

**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

**Notice of Intended Action**

**Proposing rule making related to agricultural lime and providing an opportunity for public comment**

The Agriculture and Land Stewardship Department hereby proposes to amend Chapter 43, “Fertilizers and Agricultural Lime,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 201A.5 and 201A.8.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 201A.5.

*Purpose and Summary*

The proposed amendments increase the cost of testing an individual sample of agricultural lime from \$25 to \$60. The testing fee has not been increased since 1988. The proposed amendments also reduce the number of samples that have to be taken and remove references to Iowa State University.

*Fiscal Impact*

Last year, 181 samples were tested. If the same number holds, an additional \$6,335 in fees would be collected under the proposed amendments.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 21—Chapter 8.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 16, 2018. Comments should be directed to:

Margaret Thomson  
Iowa Department of Agriculture and Land Stewardship  
Wallace State Office Building  
502 East 9th Street  
Des Moines, Iowa 50319  
Fax: 515.281.6236  
Email: [margaret.thomson@iowaagriculture.gov](mailto:margaret.thomson@iowaagriculture.gov)

*Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental

subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 43.20(2) as follows:

**43.20(2) Sample fee.** The manufacturer or producer of agricultural lime, limestone, or aglime shall pay a fee of no more than ~~\$25~~ \$60 per sample collected. This fee may be adjusted by the secretary of agriculture by a separate notice letter to each manufacturer or producer to reflect as accurately as possible the actual cost of sampling and testing expended by the Iowa department of agriculture and land stewardship ~~and Iowa State University~~ for each sample taken at the manufacturer's or producer's facilities.

ITEM 2. Amend rule ~~21—~~**43.20(201)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections ~~201.6~~ 201A.6 and ~~201.12~~ 201A.11.

ITEM 3. Amend subrules 43.32(1) and 43.32(4) as follows:

**43.32(1)** Samples of agricultural liming material for analyzing the number of pounds of ECCE shall be obtained by taking samples from the manufacturer's production belt or stockpile. Samples A minimum of one sample and up to five samples shall be taken at locations where there are permanent production facilities once each calendar month during the months year that agricultural liming material is being produced. Samples shall be taken at locations where there are no permanent production facilities once during the first week time that a portable plant is at the location producing agricultural liming material and once each week. Subsequent samples will be taken either during the period that the portable plant is at the location or from the stockpile created, until a total of three to five representative samples from the pile have been accumulated and submitted for analysis, after which a sample shall be obtained and tested once each calendar month during the months in which agricultural liming material is being produced. The manufacturer or producer of agricultural liming material shall notify the secretary of agriculture or person or persons appointed by the secretary of the production of agricultural liming material seven calendar days prior to the manufacture or production of agricultural liming material so that samples may be obtained by a person or persons appointed by the secretary in compliance with this rule.

**43.32(4)** Samples of water treatment plant lime for analyzing the number of pounds of ECCE shall be obtained by taking samples from the water plant designated sampling point. Samples shall be taken ~~once each month during the months~~ when agricultural liming material is being taken off-site for land application. The producer of the agricultural liming material shall notify the secretary of agriculture or person(s) appointed by the secretary about the intent to land apply the liming material seven calendar days prior to the land application ~~of when~~ when agricultural liming material is stockpiled so that samples may be obtained in compliance with this rule.

ITEM 4. Amend rule 21—43.34(201A) as follows:

**21—43.34(201A) Sample fee.** The manufacturer or producer of agricultural liming material or specialty limestone shall pay a fee of no more than ~~\$25~~ \$60 per sample collected. This fee may be adjusted by the secretary of agriculture by a separate notice letter to each manufacturer or producer to reflect as accurately as possible the actual cost of sampling and testing expended by the Iowa department of agriculture and land stewardship ~~and Iowa State University of Science and Technology~~ for each sample collected.

ITEM 5. Amend subrule 43.35(1) as follows:

**43.35(1)** The secretary of agriculture shall, upon receipt of the analysis provided in rule 21—43.33(201A), certify the number of pounds of ECCE, using the method provided in rule 21—43.31(201A). The certification shall be forwarded to the manufacturer or producer from whom the sample was obtained by written notice and sent by United States mail.

Each certification of ECCE ~~shall~~ should be based on the average of a maximum of five analyses from five samples. Each new analysis received ~~shall~~ should be added to the previous five analyses and the oldest analysis shall be omitted. Fewer than five analyses shall be averaged on the basis of the actual number of analyses. Nothing in this rule shall preclude a manufacturer or producer from having a certification on separate stockpiles of agricultural liming material provided that each stockpile shall be separated from any other stockpile and each separate stockpile has been sampled and certified as required.