DISCLAIMER

The South Carolina Legislative Council is offering access to the unannotated South Carolina Code of Laws on the Internet as a service to the public. The unannotated South Carolina Code on the General Assembly's website is now current through the 2009 session. The unannotated South Carolina Code, consisting only of Code text and numbering, may be copied from this website at the reader's expense and effort without need for permission.

The Legislative Council is unable to assist users of this service with legal questions. Also, legislative staff cannot respond to requests for legal advice or the application of the law to specific facts. Therefore, to understand and protect your legal rights, you should consult your own private lawyer regarding all legal questions.

While every effort was made to ensure the accuracy and completeness of the unannotated South Carolina Code available on the South Carolina General Assembly's website, the unannotated South Carolina Code is not official, and the state agencies preparing this website and the General Assembly are not responsible for any errors or omissions which may occur in these files. Only the current published volumes of the South Carolina Code of Laws Annotated and any pertinent acts and joint resolutions contain the official version.

Please note that the Legislative Council is not able to respond to individual inquiries regarding research or the features, format, or use of this website. However, you may notify Legislative Printing, Information and Technology Systems at LPITS@scstatehouse.gov regarding any apparent errors or omissions in content of Code sections on this website, in which case LPITS will relay the information to appropriate staff members of the South Carolina Legislative Council for investigation.

CHAPTER 26.

 AGRICULTURAL LIMING MATERIALS

**SECTION 46‑26‑10.** Short title; administration.

This chapter may be cited as “The South Carolina Agricultural Liming Materials Act” and must be administered by the State Crop Pest Commission.

**SECTION 46‑26‑20.** Definitions.

For purposes of this chapter:

(1) “Agricultural liming materials” means a product whose calcium and magnesium compounds are capable of neutralizing soil acidity.

(2) “Limestone” means a material consisting essentially of calcium carbonate or a combination of calcium carbonate with magnesium carbonate capable of neutralizing soil acidity.

(3) “Dolomitic limestone” means those materials of which sixteen percent or more of the total neutralizing value expressed as calcium carbonate equivalent is derived from magnesium compounds.

(4) “Calcitic limestone” means materials of which eighty‑five percent, plus or minus five percent, or more of the total neutralizing value expressed as calcium carbonate equivalent is derived from calcium compounds.

(5) “Burnt lime” means a material whose calcium and magnesium compounds are capable of neutralizing soil acidity and which consists essentially of calcium oxide or a combination of calcium oxide with magnesium oxide.

(6) “Hydrated lime” means a material made from burnt lime which consists essentially of calcium hydroxide or a combination of calcium hydroxide with magnesium oxide or magnesium hydroxide.

(7) “Marl” means a granular or loosely consolidated earthy material composed largely of calcium carbonate.

(8) “Industrial by‑product used as a liming material” means an industrial waste or by‑product containing calcium or calcium and magnesium in forms that will neutralize soil acidity.

(9) “Calcium carbonate equivalent” means the acid neutralizing capacity of an agricultural liming material expressed as weight percentage of calcium carbonate.

(10) “Fineness” means the percentage of weight of the material which will pass United States Standard sieves of specified sizes.

(11) “Distributor” means a person who imports, consigns, manufactures, produces, compounds, mixes, or blends agricultural liming materials or who offers for sale, sells, barters, or otherwise supplies agricultural liming materials.

(12) “Registrant” means the person who applies for or requests registration of the agricultural liming material and is granted registration.

(13) “Brand” means the term, designation, trademark, product name, or other specific designation under which individual agricultural liming material is offered for sale.

(14) “Ton” means a net weight of two thousand pounds avoirdupois.

(15) “Percent” or “percentage” means by weight.

(16) “Bulk” means in nonpackaged form.

(17) “Label” means written or printed matter on or attached to the package or on the delivery ticket which accompanies bulk shipments.

(18) “Person” means individual, partnership, association, firm, or corporation.

(19) “Weight” means the net weight of material as offered for sale.

(20) “Director” means the Director of Regulatory and Public Service Programs, Clemson University.

(21) “Division” means the Division of Regulatory and Public Service Programs, Clemson University, and its employees, agents, and officials.

**SECTION 46‑26‑30.** Delegation of duties to director.

The commission shall delegate the duties in this chapter to the director who may administer and enforce this chapter and related regulations.

**SECTION 46‑26‑40.** Labels; required information.

(a) 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, or in the case of bulk sales, a delivery slip, setting forth at least the following information:

(1) The net weight of the agricultural liming material;

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

(3) The identification of the product as to type of the agricultural liming material as defined in Section 46‑26‑20, Items (c) through (h);

(4) Calcium carbonate equivalent as determined by methods prescribed by the Association of Official Analytical Chemists. Minimum calcium carbonate equivalents as prescribed by regulations established by the commission;

(5) The minimum percentage of calcium and magnesium expressed as elemental calcium (Ca) and elemental magnesium (Mg). Calcium and magnesium may also be expressed as oxides or carbonates in addition to the elemental expression.

(6) The minimum percent by weight passing through United States Standard sieves as prescribed by regulations established by the commission; and

(7) The name and principal office address of the manufacturer or distributor.

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

(c) In the case of any material which 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.

**SECTION 46‑26‑50.** Distributors; application to engage in business; permits; fees.

Any person desiring to become a distributor as defined in this chapter shall before engaging in such business, make application to the commission on application forms furnished by the commission for a permit to do business in South Carolina. Each application should be accompanied by a remittance of twenty dollars for each distributor as a fee for issue of permit. The applicant shall guarantee compliance with all provisions of this chapter which apply to the sale of bulk liming materials, which shall include delivery to the consumer the bulk liming materials purchased. Upon approval by the commission a copy of the permit shall be furnished the applicant and when furnished, shall authorize the person receiving it to do business as a distributor. All permits shall expire on June thirtieth of each year.

**SECTION 46‑26‑60.** Registration of products; application.

(a) Each separately identified product shall be registered before being distributed in this State. The application for registration shall be submitted to the commission on forms furnished or approved by the commission or its duly authorized representative and shall be accompanied by a fee of twenty dollars per product. Upon approval by the commission or its duly authorized representative, a copy of the registration shall be furnished to the applicant. All registrations shall expire on June thirtieth of each year.

(b) A distributor shall not be required to register any brand of agricultural liming material if it has been duly registered under this chapter by another person, providing the label does not differ in any respect.

**SECTION 46‑26‑70.** Annual statements; reports.

(a) Within thirty days following the expiration of registration, which ends June thirtieth of each year, each registrant shall submit on a form furnished or approved by the Commission or its duly authorized representative an annual statement setting forth by counties, the number of net tons of each agricultural liming material sold by him for use in South Carolina during the previous twelve‑month period. Such statements shall be filed with the Fertilizer Inspection and Analysis Department of Clemson University.

(b) The registrant shall use a system of keeping books that is satisfactory to the commission, indicate accurately in his records the tonnage of agricultural liming material sold in South Carolina, and agree to allow the commission or its duly authorized representative to examine such records and verify the tonnage statement.

(c) The commission shall publish and distribute annually, to each agricultural liming material registrant and other interested persons, a composite report showing the tons of agricultural liming material sold in each county of the State. This report shall in no way divulge the operation of any registrant.

**SECTION 46‑26‑80.** Inspections and analyses; duty of the Commission.

(a) It shall be the duty of the commission who may act through its authorized agent to sample, inspect, make analyses of and test agricultural liming materials distributed within the State as it may deem necessary to determine whether such agricultural liming materials are in compliance with the provisions of this chapter. Any officer or agent of the Commission or of a committee thereof authorized by the commission 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 chapter and regulations pertaining thereto, and to the records relating to their distribution.

(b) The methods of analysis and sampling shall be those approved by the commission and shall be guided by the Association of Official Analytical Chemists procedures.

(c) The results of official analysis of agricultural liming materials and portions of official samples shall be distributed by the Commission as provided in the regulations at least annually.

**SECTION 46‑26‑90.** Stop sales or removal orders; release of materials.

(a) The commission or its duly authorized representative 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 materials and to hold at a designated place when the commission finds such agricultural liming material is being offered or exposed for sale in violation of any of the provisions of this chapter until the law has been complied with and such agricultural liming material is released in writing by the commission, or such violation has been otherwise legally disposed of by written authority.

(b) The commission or its duly authorized representative shall release the agricultural liming material which has been subjected to an order under item (a) above when the requirements of this chapter have been complied with.

(c) The provisions of this section shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other provisions of this chapter.

**SECTION 46‑26‑100.** Penalties; assessment of additional fines for failure to meet guarantees.

(a) Any person or dealer violating the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars or be imprisoned for a term not exceeding thirty days.

(b) In addition to the penalties provided in item (a), the commission may assess additional fines when any shipment of agricultural liming materials fails to meet the guarantee for chemical, neutralizing value and screen size.

Such assessments levied by the commission shall within thirty days from date of notice to manufacturer, dealer or agent be paid to the purchasers of such penalized lots of agricultural liming material, receipts taken therefor and promptly forwarded to the commission. If the purchasers cannot be found, or if the amount due any one purchaser from the lot of agricultural liming material on which an assessment has been levied is less than one dollar, the amount of penalty assessed shall be paid to the State Treasurer but remitted to the commission or its duly authorized representative, the proceeds to be credited to the account, the South Carolina Fertilizer Fund.

**SECTION 46‑26‑110.** Seizure of goods when assessment not paid.

The commission may seize any commercial liming material belonging to such manufacturer, dealer or agent if the assessment is not paid within three months after such notice to such manufacturer, dealer or agent has been given by the commission.

**SECTION 46‑26‑120.** Penalty where material is underweight.

If any agricultural liming material in the possession of the consumer is found by the commission to be short in weight, the registrant of such agricultural liming material shall, within thirty days after official notice from the commission or its duly authorized representative, pay to the consumer a penalty equal to four times the value of the actual shortage. Underweight agricultural liming materials stored or offered for sale, other than in the possession of the consumer, shall be deemed misbranded.

**SECTION 46‑26‑130.** Penalty where material is not branded or labeled and tagged.

Every distributor or common carrier who shall sell, offer for sale, or transport in this State any agricultural liming materials without being properly branded or having attached thereto such labels and tags as required by law or any distributor who shall receive any such agricultural liming material may be required to forfeit to the State a sum not to exceed the selling price of each separate package sold, offered for sale, or received, to be recovered by suit brought in the name of the State in any court of competent jurisdiction. Such forfeitures when collected shall be paid to the State Treasurer who shall hold them subject to the order of the commission. Provided, that the penalty defined in this section shall apply also to any misbranded agricultural liming material, an agricultural liming material being deemed to be misbranded if it carries any false or misleading statement upon or attached to the package.

**SECTION 46‑26‑140.** Revocation of registration.

Where it shall appear to the commission that any registrant has been persistently fraudulent in his dealings, the commission may revoke registration or refuse to register such registrant.

**SECTION 46‑26‑150.** Restrictions on sales generally.

(a) No agricultural liming material shall be sold or offered for sale in South Carolina unless it complies with provisions of this chapter.

(b) No agricultural liming material shall be sold or offered for sale in South Carolina which contains toxic materials in quantities injurious to plants or animals.

**SECTION 46‑26‑160.** Rules and regulations.

The commission may establish such rules and regulations in regard to the inspection, analysis, distribution and sale of agricultural liming material as shall not be inconsistent with the provisions of this chapter and as in its judgment will best carry out the requirements thereof.

**SECTION 46‑26‑170.** Existing inventories; exemption.

Notwithstanding the provisions of this chapter, registrants shall be allowed not more than one year from such date to use existing inventories of labeled materials.