

§ 69-39-1. Short title; administration of chapter.

Mississippi Statutes

Title 69. AGRICULTURE, HORTICULTURE, AND ANIMALS

Chapter 39. AGRICULTURAL LIMING MATERIALS

Current through 3/27/2018

§ 69-39-1. Short title; administration of chapter

This chapter shall be known and may be cited as "The Mississippi Agricultural Liming Materials Act of 1993." This chapter shall be administered by the Commissioner of Agriculture and Commerce of the State of Mississippi herein referred to as the "commissioner."

Cite as Miss. Code § 69-39-1

Source: Laws, 1993, ch. 581, § 1, eff. 7/1/1993; reenacted without change, Laws, 2009, ch. 330, § 1, eff. 7/1/2009.

§ 69-39-3. Definitions.

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§ 69-39-3. Definitions

The following words and phrases shall have the meanings ascribed herein unless the context clearly indicates otherwise:

- (a) "Agricultural liming materials" means products containing calcium and magnesium compounds that are capable of neutralizing soil acidity.
- (b) "Limestone" means a material consisting essentially of calcium carbonate or a combination of calcium carbonate with magnesium carbonate capable of neutralizing soil acidity.

- (c) "Calcitic limestone" means a calcareous rock composed wholly or largely of calcium carbonate.
- (d) "Dolomitic limestone" means a calcareous rock composed of calcium and magnesium carbonates with a minimum elemental magnesium (Mg) content of six percent (6%).
- (e) "Burnt lime" means a material made from limestone that consists essentially of calcium oxide or a combination of calcium oxide with magnesium oxide.
- (f) "Hydrated lime" means a material, made from burnt lime, that consists of calcium hydroxide or a combination of calcium hydroxide with magnesium oxide and/or magnesium hydroxide.
- (g) "Marl" or "chalk" means a granular or loosely consolidated earthy material composed largely of sea shell fragments and calcium carbonate.
- (h) "Ground shells" means a product obtained by the grinding of shells of mollusks and that shall carry the name of mollusk origin.
- (i) "Industrial by-product" means any industrial waste or by-product containing calcium or calcium and magnesium in forms that will neutralize soil acidity.
- (j) "Brand" means the term, designation, trademark, product name or other specific designation under which individual agricultural liming material is offered for sale.
- (k) "Fineness" means the percentage by weight of the material that will pass United States Standard sieves of specified sizes. The commissioner shall promulgate regulations relating to fineness.
- (l) "Ton" means 2,000 pounds avoirdupois.
- (m) "Percent" or "percentage" means by weight.
- (n) "Bulk" means in nonpackaged form.
- (o) "Label" or "labeling" means all written, printed or graphic matter upon or accompanying any agricultural liming material or advertisements, brochures, posters, television and radio announcements used in promoting the sale of such agricultural liming material.
- (p) "Commissioner" means the Commissioner of Agriculture and Commerce of the State of Mississippi, or his agents and employees.
- (q) "Person" means any individual, partnership, corporation, association or other legal entity or organization.
- (r) "Calcium carbonate equivalent" means the acid neutralizing capacity of an agricultural liming material expressed as weight percentage of calcium carbonate.
- (s) "Weight" means the weight of undried material as offered for sale.

Cite as Miss. Code § 69-39-3

Source: Laws, 1993, ch. 581, § 2, eff. 7/1/1993; reenacted without change, Laws, 2009, ch. 330, § 2, eff. 7/1/2009.

§ 69-39-5. Labeling requirements; posting at bulk delivery sites.

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§ 69-39-5. Labeling requirements; posting at bulk delivery sites

- (1) All agricultural liming materials sold, offered or exposed for sale to any person in this state shall have affixed to each package in a conspicuous manner on the outside thereof, a plainly printed, stamped or otherwise marked label, tag or statement or in the case of bulk sales, a final invoice or bill of sale, setting forth at least the following information:
 - (a) The name and principal office address of the manufacturer or distributor;
 - (b) The brand or trade name of the material;
 - (c) The identification of the product as to the type of the agricultural liming material;
 - (d) The net weight of the agricultural liming material;
 - (e) The minimum percentage of calcium oxide and magnesium oxide and/or calcium carbonate and magnesium carbonate;
 - (f) The minimum guaranteed content of elemental magnesium (Mg) if claimed;
 - (g) The minimum guaranteed content of available potassium (K₂O) and/or phosphorous (P₂O₅) if claimed;
 - (h) Calcium carbonate equivalent as determined by methods prescribed by the Association of Official Analytical Chemists. Minimum calcium carbonate equivalents shall be as prescribed by regulation;
 - (i) The minimum percent by weight passing through United States Standard sieves as prescribed by regulations.

- (2) In the case where agricultural liming materials are sold by a distributor or retailer, the manufacturer (mining company) of such material shall be responsible for furnishing the distributor or retailer with the information or statement required in this section in order for such distributor or retailer to forward the information or statement to the customer.
- (3) No information or statement shall appear on any package label, delivery slip or advertising matter that is false or misleading to the purchaser as to the quality, analysis type or composition of the agricultural liming material.
- (4) In the case of any material that has been adulterated subsequent to packaging, labeling or loading thereof and before delivery to the consumer, a plainly marked notice to that effect shall be affixed by the vendor to the package or delivery slip to identify the kind and degree of such adulteration therein.
- (5) At every site from which agricultural liming materials are delivered in bulk and at every place where consumer orders for bulk deliveries are placed, there shall be conspicuously posted a copy of the statement required by this section for each brand of material.
- (6) When the commissioner determines that the requirement for expressing the calcium and magnesium in elemental form would not impose an economic hardship on distributors and users of agricultural liming materials by reason of conflicting label requirements among the states, he may require by regulation thereafter that the minimum percentage of calcium oxide and magnesium oxide and/or calcium carbonate and magnesium carbonate shall be expressed in the following form:

Total Calcium (Ca)..... percent

Total Magnesium (Mg)..... percent

Provided, however, that the effective date of said regulation shall be not less than six (6) months following the issuance thereof.

Cite as Miss. Code § 69-39-5

Source: Laws, 1993, ch. 581, § 3; reenacted without change, Laws, 2009, ch. 330, §3, eff. 7/1/2009.

§ 69-39-7. Sale of liming materials not in compliance with chapter, or toxic to plants or animals, prohibited.

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§ 69-39-7. Sale of liming materials not in compliance with chapter, or toxic to plants or animals, prohibited

- (1) No agricultural liming material shall be sold or offered for sale in this state unless it complies with provisions of this chapter and regulations pertaining thereto.
- (2) No agricultural liming material shall be sold or offered for sale in this state that contains toxic materials in quantities injurious to plants or animals.

Cite as Miss. Code § 69-39-7

Source: Laws, 1993, ch. 581, § 4, eff. 7/1/1993; reenacted without change, Laws, 2009, ch. 330, § 4, eff. 7/1/2009.

§ 69-39-9. Sale and distribution permit required; applications.

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§ 69-39-9. Sale and distribution permit required; applications

Every manufacturer or distributor who sells, offers for sale, exposes for sale, distributes or solicits orders for sale of any agricultural liming material to a distributor, retailer or farmer in the State of Mississippi, before selling or offering such agricultural liming material for sale or distributing or soliciting orders for sale shall secure a permit from the commissioner to engage in such business. Permit applications for each office or place of business in the State of Mississippi of such manufacturer or distributor shall be submitted upon forms prescribed by the commissioner. Such permit applications shall contain the name and address of the manufacturer or distributor and such other information as may be required by the commissioner for the effective enforcement of the provisions of this chapter and rules and regulations which may be adopted under Section 69-39-13.

Cite as Miss. Code § 69-39-9

Source: Laws, 1993, ch. 581, § 5; reenacted without change, Laws, 2009, ch. 330, §5, eff. 7/1/2009.

§ 69-39-11. Annual registration of liming products.

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§ 69-39-11. Annual registration of liming products

- (1) Each separately identified product shall be registered once each year before being distributed in this state. The application for registration shall be submitted to the commissioner on forms furnished or approved by him. Upon approval by the commissioner, a copy of the registration shall be furnished to the applicant.
- (2) A distributor shall not be required to register any brand of agricultural liming material that is already registered under this chapter by another person, providing the label does not differ in any respect.

Cite as Miss. Code § 69-39-11

Source: Laws, 1993, ch. 581, § 6; reenacted without change, Laws, 2009, ch. 330, §6, eff. 7/1/2009.

§ 69-39-13. Inspection and testing of liming materials; samples; procedures; distribution of results.

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§ 69-39-13. Inspection and testing of liming materials; samples; procedures; distribution of

results

- (1) It shall be the duty of the commissioner who may act through his authorized agent, to sample, inspect and submit to the State Chemist for analysis or test agricultural liming materials distributed within this state as he may deem necessary to determine whether such agricultural liming materials are in compliance with the provisions of this chapter. The commissioner, individually or through his agent, is authorized to enter upon any public or private premises or carriers during regular business hours in order to have access to agricultural liming material subject to the provisions of this chapter and regulations adopted pursuant thereto and to the records relating to the distribution of such materials.
- (2) All samples of agricultural liming material drawn by the commissioner or his designated agent as official samples shall be forwarded to the State Chemist for analysis or test. The State Chemist shall perform all necessary analyses and tests and furnish the commissioner with an official laboratory report of his findings or determinations at no cost to the commissioner for such analyses, tests or reports.
- (3) The methods of analysis and sampling shall be those approved by the commissioner and the State Chemist, and shall be guided by the Association of Official Analytical Chemists (AOAC) procedures.
- (4) The results of official analyses of agricultural liming materials and portions of official samples shall be distributed by the State Chemist as provided by regulations adopted pursuant to this chapter at least annually.

Cite as Miss. Code § 69-39-13

Source: Laws, 1993, ch. 581, § 7; reenacted without change, Laws, 2009, ch. 330, §7, eff. 7/1/2009.

§ 69-39-15. Issuance of stop sale or use order for products sold in violation of chapter; release from order.

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§ 69-39-15. Issuance of stop sale or use order for products sold in violation of chapter; release from order

The commissioner may issue and enforce a written or printed "stop sale, use or removal" order to the owner or custodian of any lot of agricultural liming material and to hold at a designated place when the commissioner finds such agricultural liming material is being offered or exposed for sale in violation of any of the provisions of this chapter or regulations adopted pursuant thereto until the law has been complied with and the agricultural liming material is released in writing by the commissioner or the violation has been otherwise legally disposed of by written authority. The commissioner shall release the agricultural liming material so withdrawn when the requirements of the provisions of this chapter or regulations adopted pursuant thereto have been complied with and all costs and expenses incurred in connection with the withdrawal have been paid.

Cite as Miss. Code § 69-39-15

Source: Laws, 1993, ch. 581, § 8; reenacted without change, Laws, 2009, ch. 330, §8, eff. 7/1/2009.

§ 69-39-17. Penalties for violations of chapter; warnings.

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§ 69-39-17. Penalties for violations of chapter; warnings

- (1) If upon official laboratory analysis, any agricultural liming material sold in this state is found to be below the labeled guarantee for calcium carbonate equivalent, neutralizing value, magnesium, available phosphorous, available potassium or above the labeled guarantee for moisture content or screening standards (fineness) as provided under terms of this chapter or regulations adopted hereunder, the commissioner shall impose a civil penalty as provided by regulation for the effective administration and enforcement of this chapter. Such civil penalty shall be assessed to the manufacturer/packer for packaged material and to the final seller holding a permit issued under terms of this chapter for material sold in bulk.
- (2) When the commissioner determines that a person has violated terms of this chapter, other than subsection (1) of this section, depending upon the gravity of the offense, he shall assess a civil penalty in an amount not less than Two Hundred Dollars (\$ 200.00) and not more than One Thousand Dollars (\$ 1,000.00).

- (3) All civil penalties assessed as provided herein shall be paid to the commissioner within thirty (30) days from the date of assessment. Penalties which are not paid in full within the prescribed thirty (30) days shall be considered delinquent and an additional penalty of ten percent (10%) of the balance due shall be added to the assessed penalty for each month such penalty continues to be delinquent.
- (4) The commissioner is authorized to apply for and the court may grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule or regulation promulgated hereunder notwithstanding the existence of other remedies at law. The injunction shall be issued without bond.
- (5) Any person required by this chapter to obtain a permit from the commissioner before engaging in business, who shall engage in such business without having first obtained such license or shall engage in such business after such license shall have expired or shall have been revoked by the commissioner, shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than Three Hundred Dollars (\$ 300.00) and not more than Five Hundred Dollars (\$ 500.00). Each day in violation shall constitute a separate offense.
- (6) Nothing in this chapter shall be construed as requiring the commissioner or his representative to report for prosecution or for the institution of seizure proceedings as a result of minor violations of this chapter when he believes that the public interests are best served by a suitable notice or warning in writing.

Cite as Miss. Code § 69-39-17

Source: Laws, 1993, ch. 581, § 9, eff. 7/1/1993; reenacted without change, Laws, 2009, ch. 330, § 9, eff. 7/1/2009.

§ 69-39-19. Promulgation of rules and regulations.

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§ 69-39-19. Promulgation of rules and regulations

The commissioner may, with the approval of the Attorney General as provided in Section 69-1-25, promulgate such rules and regulations in accordance with the Mississippi Administrative Procedures Law as may be necessary for the effective enforcement of this chapter. The regulations shall have the full force and effect of law.

Cite as Miss. Code § 69-39-19

Source: Laws, 1993, ch. 581, § 10; Laws, 2005, ch. 397, §1; Laws, 2005, ch. 451, §1; reenacted without change, Laws, 2009, ch. 330, §10, eff. 7/1/2009.

§ 69-39-21. Repealed.

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§ 69-39-21. Repealed

Cite as Miss. Code § 69-39-21

History. Repealed by Laws of 2009, ch. 330, §11, eff. 7/1/2009.

Prior History: (Laws, 2005, ch. 397, §2, Laws, 2005, ch. 451, §2, eff. 7/1/2005.)