

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #1

Do Not Mark In this Box

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: Agriculture TITLE NUMBER: 61

RULE TYPE: Legislative; CITE AUTHORITY Chpt. 19-15A

AMENDMENT TO AN EXISTING RULE: YES x NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: VIa

TITLE OF RULE BEING AMENDED: West Virginia Agricultural
Liming Materials Regulations

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

DATE OF PUBLIC HEARING: Tuesday August 9, 1990 TIME: 1:00 PM

LOCATION OF PUBLIC HEARING: Building 2

Guthrie Agricultural Center
Charleston, West Virginia

COMMENTS LIMITED TO: ORAL , WRITTEN , BOTH x

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: WV Dept. Agriculture

Compliance Unit

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

1900 Kanawha Blvd. E

The issues to be heard shall be limited to the proposed rule.

Charleston, WV

25305-0170

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL



SUMMARY

PROPOSED AMENDMENT TO AN EXISTING RULE

WEST VIRGINIA AGRICULTURAL LIMING MATERIALS

The proposed rule is an amendment to the existing rule. The proposed rule clarifies language for fineness classifications and blends of liming materials. The amendment adopts the minimum calcium carbonate equivalents set by the American Plant Food Control Officials and changes the sieve size used for ground and coarse ground fineness classifications from a 50 mesh to a 60 mesh sieve.

The proposed rule removes language regarding penalties, deficiencies and tolerances as these areas were incorporated into section 19-15A-7 of the law, Deficiency assessment, tolerances and payment.

"Sub-standard liming materials" will now be called "Low-grade liming materials". The registration of these products is at the discretion of the Commissioner. He will consider only the value of the product as an agricultural liming material when making his decision to register.

The proposed rule requires labels to be submitted with applications for registration. Any change in the label or guarantee from that on file will be considered a new registration.

The proposed rule eliminates out-dated language.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: West Virginia Agricultural Liming Materials Regulations

Type of Rule: Legislative Interpretive Procedural

Agency WV Department of Agriculture Address Charleston, WV

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Personal Services	0	0	0	0	0
Current Expense	0	0	0	0	0
Repairs and Alterations	0	0	0	0	0
Equipment	0	0	0	0	0
Other	0	0	0	0	0

2. Explanation of above estimates:

The changes in this rule provide for changes in minimum standards, labeling changes and will clarify definitions of blends. The state will incur no charges for these changes in the rule.

3. Objectives of these rules:

The objective of this rule is to bring the provisions into compliance with recent amendments to the law, to set different minimum standards for calcium carbonate equivalents and sieve sizes and to clarify labeling and registration procedures.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None

B. Economic Impact on Political Subdivisions; Specific Industries;
Specific groups of citizens.

The economic impact on the industry will involve changing product labels to reflect changes in the minimum standards and a change from "Sub-Standard Liming Materials" to "Low-Grade Liming Material".

C. Economic Impact on Citizens/Public at Large.

None

Date: July 5, 1990

Signature of Agency Head or Authorized Representative



WEST VIRGINIA LEGISLATIVE REGULATIONS
STATE DEPARTMENT OF AGRICULTURE
Chapter 19-15A
Series VIA

FILED

1999 JUL 10 AM 11:36

OFFICE OF WEST VIRGINIA
STATE DEPT OF AGRICULTURE

TITLE: West Virginia Agricultural Liming Materials Law
Regulations

Section 1. General

1.1 Scope - These regulations establish values for neutralizing qualities and fineness, define deficiencies and establish tolerances, set standards for neutralizing qualities and fineness and establish methods for assessing penalties. These are Legislative regulations.

1.2 Authority - Code of West Virginia, 19-15A.

1.3 Filing Date; ~~June-27-1975.~~

1.4 Effective Date; ~~July-17-1976.~~

1.5 These regulations amend the previous regulations dated July 1, 1976 to comply with legislation passed on March 5, 1990 and to meet industry standards.

Section 2. Index

Section 1. General

Section 2. Index

Section 3. ~~Administrative~~ Calcium Carbonate Equivalent Standards

Section 4. ~~Penalties-Values-for-Neutralizing-Qualities-Sieve Size-Guarantees.~~ Fineness Classification Standards

Section 5. ~~Deficiencies-and-Tolerances~~ Blends

Section 6. ~~Minimum-Calcium-Carbonate-Equivalents~~ Low-grade Agricultural Liming Materials

Section 7. ~~Minimum-Sieve-Size-Standards~~ Labels

Section 8. Blends Registration

~~Section-9. Supersedure~~

~~Section-3.--~~ Administrative

~~3.1--By authority vested in the Commissioner of Agriculture by Chapter 19, Article 15A, Code of West Virginia, as amended and following public hearing of March 16, 1976, I, Gus R. Douglass, do hereby prescribe and adopt the following regulations relating to the distribution and sale of Agricultural Liming Materials in the State of West Virginia.~~

~~Section-4.--~~ Penalties-Values-for-Neutralizing-Qualities-and-Sieve Size-Guarantees.

~~4.1--The values for neutralizing qualities and sieve size guarantees of Agricultural Liming Materials shall be based on the registrants established delivery price at the quarry or if an out-of-state registrant, his distribution point within this State.~~

~~4.2--Penalties shall be computed by multiplying the deficiency exceeding the tolerance, by times three, times the delivery price, times the volume of the lot.~~

Section 5-- Deficiencies and Tolerances

~~5.1--For administrative purposes and to allow for possible bias in sampling and analysis, an Agricultural Liming Material shall be considered as deficient and subject to penalty when:~~

~~5.1.1--The calcium carbonate equivalent falls more than five (5) percent below its guarantee.~~

~~5.1.2 The amount of material which passes through any sieve is more than five (5) percent below the percentage guarantee for that sieve size.~~

Section 6-- Minimum Calcium Carbonate Equivalents Section 3. Calcium Carbonate Equivalent Standards

~~6.1 3.1 The minimum calcium carbonate equivalent standards shall be:~~ for the following types of agricultural liming materials shall be: for

~~6.1.1~~ 3.1.a Burnt Lime: Not less than 140%

~~6.1.2~~ 3.1.b Hydrated Lime: Not less than 110%

~~6.1.3~~ 3.1.c Marl: Not less than 85% 80%

~~6.1.4~~ 3.1.d Limestone: Not less than 85% 80%

~~6.1.5~~ 3.1.e Slag: Not less than 85% 80%

~~6.1.6~~ 3.1.f Shells: Not less than 85% 80%

Section 7-- Minimum Sieve Size Standards Section 4. Fineness Classification Standards

~~7.1 4.1 The minimum sieve size standards for Agricultural Liming Materials~~ agricultural liming materials shall be:--for :

~~7.1.1~~ 4.1.a Pulverized Limestone

~~7.1.1.1~~ 4.1.a.A 100% passing a US Standard 20 Mesh Sieve

Mesh Sieve 7-1-1-2 4.1.a.B 70% passing a US Standard 100

7-1-2 4.1.b Ground Limestone

Mesh Sieve 7-1-2-1 4.1.b.A 90% Passing a US Standard 20

Mesh Sieve 7-1-2-2 4.1.b.B 50% Passing a US Standard 50 60

Mesh Sieve Sieve 7-1-2-3 4.1.b.C 35% Passing a US Standard 100

Lime 7-1-3 4.1.c Coarse Ground Limestone-or-By-Product

Mesh Sieve Sieve 7-1-3-1 4.1.c.A 90% Passing a US Standard 10

Mesh Sieve Sieve 7-1-3-2 4.1.c.B 40% Passing a US Standard 50 60

Section 8 5. Blends

5.1 Blends are products containing a mixture of different agricultural liming materials or containing a component of agricultural liming material and fertilizer, seed, and/or inert material.

8-1 5.2 Blends of Agricultural-Liming-Materials agricultural liming materials will be permitted; however, percentage components of the materials used must be shown on the label in relative proximity to the guaranteed analysis. considered as products requiring separate registration under their own brand name.

8-2--The Commissioner may accept registration of locally produced materials having soil neutralizing capability to meet special local needs.--Such materials shall be labeled to show its common name, calcium and magnesium oxide or carbonate, calcium carbonate equivalent and the actual sieve size specifications as referenced in Section 7-1-2.--Such material shall also be prominently labeled, invoiced or identified as "SUB-STANDARD LIMING MATERIALS" next following the common name.

5.3 Any blend claiming to have a component of agricultural liming material shall comply with the law and regulations.

5.3.a Any blend shall be labeled as to the total percentage of agricultural liming materials in addition to the labeling requirements of the law set forth in section 19-15A-3.

Section 9--Supersedure

~~9.1--The foregoing regulations supersede all previous regulations heretofore issued.--The Commissioner reserves the right to rescind, suspend or amend any regulation, standard or value herein set forth.~~

Section 6. Low-grade Agricultural Liming Materials

6.1 Low-grade liming materials are agricultural liming materials that do not meet the standards set in 3.1 and/or 4.1 of these regulations but still have value as a product to neutralize soil acidity.

6.2 The Commissioner may accept registration of agricultural liming materials that do not meet the minimum calcium carbonate equivalent and/or minimum fineness classification standards set by Section 3 and 4 of these regulations. The Commissioner shall consider the chemical and fineness components of the low-grade agricultural liming material when reviewing the application for registration.

6.3 Labels of low-grade agricultural liming materials shall meet all the requirements of the law and shall include the following additional statements:

6.3.a The words "Low-grade Liming Material" placed prominently at the top of the label.

6.3.b The words "Does not meet the minimum standard for calcium carbonate equivalent" if this is true.

6.3.c The words "Does not meet the minimum standard for fineness classification" if this is true.

6.4 If the low-grade agricultural liming material does not meet the minimum fineness classification for coarse ground, then the fineness classification shall be designated as "Very coarse ground".

Section 7. Labels

7.1 Labels of all agricultural liming materials shall accompany the application for registration.

7.2 No registration shall be accepted if the label for the agricultural liming material conflicts with the information on the application for registration.

7.3 No agricultural liming materials shall be used, sold, or offered for sale if the label differs in any respect from the label submitted with the application for registration.

Section 8. Registration

8.1 Any changes permitted in the guaranteed analysis for calcium carbonate equivalent or fineness classification for a registered product shall be considered a new registration.

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4.1 The minimum sieve size standards for agricultural liming materials shall be:

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4.1.a.B 70% passing a US Standard 100 Mesh Sieve

4.1.b Ground

4.1.b.A 90% Passing a US Standard 20 Mesh Sieve

4.1.b.B 50% Passing a US Standard 60 Mesh Sieve

4.1.b.C 35% Passing a US Standard 100 Mesh Sieve

4.1.c Coarse Ground

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STATE OF WEST VIRGINIA
DEPARTMENT OF AGRICULTURE

State Capitol
Charleston, WV 25305

Cleve Benedict
Commissioner

July 5, 1990

The Honorable Ken Heckler
Secretary of State
Ground Floor, W-157, State Capitol
Charleston, West Virginia 25305

Dear Mr. Heckler:

Enclosed is a copy of the Proposed Legislative Rule "West Virginia Agricultural Liming Materials Regulations" for inclusion in the State Register. This rule is filed to bring the existing rule in conformity with the amendments to Chapter 19, Article 15A.

The proposed rule is submitted in two formats. The first strikes out the old language and underlines the new language. The second lists the proposed language only.

Thank you for your assistance.

Kind regards,

A handwritten signature in cursive script, appearing to read "Cleve Benedict".

Cleve Benedict
Agriculture Commissioner

CEB/limr
Enclosure