

Chapter ATCP 41

LIMING MATERIALS

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Note: Chapter Ag 28 was renumbered chapter ATCP 41 under s. 13.93 (2m) (b) 1, Stats., Register, April, 1993, No. 448.

ATCP 41.01 Definitions. (1) "Grade" as used in s. 94.66 (6) (a), Stats., means index zones as provided in these rules.

(2) "Neutralizing value" as used in s. 94.66 (6) (c), Stats., means the calcium carbonate equivalent as defined in s. 94.66 (6) (c), Stats., and used in calculating the neutralizing index.

(3) "Index zones" mean the classification of liming materials, under these rules, into numerical ranges of neutralizing indices and constitute the grades for liming materials.

(4) "Official sample" means a sample of liming material taken by a representative of the department of agriculture, trade and consumer protection and designated as official.

History: Cr. Register, July, 1970, No. 175, eff. 8-1-70; correction in (4) made under s. 13.93 (2m) (b) 6, Stats., Register, December, 1985, No 360.

ATCP 41.02 Index zones. The following index zones are established for the sale of liming materials under s. 94.66, Stats.:

- (1) 100 or more.
- (2) 90-99.
- (3) 80-89.
- (4) 70-79.
- (5) 60-69.
- (6) 50-59.
- (7) 40-49.
- (8) less than 40.

History: Cr. Register, July, 1970, No. 175, eff. 8-1-70.

ATCP 41.03 Sale of liming materials. (1) Liming material shall be sold and guaranteed by the producer or distributor on basis of the index zone of the material, except as provided under s. ATCP 41.04. The index zone guaranteed shall conform to the neutralizing index of the material as determined by test.

(2) In determining whether liming material is sold in compliance with s. 94.66, Stats., an official sample of liming material may be drawn by the department from supplies sold, held for sale, or in process of sale or distribution.

(3) When the neutralizing index of liming material based on laboratory analysis of an official test sample, falls below the index zone guaranteed, the material shall be considered in violation of s. 94.66, Stats., and unlawful for sale or distribution. Upon correction of the violation, the liming

material may be sold or distributed with the written authorization of the department.

(4) Packaged liming material shall be conspicuously labeled to show the name and address of the licensee, and the index zone and the net weight of the material, except as provided under s. ATCP 41.04 (4).

History: Cr. Register, July, 1970, No. 175, eff. 8-1-70; am. (1), (3) and (4), Register, October, 1981, No. 310, eff. 11-1-81.

ATCP 41.04 Marl or paper mill refuse lime. (1) Marl or paper mill refuse lime shall be sold on basis of cubic yard equivalents of a ton, as prescribed in subs. (2) and (3).

(2) Two cubic yards of marl and one cubic yard of paper mill refuse lime shall each be equivalent to one ton of liming material with an index zone of 60-69 when the calcium carbonate equivalent of the material is 70%.

(3) When the calcium carbonate equivalent of the material is less than 70%, the cubic yard quantity required to equal a ton shall be increased proportionately in accordance with the percentage by which the calcium carbonate equivalent is less than 70%.

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

History: Cr. Register, July, 1970, No. 175, eff. 8-1-70; reprinted to correct printing error, Register, February, 1978, No. 266, eff. 3-1-78; am. (2) and cr. (4), Register, October, 1981, No. 310, eff. 11-1-81.

ATCP 41.05 Sale by ton weight equivalent. (1) Each person distributing liming material by volume on a ton weight equivalent basis shall be responsible for the correct cubic yard capacity marking of all vehicles used to distribute liming material.

(2) Persons desiring authority to distribute liming material by volume rather than weight, where weighing facilities are not readily available, shall submit requests for approval in writing to the department with the following information:

- (a) Name and address of applicant.
- (b) Number of vehicles to be employed in hauling liming materials.
- (c) Ownership of vehicles.

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- (d) Cubic yard capacity of each vehicle.
- (e) Location of loading sites and location of scales closest to such loading sites.
- (f) Business locations from which the vendor wishes to sell by ton weight equivalent.

(3) The department shall grant or deny a request for approval under sub. (2) within 20 business days after the request is filed with the department, provided that the request is accompanied by all requisite information and documentation. Unless otherwise specified in the notice of approval, all approvals for sale by volume shall expire on December 31 of each year. In the event of any change in vehicle usage or other data specified under sub. (2) during the period for which approval was granted, the department shall be notified of such fact and a supplemental request for approval shall be submitted within 15 days after such change. All temporary replacement vehicles used shall be marked to show cubic yard capacity as required by s. 94.66, Stats.

(4) The ton weight equivalent per cubic yard of each different liming material shall be determined by weighing one or more loads of known cubic volume of such material. The total weight is then divided by the cubic yards weighed to arrive at the ton weight equivalent per cubic yard.

History: Cr. Register, July, 1970, No. 175, eff. 8-1-70; am. (3), Register, December, 1985, No. 360, eff. 1-1-86.

ATCP 41.06 Licensing of sellers and distributors; research fees. (1) **LICENSE REQUIREMENT.** No person may engage in the business of selling or distributing liming material in this state without first obtaining a license from the department, as provided under s. 94.66 (2), Stats. No license is required of persons engaged solely in the sale or distribution of liming materials obtained from a licensee, except that persons who commingle liming materials having different neutralizing indexes, or which are obtained from two or more licensees, shall not sell or distribute the commingled materials without a license from the department. The department shall grant or deny a license appli-

cation within 20 business days after the application is filed with the department, provided that the application is accompanied by all requisite information and documentation.

(2) **RESEARCH FEES.** (a) Persons subject to licensing under s. 94.66, Stats., shall be responsible for the filing of tonnage reports and the payment of research fees under s. 94.66 (9), Stats. Research fees shall be computed on the basis of confidential annual tonnage reports setting forth the number of net tons of liming materials, or equivalent amounts of marl and paper mill refuse lime, sold or distributed in this state during the preceding calendar year and for which the payment of research fees is required. The report shall be filed with the department on or before February 1 of each year, and be accompanied by the payment of research fees in the required amount, with a minimum fee of \$1. Records upon which the tonnage report is based shall be subject to department inspection and audit.

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

History: Cr. Register, October, 1981, No. 310, eff. 11-1-81; am. (1), Register, December, 1985, No. 360, eff. 1-1-86.

ATCP 41.07 Authority; enforcement. This chapter is adopted under authority of ss. 93.07 (1) and 94.66, Stats. Any person violating this chapter may be punished as provided in s. 94.77, Stats.

History: Cr. Register, October, 1981, No. 310, eff. 11-1-81.