

Code of Alabama 1975



Title 2 Agriculture

Alabama Agricultural Liming Materials Act

Section 2-23-1 ~ Section 2-23-11

Section 2-23-1

Short title.

This chapter shall be known and may be cited as the "Alabama Agricultural Liming Materials Act."

(Acts 1975, No. 1190, §1.)

Section 2-23-2

Definitions.

The following terms, as used in this chapter and rules and regulations promulgated under authority of this chapter, shall have the following meanings, respectively:

- (1) AGRICULTURAL LIMING MATERIALS. Those products whose calcium and magnesium compounds are capable of neutralizing soil acidity
- (2) LIMESTONE. A calcareous rock composed primarily of calcium carbonate or a combination of calcium and magnesium carbonates.
- (3) CALCITIC LIMESTONE. A calcareous rock composed wholly or largely of calcium carbonate.
- (4) DOLOMITIC LIMESTONE. A calcareous rock composed of calcium and magnesium carbonates with a minimum elemental magnesium (Mg) content of six percent.

- (5) BURNT LIME. A material made from limestone which consists essentially of calcium oxide or a combination of calcium and magnesium oxides.
- (6) HYDRATED LIME. A material made from burnt lime which consists essentially of calcium hydroxide or a combination of calcium hydroxide with magnesium oxide and/or magnesium hydroxide.
- (7) CHALK. A soft, friable, loosely consolidated material composed largely of calcium carbonate.
- (8) GROUND SHELLS. A product obtained by the grinding of shells of mollusks and which shall carry the name of mollusk origin.
- (9) INDUSTRIAL BY-PRODUCT USED AS LIMING MATERIALS. Any industrial by-product containing calcium or calcium and magnesium in forms that will neutralize acidity.
- (10) BRAND. The term, designation, trademark, product name or the specific designation under which an individual or type of agricultural liming material as defined in this section is offered for sale.
- (11) FINENESS. The percentage by weight of the material which will pass U.S. standard sieves of specified sizes.
- (12) CALCIUM CARBONATE EQUIVALENT. The acid neutralizing capacity of an agricultural liming material expressed as weight percentage of calcium carbonate.
- (13) TON. Two thousand pounds avoirdupois.
- (14) PERCENT or PERCENTAGE. By weight.
- (15) BULK. Non-packaged form.
- (16) LABEL. Any written or printed matter on or attached to the package or delivery ticket which accompanies a bulk shipment.
- (17) COMMISSIONER. The Commissioner of Agriculture and Industries of the State of Alabama.
- (18) BOARD. The Board of Agriculture and Industries of the State of Alabama.

(19) PERSON. Any individual, partnership, corporation, association or other legal entity or organization.

(Acts 1975, No. 1190, §2.)

Section 2-23-3

Permit required for manufacturing or distribution; fees.

Every manufacturer or distributor selling agricultural liming materials in this state shall, on or before October 1 of each year or prior to manufacture or distribution of such liming material in the State of Alabama, apply for and obtain an annual permit for such purpose on a form to be furnished by the commissioner. Such application shall be accompanied by a permit fee established by the Board of Agriculture and Industries not to exceed two hundred fifty dollars (\$250) and shall show the brand name under which the liming material will be sold. If more than one type of agricultural liming material is manufactured or distributed or the product or the brand name is changed by a manufacturer or distributor, an additional permit fee established by the Board of Agriculture and Industries not to exceed one hundred twenty-five dollars (\$125) for each additional brand or type of liming material must be paid. All permits shall expire on September 30 of the following year. When the manufacturer and the distributor are not the same, only one permit shall be required unless the brand name is changed, as it is hereby intended that the permit fee be paid only once on the same brand. Such application shall contain the name and address of the manufacturer or distributor, the brand name and common name of each such product together with the correct name of the material which it desires to sell in Alabama and the guaranteed analysis thereof and such other information as may be required for the effective administration and enforcement of the provisions of this chapter pursuant to rules and regulations adopted by the board.

(Acts 1975, No. 1190, §3; Act 2004-516, p. 996, §1.)

Section 2-23-4

Requirements as to labeling generally; false or misleading statements on package labels; delivery slips, etc., prohibited.

(a) Agricultural liming materials sold or offered for sale in this state for use herein or sold for importation into this state for use herein shall have affixed to each container in a conspicuous manner on the outside thereof a clearly

legible printed or stamped 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 principal office of the manufacturer, processor or distributor;
 - (2) The brand name of the material;
 - (3) The identification of the product as to the type of agricultural liming material, as defined in subdivisions (2) through (9) of Section 2-23-2;
 - (4) The minimum percent guaranteed by weight passing through U. S. standard sieves as prescribed by regulations of the board;
 - (5) The minimum guaranteed calcium carbonate equivalent;
 - (6) The minimum guaranteed content of elemental magnesium (Mg) if claimed;
 - (7) The minimum guaranteed content of available potassium (K₂O) and/or phosphorus (P₂O₅) if claimed;
 - (8) The maximum water content; and
 - (9) Net weight.
- (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 any agricultural liming material.

(Acts 1975, No. 1190, §4.)

Section 2-23-5

Inspection fee; tonnage report.

(a) Each manufacturer or distributor of agricultural liming materials shall report monthly to the commissioner, at the end of each month, on forms provided by the commissioner, his or her gross sales in tons of such materials sold in the State of Alabama for that month accompanied by a per ton inspection fee based on tons sold during such month. The exact amount of the per ton inspection fee shall be established by the Board of Agriculture and Industries not to exceed twenty-five cents (\$.25) per ton. In the case of a distributor's being the agent for a manufacturer at one or more locations, it is the intent of

this law that such sales be reported only once and that the fee assessed therewith be paid only once on the same brand or type of agricultural liming material or product. The monthly sales report of tonnage and the inspection fee due thereon shall be due and payable to the commissioner on or before the twentieth day of each month, which report and payment shall cover the tonnage of agricultural liming material sold or distributed in Alabama during the preceding month. Each remittance shall be accompanied by a certificate stating that the amount remitted is correct.

(b) If the tonnage report is not filed and payment of the inspection fee is not made by the twentieth day of the month, a collection fee of 10 percent of the amount shall be assessed against the manufacturer or distributor as a delinquent penalty.

(c) When more than one person is involved in the sale, importation or distribution of agricultural liming materials, the first manufacturer or distributor who sells such material in Alabama shall be responsible for reporting the tonnage and paying the inspection fee in keeping with the intent of this section that the inspection fee levied hereunder shall be paid only once on the same brand or type of agricultural liming materials. The inspection fee shall be paid by cooperative marketing and purchasing associations, and the exemptions allowed such organizations pursuant to Section 2-10-105 or any other exemption statute shall not relieve such associations from payment of such fees.

(d) Amounts improperly or illegally collected under the provisions of this section as overpayments may be refunded to the person entitled thereto in accordance with Section 2-1-6.

(e) The commissioner or his or her agents or employees shall have the right to examine, review, and audit sales records of every person required to remit to the commissioner the inspection fee levied under this section to verify and determine the accuracy of amounts remitted monthly as inspection fees.

(f) Every manufacturer or distributor of agricultural liming materials shall maintain records which will indicate accurately the tonnage of such materials sold in Alabama for a period of not less than two years.

(g) Inspection fees collected under this section by the commissioner, including permit fees collected under Section 2-23-3, shall be deposited to the credit of the Agricultural Fund of the State Treasury to be used and expended for the

performance of the regulatory duties required for the administration and enforcement of the provisions of this chapter.

(Acts 1975, No. 1190, §5; Act 2004-516, p. 996, §1.)

Section 2-23-6

Inspection, sampling, analysis, etc., of agricultural liming materials by commissioner; right of entry upon public or private premises, etc., of commissioner.

(a) It shall be the duty of the commissioner, who may act through his authorized agents, to sample, inspect, make analysis of and test agricultural liming materials distributed within this state as he may deem necessary to determine whether such agricultural liming materials are in compliance with the provisions of this act or regulations promulgated hereunder.

(b) The commissioner, individually or through his agents, is authorized to enter upon any public or private premises or carriers during regular business hours in order to have access to agricultural liming materials subject to the provisions of this chapter and regulations pertaining thereto and to the records relating to their distribution.

(c) In the case of out-of-state manufacturers or distributors of agricultural liming materials, sampling and inspections will be made at points of delivery or elsewhere in Alabama.

(d) The methods of analysis and sampling shall be those approved by the board and shall be guided by procedures of the Association of Official Analytical Chemists. The analysis, test and sampling of agricultural liming materials shall be made and conducted in accordance with and subject to the provisions and requirements of Article 2 of Chapter 2 of this title.

(Acts 1975, No. 1190, §6.)

Section 2-23-7

Assessment of penalties against manufacturers, distributors, etc., for deficiencies in agricultural liming materials.

The board shall have authority by rules and regulations duly adopted, as provided in this section, to provide for the assessment of penalties to be assessed against a manufacturer, distributor or other seller responsible for

such deficiency of any agricultural liming material where such material is determined by analysis to be deficient in its calcium carbonate equivalent, magnesium, available potassium, available phosphorous, excessive moisture content, fineness or other minimum standards as may be established by the board for the manufacture, distribution or sale of agricultural liming materials with reasonable tolerances to be specified in such standards. Such rules and regulations as may be adopted under this section relating to the assessment of monetary penalties shall provide for the payment thereof to the purchaser-user of the liming materials; and, in the event such purchaser-user cannot be found, then payment of the amount of such penalty shall be made to the commissioner for deposit in the State Treasury to the credit of the Agricultural Fund.

(Acts 1975, No. 1190, §9.)

Section 2-23-8

Sale or offer for sale of agricultural liming materials not complying with provisions of chapter, etc.; sale or offer for sale of agricultural liming materials containing toxic materials in quantities injurious to plants or animals.

(a) No agricultural liming materials shall be sold or offered for sale in this state unless they comply with provisions of this chapter or rules and regulations promulgated hereunder.

(b) No agricultural liming materials shall be sold or offered for sale in this state which contain toxic materials in quantities injurious to plants or animals.

(Acts 1975, No. 1190, §7.)

Section 2-23-9

Rules and regulations.

The board, after reasonable notice and hearing to interested persons, may make such rules and regulations, including establishing fees, as are reasonably necessary to implement and carry out the provisions of this chapter and to establish such additional standards and requirements as are necessary to protect the purchasers and users of agricultural liming materials which relate to the manufacture, distribution, sale, and advertising for sale of such materials.

(Acts 1975, No. 1190, §11; Act 2004-516, p. 996, §1.)

Section 2-23-10

Suspension from sale, seizure and condemnation of agricultural liming materials offered or exposed for sale in violation of chapter, etc.

The commissioner may issue and enforce a written or printed stop sale or suspension from sale, use or removal order to the manufacturer, owner, distributor or custodian of any lot of agricultural liming materials being held for sale purposes and to hold such material at a designated place when 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 commissioner or his authorized agents or such liming material has been otherwise legally disposed of by written or judicial authority. Any lot or other quantity of agricultural liming material not in compliance with the provisions and requirements of this chapter or rules and regulations duly adopted and promulgated hereunder shall be subject to suspension from sale, seizure and condemnation in accordance with the procedure now prescribed by law under Article 2 of Chapter 2 of this title.

(Acts 1975, No. 1190, §8.)

Section 2-23-11

Violations of chapter or rules or regulations promulgated thereunder deemed misdemeanors.

Any person who shall violate any of the provisions of this chapter or who fails to perform any duty or requirement imposed by the provisions of this chapter or who violates any rule or regulation duly promulgated under this chapter shall be guilty of a misdemeanor and upon conviction shall be punished as now prescribed by law for such an offense.

(Acts 1975, No. 1190, §10.)

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES
AGRICULTURAL CHEMISTRY
ADMINISTRATIVE CODE

CHAPTER 80-1-7
SALE OF AGRICULTURAL LIME

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80-1-7-.01 **Subject.** Subject rules governing the sale and regulation of agricultural liming material, to include standards, penalties and fees.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-23-9.

History: Filed April 19, 1982.

80-1-7-.02 **Purpose.** The purpose of this regulation is to implement the provisions of the Alabama Agricultural Liming Materials Act codified into Code of Ala. 1975, §§ 2-23-1 through 2-23-11.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-23-9.

History: Filed April 19, 1982.

80-1-7-.03 **Previous Regulation Withdrawn And Amended.**
Regulation entitled **Agricultural Chemistry Division Revised**

Regulations Governing the Sale of Agricultural Liming Materials, adopted on November 6, 1975, December 10, 1975, and December 19, 1978; dated February 2, 1979; and effective January 1, 1979; is hereby withdrawn and repealed. The following regulation amending the above is submitted in its place.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-23-9.

History: Filed April 19, 1982.

80-1-7-.04 Screening Standards Of Liming Materials.

(1) All agricultural liming materials except chalk, offered for sale, sold, or distributed in this state shall be crushed or ground to such a degree of fineness, that not less than 90% of the material will pass a 10 mesh screen, and not less than 50% of the material will pass a 60 mesh screen.

(2) Chalk offered for sale, sold, or distributed in this state as an agricultural liming material shall be processed to such a degree of fineness that not less than 90% of the material will pass a 10 mesh screen.

(3) When an agricultural liming material is mixed with enough water to be applied as a spray and is offered for sale, sold, or distributed in this state, 100% of the material shall pass a 100 mesh screen.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-23-9.

History: Filed April 19, 1982.

80-1-7-.05 Neutralizing Value Requirements.

(1) Limestone and Ground Shells used as agricultural liming materials shall have a neutralizing value of not less than 90% calcium carbonate equivalent.

(2) Chalk used as agricultural liming material shall have a neutralizing value of not less than 80% calcium carbonate equivalent.

(3) Burnt lime, hydrated lime, and industrial by-products used as agricultural liming material shall have a calcium carbonate equivalent neutralizing value of not less than that guaranteed on the label of the product.

(4) An agricultural liming material of 100 mesh fineness when mixed with enough water for application as a spray shall have a neutralizing value of not less than 44% calcium carbonate equivalent on a net weight basis.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-23-9.

History: Filed April 19, 1982.

80-1-7-.06 Penalties For Deficiency In Screening, Neutralizing Value And Guarantees. If any agricultural liming material sold in this state shall upon official analysis prove to be deficient in meeting the screening and neutralizing value standards established herein or shall be deficient from its guarantee, as stated on the bag or other container, the penalties as hereinafter provided shall be assessed against the packer. Where sales are made in bulk form, such monetary penalties shall be assessed against the final responsible seller. The penalties for such deficiencies shall be as follows:

(a) For agricultural liming materials deficient from the minimum calcium carbonate equivalent as guaranteed on the labeling, the penalty shall be \$.20 (twenty cents) per ton for each percentage point below the labeling guarantee with a tolerance of 5%. If the deficiency exceeds the 5% tolerance, then the \$.20 (twenty cents) per ton penalty shall be assessed upon the total deficiency. See Table (1) Paragraph (g) below.

(b) For agricultural liming material deficient in material passing a 10 mesh screen, the penalty shall be \$.20 (twenty cents) per ton for each percentage point below the labeling guarantee. See Table (2), Paragraph (g) below.

(c) For agricultural liming material deficient in material passing a 60 mesh screen, the penalty shall be \$.20 (twenty cents) per ton for each percentage point below the label guarantee with a tolerance of 5%. If the deficiency exceeds the 5% tolerance, then the \$.20 (twenty cents) per ton penalty shall be assessed upon the total deficiency. See Table (3), Paragraph (g) below.

(d) For an agricultural liming material that is mixed with enough water for application as a spray and is deficient in passing a 100 mesh screen, the penalty shall be \$.20 (twenty cents) per ton of solution for each percentage point below the label guarantee. For deficiency in required neutralizing value, the penalty shall be \$.20 (twenty cents) per ton of solution for each percentage point below the label guarantee.

(e) For agricultural liming material deficient in the guaranteed magnesium, available phosphorus (P₂O₅), soluble potassium (K₂O), or other elements guaranteed by the label, the penalty shall be \$.50 (fifty cents) per ton for each 10% deficient from the guaranteed analysis. See Table (4), Paragraph (7) below.

(f) Agricultural liming material sold in Alabama shall have a moisture content as guaranteed on the label. When the maximum moisture content exceeds the guarantee a penalty of \$.20 (twenty cents) per percentage point per ton shall be assessed. See Table (5), Paragraph (g) below.

(g) The following tables are for use as guidelines to determine the amount of penalty assessments:

Table (1)
Calcium Carbonate Equivalent

Guarantee	Found	Penalty Per Ton
90%	85% or higher	0
	84-84.9%	\$1.20
	83-83.9%	\$1.40
	82-82.9%	\$1.60
	81-81.9%	\$1.80
	80-80.9%	\$2.00
	79-79.9%	\$2.20
	75-75.9%	\$3.00
	70-70.9%	\$4.00

Table (2)
Fineness 10 Mesh

Guarantee	Found	Penalty Per Ton
90%	89-89.9%	\$.20
	88-88.9%	.40
	85-85.9%	1.00
	84-84.9%	1.20
	80-80.9%	2.00
	79-79.9%	2.20
	75-75.9%	3.00

Table (3)
Fineness 60 Mesh

Guarantee	Found	Penalty Per Ton
50%	45 or higher	0
	44-44.9%	\$1.20
	43-43.9%	1.40
	42-42.9%	1.60
	41-41.9%	1.80
	40-40.9%	2.00
	39-39.9%	2.20
	35-35.9%	3.00

Table (4)
Element Guarantee - example magnesium

Guarantee	Found	Penalty Per Ton
6%	5.4-5.9%	\$.50
	4.8-5.39%	1.00
	4.2-4.79%	1.50
	3.6-4.19%	2.00
	3.0-3.59%	2.50

Table (5)
Moisture

Guarantee	Found	Penalty Per Ton
10%	10.1-11%	\$.20
	11.1-12%	.40
	12.1-13%	.60
	13.1-14%	.80
	14.1-15%	1.00

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-23-9.

History: Filed April 19, 1982.

80-1-7-.07 **Payment Of Penalties.**

(1) Penalties assessed under Rule 80-1-7-.06 above shall be paid to the consumer-user by the final responsible seller within 60 days of the date of penalty notice from the Commissioner of Agriculture and Industries where the consumer-user can be located. Payment of penalties shall be verified to the Commissioner by means of a certificate of receipt signed by the consumer-user, a photostatic copy of the instrument

of payment, or a copy of any memos of credit extended the consumer-user in satisfaction of the assessed penalty.

(2) When the consumer-user of agricultural liming material who is due a penalty cannot be located, the penalty due shall be paid to the Commissioner of Agriculture and Industries within 60 days of the date of the penalty statement and shall be deposited into the Agricultural Fund of the State Treasury.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-23-9.

History: Filed April 19, 1982.

80-1-7-.08 Inspection Fee Required. An inspection fee of 25 cents per ton of gross sales shall accompany the monthly gross sales report, required under the provisions of Code of Ala. 1975, §2-23-5, for each manufacturer or distributor of agricultural liming materials, to be sent to the Commissioner of Agriculture and Industries.

Authors: Charles H. Barnes, Robert J. Russell

Statutory Authority: Code of Ala. 1975, §2-23-9.

History: Filed April 19, 1982. **Amended:** Filed August 16, 2004; effective September 20, 2004. **Amended:** Filed August 10, 2011; effective September 14, 2011.

80-1-7-.09 Sampling And Sample Retention. All official samples of agricultural liming materials obtained and analyzed under the provisions of Code of Ala. 1975, §2-23-6, shall be retained by the Department of Agriculture and Industries at the conclusion of the analysis, as follows:

(a) Samples, where no deficiency has been determined, may be discarded at any time following the conclusion of the analysis.

(b) Samples, where a deficiency has been determined by analysis, shall be retained for a period of 180 days. This period may be extended for a reasonable period upon the request of any concerned or interested party, timely made, to the Department of Agriculture and Industries.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-23-9.

History: Filed April 19, 1982.

80-1-7-.10 **Requirements Of Applicants For Permits.**

(1) Every manufacturer or distributor selling agricultural liming materials in this state shall, on or before October 1 of each year or prior to manufacture or distribution of such liming material in the State of Alabama, apply for and obtain an annual permit for such purpose on a form to be furnished by the commissioner. Such application shall be accompanied by a permit fee of \$250.00 and shall show the brand name under which the liming material will be sold. If more than one type of agricultural liming material is manufactured or distributed or the product or the brand name is changed by a manufacturer or distributor, an additional permit fee of \$125.00 for each additional brand or type of liming material must be paid. All permits shall expire on September 30 of the following year. When the manufacturer and the distributor are not the same, only one permit shall be required unless the brand name is changed, as it is hereby intended that the permit fee be paid only once on the same brand.

(2) Applicants for an agricultural liming materials permit shall furnish with the application for the permit a complete and accurate copy of the label to be attached to the container of agricultural liming materials sold in this state, or if sold in bulk, a true copy of the labeling information which is required to be placed on the delivery slip and made available to the vendor in sufficient quantities to accompany each load of liming material sold.

(3) Only one permit will be required unless the Brand name is changed.

Authors: Charles H. Barnes, John P. Hagood, Robert J. Russell

Statutory Authority: Code of Ala. 1975, §2§2-23-3, -23-9.

History: Filed April 19, 1982. **Amended:** Filed August 16, 2004; effective September 20, 2004. **Amended:** Filed August 10, 2011; effective September 14, 2011. **Amended:** Filed August 10, 2011; effective September 14, 2011.

80-1-7-.11 **Penalty For Violation Of Regulation.** Any person violating any provisions of this regulation shall be guilty of a misdemeanor as provided under the provisions of Code of Ala. 1975, §2-23-11.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-23-9.

History: Filed April 19, 1982.

EDITOR'S NOTE: The following is a history by the Department of Agriculture and Industries prior to the enactment of the Alabama Administrative Procedure Act.

HISTORY: This Chapter was first promulgated on November 6, 1975. It was amended on December 19, 1978 and June 9, 1980. It became effective on October 1, 1980.