

Ag 28

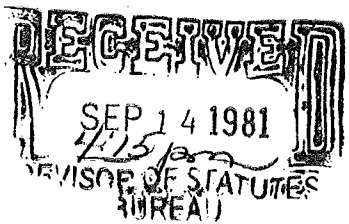
STATE OF WISCONSIN)
) SS.
DEPARTMENT OF AGRICULTURE,)
TRADE & CONSUMER PROTECTION)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Kenneth P. Robert, Administrator, Plant Industry Division, State of Wisconsin Department of Agriculture, Trade and Consumer Protection, and custodian of the official records of said Division, do hereby certify that the annexed order amending rules relating to the sale of agricultural liming materials, sections Ag 28.03, 28.04, 28.06, and 28.07, Wis. Adm. Code, was duly approved and adopted by the Department on September 14, 1981.

I further certify that said copy has been compared by me with the original on file in the Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Department offices in the city of Madison, this 14th day of September, 1981.



Kenneth P. Robert
Kenneth P. Robert
Administrator
Plant Industry Division

1 ORDER OF THE
2 STATE OF WISCONSIN
3 DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION
4 ADOPTING AND AMENDING RULES
5 Relating to the sale of agricultural liming materials.

Analysis Prepared by the Department of
Agriculture, Trade and Consumer Protection

Chapter Ag 28, Wis. Adm. Code (Liming Materials) is an existing rule interpreting s. 94.66, Stats. Under s. 94.66 and existing Chapter Ag 28, sellers are required to guarantee the "neutralizing index" of liming materials. When the neutralizing index of liming material falls below the guaranteed "index zone," the material is considered in violation of s. 94.66, and unlawful for sale or distribution. Under the present rule, a violation may be found only on the basis of three consecutive official samples. Under the proposed rule amendments, a violation could be found on the basis of a single official sample.

The present rule requires that marl or paper mill refuse lime be sold on the basis of cubic yard equivalents of a ton of liming material. At present, one and one-half cubic yards of paper mill refuse lime are considered the equivalent of a ton of liming material. Under the proposed rule amendments, the equivalency standard would be changed so that one cubic yard of paper mill refuse lime would be equivalent to one ton of liming material with an index zone of 60-69. The proposed amendments would also establish requirements for the labeling of packaged marl and paper mill refuse lime.

Finally, the proposed amendments would clarify existing statutory requirements related to licensing and the payment of research fees by sellers of liming materials. Although a license is not normally required of persons selling only liming materials obtained from a licensee, persons who commingle liming materials obtained from two or more licensees, or who commingle materials having different neutralizing indexes, would need a license for the sale of the commingled material.

If more than one person is involved in the chain of distribution, the person who first sells or distributes liming materials for further distribution would be responsible for the payment of research fees. If responsibility for the payment of research fees has been assumed by a previous distributor in the chain, as evidenced by an invoice or sales receipt for the liming material, no further payment of research fees would be required on that material. No fee payment would be required on commingled materials, to the extent that responsibility for the payment of fees on the component materials had been assumed by previous distributors or sellers of those materials, as evidenced by invoices or sales receipts.

1 Pursuant to authority vested in the State of Wisconsin
 2 Department of Agriculture, Trade and Consumer Protection by
 3 sections 93.07(1) and 94.66, Stats., the State of Wisconsin Depart-
 4 ment of Agriculture, Trade and Consumer Protection amends and adopts
 5 rules interpreting section 94.66, Stats., as follows:

6 1. Sections Ag 28.03(1), (3) and (4), Wis. Adm. Code, are
 7 amended to read:

8 (1) Liming material, ~~except marl and paper mill refuse lime,~~
 9 shall be sold and guaranteed by the producer or distributor on basis
 10 of the index zone of the material, except as provided under
 11 s. Ag 28.04, Wis. Adm. Code. The index zone guaranteed shall conform
 12 to the neutralizing index of the material as determined by test.

13 (3) When the neutralizing index of liming material, ~~based on~~
 14 ~~3-sensitive-tests-of-official-samples~~ based on laboratory analy-
 15 sis of an official test sample, falls below the index zone guaran-
 16 teed, the material shall be considered in violation of ~~section~~
 17 s. 94.66, Wis. Stats., and unlawful for sale or distribution. Upon
 18 correction of the violation, the liming material may be sold or dis-
 19 tributed with the written authorization of the department.

20 (4) Packaged liming material shall be conspicuously labeled
 21 stating to show the name and address of the licensee, and the index
 22 zone and net weight of the material, except as provided under
 23 s. Ag 28.04(4), Wis. Adm. Code.

24 2. Section Ag 28.04(2), Wis. Adm. Code, is amended to read:

25 (2) Two cubic yards of marl and one ~~and one-half~~ cubic yards
 26 yard of paper mill refuse lime shall each be equivalent to one ton
 27

1 of liming material with an index zone of 60-69 when the calcium
2 carbonate equivalent of the material is 70%.

3 3. Sections Ag 28.04(4), Ag 28.06 and Ag 28.07, Wis. Adm.
4 Code, are created to read:

5 (4) Marl or paper mill refuse lime, if sold in packaged form,
6 shall be conspicuously labeled to show the name and address of the
7 licensee; the actual net weight; and the actual measure in terms
8 of cubic yards, with an adjoining statement specifying the
9 relative equivalency of the package contents to a ton of liming
10 material with an index zone of 60-69, expressed in terms of a
11 percentage ratio or multiple of a ton of liming material.

12 Ag 28.06 LICENSING OF SELLERS AND DISTRIBUTORS; RESEARCH
13 FEES.

14 (1) LICENSE REQUIREMENT. No person may engage in the busi-
15 ness of selling or distributing liming material in this state
16 without first obtaining a license from the department, as provided
17 under s. 94.66(2), Stats. No license is required of persons
18 engaged solely in the sale or distribution of liming materials
19 obtained from a licensee, except that persons who commingle liming
20 materials having different neutralizing indexes, or which are
21 obtained from two or more licensees, shall not sell or distribute
22 the commingled materials without a license from the department.

23 (2) RESEARCH FEES. (a) Persons subject to licensing under
24 s. 94.66, Stats., shall be responsible for the filing of tonnage
25 reports and the payment of research fees under s. 94.66(9), Stats.
26 Research fees shall be computed on the basis of confidential annu-
27 al tonnage reports setting forth the number of net tons of liming

1 materials, or equivalent amounts of marl and paper mill refuse
2 lime, sold or distributed in this state during the preceding cal-
3 endar year and for which the payment of research fees is required.
4 The report shall be filed with the department on or before
5 February 1 of each year, and be accompanied by the payment of
6 research fees in the required amount, with a minimum fee of \$1.
7 Records upon which the tonnage report is based shall be subject to
8 department inspection and audit.

9 (b) If more than one distributor or seller is involved in the
10 chain of distribution, the person who first sells or distributes
11 liming material for further sale is responsible for the payment
12 of research fees on that material. If responsibility for the pay-
13 ment of research fees has been assumed by a previous distributor
14 or seller in the chain of distribution, as evidenced by an invoice
15 or sales receipt for the liming material, no further payment of
16 fees is required. No fee payment is required on commingled mate-
17 rials, to the extent that responsibility for the payment of fees
18 on the component materials has been assumed by previous distribu-
19 tors or sellers of those materials, as evidenced by invoices or
20 sales receipts.

21 Ag 28.07 AUTHORITY; ENFORCEMENT. This chapter is adopted
22 under authority of ss. 93.07(1) and 94.66, Stats. Any person
23 violating this chapter may be punished as provided in s. 94.77,
24 Stats.

25 The rules contained in this order shall take effect on the
26 first day of the month following publication in the Wisconsin
27 administrative register, as provided in s. 227.026(1), Stats.

Dated this 14th day of September, 1981.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE
AND CONSUMER PROTECTION

By K. P. Robert
K. P. Robert, Administrator
Plant Industry Division

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