

Agriculture and Markets

ARTICLE 9-A

SALE OF AGRICULTURAL LIMING MATERIALS

Section 142-aa. Definitions and standards.

142-bb. Prohibition.

142-cc. Label or accompanying statement and weigh slip.

142-dd. Certificate to be filed.

142-ee. License.

142-ff. Reports and fees.

142-gg. Sampling and analyzing.

142-hh. Stop orders.

§ 142-aa. Definitions and standards. (a) "Agricultural liming material," means all materials and all calcium and magnesium products in the oxide, hydrate, carbonate or silicate form or combinations thereof and intended for use in the correction of soil acidity, including such forms of material designated as burned lime, hydrated lime, carbonate of lime, agricultural limestone, slag and marl.

(b) "Brand" means each agricultural liming material identified by and differing from others either in name, trademark, descriptive designation or other method of marking, composition, and total neutralizing value or fineness.

(c) "Total neutralizing value" means the neutralizing value of an agricultural liming material expressed as calcium carbonate equivalence as determined in accordance with methods adopted by the commissioner.

(d) "Fineness" means the percentage by weight of the material which will pass sieves of specified number or mesh as established by the commissioner. Fineness shall be measured in reference to a twenty mesh, sixty mesh, and a one hundred mesh sieve, in accordance with methods adopted by the commissioner.

§ 142-bb. Prohibition. 1. No person shall sell, offer or expose for sale, barter, give or otherwise supply in this state as an agricultural liming material, except as provided in subdivision two of this section, any product which does not have a minimum total neutralizing value of sixty per centum calcium carbonate equivalence and, except hydrated lime and burned lime, a minimum fineness of eighty per centum passing a twenty mesh sieve and thirty per centum passing a hundred mesh sieve nor for which a certificate of registration has not been filed and a license has not been issued pursuant to this article; nor shall he or she permit any claim or guarantee to be indicated upon any label, tab, or package or accompanying statement to the effect that such material possesses a higher specification than such material does in fact contain; nor shall he or she sell, offer or expose for sale, barter, give or otherwise supply any such material adulterated with any substance injurious to the growth of plants (other than weeds) or animals or humans when applied in accordance with directions for use accompanying the product; nor shall he or she sell, offer or expose for sale any agriculture liming material in this state without a label or accompanying statement and weigh slip as required by section one hundred forty-two-cc.

2. Insofar as it shall be used as an agricultural liming material in this state, no person shall sell, offer or expose for sale, barter, give or otherwise supply in this state as wood ash, any product which does

not have a minimum total neutralizing value of thirty per centum calcium carbonate equivalence and otherwise satisfy the requirements set forth in subdivision one of this section.

§ 142-cc. Label or accompanying statement and weigh slip. No agricultural liming material shall be sold, offered, or exposed for sale, bartered, given or otherwise supplied in this state unless there shall be affixed to each package in a conspicuous place on the outside thereof a plainly printed, stamped or otherwise marked label, tag or statement or in the case of bulk sales or transfers there shall be provided a certified weigh slip plainly printed, stamped or otherwise marked, which shall certify as follows:

1. The name, principal office address and plant location of the manufacturer, producer or distributor.

2. The identification of the product as to the type of liming material.

3. The brand under which it is sold or supplied.

4. A statement expressing the minimum total neutralizing value stated as calcium carbonate equivalence and the minimum fineness, at time of delivery.

5. The net weight of the material.

6. The kind and amount of adulterant or foreign material therein, if any, expressed by weight of the material.

7. In the case of any material which has been damaged, hydrated, adulterated or otherwise changed subsequent to the original packaging, labelling, 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 accompanying statement, such notice to identify the kind and degree of such damage, hydration, adulteration or other change therein.

8. A guarantee of the calcium and magnesium content expressed as a percentage by weight of each such element.

9. For agricultural liming material sold in bulk, a guarantee of the percentage of its effective neutralizing value, as determined in accordance with regulations adopted by the commissioner. Such value shall also be expressed separately as the weight of such bulk material necessary to equal one ton of agricultural liming material having an effective neutralizing value of one hundred percent.

At every site, from which agricultural liming products 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.

§ 142-dd. Certificate to be filed. Before any person shall sell, offer or expose for sale, barter, give, or otherwise supply in this state any product labelled as agricultural liming material, he or she shall, for each brand thereof, file biennially with the commissioner, upon forms supplied by the commissioner, a certificate for the registration of each such brand, stating the name, principal office address and plant location of the manufacturer or shipper, the type of liming material, the brand name, the minimum specifications as to total neutralizing value, the calcium and magnesium content, effective neutralizing value and fineness. Such certificate shall constitute a warranty by the supplier to the receiver that the material will meet the minimum

specifications stated therein at the time of delivery.

§ 142-ee. License. Each certificate filed pursuant to section one hundred forty-two-dd of this article shall be accompanied by an application, upon forms supplied by the commissioner, for a license to supply such material under the brand name specified therein, and there shall be transmitted therewith a copy of the label and of the statement proposed to accompany such material in compliance with section one hundred forty-two-cc of this article. Such application shall incorporate by reference the data contained in the accompanying certificate for the brand for which the license is sought. Upon compliance with the provisions of this article, the applicant shall be issued a license for the supplying of such qualifying brand of agricultural liming material, which license shall expire on the thirty-first day of December of the next even numbered year following the year in which it is issued, but no such license shall be issued for the supplying of any such material which does not meet the minimum standards herein provided for, nor for the supplying thereof under a brand descriptive designation or with a label or accompanying statement which is or tends to be misleading or deceptive as to quality, analysis or composition. Application for a renewal of the license for a period of two years shall be made biennially, upon a form prescribed by the commissioner and submitted no later than thirty days prior to the expiration of the existing license. Any such license so issued may be revoked by the commissioner, after notice to the licensee by mail or otherwise and opportunity to be heard, when it appears that any statement or representation upon which it is issued is false or misleading. The action of the commissioner in refusing to grant a license, or in revoking a license, shall be subject to review by a proceeding under article seventy-eight of the civil practice law and rules, but the decision of the commissioner shall be final unless within thirty days from the date of the order embodying such action such proceeding to review has been instituted.

Whenever a manufacturer, producer or distributor shall have been licensed to supply a particular brand of material hereunder, no agent, seller or retailer of such brand shall be required to file a certificate or obtain a license for such brand during a period for which such license is in effect, nor upon such goods which were acquired during a period for which a license was in effect and remaining undistributed in subsequent years.

§ 142-ff. Reports and fees. 1. Every licensee shall, on or before the first day of February in each year report the net tonnage, including zero tonnage if applicable, of each brand of agricultural liming materials sold, bartered, given, or otherwise supplied by him or her in the state during the preceding calendar year. Such report shall be made in duplicate upon forms supplied by the commissioner. One such copy shall be transmitted to the commissioner and the other copy shall be retained by the licensee. Such reports shall be confidential and no information therein shall be disclosed in such a way as to divulge the operation of any person.

2. Failure to comply with the requirements of this section within the time limit shall subject the licensee to revocation of all current licenses held by him or her and the denial of all future license applications until compliance herewith, after hearing and subject to

review as provided in section one hundred forty-two-ee.

§ 142-gg. Sampling and analyzing. * 1. It shall be the duty of the commissioner or his or her duly authorized agent to sample each different brand of agricultural liming material distributed within the state, to such an extent as he or she may deem necessary to determine compliance with the provisions of this article.

A sample to be designated official shall be one taken in the presence of the supplier or a person responsible to the supplier. Such sample shall, in the presence of the witness, be divided into two representative samples, each sealed, and one of such sealed samples shall be tendered, and if accepted, delivered to the witness; the other sealed sample the commissioner shall analyze or cause to be analyzed.

* NB Effective until December 22, 2018

* 1. It shall be the duty of the commissioner or his or her duly authorized agent to sample and analyze each different brand of agricultural liming material distributed within the state, to such an extent as he or she may deem necessary to determine compliance with the provisions of this article.

The methods of sampling and analysis shall be those the commissioner may require by regulation and be based on methods adopted by an agricultural and food analytical standards association.

* NB Effective December 22, 2018

2. The results of the analysis of each official sample shall be promptly reported by the commissioner to the registrant. In the event an official sample shall analyze below the guarantee, the registrant may within twenty days submit evidence that the sample was non-representative or erroneous. If no satisfactory evidence is so submitted the report of analysis shall become official.

* 3. The commissioner shall publish or cause to be published at least annually the results of all analyses indicating the information required to be shown on labels and statements pursuant to section one hundred forty-two-cc of this article and such other information as the commissioner shall deem advisable.

* NB Effective until December 22, 2018

* 3. The commissioner shall maintain an annual record of, and make available upon request, the results of all analyses with respect to the information required to be shown on labels and statements pursuant to section one hundred forty-two-cc of this article and such other information as the commissioner shall deem advisable.

* NB Effective December 22, 2018

§ 142-hh. Stop orders. Whenever the commissioner or representatives of the commissioner shall find any agricultural liming material suspected of being supplied in violation of any of the provisions of this article the commissioner or his or her representatives may issue a written "stop order" to the owner or custodian of any such suspect lot and enforce the same against any such person. Any such order may direct that the agricultural liming material be removed from distribution and retained at the establishment having custody. Any person aggrieved by a "stop order" shall be entitled to a hearing thereon within ten days of a demand therefor. It will be a violation of this section for the owner or custodian of any agricultural liming material, affected by a "stop order", to sell, barter, give away, use or otherwise remove such

material from the place of retention without prior written approval of the commissioner or his or her authorized representative.