

(3) A system of inventory and record maintenance to account for the reusable entities placed in, and removed from, service.

(4) A means of transforming returned entities, that are no longer reusable, into recycled materials for manufacturing or into manufacturing wastes which are subject to existing federal or state laws or regulations governing manufacturing wastes to ensure that these wastes do not enter the commercial or municipal waste stream.

The application for an exemption must document the measures to be taken by the applicant as set out in subparagraphs (1) through (4).

7. ~~6.~~ By July 1, 1992, a manufacturer or distributor of packaging or packaging components shall make available to purchasers, to the department, and to the general public upon request, certificates of compliance which state that the manufacturer's or distributor's packaging or packaging components comply with, or are exempt from, the requirements of this section.

If the manufacturer or distributor of the package or packaging component reformulates or creates a new package or packaging component, the manufacturer or distributor shall provide an amended or new certificate of compliance for the reformulated or new package or packaging component.

~~8. 7.~~ The commission shall adopt rules to ~~implement~~ administer this section and ~~report to the general assembly on the effectiveness of this section no later than forty-two months following July 1, 1990,~~ and recommend any other toxic substances contained in packaging to be added to the list in order to further reduce the toxicity of packaging waste.

9. ~~8.~~ A manufacturer or distributor who does not comply with the requirements of this section is guilty of a simple misdemeanor.

Approved April 15, 1996

CHAPTER 1096

AGRICULTURAL LIMING MATERIAL S.F. 2348

AN ACT relating to agricultural limestone, and providing penalties, fees, and an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 8.60, subsection 6, Code 1995, is amended to read as follows:

6. Fertilizer fund created in section 200.9, Code Supplement 1993, and moneys collected for the administration of chapter 201A relating to the regulation of limestone products which were deposited in the fertilizer fund pursuant to section 201.13, Code 1993 and Code 1995.

Sec. 2. Section 200.8, subsection 3, Code 1995, is amended to read as follows:

3. If there is an unencumbered balance of funds from the amount of the fees deposited in the general fund pursuant to sections 200.9 and ~~201.13~~ 201A.11 on June 30 of any fiscal year equal to or exceeding three hundred fifty thousand dollars, the secretary of agriculture shall reduce the per ton fee provided for in subsection 1 and the annual license fee established pursuant to section ~~201.3~~ 201A.11* for the next fiscal year in such amount as will result in an ending estimated balance of such funds for June 30 of the next fiscal year of three hundred fifty thousand dollars.

* Section 201A.3 probably intended

Sec. 3. NEW SECTION. 201A.1 TITLE.

This chapter shall be known and may be cited as the "Iowa Agricultural Liming Material Act".

Sec. 4. NEW SECTION. 201A.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Agricultural liming material" means a product having calcium and magnesium compounds capable of neutralizing soil acidity.
2. "Brand" means the term, designation, trade name, product name, or other specific designation under which individual agricultural liming material is offered for sale.
3. "Bulk" means material which is in a nonpackaged form.
4. "Effective calcium carbonate equivalent" means the acid-neutralizing capacity of an agricultural liming material.

Sec. 5. NEW SECTION. 201A.3 LICENSE REQUIRED.

Agricultural liming material shall not be distributed in this state unless the manufacturer of the agricultural liming material obtains a license for each facility owned by the manufacturer for distribution in this state. The manufacturer shall obtain the license prior to the facility's manufacture of the agricultural liming material. The license shall expire on January 1 of each year, and may be renewed for a period expiring on January 1 of the following year. The manufacturer shall apply for the license on forms prescribed and according to procedures required by the department. An application for a license, including a license renewal, must be accompanied by a license fee established by the department, which shall not exceed forty dollars.

Sec. 6. NEW SECTION. 201A.4 LABELING AND ADVERTISING.

1. Agricultural liming material shall not be sold, offered for sale, or exposed for sale in this state unless a label accompanies the agricultural liming material which provides the following information:

- a. The name and address of the principal office of the manufacturer or distributor.
 - b. The brand or trade name of the agricultural liming material.
 - c. The identification of the type of the agricultural liming material.
 - d. The undried net weight of the agricultural liming material.
 - e. The effective calcium carbonate equivalent of the agricultural liming material as determined according to rules adopted by the department.
2. The label must be plainly readable. If the agricultural liming material is in packaged form, the label must be affixed to the outside of the package in a conspicuous manner. The label shall be printed, stamped, or otherwise marked in a manner required by the department. If the agricultural liming material is in bulk form, the label may be contained on a delivery slip.
3. The label or advertising which provides information regarding the agricultural liming material shall not be false or misleading to the purchaser, including information relating to the quality, analysis, type, or composition of the agricultural liming material.
4. If the agricultural liming material is adulterated after it has been packaged, labeled, or loaded, but prior to delivery to a purchaser, the vendor shall provide a notice of the adulteration, which shall be placed on the agricultural liming material as an additional label as provided in this section.

5. For each brand of agricultural liming material sold in bulk, a statement shall be conspicuously posted at the location where the agricultural liming material is delivered for resale or where purchase orders for deliveries of the agricultural liming material are placed. The statement shall include the effective calcium carbonate equivalent of the agricultural liming material as determined according to rules adopted by the department.

Sec. 7. NEW SECTION. 201A.5 INSPECTION AND INVESTIGATION.

The department shall inspect agricultural liming material distributed in this state and investigate persons engaged in the business of manufacturing, distributing, selling, offering

for sale, or exposing for sale agricultural liming material in this state. Inspections and investigations shall be performed as determined necessary or practicable by the department, in order to ensure compliance with this chapter. The inspection may include the sampling, analysis, and testing of agricultural liming material, as provided by rules adopted by the department. The department may enter premises of a business engaged in the manufacture, distribution, sale, offer for sale, or exposure for sale of agricultural liming material in this state. The business shall provide timely, convenient, and free access to its agricultural liming material and to its books, records, accounts, papers, documents, and any computer or other recordings relating to the business, during normal business hours. The business shall facilitate the examination and aid in the examination to every extent feasible.

Sec. 8. NEW SECTION. 201A.6 CERTIFICATION OF EFFECTIVE CALCIUM CARBONATE EQUIVALENT - REPORTING.

The department shall certify the effective calcium carbonate equivalent for all agricultural liming material, as provided by rules adopted by the department. The department may establish a fee for analyzing samples of agricultural liming material. The department shall issue a report at least once every three months which lists the agricultural liming material certified by the department. The report shall list the manufacturers of the agricultural liming material, the locations of facilities used to manufacture the agricultural liming material, and the identification of the type of the agricultural liming material produced by the manufacturer.

Sec. 9. NEW SECTION. 201A.7 TOXIC MATERIALS PROHIBITED.

A person shall not sell, offer for sale, or expose for sale agricultural liming material which includes material which is toxic to plants, animals, human, or aquatic life, or which causes soil or water contamination, as provided by rules adopted by the department.

Sec. 10. NEW SECTION. 201A.8 RULES.

The department shall adopt rules pursuant to chapter 17A required to administer and enforce the provisions of this chapter.

Sec. 11. NEW SECTION. 201A.9 ENFORCEMENT ACTIONS.

If the department finds that agricultural liming material is being manufactured, used, sold, offered for sale, or exposed for sale in violation of this chapter, the department may enforce the provisions of this chapter by doing any of the following:

1. Issuing and enforcing a stop order to prevent the manufacture, sale, or removal of agricultural liming material. The order may require that the owner or custodian hold the agricultural liming material at a place designated in the order. The stop order shall be in writing and served upon the person owning or controlling the manufacture or sale of the agricultural liming material. The department shall provide for the termination of the stop order upon compliance with the provisions of this chapter. The termination of the stop order shall be in writing and served upon the person as provided for in the stop order. The department may place conditions upon the termination of the stop order, including the payment of reasonable expenses incurred by the department in issuing and enforcing the stop order.

2. Obtaining a court order upon petition filed in district court for the county where the agricultural liming material is being manufactured, sold, offered for sale, or exposed for sale. The court may be petitioned by the department, or, upon request by the department, the attorney general or the county attorney. The court shall hear from all parties in the case. The court may issue an order for any of the following:

- a. The seizure of the agricultural liming material. The court shall issue an order, if the court finds that the petition is supported by facts that agricultural liming material is being manufactured, sold, offered for sale, or exposed for sale in violation of this chapter, and the agricultural liming material must be condemned because it fails to meet standards required in this chapter. If warranted, the court shall order that the agricultural liming

material be disposed of in a manner provided by rules adopted by the department, which may include reprocessing or relabeling the agricultural liming material in order to ensure that it complies with this chapter. The court may provide that any party to the case dispose of the agricultural liming material.

b. A temporary or permanent injunction against a person violating the provisions of this chapter. The court shall issue an order, if the court finds that the petition is supported by facts that agricultural liming material is being manufactured, sold, offered for sale, or exposed for sale in violation of this chapter. In order to obtain injunctive relief, the department shall not be required to post a bond or prove the absence of an adequate remedy at law, unless the court for good cause otherwise orders. The court may order any form of prohibitory or mandatory relief that is appropriate under principles of equity.

Sec. 12. NEW SECTION. 201A.10 VIOLATIONS.

1. A person violating this chapter or rules adopted by the department under this chapter is guilty of a simple misdemeanor.

2. The department shall provide for the prosecution of a violation of this chapter by referring the violation to the county attorney in the county where the violation occurs. The department shall compile evidence of the violation for prosecution. The county attorney shall prosecute any case determined by the county attorney to be meritorious without delay. The department shall not refer a violation to the county attorney until the department provides the person subject to the violation with an opportunity to be heard by the department according to procedures adopted by the department. A right to a hearing is not a contested case proceeding as provided in chapter 17A. The department is not required to refer a minor violation to a county attorney, and may instead issue a warning to the person subject to the minor violation.

Sec. 13. NEW SECTION. 201A.11 FEES AND APPROPRIATION.

Fees collected under this chapter shall be deposited in the general fund of the state and shall be subject to the requirements of section 8.60. Moneys deposited under this section to the general fund shall be used only by the department for the purpose of administering and enforcing the provisions of this chapter, including inspection, sampling, analysis, and the preparation and publishing of reports.

Sec. 14. REPEAL. Chapter 201, Code and Code Supplement 1995, is repealed.

Sec. 15. EFFECTIVE DATE AND APPLICABILITY.

1. Except as provided in subsection 2, this Act takes effect on January 1, 1997. However, until January 1, 1998, a person holding an inventory of packaged agricultural liming material on January 1, 1997, may continue to sell that inventory as labeled under chapter 201 as the chapter existed on December 31, 1997.*

2. The department may adopt rules to provide for the administration and enforcement of this Act prior to January 1, 1997. However, the rules must take effect not earlier than January 1, 1997.

Approved April 15, 1996

*See chapter 1219, §34 herein