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CHAPTER 26

Agricultural Liming Materials and Landplaster

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

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

HISTORY: 1976 Act No. 495 Section 1; 1992 Act No. 378, Section 1, eff May 15, 1992; 2011 Act No. 64, Section 1, eff June 14, 2011.

Effect of Amendment

The 1992 amendment substituted “and must be administered by the State Crop Pest Commission” for “This chapter shall be administered by the Board of Trustees of Clemson University, hereinafter referred to as the Board.”

The 2011 amendment inserted “and Landplaster Act”.

**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.

 (22) “Landplaster” means a product consisting chiefly of calcium sulfate with two combined water molecules (CaSO4 2H2O) and is incapable of neutralizing soil acidity. It shall contain not less than seventy percent CaSO4 2H2O.

HISTORY: 1976 Act No. 495 Section 2; 1992 Act No. 378, Section 2, eff May 15, 1992; 2011 Act No. 64, Section 1, eff June 14, 2011.

Effect of Amendment

The 1992 amendment changed the item designators from (a) through (s), to (1) through (19), and added items (20) and (21).

The 2011 amendment added subsection (22), the definition for landplaster.

**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.

HISTORY: 1976 Act No. 495 Section 3; 1992 Act No. 378, Section 3, eff May 15, 1992; 2011 Act No. 64, Section 1, eff June 14, 2011.

Effect of Amendment

The 1992 amendment substituted this section for one which read “The Board may delegate the duties provided in this chapter to the fertilizer committee of the Board which shall be known as the Fertilizer Board of Control.”

The 2011 amendment reenacted this section with no apparent change.

**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, 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;

 (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 also may 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) Landplaster sold, offered for sale, or distributed in this State shall have affixed to each package’s exterior in a conspicuous manner, 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 name and address of the manufacturer or distributor guaranteeing the landplaster;

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

 (3) the net weight; and

 (4) the guaranteed analysis showing the minimum percentages of calcium and sulfur.

 (C) No information or statement shall appear on a 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.

 (D) In the case of any material which has been adulterated subsequent to packaging, labeling, or loading of it and before delivery to the consumer, a plainly marked notice to that effect must be affixed by the vendor to the package or delivery slip to identify the kind and degree of adulteration in it.

HISTORY: 1976 Act No. 495 Section 4; 1992 Act No. 378, Section 4, eff May 15, 1992; 2011 Act No. 64, Section 1, eff June 14, 2011.

Code Commissioner’s Note

1992 Act No. 378, Section 4, directed the Code Commissioner to change all references to “board” to “commission” in Chapter 26, Title 46 of the 1976 Code.

Effect of Amendment

The 1992 amendment substituted “commission” for “board” each time it appeared.

The 2011 amendment inserted subsection (B), redesignated subsections (a), (b) and (c) as subsection (A), (C) and (D) respectively, deleted “, Items (c) through (h)” in subsection (A)(3), and made other nonsubstantive changes.

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

 A person desiring to become a distributor as defined in this chapter, before engaging in this business, shall 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, or landplaster, or both, which shall include delivery to the consumer the bulk liming materials, or landplaster, or both, purchased. Upon approval by the commission, a copy of the permit must be furnished to the applicant and when furnished, shall authorize the person receiving it to do business as a distributor. All permits expire on June thirtieth of each year.

HISTORY: 1976 Act No. 495 Section 5; 1992 Act No. 378, Section 4, eff May 15, 1992; 2008 Act No. 353, Section 2, Pt 30A.3, eff July 1, 2008; 2011 Act No. 64, Section 1, eff June 14, 2011.

Effect of Amendment

The 1992 amendment substituted “commission” for “board” each time it appeared.

The 2008 amendment doubled the fees.

The 2011 amendment inserted “or landplaster, or both,” twice in the third sentence, and made other nonsubstantive changes.

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

 (A) Each separately identified product must be registered before being distributed in this State. The application for registration must be submitted to the commission on forms furnished or approved by the commission or its duly authorized representative and must 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 must be furnished to the applicant. All registrations must expire on June thirtieth of each year.

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

HISTORY: 1976 Act No. 495 Section 6; 1992 Act No. 378, Section 4, eff May 15, 1992; 2008 Act No. 353, Section 2, Pt 30A.3, eff July 1, 2008; 2011 Act No. 64, Section 1, eff June 14, 2011.

Effect of Amendment

The 1992 amendment substituted “commission” for “board” each time it appeared.

The 2008 amendment, in subsection (a), in the second sentence doubled the fee.

The 2011 amendment redesignated subsections (a) and (b) as subsections (A) and (B); in subsection (A), substituted “must” for “shall” in four places; in subsection (B) substituted “A distributor is required” for “A distributor shall not be required” and inserted “, or landplaster, or both,” ; and made other nonsubstantive changes.

**SECTION 46‑26‑70.** Quarterly tonnage reports; publication and distribution.

 (A) A report of tonnage is due quarterly for periods ending September thirtieth, December thirty‑first, March thirty‑first, and June thirtieth. The report is due within thirty days following the end of each quarter covering tonnage of bulk liming materials, or landplaster, or both, sold during the preceding quarter by the registrant transacting, distributing, or selling in South Carolina. If the tonnage report is not filed within thirty days after the date due, the registration of the bulk liming products, landplaster, or both, must be canceled automatically. If the report is false, fifteen days after due written notice and opportunity for hearing have been given, the commission may cancel the registration of the bulk liming material, or landplaster, or both, by the delinquent registrant.

 (B) The commission shall publish and distribute annually, to each agricultural liming material and landplaster registrant and other interested persons, a composite report showing the tons of agricultural liming material and landplaster sold in each county of the State. This report shall not divulge the operation of a registrant.

HISTORY: 1976 Act No. 495 Section 7; 1992 Act No. 378, Section 4, eff May 15, 1992; 2011 Act No. 64, Section 1, eff June 14, 2011.

Code Commissioner’s Note

1992 Act No. 378, Section 4, directed the Code Commissioner to change all references to “board” to “commission” in Chapter 26, Title 46 of the 1976 Code.

Effect of Amendment

The 1992 amendment substituted “commission” for “board” each time it appeared.

The 2011 amendment rewrote the section.

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

 (A) It is the duty of the commission who may act through its authorized agent to sample, inspect, make analyses of and test agricultural liming materials and landplaster distributed within the State as it may consider necessary to determine whether the agricultural liming materials and landplaster are in compliance with the provisions of this chapter. Any officer or agent of the commission or of a committee 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 and landplaster subject to the provisions of this chapter and regulations pertaining to it, 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 landplaster and portions of official samples must be distributed by the commission as provided in the regulations at least annually.

HISTORY: 1976 Act No. 495 Section 8; 1992 Act No. 378, Section 4, eff May 15, 1992; 2011 Act No. 64, Section 1, eff June 14, 2011.

Code Commissioner’s Note

1992 Act No. 378, Section 4, directed the Code Commissioner to change all references to “board” to “commission” in Chapter 26, Title 46 of the 1976 Code.

Effect of Amendment

The 1992 amendment substituted “commission” for “board” each time it appeared.

The 2011 amendment redesignated subsections (a), (b) and (c) as subsections (A), (B) and (C), in subsection (A) inserted “and landplaster” in the first and second sentences, and substituted “consider necessary” for “deem necessary” in the first sentence; in subsection (C), inserted “and landplaster”; and made nonsubstantive changes.

**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, or landplaster, or both, and to hold at a designated place when the commission finds agricultural liming material, or landplaster, or both, 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, or landplaster, or both, is released in writing by the commission, or the violation has been otherwise legally disposed of by written authority.

 (B) The commission or its duly authorized representative shall release the agricultural liming material, or landplaster, or both, which has been subjected to an order under subsection (A) when the requirements of this chapter have been complied with.

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

HISTORY: 1976 Act No. 495 Section 9; 1992 Act No. 378, Section 4, eff May 15, 1992; 2011 Act No. 64, Section 1, eff June 14, 2011.

Code Commissioner’s Note

1992 Act No. 378, Section 4, directed the Code Commissioner to change all references to “board” to “commission” in Chapter 26, Title 46 of the 1976 Code.

Effect of Amendment

The 1992 amendment substituted “commission” for “board” each time it appeared.

The 2011 amendment redesignated subsections (a), (b) and (c) as subsections (A), (B) and (C); in subsection (A), in three places, and in subsection (B), inserted “, or landplaster, or both,”; and made nonsubstantive changes.

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

 (A) A person or dealer violating the provisions of this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or be imprisoned for not more than thirty days.

 (B) In addition to the penalties provided in subsection (A), the commission may assess additional fines when a shipment of agricultural liming materials, or landplaster, or both, fails to meet the guarantee for chemical, neutralizing value and screen size.

 Assessments levied by the commission must be paid within thirty days from date of notice to manufacturer, dealer, or agent. Failure to pay penalties after notice may result in revocation of the registrant’s products. All penalties must be paid by the registrant to the purchasers through the division by check or credit memorandum in case of indebtedness of the purchaser to the seller.

 If the purchasers cannot be found, or if the amount due any one purchaser from the lot of agricultural liming material, or landplaster, or both, on which an assessment has been levied is less than one dollar, the amount of penalty assessed must 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.

HISTORY: 1976 Act No. 495 Section 10; 1992 Act No. 378, Section 4, eff May 15, 1992; 2011 Act No. 64, Section 1, eff June 14, 2011.

Code Commissioner’s Note

1992 Act No. 378, Section 4, directed the Code Commissioner to change all references to “board” to “commission” in Chapter 26, Title 46 of the 1976 Code.

Effect of Amendment

The 1992 amendment substituted “commission” for “board” each time it appeared.

The 2011 amendment rewrote the section.

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

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

HISTORY: 1976 Act No. 495 Section 11; 1992 Act No. 378, Section 4, eff May 15, 1992; 2011 Act No. 64, Section 1, eff June 14, 2011.

Code Commissioner’s Note

1992 Act No. 378, Section 4, directed the Code Commissioner to change all references to “board” to “commission” in Chapter 26, Title 46 of the 1976 Code.

Effect of Amendment

The 1992 amendment substituted “commission” for “board” each time it appeared.

The 2011 amendment inserted “, or landplaster, or both,”, and made nonsubstantive changes.

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

 If any agricultural liming material, or landplaster, or both, in the possession of the consumer is found by the commission to be short in weight, the registrant of the agricultural liming material, or landplaster, or both, within thirty days after official notice from the commission or its duly authorized representative, shall 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, is considered misbranded.

HISTORY: 1976 Act No. 495 Section 12; 1992 Act No. 378, Section 4, eff May 15, 1992; 2011 Act No. 64, Section 1, eff June 14, 2011.

Code Commissioner’s Note

1992 Act No. 378, Section 4, directed the Code Commissioner to change all references to “board” to “commission” in Chapter 26, Title 46 of the 1976 Code.

Effect of Amendment

The 1992 amendment substituted “commission” for “board” each time it appeared.

The 2011 amendment twice in the first sentence inserted “, or landplaster, or both,”, in the second sentence substituted “is considered misbranded” for “shall be deemed misbranded”, and made nonsubstantive changes.

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

 A distributor or common carrier who sells, offers for sale, or transports in this State any agricultural liming materials, or landplaster, or both, without being properly branded or having attached to its labels and tags as required by law, or any distributor who receives any agricultural liming material, or landplaster, or both, 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. These forfeitures, when collected must be paid to the State Treasurer who shall hold them subject to the order of the commission. However, the penalty defined in this section shall apply also to any misbranded agricultural liming material, or landplaster, or both. An agricultural liming material, or landplaster, or both, is considered to be misbranded if it carries a false or misleading statement upon or attached to the package.

HISTORY: 1976 Act No. 495 Section 13; 1992 Act No. 378, Section 4, eff May 15, 1992; 2011 Act No. 64, Section 1, eff June 14, 2011.

Code Commissioner’s Note

1992 Act No. 378, Section 4, directed the Code Commissioner to change all references to “board” to “commission” in Chapter 26, Title 46 of the 1976 Code.

Effect of Amendment

The 1992 amendment substituted “commission” for “board” each time it appeared.

The 2011 amendment rewrote the section.

**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.

HISTORY: 1976 Act No. 495 Section 14; 1992 Act No. 378, Section 4, eff May 15, 1992; 2011 Act No. 64, Section 1, eff June 14, 2011.

Code Commissioner’s Note

1992 Act No. 378, Section 4, directed the Code Commissioner to change all references to “board” to “commission” in Chapter 26, Title 46 of the 1976 Code.

Effect of Amendment

The 1992 amendment substituted “commission” for “board” each time it appeared.

The 2011 amendment reenacted this section with no apparent change.

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

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

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

HISTORY: 1976 Act No. 495 Section 15; 2011 Act No. 64, Section 1, eff June 14, 2011.

Effect of Amendment

The 2011 amendment redesignated subsections (a) and (b) as subsections (A) and (B) and inserted “, landplaster, or both,” throughout.

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

 The commission may establish rules and regulations in regard to the inspection, analysis, distribution, and sale of agricultural liming material, landplaster, or both, that are not inconsistent with the provisions of this chapter and as in its judgment will best carry out its requirements.

HISTORY: 1976 Act No. 495 Section 16; 1992 Act No. 378, Section 4, eff May 15, 1992; 2011 Act No. 64, Section 1, eff June 14, 2011.

Code Commissioner’s Note

1992 Act No. 378, Section 4, directed the Code Commissioner to change all references to “board” to “commission” in Chapter 26, Title 46 of the 1976 Code.

Effect of Amendment

The 1992 amendment substituted “commission” for “board” each time it appeared.

The 2011 amendment substituted “material, landplaster, or both, that are not inconsistent” for “material as shall not be inconsistent” and “its requirements” for “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.

HISTORY: 1976 Act No. 495 Section 17; 2011 Act No. 64, Section 1, eff June 14, 2011.

Effect of Amendment

The 2011 amendment reenacted this section with no apparent change.