting centered on the delayed member survey aimed at delineating prevalent bulk loading practices across the industry. Amidst deliberations, Chair Ben Ballard and committee member Mike Kozak pledged to collaborate on drafting a comprehensive survey instrument, underlining their dedication to industry-wide clarity and cohesion.

The committee also addressed an inquiry from NIST regarding the method of sale for bulk soil products. Focusing on the industry’s prevailing practice, the committee emphasized that, while some packaged topsoil and landscape soil are sold by weight, the vast majority of packaged soils are sold by volume. Similarly, bulk sales predominantly adhere to volume metrics, aligning with established Weights & Measures guidelines on intended use of products.

**Method-of-Sale vs Verification**

A cornerstone of the meeting was the discourse on Best Management Practices (BMPs). The committee navigated complexities surrounding accurate volume verification, especially in scenarios involving both plant-side pickups and customer deliveries. Innovations in electronic measurement technologies sparked interest, with discussions highlighting the necessity for NTEP certification to ensure measurement accuracy and legal compliance.

Committee Chair Ben Ballard presented findings from his research into electronic methods for verifying bucket loading processes, paving the way for broader applications in truckload assessments. The promise of electronic solutions was a focal point in bolstering industry-wide standards.

**Draft BMP Review**

Bob LaGasse introduced a draft outline for Bulk Load Measurement BMP, aimed at harmonizing standards across industry, regulatory, and customer landscapes. The document, spanning five pages, delineates challenges and proposed BMPs, with ongoing considerations on integrating electronic technologies to refine volume assessments.

**Future Prospects and Next Steps**

Looking ahead, the committee set sights on the MSC Annual Meeting in San Antonio, slated for October 8, 2024. Anticipated discussions will delve deeper into electronic verification methodologies and finalize the BMP framework, underscoring a commitment to operational transparency, accuracy, fairness and customer satisfaction.

###

The MSC Board of Directors held its quarterly meeting on July 19, 2024, in Dublin, OH, addressing a range of important topics related to the organization’s activities and the broader industry. The board quickly moved to approve the minutes from the April teleconference.

That action was followed by the president’s report where Jim Weber began by welcoming the directors and guests, extending special thanks to Jessica Bain for her efforts in organizing the annual meeting, and to Shelli Williams for coordinating board and committee schedules and events. He provided a brief industry overview, noting that while June sales were slightly down, there were positive signs such as easing labor issues and a decrease in fuel costs. Weber highlighted that, despite these challenges, the season had been generally favorable for the industry.

Executive Director Bob LaGasse provided an in-depth update on the organization’s activities:

- Regulatory Coordination: Staff are preparing for the AAPFCO meeting to advance all-natural certification efforts and address member concerns regarding recent regulatory actions.



## Seeing is believing.

The magic of Mulch Magic® colorant is actually a lot of science. Only a microscope can see the little things, like particle dispersion and spectral analysis, that go into every tote. But anyone can see the difference in brilliance on each piece of mulch.

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## BOARD REPORT (Cont'd)

- **Annual Meeting and Training Programs:** LaGasse reported good progress on planning the annual meeting and the Plant Managers Training program, with active promotions and significant member engagement.
- **Website and Communications:** The Council has been proactive in updating its website FAQs to counteract misinformation circulating on social media about spontaneous combustion of mulch. Additionally, communication efforts have been strong, with newsletters published in April and June.
- **Collaborations and Legislative Reporting:** The Council continues to collaborate with other industry groups and stakeholders on emerging regulatory issues, particularly in Maryland, and maintains regular legislative reporting and regulatory reminders to members.

Then the Board conducted a thorough review of the Council's June financial statements, noting a significant 26% increase in revenues attributed to the success of the Plant Managers' Training registrations and the exceptional sponsorship support for the upcoming annual meeting in San Antonio. While revenues were up, expenses remained consistent with the previous year as major costs for upcoming events had yet to be incurred.

The board also discussed the renewal of the BillTrack50 monitoring service contract and the independent audit report for the fiscal year 2023, prepared by Carr, Riggs & Ingram, CPAs. The audit confirmed the accuracy and fairness of the financial position of the Council and the MSRF as of December 31, 2023 in accordance with generally accepted accounting principles. 2024 Committee Assignments & Reports included:

- **Certification Committee & All-Natural Subcommittee:** The committee's actions from the previous day were reviewed, focusing on the status of the certification program, finances, and further modifications to the All-Natural Certification application process. The committee also discussed proposed document verification methods, prospective logo selection, and next steps for implementation by October.
- **Bulk Measure Committee:** The committee's efforts to conduct a member survey on bulk loading practices were discussed. Legal counsel was advised to review the survey before distribution. Additionally, the committee planned further measurement trials using bucket loaders and electronic systems, with results to be shared at the next meeting.
- **Honors Committee:** Two nominations were submitted for the John Leber Distinguished Service Award (JLDSA). After discussing the nominees' merits, the board decided to award the 2024 JLDSA to both nominees.
- **Industry Statistics Committee:** Due to the busy season, the OSHA300 industry safety survey received no responses, and the committee planned to retry in a few months. A year-over-year sales survey was also scheduled for August or September.
- **Nominations Committee:** Executive Director Bob LaGasse reported that no responses were received from the call for nominations published in the June NNQ. As a result, the committee recommended re-electing Tom Kohut, Byron Morgan, Ricky Urteaga, and Jim Weber to additional three-year terms as directors. The board approved the committee's report.

The Board then reviewed state & federal legislative & regulatory issues. There was a discussion of multiple challenges with varying labeling requirements across states following the AAPFCO adoption of the beneficial substances model law. The board

## BOARD REPORT (Cont'd)

discussed the importance of member companies sharing experiences with new label requirements to address conflicts early. The board also discussed ongoing issues with varying interpretations of this new model law across states, resulting in inconsistent label requirements. The MSC will continue to work with members and AAPFCO to resolve these conflicts, and the MSC office offered to collect and distribute information on regulatory conflicts to support industry-wide solutions.

Bob LaGasse then provided an update on the emergency soil conditioner registration regulation in Maryland, which imposes stringent heavy metals limits significantly below the EPA 503 regulations. Although temporarily suspended, the MSC is collaborating with state compost and agricultural organizations to push for a public hearing and comment period before any further action on the regulation.

MSC Associate Executive Director Shelli Williams provided an encouraging update on the Plant Managers Training Course, noting over 30 registrants with a potential to reach 40. The program, featuring a confirmed presentation team and strong sponsorship support, is poised to be one of the best offered by the Council.

53rd Annual Meeting Program Chair Jessica Bain (Garick, LLC) reviewed the schedule, topics, and events planned for the annual meeting in San Antonio. Promotional materials have been distributed, and additional efforts were made to enhance the closing reception with live music, a wine tasting, and a prize drawing. The board expressed appreciation for her efforts. Then, Shelli Williams reported on the unprecedented sponsor interest, with sponsor events selling out within the first hour of availability and exhibit booth spaces fully booked, resulting in a waiting list.

For future meeting sites, the board confirmed the 2025 annual meeting for September 30 – October 2 at the Hilton Orlando Lake Buena Vista Hotel in Orlando's Disney Springs. Discussions for the 2026 meeting location were scheduled for the next board meeting.

The next board meeting was confirmed for October 9, 2024, in San Antonio, TX, aligning with the 53rd Annual Meeting. With director schedules filling up for early 2025, the board set February 3-4, 2025, as the dates for the first board and committee meetings of the year at a location TBD.

This summary reflects the comprehensive discussions and decisions made by the MSC Board of Directors underscoring the organization's strategic direction and commitment to addressing industry challenges and opportunities.

###

## PLANT MANAGERS TRAINING REPORT

The Mulch and Soil Council (MSC) successfully hosted its largest-ever Plant Managers Training Course at the New York New York Hotel & Casino in Las Vegas on August 21-22, 2024. This two-day event attracted 40 participants, marking a significant milestone for the Council and reinforcing the importance of continuous education in the mulch and soil production industry.

The training course was meticulously designed to cater to plant managers, new managers, and existing staff seeking a refresher on essential industry practices. Both MSC members and non-members were welcomed, reflecting the inclusive approach of the Council to foster industry-wide improvements in plant operations.

Participants had the opportunity to engage with a range of critical topics that are



# PLANT MANAGERS TRAINING REPORT



fundamental to the smooth and efficient operation of mulch and soil production plants. The course featured in-depth sessions led by industry experts, who provided valuable insights and practical knowledge. The key sessions included:

**Fire Safety Best Management Practices:**

Don Dugger from Richwood, LLC, educated attendees on the prevention of spontaneous combustion in mulch and compost piles. His session emphasized effective site and inventory management, along with rapid response strategies to mitigate losses and ensure safety during fire incidents.

**4 Key Equipment Maintenance Strategies:**

Ted Dirkx of Vermeer highlighted the transition from a reactive “fail and fix” maintenance approach to a proactive “predict and prevent” model. This session was particularly crucial for maintaining productivity during peak shipping seasons.

**Maximizing Colorant Operations:**

David Roller from Colorbiotics shared techniques for optimizing colorant use, focusing on reducing waste, improving efficiency, and ensuring proper procedures during mixing, starting, and shutting down operations.

**Weights & Measures:**

Dr. Bill Fonteno (Emeritus Professor, NCSU), Robert LaGasse (MSC), and Shelli Williams (MSC) provided an extensive overview of compliance with weights and measures laws. Their session included inspection procedures, lot controls, package fill, and a demonstration of current National Institute of Standards & Technology (NIST) test procedures as well as special insights into product variability issues for packaging and best management practices for manufacturing production and testing.

**Equipment Issues Impacting Fill Volumes:**

Jeff Conrad from Premier Tech addressed the equipment-related factors that affect package variability. He covered the impact of different product types, packaging materials, and handling processes on fill volumes.



**Participant Feedback & Certification**

The participants expressed high satisfaction with the quality of the training and the relevance of the content to their daily operations. Many highlighted the hands-on nature of the training and the immediate applicability of the strategies discussed.

At the conclusion of the event, all participants were awarded certificates of completion. Additionally, they received access to the presentation files, allowing them to revisit the material and share insights with their teams.

The success of this training course underscores the MSC’s commitment to advancing industry standards and supporting the professional development of plant managers. The knowledge and skills gained during this event are expected to enhance operational efficiency, safety, and compliance across participating plants. The MSC looks forward to continuing its role in providing essential training and resources to the mulch and soil production community.

###

**THANK YOU**  
To Our 2024  
**Plant Managers Training Course Sponsors**

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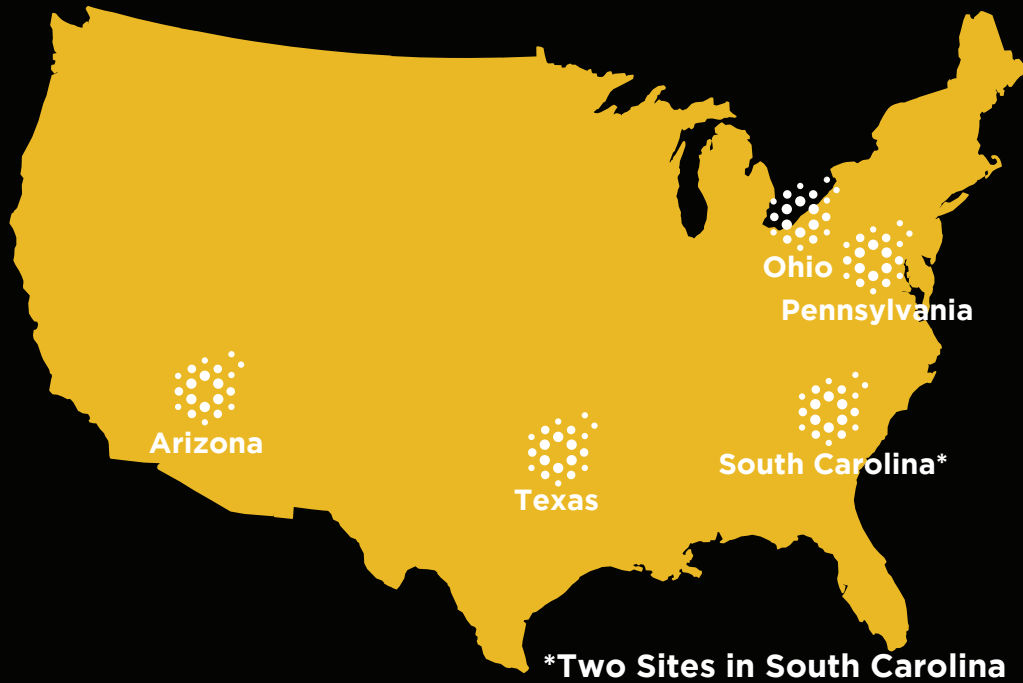


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## Join us on the Riverwalk for MSC's 53rd Annual Meeting!

Covering topics for everyone from  
owners and plant managers to  
account and marketing managers to  
industry suppliers.

*This year's meeting topics will include:*

- The Crow Report - What's Going on in Washington D.C.
- AI & ChatGPT - Impacts on Your Business & the Future
- ERP - Choosing, Implementing and Lessons Learned
- Reducing Costs & Improving Manufacturing Efficiencies
- Sales & Operations Planning - 10 Keys Needed for Successful Planning

**Keynote Speaker: Jeff Hoffman**

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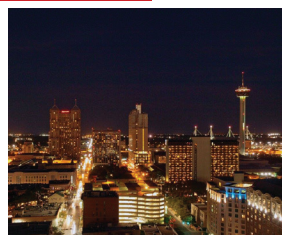
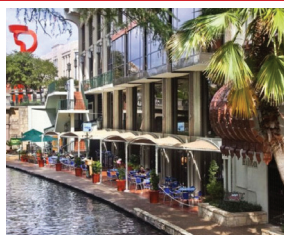
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and more*

## We hope to see you there!

## Mulch & Soil Council 2024 Annual Meeting *Celebrating 53 Years!*

**October 8 - 10, 2024  
Hilton Palacio Del Rio  
San Antonio, TX**

For more info, go to  
[www.mulchandsoilcouncil.org](http://www.mulchandsoilcouncil.org)





# 2024 MSC Annual Meeting

October 8 - 10 2024

Hilton Palacio Del Rio - San Antonio, TX

## Tuesday, October 8

### **1:30p-5:00p MSC Committee Meetings**

Members in good standing are welcomed to participate in committee meetings as observers.

### **5:00p-6:30p Meet the MSC Board of Directors**

Join the MSC Board of Directors for informal talks over cocktails as they share information on the programs and activities of the Council and the industry. *Sponsored By Premier Tech*

## Wednesday, October 9

### **8:00a-12:00p Board of Directors Meeting**

Members in good standing are welcomed to participate in the Board of Directors meeting as observers.

### **12:30p-1:00p Break Sponsored By SPR Packaging**

### **1:00p-1:30p Official Opening and Welcome**

Hear from MSC President Jim Weber, Program Chair Jessica Bain, Legal Counsel John Hazard and Executive Director Robert LaGasse as we invite you to join us for the start of the 53rd MSC Annual Meeting.

### **1:30p-2:30p Crow Political Report**

Join us as MSC Legislative Representative David Crow presents our annual update on the state of US politics in this presidential election year.

### **2:30p-3:00p Break Sponsored By Reliance Packaging**

### **3:00p-4:30p 53rd MSC Annual Membership Meeting**

Hear reports from MSC leadership and committees, elect Council directors and discuss MSC programs and activities as they may impact your business and the industry. **Moderator: Robert LaGasse, MSC Executive Director**

### **4:30p - 7:00p Opening Reception & Affiliate Member Displays**

Join us to meet with old friends and new members over cocktails and hors d'oeuvres while visiting with the industry's leading suppliers and vendors. *Sponsored By Vermeer Corporation*

## Thursday, October 10

### **8:00a-9:00a Grab n' Go Breakfast Sponsored By TH Glennon**

### **9:00a-10:00a Can AI Make My Team More Productive Today?**

Businesses today are turning to artificial intelligence (AI) to help streamline operations and boost productivity. If you're unsure of AI's risks and rewards, this session is for you! *Come away with insights into:*

- Real-world examples on how to use AI
- How should you leverage AI to help your employees be more productive?
- AI is here to stay, what is our responsibility in it?
- Is the fear real -- will AI take jobs?
- Should our company invest and engage in AI?
- How do I help my employees embrace the future?

**Speaker: Joel Gunn, C12 Business Forums**

### **10:00a-10:30a Break Sponsored by Milagro**

### **10:30a-11:30a 10 Keys Needed for Successful Planning**

Success requires planning and Integrated Business Planning/Sales and Operations Planning are essential elements for high-performing firms. In a rapid-fire session we'll identify 10 key capabilities for solid business plan development. If you have IBP/S&OP capabilities in place, you'll gain ideas on how to compare your capabilities with leading practices. If you do not have an IBP/S&OP capability, you'll learn about essential elements and how the IBP/S&OP benefits an organization. We will cover key questions like who should be involved in developing the plans, what horizon is most appropriate, how often should plans be updated, what are the essential inputs and outputs for actionable plan development, how might we measure plan quality, and how can we ensure continuous improvement to the IBP/S&OP process. **Speaker: Dave Angelow, Texas State University**

### **11:30a-2:00p Keynote Luncheon: Mastering Human Capital- The Real Key to Success by Jeff Hoffman**

In this informative and engaging talk, Jeff illustrates the critical importance of hiring the RIGHT people to grow your business, and to get to the next level. Jeff talks about what it takes to attract talent, how to motivate and engage your employees, tips for compensating your team in non-standard ways, and how to lift your team to perform at a higher level. Jeff also discusses the idea of hiring "rockstars" to build your company around, and how to go out and find those rockstars, and how to convince them to join your team. In addition to building your team, Jeff talks about how to achieve "customer intimacy", the practice of truly knowing and understanding your customers so that you can provide them the best possible service and beat the competition. Jeff's talk on customers includes many actionable steps, like finding your "sweet spot" customer and spending a day in the life of your customer. This is a talk you won't soon forget, filled with actionable steps you can take tomorrow. *Sponsored By Agricoatings*

### **2:00p-3:00p Reducing Costs & Improving Manufacturing Efficiency**

Hear from MSC member companies that have a wealth of knowledge and experience in the mulch & soil industry on how they have used various systems and technology to reduce cost and improve manufacturing efficiency.

### **3:00p-3:30p Break Sponsored By Chromascape**

### **3:30p-4:30p Enterprise Resource Planning (ERP) Panel**

Our panel is comprised of industry members who have recently gone through ERP implementation hoping to educate members thinking of ERP implementation and deciding between different software. Hear first-hand knowledge on choosing ERP software, challenges of implementation, controlling costs and lessons learned.

### **4:30p-6:00p President's Honky-Tonk Happy Hour**

Yee-haw! Grab your boots and cowboy hats, it's time to party Texas style! Join us for our closing event filled with live music featuring country classics, wine tasting showcasing the best local flavors with a flight from Noblemen Wines, and a chance to win our grand prize! Come ready to sip and celebrate with friends old and new before returning home reenergized with new ideas to impact your business! *Sponsored By Viably*

## **Hotel Information:**

When the River Walk is your primary destination, the **Hilton Palacio Del Rio** is the place to stay! Offering an exceptional location directly on San Antonio's famous River Walk, this city center hotel is within walking distance of popular attractions, including the Alamo, and features many modern conveniences. Every room has a balcony overlooking the River Walk or the city. The Palacio Del Rio is surrounded by dining and nightlife, many just a few steps away. Want to explore more...Rio San Antonio cruises and shuttles board just across the river.



## **Hilton Palacio Del Rio Reservations:**

A special block of rooms has been set-aside for MSC meeting participants with a rate of \$249 (+tax)/night. The deadline for discounted room rates and space availability is when the block is sold out or **SEPTEMBER 9, 2024 - WHICHEVER COMES FIRST.**

**A link to online hotel reservations will be provided in the registration confirmation e-mail.**

# Everyone is Welcomed to Participate!

Sharing experiences and learning from others who have gone through the same trials is one of the major reasons for industry meetings. There is no better proof of the value of getting together as an industry than last year's RECORD BREAKING attendance in Savannah. Building on that experience, we plan to set another record in San Antonio for 2024.

From owners to plant managers or marketing and sales executives to industry suppliers, the MSC invites all interested parties to Savannah for the 53rd MSC Annual Meeting. Come in person to network with industry people and to hear what the Council is doing for your benefit.

## General Meeting Guidelines:

**Non-Members:** Participation from non-member companies is welcomed. Non-member participants may attend one association meeting as a first-time registrant and are entitled to the member registration rate. Participation at a second meeting as a non-member is permitted at non-member registration rates. Attendance at additional meetings is by special invitation only. Non-members of MSC may join the Council at any time prior to the Annual Meeting and receive an immediate discount on the registration fee. For information on becoming a member, contact the MSC office at (806) 832-1810.

**Meeting Registration:** Registration fees include participation at education sessions, handouts, coffee breaks, receptions and the Keynote lunch. Travel to the meeting and hotel accommodations are NOT included in the registration.

**Cancellations & Refunds:** Cancellations must be received in writing at the MSC office by September 20, 2024, and will be subject to a cancellation fee of 25%, which will be deducted from the refund. No refund will be made for cancellations received after September 20, 2024.

**Limits of Liability:** The planners, sponsors and host hotel owners, management and staff of the MSC Annual Meeting and its associated events claim no liability for the acts of any supplier to this meeting, nor for the safety of any attendee while in transit to, in residence at or in transit from this event. Attendees who purchase non-refundable airline tickets do so at their own risk. In the event of meeting cancellation, the total amount of liability of the planners and sponsors will be limited to a refund of the registration fee. Submission of the registration form acknowledges acceptance of these provisions

**TO DOWNLOAD REGISTRATION FORM FOR THE MEETING: [CLICK HERE](#)**

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# LEGISLATIVE & REGULATORY NEWS

## MDA REGULATION THREATENS TO ELIMINATE SOIL CONDITIONERS



In early July, the Council received a copy of an “Emergency Rulemaking” (ER) on Soil Conditioner Registration and labeling written by the Maryland Department of Agriculture (MDA). ERs are a special “emergency” procedure that allows a state to write regulations under extreme circumstances of public or environmental safety or health threats that bypasses public notice, review and comment procedures normally followed for regulatory rulemaking. ERs also allow the imposition of the new rule even before they are officially published if the next publication date is after the rule is adopted — which could be a full calendar quarter or more.

The justification for the ER is unclear, but industry rumor suggests this may have been a case of inadequately composted dissolved flotation waste (DAF) materials that was applied to land resulting in a horrific odor and health concerns causing complaints and political pressure on MDA for an immediate response. A copy of the new regulation may be viewed at the following link: [MDA Regulation](#)

### New & Impossible Metals Limits:

One of the major additions to MDA’s soil conditioner registration regulation is the addition of heavy metals Maximum Concentration Level (MCL) limits that are quantum levels below the federally mandated metals limits for land loading under 40 CFR §503.13. as shown in the comparison chart in TABLE 1 below:

**Table 1 – Maximum Contaminant Level (MCL)  
Contaminant Maximum Concentration (as is basis)**

<u>Metal</u>	<u>MDA Limits</u>	<u>EPA 503 Limits*</u>
Arsenic (As)	0.69 ppm	40 ppm
Cadmium (Cd)	22.60 ppm	39 ppm
Chromium (Cr)	41.60 ppm	1200 ppm
Copper (Cu)	10.86 ppm	1500 ppm
Lead (Pb)	1.85 ppm	300 ppm
Mercury (Hg)	1.06 ppm	17 ppm
Molybdenum (Mo)	1.73 ppm	75 ppm
Nickel (Ni)	1.89 ppm	420 ppm
Selenium (Se)	1.34 ppm	36 ppm
Zinc (Zn)	81.0 ppm	2800 ppm

*\*Cumulative Land Loading Limits*

While it is extremely rare that a soil conditioner would exceed EPA 503 limits, industry test data suggests that soil conditioners and even potting soils, mulches and other organic materials would be challenged to meet every one of the MDA limits that are quantum levels less than EPA’s metals limits. In fact, the background level for arsenic (As) in Maryland native soils is typically 10-12 ppm; so, MDA would be unable to dig a hole in its own back yard and register it under the new regulation.

In addition, the new regulation added new limits for PAH testing:

**TABLE 2 – PAH Limits**

Acenaphthene	1.04 ppm	Chrysene	0.48 ppb
Acenaphthylene	1.04 ppm	Dibenzo(a,h)anthracene	0.48 ppm
Anthracene	5.31 ppm	Fluoranthene	0.69 ppm
Benzo(a)anthracene	0.48 ppm	Fluorene	0.69 ppm
Benzo(a)pyrene	0.48 ppm	Indeno(1,2,3-cd)pyrene	0.48 ppm
Benzo(b)fluoranthene	0.48 ppm	Naphthalene	0.39 ppm
Benzo(g,h,i)perylene	0.48 ppm	Phenanthrene	0.53 ppm
Benzo(k)fluoranthene	6.93 ppb	Pyrene	0.53 ppm

## MDA REGULATION (Cont'd.)



MSC is not aware of any issues with PAH contamination for soil conditioners, and MDA is the only state that requires PAH testing before registering a soil conditioner. How and why these new contaminant limits got into the ER for Soil Conditioner Registration is unknown because the rule did not go through public comment. The MSC has joined with other national and state organizations to oppose the regulation as written.

In response to industry's negative reaction to the new regulation, and the probability that the MCL levels would virtually eliminate all soil conditioners, composts and other organic products in the state, the MDA has "temporarily" suspended issuance and enforcement pending further consideration.

MDA representatives at the AAPFCO meeting in August were unable to confirm or deny the status of the regulation moving forward; so, on behalf of the membership and in consultation with the MSC Board of Directors, Executive Director Robert La-Gasse wrote to MD State Chemist Tom Phillips on August 8 expressing our industry's concerns and urging the MDA to reconsider the regulation with proper public notice and comment from industry and stakeholders. A copy of the letter is available at: [MSC Comment Letter](#).

No response has been received from MDA, but the MSC will keep members advised of the status of this issue.

###

## AAPFCO REPORT



The summer meeting of the Association of Plant Food Control Officials (AAPFCO) was held August 4-6 in San Antonio, TX. Each meeting starts with a roll call of participants. This year, there were 33 states represented. There were 60 regulatory officials present and 117 industry representatives for a total of 177 registrants of which only 4 have been participating as long as the MSC (26 years).



A representative of The Fertilizer Institute (TFI) gave a progress report on the industry's development of a database system that would allow fertilizer registration, tonnage reporting and tax calculations online for every state. The project is expected to cost several million dollars and take 2-3 years to create a single source reporting tool for the entire industry and regulators.

Dr Wendy Zellner gave a presentation on the impact of nutrients and beneficial substances on plants. Beneficial substances fall into a category of materials we know can work on plants, but we do not fully understand how the plants utilize them. The most common benefit is a response to abiotic stress. Dr Zellner went on to discuss what is known (or not known) about a variety of beneficial substances such as silicon, iodine, selenium, fluoride, titanium, vanadium and aluminum.

Ed Thomas from TFI gave an update on Washington activities. Given there is no political incentive to act, no Farm Bill is expected for 2024. Additionally, the Congressional Budget Office scored the current proposal with a \$33 Bn greater expense than the last Farm Bill adding to the national debt of \$34 Trillion. Ed also reported that TSCA officials are preparing to ban formaldehyde as a toxic substance which will cause extreme hardship for agriculture. Formaldehyde is essential to the manufacturing of urea which will eliminate slow release fertilizers. There is also a proposal to ban urease inhibitors that would likely eliminate controlled release fertilizers.

Aaron Hobbs of the North American Coalition for Insect Agriculture discussed insect farming's advancements in the U.S. The most farmed insects are black spider larvae, crickets and mealworms. The by-products are dried insects, fats & oils and insect frass (fertilizer). 1 Lb of insects produces 1.5 Lb of frass.

The representative from Agriculture Canada reported that Canada has enacted a

## AAPFCO REPORT



50 ppb limit on PFAS in biosolids. The T&D Committee struggled with the tentative definition term T-9:

***T-9 Secondary and Micro Plant Nutrients:*** Those other than the primary nutrients that are essential for the normal growth of plants and that may need to be added to the growth medium. Secondary plant nutrients shall include calcium, magnesium, ***silicon (Tentative 2024)*** and sulfur; micro plant nutrients shall include boron, chlorine, cobalt, copper, iron, manganese, molybdenum, nickel (Official 2007), sodium and zinc. (Official 1965).

At issue is whether silicon (Si) is a secondary nutrient as originally proposed or a micro-nutrient. Several officials argued it could also be a beneficial substance, but since it cannot be all 3, the issue was referred to a working group.

The Beneficial Substances Committee reported that, following passage of the model bill, a survey was conducted to determine progress in getting states to adopt the new law.

- States who are actively seeking to pass legislation to harmonize with the beneficial substances model law include: AR, CA, IA, MT, OK, MN, NM & VA.
- States indicating they are not moving to adopt the model law include: CO, AZ, DE, GA, HI, IL, IN, KY, KS, ME, MA, MO, NY, NC, ND, OR, PA, WV & WI.

Industry representatives urged states that are moving ahead to be aware of the problems label changes and differences can cause and asked that states not moving ahead consider using their discretion to not object to newer labels that comply with the model law even if it temporarily conflicts with their own state regulations.

Unfortunately, the enthusiasm of a few states vs the reticence of the majority of states promises to make soil product labeling a difficult road to navigate for years to come.

###

## SCOTUS CHEVRON DECISION IMPACT



In a significant win for private sector proponents of limited government, the Supreme Court's June decision curtailed the power of federal agencies by overturning the Chevron doctrine, a 40-year precedent requiring judges to defer to agencies' interpretations of ambiguous laws. The 6-3 decision, favoring opponents of big government activism, rebalances power among the federal government's branches, ensuring that courts, not unelected bureaucrats, interpret statutes.

Chief Justice John G. Roberts Jr., in his majority opinion,



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## SCOTUS CHEVRON DECISION IMPACT

emphasized that courts should handle statutory ambiguities, respecting but not deferring to executive branch views unless explicitly directed by Congress. This shift empowers the judiciary to have the final say, aligning with private sector criticisms that agencies often exceeded congressional intent under Chevron.

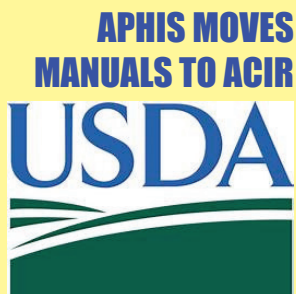
The ruling originated from two cases challenging a federal fishery inspection rule. Federal appeals courts upheld the rule based on Chevron, but the Supreme Court's decision nullifies such deference. Although Justice Ketanji Brown Jackson recused herself from one case due to prior involvement, the decision still marks a pivotal moment in administrative law.

Critics, like Justice Elena Kagan, argue this elevates judicial power excessively and undermines longstanding regulatory frameworks vital for environmental, health, and financial protections. Yet, conservatives view it as a necessary check on bureaucratic overreach, advocating for more precise legislation from Congress.

The decision's immediate effect isn't retroactive, but it sets a precedent for future regulatory challenges. Agencies now face higher hurdles in defending rules, particularly those based on vague statutes. This environment may foster increased industry engagement in rulemaking and prompt agencies to seek clearer legislative mandates, shifting lobbying efforts towards Congress.

Notably, this ruling has already influenced challenges to recent EPA regulations and poses potential revisions to FDA and labor rules. By demanding specificity from Congress, the Supreme Court ensures agencies cannot easily impose broad regulatory interpretations, reinforcing the conservative private sector vision of limited government and enhanced judicial oversight.

###



The U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS) will relocate the Plants for Planting and Treatment manuals to the Agricultural Commodity Import Requirements (ACIR) database. ACIR provides the public with near real-time access to commodity import information. It also enables APHIS inspectors and U.S. Customs and Border Protection (CBP) officers to regulate commodities accurately and consistently.

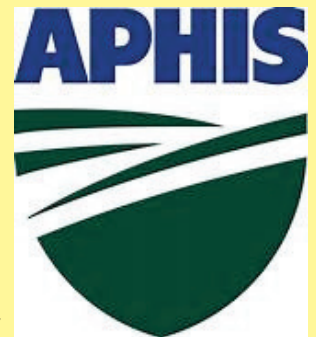
The ACIR database consolidates all plant product manuals, including specific commodity types and treatment schedules, into a single source location, with a consistent format. ACIR's import requirement data are also integrated with the eFile system for processing plant-related permit, license, and registration applications.

The [Plants for Planting](#) and [Treatment manuals](#) will be available to APHIS and CBP staff on an internal website until April 1, 2025. Until then, APHIS' Information Services and Manuals Unit (ISMU) will update the manuals as needed. After the deadline, the manuals will be available for reference only.

APHIS' Professional Development Center and ISMU staff have developed training and outreach materials to help new ACIR users. Short, instructional videos about how to use the portal are available on our [ACIR Help page](#) and [Videos and Guides](#) tab. The ACIR Help Desk ([acirdatabase.comments@usda.gov](mailto:acirdatabase.comments@usda.gov)) is also available for questions from employees and stakeholders.

Stakeholders can receive additional information on updates and changes to ACIR by subscribing to the [APHIS Stakeholder Registry](#).

###



## EPA CANCELS CHLORPYRIFOS



The U.S. Environmental Protection Agency (EPA) has issued a final order concerning the cancellation and termination of several chlorpyrifos products used in agricultural and non-agricultural settings. The affected products include Chemstarr's "Chlorpyrifos 61.5% MUP," Tide International's "Chlorpyrifos 4 EC," and Central Garden & Pet's "Equil Chlorpyrifos ULV 1" and "Equil Chlorpyrifos ULV 2."


This action follows the EPA's receipt of voluntary requests from the registrants to cancel or terminate these products' uses, which was open for public comment until May 3, 2024. After reviewing the received comments, the EPA has finalized its decision to accept these requests. The order specifies that any distribution, sale, or use of existing stocks of these products must comply strictly with the terms outlined in the final order and existing stocks provisions.

Chlorpyrifos, an organophosphate insecticide widely used on various crops including soybeans, fruit trees, and vegetables, has been subject to regulatory scrutiny. In August 2021, the EPA initially revoked all tolerances for chlorpyrifos, effectively halting its use on food and animal feed, following a court order from the U.S. Court of Appeals for the Ninth Circuit. However, subsequent legal developments reinstated these tolerances as of February 2024.


Looking ahead, the EPA plans to propose a rule to revoke tolerances associated with all but 11 identified food and feed crop uses, which could significantly reduce chlorpyrifos application in the U.S. agricultural sector. The final order specifically terminates food processing plant uses for Chemstarr's product and food uses for Tide International's product, while cancelling Central Garden & Pet's non-food use products.

For affected products, sale and distribution of existing stocks will be allowed until specified dates, after which such activities will be restricted to disposal or export under FIFRA guidelines. More details can be found in the final order available on the regulations.gov website under docket ID EPA-HQ-OPP-2022-0223, along with updated FAQs on chlorpyrifos on the EPA's official website.

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This regulatory action aims to manage the use of chlorpyrifos in alignment with current legal and safety considerations, reflecting ongoing efforts by the EPA to regulate pesticide use in the United States.

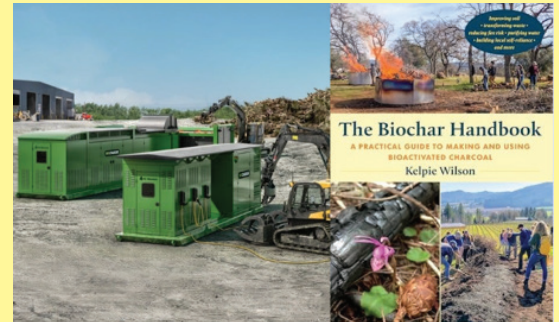
###

## INDUSTRY NEWS

### ADVANCING BIOCHAR



In the latest issue of the USBI Newsletter, Executive Director Tom Miles discusses recent developments and innovations in biochar production and application, highlighting the progress made despite lingering misconceptions. Biochar, a carbon-rich material produced from organic matter, is often misunderstood, with negative outcomes sometimes overshadowing its proven benefits. However, recent guides and handbooks, like those from the Australian New Zealand Biochar Industry Group and authors such as Kelpie Wilson, Johannes Lehmann, and Stephen Joseph, provide valuable insights and practical advice on biochar's cost-effective use.



One of the critical challenges for biochar producers is accessing affordable laboratory testing for quality control. To address this, a process has been initiated to develop an American National Standard (ANSI) for biochar analysis, aimed at ensuring consistent and rigorous testing across North America, with plans to finalize the standard by mid-2025.

Innovative research into biochar applications is flourishing, with new uses being explored, such as biochars in microbial fuel cells for wastewater treatment and energy generation, nanochars for microplastic removal, and magnetic biochars for pollutant capture. Municipalities are also using biochars to eliminate harmful chemicals like PFAS from biosolids.

The U.S. Biochar Initiative (USBI) is focused on scaling up industrial biochar production, supporting both large-scale and artisanal producers. The article highlights the development of mechanized, portable carbonization systems for biochar production, which are increasingly used in forest management, organics recycling, and disaster cleanup. Innovations like the CharBoss mobile carbonizer and the Biocharger, which generates electricity while producing biochar, demonstrate the potential for integrating biochar production with energy recovery and carbon credit monetization. USBI's efforts in air quality testing and regulatory support are paving the way for broader adoption of these technologies. For further information, contact USBI at <https://biochar-us.org/>

###

### BIOSOLID CONTAMINANT RESEARCH

Johns Hopkins University researchers have found that fertilizers made from wastewater sludge, known as biosolids, may contain potentially hazardous organic chemicals. This study, published in *Environmental Science & Technology*, provides a comprehensive analysis of the chemical composition of biosolids across various U.S. and Canadian cities.



Using advanced analytical chemistry techniques, the team screened 16 biosolid samples and found traces of pharmaceuticals, industrial chemicals, and fragrances, including bisphenol A (BPA plastics) and carbamazepine (a drug used to treat epilepsy and bipolar disorder.) These findings raise concerns about the potential health and



## BIOSOLID CONTAMINANT RESEARCH



environmental risks associated with the widespread use of biosolids in agriculture and landscaping.

The researchers identified 92 chemicals that appeared in at least 80% of the samples. They then cross-referenced these chemicals with the EPA's CompTox Chemical Dashboard, which assesses the properties and potential risks of various chemicals. This helped pinpoint which contaminants might pose significant threats.

The study does not conclude that these compounds currently pose a risk but emphasizes the need for further investigation to ensure the safe use of biosolids. The team plans to measure the concentrations of these chemicals in both biosolids and crops grown in biosolid-amended soil to assess potential exposure risks. They are also examining the potential hazards to individuals who work closely with biosolids, such as farmers and landscapers.

While biosolids offer benefits, such as providing nutrients for plants and reducing landfill waste, the presence of potentially harmful PFAS and other chemicals highlights the importance of rigorous safety evaluations. This research could guide future regulatory measures by the U.S. Environmental Protection Agency to safeguard public health and the environment.

###

## HPTA FILES COMPLAINT WITH OMRI

The Humic Products Trade Association (HPTA) has officially lodged a complaint with the Organic Materials Review Institute (OMRI) regarding ingredient misrepresentation. Specifically, multiple products currently listed by OMRI falsely claim to contain fulvic acid, yet do not meet USDA National Organic Program (NOP) criteria for fulvic acid.



### Details of the Complaint:

- **Misrepresentation:** Several products in the Plant Extracts category claim to contain fulvic acid but do not comply with USDA NOP guidance, which states that fulvic acid must be derived from humates. Products in the Plant Extract category cannot be fulvic acids as they have not undergone the prerequisite degradation and humification process.
- **Concerns about OMRI's Role:** OMRI's miscategorization of these products misleads consumers and degrades the integrity of the fulvic acid industry.
- **Call for Action:** HPTA urged OMRI to enforce Section 2.5 of their Policy Manual to prevent misrepresenting product ingredients and manufacturing processes.

### Why This Matters:

Accurate product categorization and labeling are crucial to maintaining consumer trust and the credibility of fulvic acid label claims. The issue we have raised is analogous to OMRI's present request for comment regarding the categorization of partially composted materials. HPTA questions the emphasis on having compost categorized correctly indicated while ignoring other misclassified ingredients like fulvic acid and plant extracts.

### Response:

In a discussion with HPTA President Russell Taylor at the August AAPFCO meeting in San Antonio, it was revealed that OMRI denied the complaint issues and the need for any action. HPTA has filed a further complaint with the ISO 9000 organization that certifies OMRI's compliance with its standards and procedures manuals. No response has been received from the ISO.

###

## ORKIN'S TOP TERMITE CITIES



*Editor's Note: Some consumers incorrectly believe mulch attracts termites. Check out the [Termite FAQ](#) on the MSC website for more information on pest infestation research on mulch.*



Miami ranks #1 on Orkin's Top 50 Termite cities list for the second year in a row, and once again Los Angeles ranks #2. While Tampa held onto third place, and New York City jumped five spots to claim #4 on the list. Washington, D.C., rounds out the Top 5. Four cities are new to this year's list, including Louisville, which climbed a whopping 34 spots to make this year's Top 50 cities.

Orkin has developed this list based on treatment data from the cities where Orkin Pros performed the most termite treatments. The data was collected from February 1, 2023, to January 31, 2024, and includes both residential and commercial termite control services.

- |                           |                        |                          |
|---------------------------|------------------------|--------------------------|
| 1. Miami, Fla.            | 18. New Orleans, La.   | 35. Baton Rouge, La      |
| 2. Los Angeles, Calif.    | 19. Houston, TX        | 36. Kansas City, Mo.     |
| 3. Tampa, Fla.            | 20. Greenville, S.C.   | 37. Jacksonville, Fla.   |
| 4. New York, N.Y.         | 21. Nashville, Tenn.   | 38. Greenville, N.C.     |
| 5. Washington, D.C.       | 22. Phoenix, Ariz.     | 39. Mobile, Ala.         |
| 6. Philadelphia, Pa.      | 23. Myrtle Beach, S.C. | 40. St. Louis, Mo.       |
| 7. Atlanta, Ga.           | 24. Richmond, Va.      | 41. Austin, TX           |
| 8. Orlando, Fla.          | 25. Charleston, S.C.   | 42. Louisville, Ky.      |
| 9. West Palm Beach, Fla.  | 26. Charleston, W.Va.  | 43. Tulsa, Okla.         |
| 10. San Francisco, Calif. | 27. Pittsburgh, Pa.    | 44. Oklahoma City, Okla. |
| 11. San Diego, Calif.     | 28. Columbia, S.C.     | 45. San Antonio, TX      |
| 12. Chicago, Ill.         | 29. Greensboro, N.C.   | 46. Savannah, Ga.        |
| 13. Raleigh, N.C.         | 30. Indianapolis, Ind. | 47. Roanoke, Va          |
| 14. Baltimore, Md.        | 31. Memphis, Tenn.     | 48. Waco, TX             |
| 15. Norfolk, Va.          | 32. Knoxville, Tenn.   | 49. Chattanooga, Tenn.   |
| 16. Dallas, TX            | 33. Ft. Myers, Fla.    | 50. Augusta, Ga.         |
| 17. Charlotte, N.C.       | 34. Cincinnati, Ohio   |                          |

[Termites](#) thrive in warm environments, therefore, now is the perfect time for home and business owners to help protect their property. There are more than 2,000 [species of termites](#) in the world, and 40 of them are active in the United States. They can look like ants to the untrained eye because they share common characteristics. Most termites measure between  $\frac{1}{4}$  to  $\frac{1}{2}$  an inch long and have soft bodies with straight antennae. Termites can range in color from white to light brown, and worker termites are often lighter in color compared to [winged reproductive termites or swarmers](#).

[Signs of a termite infestation](#) might include:

- A temporary swarm of winged insects in your home or from the soil around your home
- Any cracked or bubbling paint or frass (termite droppings)
- Wood that sounds hollow when tapped
- Mud tubes on exterior walls, wooden beams or in crawl spaces

Termites don't just destroy wooden homes. They can damage buildings made from a variety of materials, and can get access through porches, downspouts, and even the landscaping around the property. Orkin recommends homeowners follow this checklist to prevent termites this spring:

## ORKIN (Cont'd.)

- Check water drainage sites to ensure they are clear.
- Limit moisture in the home by fixing pipes, gutters, downspouts, A/C units and other fixtures susceptible to leaking.
- Close gaps by using caulk around utility lines or pipes.
- Get rid of rotting wood and debris near the home.
- Place screens on outside vents.
- Check wooden structures for damage.

###

## MEMBER NEWS

### OLDCASTLE ACQUIRES SUNSCAPE FACILITIES

Oldcastle APG has acquired the two bagged stone facilities of Sunscape LLC, a manufacturer of decorative stone products, from SRS Distribution. The two facilities in Fort Lauderdale and Orlando, Florida, are co-located with aggregate distribution terminals operated by CRH's Americas Materials Group (AMAT). These locations open new channels of product offerings and provide an entry point into the state's attractive bagged stone market.

This addition further complements recent Lawn & Garden acquisitions which aim to continue Oldcastle's strategic growth in key retail markets and support its strategy to provide end-to-end outdoor living solutions. The bagged stone assets will improve its ability to connect with customers, provide a comprehensive portfolio of products and pursue incremental sales.

Chris Main, VP/GM, Oldcastle Lawn & Garden Southeast and Northeast, will oversee the integration of the Sunscape facilities into the Lawn & Garden business.

###

## New Member Welcome

The Mulch & Soil Council is pleased to welcome the following company as a new member:

### Affiliate Member:

*Pro-Pals Industries Ltd.*, Gerry Labelle, 3200 Le Corbusier, Laval, QC H7L 4S8 CAN, glabelle@propals.com, <http://www.propals.com>

###

## Certified Product News

## CERTIFICATION REPORT

### Certified Products Report for August 2024

#### New Product Mulch

Swanson Bark & Wood Products	Sta-Green Premium Black Mulch by Swanson
Swanson Bark & Wood Products	Sta-Green Premium Brown Mulch by Swanson
Swanson Bark & Wood Products	Sta-Green Premium Red Mulch by Swanson

#### New Product Premium Soil

Sun Gro Horticulture	Grower's Gold Pacific Blend Natural & Organic
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#### New Product Landscape Soil

Southern Mulch LLC	Organic Garden Soil
Southern Mulch LLC	Premium Top Soil

#### Recertified Mulch

Austin Wood Recycling, Ltd.	Texas Native Hardwood Mulch
Austin Wood Recycling, Ltd.	Texas Native Red Shredded Cedar Mulch

# Certified Product News

## Recertified Mulch

Florida Mulch Inc.  
Garick Corporation  
Garick Corporation  
Garick Corporation  
Garick Corporation  
Garick Corporation  
Garick Corporation  
Garick Corporation  
Garick Corporation  
Kellogg Garden Products  
Amerigrow Recycling  
Amerigrow Recycling  
Ohio Mulch Supply, Inc.  
Miracle-Gro Lawn Products, Inc.

Brown Color Enhanced Mulch  
Black Landscape Mulch  
Decorative Cypress Blend Mulch  
Fancy Hardwood Mulch  
Nature's Helper Black Satin Mulch  
Pine Bark Landscape Mini-Nuggets  
Pine Bark Landscape Mulch  
Pine Bark Landscape Nuggets  
Red Landscape Mulch  
Gardeners' Shredded Redwood  
Premium Brown Mulch  
Premium Black Mulch  
Golden Trophy Premium Cypress Blend  
Miracle-Gro Organic All Natural Mulch

## Recertified Premium Soil

Kellogg Garden Products  
The Scotts Company

Kellogg Raised Bed & Potting Mix  
Scotts Premium Potting Soil 0.07-0.01-0.03

## Recertified Landscape Soil

KSI (Kellogg)

Gardeners Chicken Manure

# CLASSIFIEDS

## 2020 Hamer Side Sealer

Manufacturer: Hamer

Year: 2020

Location: Cumming, GA

Price: \$9,000

Contact: [equipment@garick.com](mailto:equipment@garick.com)

Info: s/n 982040108. Excellent working condition. Only used for 1,000 bags.



## Hamer Volumetric Feeder Model 300VF

Manufacturer: Hamer

Model: 300VF

Year: unknown

Location: Cumming, GA

Price: \$39,000

Contact: [equipment@garick.com](mailto:equipment@garick.com)

Information: Hardly used.



# CLASSIFIEDS

## Amadas Semi-Automated Palletizer

Model: PL02

Year: 2015 or 2016 (2 available)

Price: \$35k or best offer

Location: Galivants Ferry, SC

Contact: Hackney Parker @ 305-393-4950  
or [hackney@seasidemulch.com](mailto:hackney@seasidemulch.com)

Information: Bag flattener and conveyors  
and optional 10 ton press



## Lantech Q300 Wrapper

Model: Q300

Serial #: QM029512

Price: \$7.5k

Location: Galivants Ferry, SC

Contact: Hackney Parker @ 305-393-4950 or  
[hackney@seasidemulch.com](mailto:hackney@seasidemulch.com)

Information: 120 V



## Toshiba 3-Phase Induction Motor

Model No.: B2006VLF4B3

Serial No.: 80604369

Type: TIKK

Form: VBK1

HP: 200

RPM: 1175

Volts: 460

AMP: 246

Location: Fredericksburg Virginia

Price: \$15,000

Contact: Norfleet Quality, Joe Worth at 540-419-7384

Information: Restrung/ Motor reconditioned on 9/4/20. Less than 100 hours since

