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Proposed Rulemaking

Title

Promulgated by:
State Plant Board

Title 2. Agriculture

Chapter II. ~~State Plant Board~~State Plant Board, Department of Agriculture

Subchapter A. Generally

Part 26. Fertilizer Rules

Subpart 1. Generally

2 CAR § 26-101. Definitions, ~~Records~~ records, and reports.

(a) Definitions:

(1) "Avoirdupois" means the system of weights based on pounds and ounces where one pound equals 16 ounces;

(2) "Brand" means any term, design, or trademark used in connection with one or several grades of fertilizer;

(3) "Fertilizer facility" means any location where commercial fertilizer is manufactured, blended, or stored in bulk;

(4) "Guarantor" means the manufacturer or person appearing on the label who is responsible for label claims to include the guaranteed analysis;

(5) "Manufacturer" means any person who manufactures, produces, compounds, mixes, blends, or in any way alters the chemical or physical characteristics of a fertilizer product or fertilizer material;

(6) "Percent" means the percentage by weight;

(7) "Person" means any individual, partnership, association, firm, or corporation;

(8) "Tonnage" means the net weight in tons of commercial fertilizer sold or

distributed in the timeframe prescribed; and

(9) "Ton" means a unit of 2000 pounds avoirdupois.

(~~a~~b) ~~Adequate records~~ Records shall be kept ~~for a period not less than 5 years~~ to ~~indicate~~ accurately indicate the tonnage of commercial fertilizers distributed in this state by ~~each~~the:

(1) ~~Manufacturer~~Manufacturers;

(2) ~~Manipulator~~Manipulators; or

(3) ~~Registrant~~Registrants.

(~~b~~c)(1) Monthly fertilizer tonnage reports are required ~~of all registrants~~to be submitted by all registrants by the twentieth of the ~~following~~ month after the reported month, even though no tonnages are distributed ~~and/~~or no ~~sums for~~ inspection ~~fees~~costs are due. on a form provided, or approved, by the department.

(2)(A) Manufacturers may elect not to pay the ~~sum~~ costs for inspection ~~fees~~ on shipments to the account of other manufacturers whose fertilizers are registered in Arkansas. , ~~provided however, that in~~

(B) In such cases the required invoices or shipping tickets ~~in subsection (c) of this section~~ shall bear a notation similar to "Arkansas ~~sums for~~ inspection ~~fee~~ costs are not paid ~~—~~and are the responsibility of registrant listed above".

(3) Sums due on tonnage are ultimately the responsibility of the manufacturer, distributor, or guarantor listed on the label, or invoice, at the time of sale to the end user of the product.

(d) The person whose name appears on the label or invoice at the time of sale to the end user is responsible for the payment of the fertilizer tonnage costs associated with the product.

(e) The tonnage cost is two dollars and forty cents ($2.40) per whole ton or fractional ton of fertilizer distributed.

(f) The tonnage costs due are assessed on the number of tons distributed for a reporting period rounded up to the next whole ton.

(g) The party paying the costs shall not submit payment with the report. The

department will invoice the paying party for the amount owed.

~~(c)(1) Each registrant shall mail a numbered invoice or shipping ticket to the State Plant Board, P.O. Box 1069, Little Rock, Arkansas 72203, within five (5) days after each sale or distribution in Arkansas.~~

~~(2)~~(c)(1) ~~The invoice or shipping ticket shall bear the following:~~

~~(A) Date of shipment or sale;~~

~~(B) Name and grade of fertilizer material;~~

~~(C) Name and address of manufacturer or shipper;~~

~~(D) Name, address, and county of purchaser and/or party to whom shipment is made;~~

~~(E) Number and weight of packages, if any, and total weight in tons for each grade and material;~~

~~(F) Bulk and liquid shipments shall be identified on the invoice by the terms "Bulk" or "Liquid", and the total weight in tons must be given; and~~

~~(G) If the shipment is to the account of a registrant, and the~~ sums for ~~inspection fee responsibility is~~ are ~~intended to be passed on to such registrant, a notation similar to "Arkansas~~ sums for ~~inspection fee not paid - responsibility of the registrant listed above".~~

~~(3)(A) Provided that, on distributions of fertilizer on which a registrant will pay the inspection fees, the board may permit such registrants to submit in lieu of the foregoing a weekly or monthly summary listing the county, tons, form (bulk, liquid, bagged, etc.), and grade of each fertilizer so distributed.~~

~~(B) Such summary shall be submitted within five (5) days after the end of the permitted reporting period.~~

~~(C~~2) ~~When~~ sums for ~~inspection fees are passed on to another registrant, the invoice and shipping ticket with notation requirements as given in this registration section~~ ~~shall be complied with.~~

2 CAR § 26-102. Brand registration and fertilizer facility license ~~fees~~.

(a) **Registrations.**

(1) Each commercial fertilizer shall be registered before being offered for sale, sold, or distributed in Arkansas.

(2) The application for registration shall be:

(A) Submitted ~~in duplicate~~ to the ~~State Plant Board~~~~Department~~Arkansas Department of Agriculture on forms furnished by the ~~board~~department; and

(B) ~~Accompanied by a fee~~~~Each registered fertilizer product shall require the sum of~~The cost shall be twenty-five dollars ($25.00) per brand, or product.

(3) All registrations shall expire on June 30 of ~~each year~~the fiscal year they were approved.

(4) The name of any commercial fertilizer or fertilizer material shall be considered ~~as~~ a distinct and separate brand when the fertilizer or fertilizer material differs~~differing~~ in any aspect other than the grade or common name of the fertilizer material.

(5) A distributor shall not be required to register any brand of fertilizer or fertilizer material which is already registered under this act by another firm or person, provided the label is not modified in any respect.

(b) **Licenses.**

(1) All manufacturers~~, jobbers, blenders, and manipulators~~ of commercial ~~fertilizer~~ fertilizers and of fertilizer materials to be used in the manufacture of fertilizer, who ~~may~~ desire to sell or offer for sale in Arkansas a commercial fertilizer or fertilizer materials, shall first obtain a fertilizer facility license.

(2) ~~Application~~ The application for the license ~~will~~ shall be furnished by the ~~board~~department, and shall ~~be:~~cost fifty dollars ($50.00) for each fertilizer facility location.

~~(A) Submitted in duplicate; and~~

~~(B) Accompanied by a fee~~The sum of ~~of fifty dollars ($50.00) for each fertilizer blending and/or bulk storage facility shall be charged.~~

(3) All licenses shall expire on June 30 of ~~each~~ the fiscal year they were issued.

2 CAR § 26-103. Penalties for ~~plant food storage~~deficiencies from guaranteed analysis.

~~——~~(a)(1) Penalties shall be assessed according to Penalty A or Penalty B as herein stated.

(2) ~~Provided, when~~When a fertilizer is subject to a penalty under both Penalty A and Penalty B, only the larger penalty shall be assessed.

~~——~~(b) **Penalty A.**

(1) When the total sum value of the nitrogen, available phosphoric acid, and potash value of a fertilizer is found to be deficient from the guarantee to the extent of three percent (3%) and not over five percent (5%), the manufacturer shall be liable only for the actual deficiency.

(2) When the deficiency exceeds five percent (5%) of the total sum value, the penalty shall be three (3) times the actual value of the ~~shortage~~deficiency.

(3) The penalty assessed above the actual value shall be paid to the Department of Agriculture.

~~——~~(c) **Penalty B.** When ~~either~~ the individual value of the nitrogen, available phosphoric acid, or potash is found deficient from the guarantee to the extent of ten percent (10%) or more, the manufacturer shall be liable for the value of such ~~shortages~~deficiency.

(d) In the event the consumer cannot be identified, the full penalty amount shall be remitted to the department.

(e) The manufacturer may challenge the penalty in writing, to the department's attention, within 30 days of the date on the notice of deficiency.

(f) Penalties due to the department and proof of compensation to the consumer must be made within forty-five (45) days of the date on the notice of deficiency.

2 CAR § 26-104. Penalty for short weight.

(a) When any fertilizer shipment is found to be short in net weight to the extent of one percent (1%) and not exceeding five percent (5%) of the guarantee, the

manufacturer or ~~his~~ their agent shall be liable for the value of the actual shortage.

(b) When the weight shortage exceeds five percent (5%), the penalty shall be three (3) times the value of the actual shortage.

2 CAR § 26-105. Penalty for other variances.

Deficiencies in any other constituents not listed in 2 CAR §§ 26-103 and 26-104, for which the registrant is required to or may guarantee, or excesses of those which are known to be harmful to plants, may be evaluated and penalties prescribed by the ~~State Plant Board~~Board State Plant Board or its authorized representatives.

2 CAR § 26-106. Stop-sale orders.

(a) The ~~State Plant Board~~Department Arkansas Department of Agriculture may issue and enforce a stop-sale order:

(1) On any fertilizer found subject to a penalty under this part; or

(2) When said fertilizer is consistently found deficient from the guaranteed claims to any appreciable extent.

(b) Fertilizers ~~so stop-saled~~that are subject to a stop-sale order shall be released by the department when:

(1) The same are correctly labeled by the retailer, manufacturer, or his or her agent to reflect the true contents; or

(2) When the shipment is to be returned to the manufacturer for reprocessing.

(c) All costs and expenses incurred by the ~~board~~ department in such ~~withdrawals~~ actions shall be paid by the manufacturer to the ~~board~~ department within fifteen (15) days after notice of release is ~~given~~issued by the department.

2 CAR § 26-107. Labeling of bulk, liquid, or bulk dry fertilizers.

(a) An invoice shall accompany each bulk fertilizer shipment and be given to the purchaser at the time of delivery.

(b) The invoice shall bear the following information:

(1) Net weight which shall be;

(A) in avoirdupois units; and

(B) determined on certified scales valid for commercial trade;

(2) Brand name and grade;

(3) Guaranteed analysis;

(4) Name and address of the manufacturer; and

(5) Name and address of the purchaser.

2 CAR § 26-108. Secondary and minor plant nutrients.

(a) When any reference or claim is made on the label for secondary and minor plant nutrients, a specific percent (%) guarantee ~~as~~ of the element shall be given in the guaranteed analysis.

(b)(1) The elements and the minimum amount of each that may be guaranteed shall be limited to the following~~, :~~ ~~provided however, that the minimum or minimums may be lower for chelates of these elements upon specific authorization of the State Plant Board~~Board ~~or its authorized representatives.~~

~~Element . . . . . %~~		~~Element . . . . . %~~	
~~Calcium (Ca)~~	~~1.00~~	~~Copper (Cu)~~	~~0.05~~
~~Magnesium (Mg)~~	~~0.50~~	~~Iron (Fe)~~	~~0.10~~
~~Sulfur (S)~~	~~1.00~~	~~Manganese (Mn)~~	~~0.05~~
~~Boron (B)~~	~~0.02~~	~~Molybdenum (Mo)~~	~~0.0005~~
~~Chlorine (Cl)~~	~~0.10~~	~~Sodium (Na)~~	~~0.10~~
~~Cobalt (Co)~~	~~0.0005~~	~~Zinc (Zn)~~	~~0.05~~

(A) Calcium (Ca); 1.00%,

(B) Copper (Cu); 0.05%,

(C) Magnesium (Mg); 0.50%,

(D) Iron (Fe), 0.10%,

(E) Sulfur (S); 1.00%,

(F) Manganese (Mn); 0.05%,

(G) Boron (B); 0.02%,

(H) Molybdenum (Mo); 0.0005%,

(I) Chlorine (Cl); 0.01%,

(J) Sodium (Na); 0.10%,

(K) Cobalt (Co); 0.0005%, and

(L) Zinc (Zn); 0.05%.

(2) The minimum or minimums may be lower for chelates of these elements upon specific authorization of the State Plant Board or its authorized representatives.

~~(c) An additional~~Additional ~~numeral or~~ numerals referring to the guarantee of secondary or minor plant nutrients will not be permitted in conjunction with the usual N-P-K designations of a fertilizer grade.

State of Arkansas
95th General Assembly
Regular Session, 2025

A Bill

HOUSE BILL 1744

By: Representative Wooldridge
By: Senator D. Wallace

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING AGRICULTURE; TO AMEND THE LAW RELATED TO FERTILIZER; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW RELATED TO FERTILIZER.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 2-19-202(a)(1), concerning the registration of fertilizer and fertilizer materials, is amended to read as follows:

(a)(1)(A) All manufacturers, jobbers, and manipulators of commercial fertilizers and of fertilizer materials to be used in the manufacture of fertilizer, who may desire to sell or offer for sale in Arkansas fertilizer and fertilizer materials, shall first file for registration with the ~~State Plant Board~~ Department of Agriculture, upon forms furnished by the ~~Department of Agriculture~~ department.

(B) The forms shall include the name of the brand of each fertilizer, fertilizer materials, or chemicals which they may desire to sell in the state, either by themselves or their agents, together with the names and addresses of the manufacturers or manipulators, and such other information as may be required by the ~~board~~ State Plant Board in its rules.

SECTION 2. Arkansas Code § 2-19-202(d)(1)(B)(i), concerning the registration of special agricultural crop-use fertilizer, is amended to read as follows:

(B)(i) The special agricultural crop-use fertilizers with

less than the twenty-unit minimum shall be permitted for sale only after the fertilizer grade is registered with the ~~board~~ department.

SECTION 3. Arkansas Code § 2-19-203(a), concerning the sale of unregistered fertilizers, is amended to read as follows:

(a) It shall be unlawful for any manufacturer, individual, corporation, or company, either by themselves or agents, to sell or offer for sale in this state any fertilizer brand or fertilizer materials that have not been registered with and the registration approved by the ~~State Plant Board~~ Department of Agriculture or its authorized representative, as required by this subchapter.

SECTION 4. Arkansas Code § 2-19-206(c)(1), concerning the determination of the market value of the materials used in the manufacture of fertilizer and fertilizer material, is amended to read as follows:

(c)(1) The ~~department~~ board shall ascertain the market value of the materials from the manufacturers of fertilizer and fertilizer materials specified in this subchapter to be used in the manufacture of fertilizer and fertilizer materials and from other reliable sources. This determination shall be done to fix units of value on them to be used in determining the amount of damages due when the official analysis shows a deficiency from the guaranteed analysis as specified in this subchapter.

SECTION 5. Arkansas Code § 2-19-207 is amended to read as follows:

2-19-207. Sampling fertilizers.

The inspectors for the Department of Agriculture shall obtain samples of fertilizer or fertilizer materials in the following manner:

(1) They shall draw samples with a core instrument that shall not be less than twelve inches (12″) in length in a manner that will procure a representative sample from such shipments of fertilizer or fertilizer materials as they may be directed by the ~~State Plant Board~~ department or that they may find uninspected;

(2) Where there are ten (10) packages or less, they shall take samples from every package; where there are ten (10) or more packages, they shall take samples from ten (10) packages, plus a sample for each additional ton. In no case do more than twenty (20) packages need to be sampled;

(3) After thoroughly mixing the samples so drawn, they shall fill a container to be approved by the ~~board~~ department with a portion of the mixed sample for chemical analysis or inspection; and

(4) Accompanying these samples, a report shall be made giving the name of the commodity inspected, number of packages represented by sample, the name of the manufacturer, the guaranteed analysis, the place where inspected, the date of inspection, and the name of the inspector.

SECTION 6. Arkansas Code § 2-19-208(a)(1), concerning the delivery of samples of fertilizer for analysis, is amended to read as follows:

(a)(1) Samples of fertilizer or fertilizer materials obtained by the inspectors shall be delivered to the Department of Agriculture ~~which shall deliver the samples to the chief department chemist~~ who shall make or cause to be made a complete analysis thereof.

SECTION 7. Arkansas Code § 2-19-209(a)(2), concerning the amount required to be paid per ton or fractional ton accompanying a tonnage report, is amended to read as follows:

(2)(A)(i) ~~The report shall be accompanied with the sum~~ Upon receipt of the report, the department shall invoice the responsible party for payment of the sum of two dollars and forty cents ($2.40) per ton or fractional ton.

(ii) ~~A fee~~ The sum of two dollars and forty cents ($2.40) ~~will accompany~~ shall be paid for each monthly report of tonnage which amounts to less than one (1) ton.

(B) The department shall issue receipt for the amount received and shall deposit the sums received as follows:

(i) Sixty-two cents (62¢) of the two-dollar-and-forty-cent ~~fee~~ sum per ton or fractional ton inspected shall be deposited with the Treasurer of State as special revenues and shall be credited to the Plant Board Fund to be used for the maintenance, operation, support, and improvement of the State Plant Board programs; and

(ii)(a)(1) One dollar and seventy-eight cents ($1.78) of the two-dollar-and-forty-cent ~~fee~~ sum per ton or fractional ton inspected shall be:

(A) Remitted to the Board of

Trustees of the University of Arkansas; and

(B) Credited to a fund to be known as the "University of Arkansas, Division of Agriculture, Soil Testing and Research Fund" to be maintained in accounts in one (1) or more financial institutions in the State of Arkansas.

(2) Funds shall be expended:

(A) Exclusively for soil testing service and soil fertility research by the Board of Trustees of the University of Arkansas under appropriations made by the General Assembly; and

(B) In support of one (1) or more soil testing laboratories at the Division of Agriculture of the University of Arkansas's research and extension centers and research stations as determined and designated by the Vice President for Agriculture of the University of Arkansas, and soil fertility activities within the State of Arkansas.

(b)(1) The Board of Trustees of the University of Arkansas shall provide for the investment of any funds in the University of Arkansas, Division of Agriculture, Soil Testing and Research Fund that are not needed for current operations of the soil testing laboratories and soil fertility service and research activities and shall credit the interest earned on that investment to the credit of the University of Arkansas, Division of Agriculture, Soil Testing and Research Fund.

(2) The investment shall be of the type and nature authorized for the investment of average daily State Treasury balances by the State Board of Finance.

SECTION 8. Arkansas Code § 2-19-209(b)(3), concerning the penalty for a late report or failure to report the entire amount of fertilizer sold, is amended to read as follows:

(3) For a late report or for failure to report the entire amount sold, the sum owed for tonnage ~~fee~~ on the late reported or unreported amount shall be enhanced by ten percent (10%) if less than fifteen (15) days late, twenty percent (20%) if less than thirty-one (31) days late, and doubled if more than thirty (30) days late. Penalties shall be deposited into the Plant Board Fund; otherwise, registrations may be cancelled by the State Plant Board.

SECTION 9. Arkansas Code § 2-19-211 is amended to read as follows:

2-19-211. Use of penalties from sums owed for fertilizer tonnage ~~fees~~.

All penalties received by the Department of Agriculture for failure to pay or report sums owed for fertilizer tonnage ~~fees~~ shall be remitted to the Board of Trustees of the University of Arkansas, to be credited to the University of Arkansas, Division of Agriculture, Soil Testing and Research Fund in the same manner as prescribed by § 2-19-209 and to be used for the same purposes as described in § 2-19-209.

APPROVED: 4/10/25