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The Kansas Agricultural Liming Materials Act

K.S.A. 2-2901. Citation; administration of act. This act shall be known and may be cited as "The Kansas agricultural liming materials act." The provisions of this act shall be administered by the secretary of agriculture, hereinafter referred to as the secretary.

History: L. 1976, ch. 3, § 1; L. 2004, ch. 101, § 55; July 1.

K.S.A. 2-2902. Definitions. As used in this act, the following words and phrases shall have the meanings respectively ascribed to them herein:

(a) "Agricultural liming materials" means a product whose calcium and magnesium compounds 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, which is capable of neutralizing soil acidity;

(c) "burnt lime" means a material made from limestone which consists essentially of calcium oxide or a combination of calcium oxide with magnesium oxide;

(d) "hydrated lime" means a material made from burnt lime which consists essentially of calcium hydroxide or a combination of calcium hydroxide and magnesium hydroxide;

(e) "marl" means a granular or loosely consolidated earthy material composed largely of sea shell fragments and calcium carbonate;

(f) "industrial by-product" means any industrial waste or by-product containing calcium or calcium and magnesium in forms that will neutralize soil acidity;

(g) "brand" means the term, designation, trademark, product name or other specific designation under which individual agricultural liming material is offered for sale;

(h) "fineness" means the percentage by weight of the material which will pass U. S. standard sieves of specified sizes;

(i) "label" means any written or printed matter on or attached to the package or on the delivery ticket which accompanies bulk shipments;

(j) "person" means an individual, partnership, association, firm or corporation; and

(k) "calcium carbonate equivalent" means the acid neutralizing capacity of an agricultural liming material expressed as weight percentage of calcium carbonate.

History: L. 1976, ch. 3, § 2; July 1.

K.S.A. 2-2903. Sale of agricultural liming materials; labeling, information required; false advertising prohibited; notice of adulteration; bulk deliveries. (a) Every package or container of agricultural liming materials sold, offered or exposed for sale 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 setting forth the following information: (1) The name and principal office address of the manufacturer or distributor;

(2) the brand or trade name of the material;

(3) the identification of the product as to type of agricultural liming material;

(4) the net weight of the agricultural liming material;

(5) the calcium carbonate equivalent as determined by methods and in such minimum amounts as prescribed by rules and regulations of the secretary of agriculture; and

(6) the minimum percentage by weight passing through U.S. standard sieves, as prescribed by rules and regulations;

(7) the minimum percentage of weight of effective calcium carbonate equivalent (ECC), a function of calcium carbonate equivalent and fineness as prescribed by rules and regulations of the secretary of agriculture.

(b) In any case where a bulk sale of agricultural liming materials is made, the delivery slip identifying such sale

shall contain the information required by subsection (a)(7).

(c) No information or statement shall appear on any package, label, delivery slip or advertising material which is false or misleading to the purchaser as to the quality, analysis, type or composition of the agricultural liming material.

(d) In the case of any material which has been adulterated subsequent to packaging, labeling or loading thereof but 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 adulteration therein.

(e) At every site from which agricultural liming materials are delivered in bulk or orders for bulk deliveries are placed by consumers, there shall be conspicuously posted a statement setting forth the information required by subsection (a) of this section for each brand of material.

History: L. 1976, ch. 3, § 3; L. 2004, ch. 101, § 56; L. 2015, ch. 37, § 2; July 1.

K.S.A. 2-2904. Same; sale prohibited, when. No agricultural liming material shall be sold or offered for sale in this state if (a) it does not comply with the provisions of this act or rules and regulations adopted pursuant thereto, or (b) it contains toxic materials in quantities injurious to plants or animals.

History: L. 1976, ch. 3, § 4; July 1.

K.S.A. 2-2905. Manufacturers of liming materials; registration; fee. Every manufacturer of liming materials to be distributed in this state shall on July 1 of each year, or prior to manufacture or distribution of such liming materials, register each manufacturing facility on a form furnished by the secretary of agriculture, the application to be accompanied by a fee of \$30, except that on and after July 1, 2015, such application shall be accompanied by a fee of \$25. All such licenses shall expire on June 30 of the following year.

History: L. 1976, ch. 3, § 5; L. 2002, ch. 181, § 10; L. 2004, ch. 85, § 10; L. 2009, ch. 128, § 27; July 1.

K.S.A. 2-2906. Same; annual statement; inspection fee; secretary may reduce fee, when. (a) Within 30 days following expiration of registration, each registrant shall submit, on a form furnished by the secretary of agriculture, an annual statement setting forth the number of net tons of each agricultural liming material sold by such registrant for use within the state during the previous 12-month period. Such statement shall be accompanied by payment of an inspection fee which shall be at the rate of \$.07 per ton, except that on and after July 1, 2015, such inspection fee shall be at the rate of \$.05 per ton.

(b) The secretary is hereby authorized and empowered to reduce the inspection fee provided for in subsection (a) whenever the secretary determines that such fee is yielding more than is necessary for the purpose of administering the provisions of this act. The secretary is authorized and empowered to increase such inspection fee, or restore such inspection fee, in full or in part, when such inspection fee is necessary to produce sufficient revenues for the purposes of administering the provisions of this act, but not in excess of the fee as provided in this section.

History: L. 1976, ch. 3, § 6; L. 2002, ch. 181, § 11; L. 2004, ch. 85, § 11; L. 2009, ch. 128, § 28; July 1.

Revisor's Note:

Section was also amended by L. 2004, ch. 101, § 57, but that version was repealed by L. 2004, ch. 180, § 18.

K.S.A. 2-2907. Duty of secretary to inspect; methods of analysis and sampling. (a) It shall be the duty of the secretary or the secretary's duly authorized agent to sample, inspect, make analyses of and test agricultural liming materials distributed within this state as often as the secretary may deem necessary to determine whether such agricultural liming materials are in compliance with the provisions of this act. The secretary or the secretary's agent may 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 act, and to any records relating to their distribution.

(b) The methods of analysis and sampling shall be those approved by the secretary.

History: L. 1976, ch. 3, § 7; L. 2015, ch. 37, § 3; July 1.

K.S.A. 2-2908. Sale in violation of act; stop sale, use or removal orders. The secretary may issue and enforce a written or printed "stop sale, use or removal" order to the owner or customer of any lot of agricultural liming materials and to hold such lot at a designated place when the secretary finds said agricultural liming material is being offered or exposed for sale in violation of any of the provisions of this act until the law has been complied with and said agricultural liming material is released in writing by the secretary, or said violation has been otherwise legally disposed of by written authority. The secretary shall release the agricultural liming materials so withdrawn when the requirements of this act have been complied with and all costs and expenses incurred in connection with the withdrawal have been paid.

History: L. 1976, ch. 3, § 8; July 1.

K.S.A. 2-2909. Penalties for violations; jurisdiction. Any person convicted of violating any provision of this act or any rules and regulations promulgated thereunder shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars (\$100) for the first violation and not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each subsequent violation. Nothing in this act shall be construed as requiring the secretary or his or her authorized agents to report violations of this act for prosecution or for the institution of seizure proceedings when he or she believes that the public interest will best be served by a suitable written warning. The district courts of this state shall have jurisdiction to restrain violations of this act by injunction without any criminal proceeding being first initiated.

History: L. 1976, ch. 3, § 9; July 1.

K.S.A. 2-2910. Rules and regulations. The secretary is hereby authorized to promulgate and adopt rules and regulations for the administration of the provisions of this act.

History: L. 1976, ch. 3, § 10; July 1.

K.S.A. 2-2911. Disposition of moneys; agricultural liming materials fee fund; plant pest activities. The secretary shall remit all moneys received by or for the secretary under this act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the agricultural liming materials fee fund, which fund is hereby created. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of the Kansas department of agriculture or by a person or persons designated by the secretary.

History: L. 1976, ch. 3, § 11; L. 2000, ch. 111, § 3; L. 2001, ch. 5, § 21; L. 2004, ch. 101, § 158; July 1.

K.S.A. 74-568. State board of agriculture and secretary of the state board of agriculture abolished; transfer of power and duties to the department of agriculture and secretary of agriculture. (a) The state board of agriculture created by K.S.A. 74-503, and amendments thereto, and the office of the secretary of the state board of agriculture created by K.S.A. 74-503, and amendments thereto, are hereby abolished.

(b) Except as otherwise provided by this act, all of the powers, duties and functions of the existing state board of agriculture and the existing secretary of the state board of agriculture are hereby transferred to and conferred and imposed upon, the department of agriculture and the secretary of agriculture established by this act.

(c) Except as otherwise provided by this act, the department of agriculture and the secretary of agriculture established by this act shall be the successor in every way to the powers, duties and functions of the state board of agriculture and the secretary of agriculture in which the same were vested prior to the effective date of this act. Every act performed in the exercise of such powers, duties and functions by or under the authority of the department of agriculture or the secretary of agriculture established by this act shall be deemed to have the same force and effect as if performed by the state board of agriculture or the secretary of the state board of agriculture, respectively, in which such powers, duties and functions were vested prior to the effective date of this act.

(d) Except as otherwise provided by this act, whenever the state board of agriculture, or words of the like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the secretary of agriculture established by this act.

(e) Except as otherwise provided by this act, whenever the secretary of the state board of agriculture, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the secretary of agriculture established by this act.

(f) All rules and regulations of the state board of agriculture or the secretary of the state board of agriculture in existence on the effective date of this act shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary of agriculture by this act until revised amended or nullified pursuant to law.

(g) All rules and regulations of the division of water resources of the state board of agriculture or the chief engineer of the division of water resources of the state board of agriculture in existence on the effective date of this act shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the chief engineer of the division of water resources of the department of agriculture established by this act until revised, amended, revoked or nullified pursuant to law.

(h) All orders and directives of the state board of agriculture or the secretary of the state board of agriculture in existence in the effective date of this act shall continue to be effective and shall be deemed to be orders and directives of the secretary of agriculture established by this act, until revised, amended or nullified pursuant to law.

(i) On the effective date of this act, the secretary of agriculture shall succeed to whatever right, title or interest the state board of agriculture has acquired in any real property in this state, and the secretary shall hold the same for and in the name of the state of Kansas. On and after the effective date of this act, whenever any statute, contract, deed or other document concerns the power or authority of the state board of agriculture or the secretary of the state board of agriculture to acquire, hold or dispose of real property or any interest therein, the secretary of agriculture shall succeed to such power or authority.

(j) The secretary of agriculture established by this act shall be continuations of the state board of agriculture and the secretary of the state board of agriculture.

History: L. 1995, ch. 236, § 9; May 4.

Administrative Regulations

K.A.R. 4-5-3. Inspection tonnage report. (a) When a manufacturer, producer, or distributor submits a tonnage report which cover several locations, the report shall include the following:

- (1) Name and address of each location registered; and
- (2) The number of tons sold or distributed from each location.

(b) Each manufacturer, producer, or distributor shall keep adequate records for a period of three (3) years of the tonnage of agricultural liming material sold and distributed from each of its business locations with the state. (Authorized by K.S.A. 1981 Supp. 2-2910; implementing K.S.A. 1981 Supp. 2-2906; effective May 1, 1982.)

K.A.R. 4-5-4. Agricultural liming material testing. The process for determining the effective calcium carbonate equivalent of agricultural liming materials shall be in accordance with Kansas state university's document titled "Kansas state university soil testing lab agricultural liming material testing procedure," dated October 15, 2015, which is hereby adopted by reference. (Authorized by K.S.A. 2-2910; implementing K.S.A. 2015 Supp. 2-2903 and 2-2907; effective April 15, 2016.)