

Title 3 of the Louisiana Revised Statutes of 1950  
CHAPTER 10-A. FEED AND FERTILIZERS

PART I. FEED, FERTILIZER, AND AGRICULTURAL LIMING COMMISSION

§1381. Definitions

In this Chapter, the following definitions shall apply:

- (1) "Commissioner" means the commissioner of agriculture and forestry and his duly authorized representatives.
- (2) "Commission" means the Feed, Fertilizer, and Agricultural Liming Commission.
- (3) "Department" means the Department of Agriculture and Forestry.
- (4) "State chemist" means the director of the Louisiana Agricultural Experiment Station of the Louisiana State University Agricultural Center, or his designee.

§1382. Commission; creation

A.(1) There is hereby created, within the Department of Agriculture and Forestry, the Louisiana Feed, Fertilizer, and Agricultural Liming Commission to be composed of the commissioner of agriculture and forestry, the director of the Louisiana Agricultural Experiment Station, the director of the Louisiana Cooperative Extension Service, the president of Louisiana Farm Bureau Federation, Inc., the chairmen of the Livestock Advisory Committee and the Dairy Advisory Committee of the Louisiana Farm Bureau Federation, Inc., the president of the Louisiana Thoroughbred Breeder's Association, the president of the Louisiana Cattlemen's Association, the president of the Louisiana Ag Industries Association, or their duly authorized representatives, a person who owns or operates a feed business which is not a member of the of the Louisiana Ag Industries Association, and an independent feed manufacturer domiciled in Louisiana.

(2) The prospective appointee who owns or operates a feed business which is not a member of the Louisiana Ag Industries Association and the prospective appointee who shall be an independent feed manufacturer domiciled in Louisiana shall be appointed by and shall serve at the pleasure of the governor. Each appointment by the governor shall be submitted to the Senate for confirmation.

B. The commissioner shall be ex officio chairman of the commission and shall be its chief executive officer responsible for enforcement of this Chapter. He is empowered to employ personnel, to purchase supplies, and to make such other expenditures as may be necessary for enforcing this Chapter. The commission may appoint a director and assistant director of the feed program and a director and an assistant director of the fertilizer program who shall be appointed by the commission, subject to the approval of the commissioner. The directors and assistant directors shall be in the unclassified service. All employees of the commission shall be under the supervision and direction of the commissioner.

C. Members of the commission shall not receive any salary for their duties as members. The appointed members may receive a per diem for each day spent in actual attendance of meetings of the commission. The amount of the per diem shall be fixed by the commission in an amount not to exceed forty dollars per day. The appointed members may receive a mileage allowance for mileage traveled in attending meetings. The mileage allowance shall be fixed by the commission in an amount not to exceed the mileage rate for state employees.

D. The commission is empowered to make such rules and regulations as are necessary to carry out the intent and purpose of this Chapter.

E. The state chemist shall be responsible for making any chemical analysis or other tests necessary for carrying out the provisions of this Chapter. He shall determine annually the values per pound of nitrogen, available phosphoric acid, potash, and any other substance claimed to have value as a fertilizer. The values so determined shall be used in determining and assessing penalties.

## PART II. COMMERCIAL FEEDS

### §1391. Definitions

For the purposes of this Part the following definitions shall apply:

- (1) "Brand name" or "brand" means any word, name, symbol, or device, or any combination thereof, identifying the commercial feed of a registrant and distinguishing it from that of others.
- (2) "Byproducts" means secondary products produced in addition to the principal product except ingredients which are a primary source of protein.
- (3) "Commercial feed" means all materials including vitamin and mineral mixes, except whole seeds unmixed or physically altered entire unmixed seeds, which are distributed for use as pet food or as feed for livestock or for mixing in pet food or in feed for livestock and includes cottonseed meal and soybean meal.
- (4) "Customer-formula feed" means commercial feed which consists of a mixture of commercial feeds or feed ingredients, each batch of which is manufactured according to the specific instructions of the final purchaser.
- (5) "Distribute" means to sell, offer for sale, or expose for sale or trading.
- (6) "Distributor" means a person who distributes.
- (7) "Guaranteed feeding units" means the minimum crude protein, minimum crude fat, maximum crude fiber, and minimum or maximum minerals expressed as percentages and indicated on the label as being contained in the commercial feed.
- (8) "Ingredient" or "ingredients" means any of the constituent materials making up a commercial feed.
- (9) "Label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed or on the invoice or delivery slip with which a commercial feed is distributed.
- (10) "Labeling" means all labels and other written, printed, or graphic matter which is located upon a commercial feed or any of its containers or wrapper or accompanying such commercial feed.
- (11) "Livestock" means cattle, buffalo, bison, oxen, and other bovine; horses, mules, donkeys, and other equine; sheep; goats; swine; domestic rabbits; fish, turtles, and other animals identified with aquaculture that are located in artificial reservoirs or enclosures that are both on privately owned property and constructed so as to prevent, at all times, the ingress and egress of fish life from public waters; imported exotic deer and antelope, elk, farm-raised white-tailed deer, farm-raised ratites, and other farm-raised exotic animals; chickens, turkeys, and other poultry; and animals placed under the jurisdiction of the commissioner of agriculture and forestry and any hybrid, mixture, or mutation of any such animal.
- (12) "Manufacture" means to grind, mix, blend, or further process a commercial feed for distribution.

(13) "Manufacturer" means a person who manufactures a commercial feed or a customer-formula feed.

(14) "Medication" means any drug, antibiotic, or other substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man and any substance other than feed ingredients intended to affect the structure or any function of the animal body.

(15) "Official sample" means a sample of feed taken by the commissioner or his agent in accordance with provisions of R.S. 3:1398.

(16) "Package" means a parcel, bag, or other container.

(17) "Percent" or "percentages" mean percentages by weights.

(18) "Person" means any individual, partnership, corporation, and association, or other legal entity.

(19) "Pet" means any domesticated animal normally maintained in or near the household of the owner thereof.

(20) "Pet food" means any commercial feed prepared and distributed for consumption by pets.

(21) "Premises" means any place such as, but not exclusively, warehouses, factories, stores, trucks, railroad cars, boats, etc.

(22) "Protein derived from mammalian tissues" means any protein containing a portion of mammalian animals, excluding: blood and blood products, gelatin, inspected meat products which have been cooked and offered for human food and further heat-processed for feed such as plate waste and used cellulosic food casings; milk products including milk and milk proteins; and any product in which the only mammalian protein consists entirely of porcine or equine protein.

(23) "Registrant" means the person registering a feed with the commission.

(24) "Ruminant" includes any mammal of the suborder Ruminantia, which includes but is not limited to cattle, buffalo, sheep, goats, deer, elk, and antelopes.

(25) "Ton" means a net weight of two thousand pounds avoirdupois.

(26) "Value of the protein deficiency" means the value of the crude protein as set by the state chemist times the difference between the guaranteed protein analysis and the actual protein analysis of the feed sample.

§1392. Commission; powers and authority

A. The commission may adopt all rules and regulations necessary to carry out the intent and purposes of this Part, in accordance with the Administrative Procedure Act.

B. In the interest of uniformity, the commission by regulation may adopt, unless it determines that they are inconsistent with the provisions of this Part or are not appropriate to conditions which exist in this state, the following:

(1) The official definitions of feed ingredients and official feed terms adopted by the Association of American Feed Control Officials and published in the official publication of that organization.

(2) Any federal regulation promulgated pursuant to the authority of the Federal Food, Drug, and Cosmetic Act.

C. The commission by rule may exempt from the provisions of this Part hay, straw, stover, silage, cobs, husks, hulls, individual chemical compounds or substances, and similar commodities when they are not mixed with substances regulated under this Part.

§1393. Registration and labeling

A. No person shall manufacture a commercial or customer-formula feed for distribution in this state unless he has registered with the commission by filing on forms provided by the commissioner his name, state of incorporation if incorporated, the location of his principal place of business, and the location of each manufacturing facility in this state when such facilities are so located. Registration shall be renewed annually on July first. Renewal of registration may be denied by the commissioner for cause. A distributor may apply to the commission for registration as a manufacturer and for authority to label feeds for sale in this state. All provisions applicable to a manufacturer shall then apply to the distributor.

B. Registration shall authorize the registrant to distribute in this state any commercial feed for which a label has been approved by the commissioner.

C. No person registering with the commission shall manufacture for distribution in this state or distribute a commercial feed which has not been approved as to labeling pursuant to the provisions of R.S. 3:1394 and such additional regulations of the commission as may be adopted from time to time.

D. Approved labeling shall authorize a registrant to manufacture, sell, or offer for sale in this state a particular commercial feed.

E. The commissioner may refuse approval of the label of any commercial feed not in compliance with the provisions of this Part and may revoke approval of any registration or approval of any label when a commercial feed is found not to be in compliance with any provision of this Part. No registration or label shall be revoked or canceled unless the registrant shall have been given an opportunity to be heard before the commission and to amend his application or label in order to comply with the requirements of this Part.

#### §1394. Labeling requirements

A. Before any feed is made available for sale, the registrant shall file with the commission the following information for each brand of feed to be made available for sale in the state:

(1) The net weight of the content of the package.

(2) The product name and the brand name, if any, under which the commercial feed is distributed.

(3) The guaranteed analysis stated in such terms as the commission by regulation determines is required to advise the user of the composition of the feed or to support claims made in the labeling. In all cases, the substances or elements shall be determinable by laboratory methods such as the methods published by the Association of Official Analytical Chemists.

(4) A statement expressing the content of nonprotein nitrogen (NPN) and a statement of guaranty as to the maximum percentage thereof if nonprotein nitrogen is an ingredient of the feed.

(5) A statement of guaranty in a form specified by regulation of the commission in case a feed claims dietary factors in forms not expressible by the foregoing or which are not adequately expressed thereby.

(6) The common or usual name of each ingredient used in the manufacture of the commercial feed. The commission by regulation may permit the use of a collective term for a group of ingredients which perform a similar function.

(7) The name and principal mailing address of the manufacturer.

(8) Adequate directions for use of all commercial feeds containing medication and for such other feeds as the commission may require by regulation as necessary for their safe and effective use.

(9) Such precautionary statements as the commission by regulation determines are necessary for the safe and effective use of the commercial feed.

(10) Such other information as may be required by regulation of the commission.

(11) A statement expressing the content of total sugars as invert on dried molasses products or products sold primarily for their sugar content and a statement of guaranty as to the percentage of sugar as invert in the product.

(12) If the feed contains medication:

(a) The purpose of the medication.

(b) The established name and amount contained of each type of medication in the final mixture.

(13) If the feed contains protein derived from mammalian tissues, a statement that the feed shall not be fed to ruminants.

B. In the case of a customer-formula feed, it shall be accompanied by a label, invoice, delivery slip, or other shipping document bearing the following information:

(1) Name and address of the manufacturer.

(2) Name and address of the purchaser.

(3) Date of delivery.

(4) The product name and brand name, if any, the net weight of each registered commercial feed used in the mixture, and the net weight of each other ingredient used.

(5) Adequate direction for use of all customer-formula feeds containing medication and of such other feeds as the commission may require by regulation as necessary for their safe and effective use.

(6) Such precautionary statements as the commission by regulation determines are necessary for the safe and effective use of the customer-formula feed.

(7) If the feed contains medication:

(a) The purpose of the medication.

(b) The established name and amount contained of each type of medication in the final mixture.

(8) If the feed contains protein derived from mammalian tissues, the express words "Do not feed to ruminants".

(9) Such other information as may be required by regulation of the commission.

C. Whenever any commercial feed containing protein derived from mammalian tissues is offered for sale, the package shall bear the statement "Do not feed to ruminants" printed in bold, legible English on the front and the back.

#### §1395. Misbranding

A commercial feed shall be deemed to be misbranded:

(1) If its labeling is false or misleading in any particular manner.

(2) If it is distributed under the name of another commercial feed.

(3) If it is not labeled as required in R.S. 3:1394.

(4) If it purports to be or is represented as a commercial feed but has no label filed with the commission or fails to meet any requirement for labeling provided by this Part or any regulation of the commission and purports to contain or is represented as containing a commercial feed ingredient unless such commercial feed or feed ingredient conforms to

the requirements of any applicable provision of this Part or of any applicable regulation adopted by the commission.

(5) If any word, statement, or other information required by or under authority of this Part and appearing on the label or labeling is not prominently placed thereon with such conspicuousness as compared with other words, statements, designs, or devices in the labeling and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

#### §1396. Adulteration

A commercial feed shall be deemed to be adulterated:

(1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health. If the substance is not an added substance, the commercial feed shall not be considered adulterated under this Paragraph if the quantity of the substance in the commercial feed does not ordinarily render it injurious to health.

(2) If it bears or contains any added poisonous, added deleterious, or added nonnutritive substance which is unsafe within the meaning of Section 406 of the Federal Food, Drug, and Cosmetic Act other than one which is a pesticide chemical in or on a raw agricultural commodity or a food additive.

(3) If it is or it bears or contains any food additive which is unsafe within the meaning of Section 409 of the Federal Food, Drug, and Cosmetic Act.

(4) If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of Section 408(a) of the Federal Food, Drug, and Cosmetic Act. When a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under Section 408 of the Federal Food, Drug, and Cosmetic Act and the raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of the pesticide chemical remaining in or on such processed feed shall not be deemed unsafe if the residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of the residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal which is unsafe within the meaning of Section 408(a) of the Federal Food, Drug, and Cosmetic Act.

(5) If it is or it bears or contains any color additive which is unsafe within the meaning of Section 406 of the Federal Food, Drug, and Cosmetic Act.

(6) If any valuable constituent has been in whole or part omitted or abstracted therefrom or any less valuable substance substituted therefor.

(7) If its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling.

(8) If it contains a drug or antibiotic and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to good manufacturing practice regulations promulgated by the commission to assure that the drug meets the requirement of this Part as to safety and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess. In promulgating such regulations, the commission shall adopt the good manufacturing practice regulations for medicated feed premixes and for medicated feeds established

under authority of the Federal Food, Drug, and Cosmetic Act unless it determines that they are not appropriate to the conditions which exist in this state.

(9) If it contains viable or poisonous weed seeds in amounts exceeding the limits which the commission shall establish by rule or regulation.

#### §1397. Prohibited acts

The following acts and the causing thereof are hereby prohibited:

(1) The manufacture for distribution in this state or distribution of any commercial feed that is adulterated or misbranded.

(2) The adulteration or misbranding of any commercial feed.

(3) The distribution of agricultural commodities such as whole seed, hay, straw, stover, silage, cobs, husks, and hulls which are adulterated within the meaning of R.S. 3:1396.

(4) The removal or disposal of a commercial feed in violation of an order issued under R.S. 3:1399.

(5) The failure or refusal to register as a manufacturer in accordance with R.S. 3:1393 or to meet the label requirements of R.S. 3:1394.

(6) Any violation of the provisions of R.S. 3:1401.

(7) The manufacture for distribution or distribution for consumption by ruminants of any commercial feeds containing protein derived from mammalian tissue.

(8) Any violation of any provision of this Part or of any rule or regulation of the commission adopted under the provisions of this Part.

(9) Refusing to allow the inspection of premises or records or the taking of samples by the commission, the commissioner, the department, or their representatives.

(10) Any interference with the commission, the commissioner, the department, or their representatives in the performance of their duties in connection with this Part.

(11) Failure to timely pay any fee, penalty, or costs due under the provisions of this Part or of any rule or regulation of the commission adopted under the provisions of this Part.

#### §1398. Inspection, sampling, and analysis

A. For the purpose of enforcement of this Part and in order to determine whether its provisions have been complied with including whether or not an operation may be subject to such provisions, officers or employees duly designated by the commissioner upon presenting appropriate credentials to the owner, operator, employee in charge, are authorized to enter, during normal business hours, any premises within the state in which commercial feeds are manufactured, processed, packed, held for distribution, or sold or to enter any vehicle being used to commercially transport or hold such feeds; and to obtain official samples and to inspect at reasonable times and within reasonable limits and in a reasonable manner such premises or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling thereof. The inspection may include the verification of such records and production and control procedures as may be necessary to determine compliance with the good manufacturing practice regulations for medicated feeds by regulation of the commission. Each such inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection, the person in charge of the facility or vehicle shall be notified.

B. If the officer or employee making such inspection of a factory, warehouse, or other establishment has obtained an official sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises he shall give to the owner, operator, or agent in charge a receipt describing the samples obtained.

C. For the purpose of the enforcement of this Part, the commissioner, or his duly designated agent, is authorized to enter upon any premises, including any vehicle of transport, during regular business hours to have access to and to examine records relating to distribution of commercial feeds.

D. If the owner of any premises or his agent refuses to admit the commissioner or his agent to inspect or sample, the commissioner is authorized to obtain from any state court of competent jurisdiction and venue an appropriate order to submit the premises described in such order to inspection.

E. Sampling and analysis shall be conducted in accordance with methods published by the Association of Official Analytical Chemists or in accordance with other generally recognized methods.

F. The results of all analyses of official samples shall be forwarded by the commissioner to the registrant and to the owner of record at the time of sampling. When the inspection and analysis of an official sample indicates a commercial feed has been adulterated or misbranded and upon request within ten days following receipt of the analysis, the commissioner shall furnish to the registrant a portion of the official sample analyzed.

§1399. Detained commercial feeds; withdrawal from distribution orders; condemnation and confiscation; stop order

A. When the commissioner or his authorized agent has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of this Part or of any of the prescribed regulations of the commission, he may issue and enforce a written or printed "withdrawal from distribution" order warning the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the commissioner or the court. The commissioner shall release the lot of commercial feed withdrawn when the provisions and regulations have been complied with. If compliance is not obtained within thirty days, the commissioner may begin or upon request of the distributor or registrant shall begin proceedings for condemnation.

B. Any lot of commercial feed not in compliance with the provisions of this Part and regulations of the commission shall be subject to seizure upon the petition of the commissioner to the district court of the parish in which the commercial feed is located. In the event the court finds the commercial feed to be in violation of this Part and orders the condemnation of the commercial feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the state including sale of the feed at public auction or destruction of the feed at the distributor's expense. In no instance shall the disposition of the commercial feed be ordered by the court without first giving the registrant or distributor an opportunity to apply to the court for release of the commercial feed or for permission to process or relabel the commercial feed to bring it into compliance with this Part.

C. The commissioner may stop the sale, distribution, or movement of any commercial or customer-formula feed, whole or cracked unmixed grains or seeds, whole hays, straw, chaff, or hulls from grains or seeds, corn stover, or other materials which are sold for the purpose of feeding livestock and which the commissioner or his authorized agent has reasonable cause to believe contains any disease, toxin, hazardous waste, poisonous residues, or other material which poses an immediate threat to the lives or health of livestock in this state. A stop order may be issued by the commissioner without a court order, and the feed or material which is subject to the stop order may be detained for up

to five working days. If an amicable agreement as to the disposition of the feed or material cannot be reached in that time, the commissioner shall begin proceedings for condemnation.

§1400. Deficiency assessments; enforcement

A. If a given lot or shipment of feed is found by official sample and analysis to be deficient in one or more of the guaranteed feeding units, a deficiency assessment shall be assessed against the registrant with respect to the lot or shipment of feed in question in accordance with the following provisions:

(1) Crude protein:

(a) For feeds guaranteed to contain 0-19.99% protein, a deficiency assessment of four times the value of the protein deficiency if such deficiency is in excess of two percent of the guaranteed analysis plus an analytical tolerance factor of 0.3%.

(b) For feeds guaranteed to contain 20-34.99% protein, a deficiency assessment of four times the value of the protein deficiency if such deficiency is in excess of two percent of the guaranteed analysis plus an analytical tolerance factor of 0.4%.

(c) For feeds guaranteed to contain 35-49.99% protein, a deficiency assessment of four times the value of the protein deficiency if such deficiency is in excess of two percent of the guaranteed analysis plus an analytical tolerance factor of 0.5%.

(d) For feeds guaranteed to contain fifty percent or more protein, a deficiency assessment of four times the value of the protein deficiency if such deficiency is in excess of two percent of the guaranteed analysis plus an analytical tolerance factor of 0.6%.

(2) Crude fat: A deficiency assessment of ten percent of the retail purchase price of the feed if the deficiency is greater than ten percent of the guarantee.

(3) Crude fiber: A deficiency assessment of ten percent of the retail purchase price of the feed if the excess is greater than ten percent of the guarantee.

(4) Minerals: A deficiency assessment of ten percent of the purchase price of the feed if the deficiency or excess, where applicable, is greater than the tolerance established by the commission by rule.

B. When the commissioner has evidence which indicates that a person has committed an offense for which the deficiency assessment is found in Subsection A of this Section, the commissioner shall notify the person by certified mail, return receipt requested, of the facts involved in the alleged offense and the deficiency assessment set forth in Subsection A of this Section for the alleged offense. If the alleged violator does not pay the deficiency assessment within thirty days of the notice or the alleged violator disputes the deficiency found, the commissioner may call a hearing to adjudicate the matter as provided in Section E of this Section. All deficiency assessments assessed pursuant to this Section shall be paid to the person who purchased the feed for use when that person can be identified. If the person cannot be identified, the deficiency assessment shall be paid to the commission.

C. The commission may assess a civil penalty of not more than one thousand dollars for any violation of this Part other than those found in Subsection A of this Section. Each day on which a violation occurs shall be considered a separate offense.

D. The commission may suspend or revoke the registration of any manufacturer for any violation of the provisions of this Part or of the rules and regulations adopted under the provisions of this Part.

E. Civil penalties may be assessed and registrations may be suspended or revoked only by a ruling by the commission based on an adjudicatory hearing held in accordance with the Administrative Procedure Act.

F. The commissioner may institute civil proceedings to enforce the commission's rulings in the district court for the parish in which the violation occurred.

G. The commissioner may institute civil proceedings seeking injunctive relief to restrain and prevent the violation of the provisions of this Part or of the rules and regulations adopted under the provisions of this Part in the district court for the parish in which the violation occurred.

#### §1401. Fees

A. Each application for registration with the commission shall be accompanied by a registration fee not to exceed forty dollars. The commission by rule shall establish a schedule of registration fees based upon the number of registrants, the volume of commercial feed sold in this state by each, and the estimated expenses incurred by the commissioner in administering the provisions of this Part.

B. Each registrant filing a label with the commission shall pay to the commission a labeling fee not to exceed twenty dollars. The commission by rule shall establish a schedule of labeling fees based upon the number of registrants, the volume of commercial feed sold in this state by each, and the estimated expenses incurred by the commissioner in administering the provisions of this Part.

C.(1) Except as provided in Subsection E of this Section, each registrant who manufactures a commercial or customer-formula feed for distribution in this state shall pay the commission an inspection fee of one dollar per ton on all commercial feed sold in the state. Payment of the inspection fee shall be made on the basis of tonnage reports submitted to the commission by the registrants of commercial feeds.

(2) A registrant shall keep all records necessary to accurately indicate the tonnage and kind of commercial feed sold and shall permit the commissioner or his authorized representatives to examine these records and to verify the statement of tonnage.

(3) Tonnage reports shall be made on forms supplied by the commissioner and suitable for providing the necessary tonnage and statistical information.

(4) The tonnage reports and inspection fees shall be due and payable on the first day of October, the first day of January, the first day of April, and the first day of July. If the report is not filed and payment made within thirty days after the date due, a penalty of twenty-five percent of the amount due shall be assessed against the registrant. If payment is not made within thirty days after the due date, the amount of fees due, plus the penalty, shall constitute a debt and become the basis of a judgment against the registrant.

(5) All information as to the amount of feed sold and business practices of the registrant obtained from tonnage reports or from inspection of records and books shall remain confidential and shall not be subject to disclosure as public record.

D. The inspection fee shall be collected only once on each lot of ingredients. To achieve this end, the following provisions shall apply:

(1) No fee shall be paid on a commercial feed if the fee has been paid by a previous manufacturer.

(2) No fee shall be paid on customer-formula feeds if the inspection fee has been paid on the commercial feeds which are used as ingredients therein.

(3) No fee shall be paid on commercial feeds which are used as ingredients for the manufacture of registered commercial feeds. If the fee has already been paid, credit shall be given for that payment.

E. In the case of a commercial feed which is distributed in this state only in packages of ten pounds or less, an annual fee of two hundred dollars shall be paid in lieu of the inspection fee provided in Subsection C of this Section.

#### §1402. Exemptions

The provisions of this Part shall not apply to any commercial feeds that have been manufactured or produced by any person for the purpose of feeding his own livestock.

#### §1403. Nonresidents

Every nonresident manufacturer of commercial feed shall at the time of registration and before selling or offering for sale his product in this state designate with the secretary of state an agent for service of process who is a resident of this state.

#### §1404. Evidence

In any controversy or prosecution arising under the provisions of this Part, a certificate of the state chemist or other state employee making analyses or inspection, duly sworn to by the state chemist or employee, shall be prima facie evidence of the facts therein certified.

#### §1405. Cooperation with other entities

The commissioner may cooperate with and enter into agreements with governmental agencies of this state, other states, agencies of the federal government, and private associations in order to carry out the purpose and provisions of this Part.

#### §1406. Publication

The commission may publish, in written or electronic form accessible to the public, an annual report which shall provide information concerning the sales of commercial feeds together with such data as to their production and use as it may consider advisable, a report of the results of the analyses of official samples of commercial feeds sold within the state as compared with the analyses guaranteed in the registration and on the label, and a report as to label and license revocation and the commission's findings with respect to inspections for good manufacturing practices. Penalties administered during the year by the commission shall be included in the report. The information concerning the production and sale of commercial feed shall not disclose the operations of any person.

#### §1407. Disposition of funds

A.(1) All fees, assessments, penalties, and all other funds received by the Commission under the provisions of this Part, subject to the exceptions contained in Article VII, Section 9 of the Constitution of Louisiana, shall be deposited immediately upon receipt into the state treasury and shall be credited to the Bond Security and Redemption Fund.

(2) Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer, prior to placing the remaining funds in the state general fund, shall pay an amount equal to the total amount of funds paid into the state treasury by the commission under the provisions of this Part into a special fund which is hereby created in the state treasury and designated as the "Feed Fund".

(3) All unexpended and unencumbered monies in the fund at the end of each fiscal year shall remain in the fund. The monies in the fund shall be invested by the treasurer in the

same manner as monies in the state general fund. All interest earned on monies from the fund invested by the state treasurer shall be deposited in the fund.

B. Subject to appropriation, the monies in the Feed Fund shall be used for the following purposes:

- (1) To provide for the expenses of the programs established by this Part.
- (2) To renovate, maintain, and equip a building on the Baton Rouge campus of the Louisiana State University and Agricultural and Mechanical College to provide administrative offices and analytical laboratories to be used in connection with the programs established by this Part.
- (3) To build, equip, and maintain a building to house the offices of the Department of Agriculture and Forestry.
- (4) To fund any and all costs related to the fulfillment of the powers, responsibilities, and purposes of this Part.

C. The Department of Agriculture and Forestry or the Louisiana Agricultural Finance Authority on behalf of the Department of Agriculture and Forestry may fund the anticipated funds appropriated from the Feed Fund into revenue bonds for the purpose of renovating a building on the Baton Rouge campus of the Louisiana State University and Agricultural and Mechanical College to provide administrative offices and analytical laboratories to be used in connection with the programs established by this Part and for the purpose of acquiring, constructing, renovating, and equipping buildings and related facilities for use by the Department of Agriculture and Forestry in connection with promoting and assisting agriculture and forestry in this state. The Department of Agriculture and Forestry may pledge those funds to secure the repayment of revenue bonds or to secure a lease or purchase agreement entered into in connection with the issuance of revenue bonds for those purposes.

### PART III. FERTILIZERS

#### SUBPART 1. REGULATIONS FOR SALE OF FERTILIZERS

##### §1411. Definitions

In this Subpart, the following definitions shall apply:

- (1) "Adulteration" means any of the following situations:
  - (a) Where a commercial fertilizer contains any material not specifically declared to be a component of the fertilizer.
  - (b) Where materials which are likely to cause injury or damage to crop plants are present.
  - (c) Where materials containing nitrogen in a form which is but slightly available to plants are added to make up a part of the nitrogen guarantee.
  - (d) Where the actual analysis is lower than the guaranteed analysis.
- (2) "Brand" means name, trademark, or other designation under which a commercial fertilizer is sold.
- (3) "Commissioner" means the commissioner of agriculture and forestry and his duly authorized representatives.
- (4) "Fertilizer" means all materials, not otherwise excluded from the definition, sold for the purpose of promoting the growth of plants or exerting beneficial action on the soil. Materials specifically excluded from the definition are: lime; limestone; marl; gypsum; sulphur; unground bones when unmixed with other substances; and manure or excrement from any domestic animal, provided it has not been dried or otherwise treated.

(5) "Guarantor" means a person who manufactures, sells, or offers fertilizer for sale under his name or brand.

(6) "Manufacture" means the mixing, comingling of brands, blending, extracting, compounding, or chemical reaction of a substance or substances.

(7) "Package" means parcel, bag, or other container.

(8) "Premise" means place, warehouse, store, truck, railroad car, boat, etc.

(9) "Registrant" means a person who has been registered by the commission, as required by R.S. 3:1413.

(10) "Sell", "sold", or "for sale" means the act of selling, exposing, or offering for sale, trading, using, or distributing.

(11) "Specialty fertilizer" means any commercial fertilizer distributed in packages containing sixteen fluid ounces or less for liquids or one pound or less for solids and designed primarily for use on household plants grown for noncommercial purposes.

(12) "State chemist" means the director of the Louisiana Agricultural Experiment Station of the Louisiana State University Agricultural Center, or his designee.

#### §1412. Powers and responsibilities

A. The commissioner, or his representative, shall have access to any premise where there is reason to believe that fertilizer sold, offered, or exposed for sale is present, or where there is bulk storage of dry or liquid fertilizer, and is empowered to examine any fertilizer found there as to labeling or weight and may open any package and take a sample for analysis. Samples taken are to be placed in a suitable container, properly labeled for identification, and submitted to the state chemist for analysis. No cause of action against a guarantor shall result from an analysis of a sample drawn from less than five percent of the original packages at the place of sampling where the lot sampled contains less than one thousand packages. Where the lot sampled contained one thousand or more packages, the sample shall be drawn from fifty packages in that lot. If there are less than ten packages in the lot, each package in the lot must be sampled; however, single samples may be taken from liquid fertilizers or those fertilizers sold in small packages. In case of question as to the accuracy of the analysis, and on written request from the guarantor made within ten days after receipt of the analytical report, another sample may be drawn and submitted to a chemist, agreeable to the commissioner, for analysis. The cost of such analysis is to be borne by the guarantor.

B. The commission may publish, in written or electronic form accessible to the public, at least annually a report of all analyses of official samples made by the state chemist and any information resulting from analysis or inspection of fertilizers which the commission feels to be necessary in the public interest.

C. If a violation of any of the provisions of this Subpart occurs, the commissioner may issue a stop sale order preventing further sale, movement, or disturbance of any lot of fertilizer involved until settlement of all actions against the guarantor are made. On settlement of an action, the commissioner may take the following measures according to the nature of his findings:

(1) Release the fertilizer for sale.

(2) Require the guarantor to take up the fertilizer and reimburse the purchaser.

(3) Sell the fertilizer at public auction.

(4) Destroy the fertilizer.

D. The commissioner, or his representative, shall have access to and the authority to inspect any records relating to the storage and distribution of fertilizer.

E. The commission, by regulation, may set design standards for the construction of fertilizer containment facilities in any area where bulk fertilizer, dry or liquid, is stored and to inspect such facilities for compliance with such standards. The purpose of the containment facilities shall be to protect the environment from pollution due to spillage, seepage, or run-off of fertilizer from bulk storage sites.

§1413. Restrictions on sale of fertilizer

A. Each person who manufactures, sells, or offers fertilizer for sale under his name or brand shall register with the commission. Such registration shall be renewed annually on January first. Renewal of registration may be denied by the commissioner for cause.

B. All fertilizers sold in the state must be labeled by tag or printed label if packaged and by invoice if in bulk to show:

(1) Name and address of registrant.

(2) Net weight of contents of package. Bulk deliveries must be accompanied by stamped weight tickets, unless otherwise provided by the commission.

(3) The minimum percent by weight of nitrogen (N).

(4) The minimum percent by weight of available phosphoric acid ( $P_2O_5$ ).

(5) The minimum percent by weight of soluble potash ( $K_2O$ ).

(6) In the case of bone, rock phosphate, basic slag, and other materials of low available phosphorus, the total content of phosphoric acid ( $P_2O_5$ ) shall be guaranteed in lieu of available phosphoric acid ( $P_2O_5$ ).

(7) The commission shall be authorized to permit guarantees for phosphorus and potassium on an elemental basis and to make such changes in other provisions of this Subpart as are appropriate.

(8) Other elements having value as fertilizer: the minimum percent by weight shall be guaranteed on an elemental basis provided minimum levels set by the commission are met or exceeded.

C.(1) Every person manufacturing or selling fertilizer as defined in R.S. 3:1411 shall pay to the commission an inspection fee of one dollar per ton on all fertilizers sold in the state, provided that in lieu of the inspection fee, those selling small package goods in total amount of less than one hundred tons per year shall pay a one hundred dollar fee.

(2)(a) Payment of tonnage fee shall be on the basis of tonnage reports submitted by the registrant who prior to making sales must file a statement with the commission agreeing to keep such records as are necessary to accurately indicate the tonnage and kind of fertilizer sold and must grant the commissioner the right to examine such records for verification of the statement of tonnage. The tonnage reports shall be made on forms supplied by the commissioner for supplying the necessary tonnage and statistical information. The tonnage reports and inspection fees shall be due and payable on the first day of July, the first day of October, the first day of January, and the first day of March.

(b) If the report is not filed and payment made within thirty days after the due date, a penalty of ten percent of the amount due shall be assessed against the registrant. If payment is not made within thirty days after the due date, the amount of fees due plus the penalty shall constitute a debt and shall become the basis for a judgment against the registrant.

(c) Any information as to the amount of fertilizer sold and business practices of the registrant obtained from tonnage reports and from inspection of records and books shall remain confidential and shall not be subject to disclosure as a public record.

D.(1) No superphosphate containing less than eighteen percent available phosphoric acid ( $P_2O_5$ ) shall be sold in this state.

(2) The provisions of this Subsection shall not apply to specialty fertilizer as defined in R.S. 3:1411 or to mixtures whose primary purpose is to supply the so-called "minor elements".

E. However, upon a determination by the commissioner that a shortage of fertilizer exists to a degree sufficient to constitute an emergency, he may authorize the sale of basic slag with not less than three units of phosphate and six units of soluble potash to be used as fertilizer during such emergency.

§1414. Mixtures of graded, registered fertilizers; registration not required; sale prohibited

A. Notwithstanding any other law to the contrary, it shall be lawful for any farmer in this state to mix or cause to be mixed on his farm various grades of fertilizers without having to register the resulting mixture provided that he comply with the following conditions and restrictions:

(1) That he own all the component fertilizers that are to comprise the mixture.

(2) That all of the component fertilizers used in the mixture are registered in accordance with the provisions of this Subpart.

(3) That he use the mixture only for farming purposes on land which he  
19 farms.

B. It shall be unlawful for anyone to sell such mixture described in Subsection A of this Section, unless he first complies with the restrictions and conditions set forth in R.S. 3:1413.

§1415. Deficiency assessment

A. Whenever the commissioner determines, based on an analysis performed by the state chemist, that a given lot or shipment of fertilizer is deficient in one or more guaranteed plant foods, a deficiency assessment shall be assessed against the guarantor in accordance with the following provisions:

(1) Total nitrogen (N): a deficiency assessment of four times the value of the deficiency if such deficiency is in excess of 0.4 of one percent on goods that are guaranteed to contain eight percent or less of total nitrogen; 0.5 of one percent on goods that are guaranteed to contain more than eight percent and less than twenty-one percent; and 0.8 of one percent on goods guaranteed twenty-one percent or more.

(2) Available phosphoric acid ( $P_2O_5$ ): a deficiency assessment four times the value of the deficiency if the deficiency is more than 0.4 of one percent on goods that are guaranteed to contain ten percent or less of available phosphoric acid; 0.5 of one percent on goods that are to contain more than ten percent and less than twenty-six percent; and 0.8 of one percent on goods that are guaranteed more than twenty-six percent.

(3) Soluble potash ( $K_2O$ ): a deficiency assessment of four times the value of the deficiency if such deficiency is in excess of 0.5 of one percent on goods that are guaranteed to contain eight percent or less; 0.6 of one percent on goods that are guaranteed to contain more than eight percent and less than twenty-one percent, and 1.00 percent on goods guaranteed over twenty-one percent.

(4) If a fertilizer is deficient in one ingredient, overages in either or both of the other ingredients, in dollar value, may be applied to offset the deficiency, provided that a deficiency may not be cured if the deficiency in any one ingredient is more than twice the present tolerance. A fertilizer deficient in two of the three ingredients may not be cured by overages in the third ingredient.

(5) Other materials of value as fertilizer: the commission may adopt rules and regulations establishing the amount of deficiency in other guaranteed plant foods and a deficiency assessment four times the value of the deficiency.

(6) All deficiency assessments assessed under this Section shall be paid by the guarantor to the person who purchased the fertilizer for use, if known, within thirty days of notice by the commissioner to the registrant. If the purchaser-user of the fertilizer cannot be identified, the penalty shall be paid to the commission.

B. An appeal from a deficiency assessment shall be heard and decided in the same manner as provided for in R.S. 3:1418.

§1416. Cancellation of registration; causes for Repeated failure of a registrant to meet the guaranteed weight or analysis of a fertilizer, or to fail to make payment of the inspection fee, or to fail to pay penalties assessed shall be considered just cause for cancellation of a manufacturer registration.

§1417. Violations

A. Failure to comply with the provisions of this Subpart or with the rules and regulations adopted pursuant to this Subpart constitutes a violation, including but not limited to:

(1) Interfering with the commissioner, the state chemist, or their representatives in the performance of their duties in carrying out the provisions of this Subpart.

(2) Falsifying a tonnage report or otherwise avoiding payment of the inspection fee.

(3) Making, on bags or packages or in any printed or advertising matter issued or circulated, any false or misleading statement concerning the value of a fertilizer.

(4) Adulterating any lot or shipment of fertilizer sold in this state.

(5) Failing to register with the commission as required.

(6) Failing to properly label fertilizer sold in this state or to provide labels for fertilizer.

(7) Failing to timely pay the fees, penalties, and other costs imposed.

(8) Failing to timely file the reports required by this Subpart or to fully report the information required by such reports.

(9) Altering, forging, counterfeiting, or using without authority any registration or other document provided for in this Subpart or in the rules or regulations adopted pursuant to the provisions of this Subpart.

B. Each violation shall be considered a separate offense, and each day on which a violation occurs or continues to occur shall be considered a separate offense.

§1418. Adjudicatory proceedings

A. Findings of violations and imposition of penalties may be made only by a ruling of the commission based upon an adjudicatory proceeding held in accordance with the provisions of the Administrative Procedure Act and this Section.

B. Whenever the commissioner has any reason to believe that a violation of this Subpart or of any rules and regulations adopted pursuant to this Subpart has occurred, the commissioner may present the alleged violations to the commission for a determination.

C. A hearing officer shall be appointed by the office of the attorney general to preside over the hearing.

D. Notice of the alleged violation, the date of the adjudicatory hearing, and the conduct of discovery shall be as provided in the Administrative Procedure Act.

E. The ruling of the commission shall be in writing and provided to the person charged with the violation, as provided by the Administrative Procedure Act.

F. Any appeal from a ruling of the commission shall be in accordance with the Administrative Procedure Act.

#### §1419. Penalty; fines

A. Whoever is found by the commission to have violated a provision of this Subpart or any rules or regulations adopted pursuant to this Subpart shall be fined not more than five hundred dollars per violation.

B. The commission may assess the cost of the adjudicatory proceeding and shall, by rule and regulation, determine the amount of costs to be assessed, which may include the cost of inspections, investigations, and laboratory analysis.

#### §1420. Enforcement

A. The commissioner may seek to collect any fee, penalty, or cost that may be due under this Subpart or the rules and regulations adopted pursuant to this Subpart.

B. The commissioner may institute civil proceedings in any court of proper jurisdiction and venue in order to:

(1) Enforce the rulings of the commission; or

(2) Collect any fee, penalty, or cost due under the provisions of this Subpart or the rules and regulations adopted pursuant to this Subpart; or

(3) Seek injunctive relief to restrain and prevent violations of the provisions of this Subpart or of the rules and regulations adopted pursuant to this Subpart.

#### §1421. Disposition of funds

All fees, penalties, except for the deficiency assessments paid to a purchaser user of fertilizer, as provided for in R.S. 3:1415, and other funds received under the provisions of this Subpart shall be received by the commission and disposed of in accordance with the following provisions:

(1)(a) All fees, penalties, and all other funds received by the commission under the provisions of this Subpart, subject to the exceptions contained in Article VII, Section 9 of the Constitution of Louisiana, shall be deposited immediately upon receipt into the state treasury and shall be credited to the Bond Security and Redemption Fund.

(b) Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer, prior to placing the remaining funds in the state general fund, shall pay an amount equal to the total amount of funds paid into the state treasury by the commission under the provisions of this Chapter into a special fund which is hereby created in the state treasury and designated as the "Fertilizer Fund".

(c) All unexpended and unencumbered monies in the fund at the end of each fiscal year shall remain in the fund. The monies in the fund shall be invested by the treasurer in the same manner as monies in the state general fund. All interest earned on monies from the fund invested by the state treasurer shall be deposited in the fund.

(2) Subject to appropriation, the monies in the fund shall be used for the following purposes:

(a) To provide for the expenses of the programs established by Subparts I and II of this

(b) To renovate, maintain, and equip a building on the Baton Rouge campus of the Louisiana State University and Agricultural and Mechanical College to provide administrative offices and analytical laboratories to be used in connection with the programs established by this Subpart.

(c) To build, equip, and maintain a building to house the offices of the Department of Agriculture and Forestry.

(3) The Department of Agriculture and Forestry, or the Louisiana Agricultural Finance Authority on behalf of the Department of Agriculture and Forestry, may fund the anticipated funds appropriated from the Fertilizer Fund into revenue bonds for the purpose of renovating a building on the Baton Rouge campus of the Louisiana State University and Agricultural and Mechanical College to provide administrative offices and analytical laboratories to be used in connection with the programs established by this Subpart and for the purpose of acquiring, constructing, renovating, and equipping buildings and related facilities for use by the Department of Agriculture and Forestry in connection with promoting and assisting agriculture and forestry in this state. The Department of Agriculture and Forestry may pledge those funds to secure the repayment of revenue bonds or to secure a lease or purchase agreement entered into in connection with the issuance of revenue bonds for those purposes.

#### §1422. Application of Subpart

None of the provisions of this Subpart apply to materials that are to be used in the manufacture of mixed fertilizer nor to fertilizers processed or manufactured in this state intended for sale or distribution in other states nor to fertilizers being transported through this state and destined for use in other states.

#### §1423. Local regulations

A. The regulation of fertilizer is preempted by this Subpart. No municipality, parish, local governmental entity, or governing authority of any group or association, private or public, having jurisdiction over a specific geographic area shall enact ordinances, laws, subdivision restrictions, or regulations regarding fertilizers that in any way affect the registration, sale, or application of fertilizer, except as provided herein.

B. Municipalities, parishes, and local governmental entities or governing authorities of any group or association may request that the rules and regulations applicable to the distribution, sale, or application of fertilizer be amended to provide for specific problems encountered in or by the entity, group, or association. The following provisions shall govern any such request:

(1) The request shall be addressed to the commissioner.

(2) The commission shall conduct a hearing.

(3) The commission shall make a preliminary determination as to the advisability of amending the state rules and regulations and shall transmit its determination to the commissioner.

(4) The commissioner shall make the final determination as to the desirability of amending the state rules and regulations.

(5) If the commissioner determines that the rules and regulations should be amended, a rule or regulation consistent with the commissioner's determination shall be adopted by the commission in accordance with the Administrative Procedure Act. If the commissioner determines that the rules or regulations should not be amended, a written notice of the decision shall be provided to the requesting party.

C. Municipalities, parishes, and local governmental entities may petition the commissioner for approval of an ordinance applicable to the distribution, sale, or application of fertilizer. The governing authority of a public or private group or association may petition the commissioner for approval of restrictions applicable to the specific geographic area over which the group or association has jurisdiction. The procedure for obtaining such approval shall be as follows:

- (1) The proposed ordinance or restrictions shall be sent to the commissioner who shall refer the ordinance to the commission for a hearing.
- (2) The commission shall make a preliminary determination as to the advisability of amending the state rules and regulations and shall transmit its determination to the commissioner.
- (3) Upon receipt of the recommendation of the commission, the commissioner shall approve or disapprove the proposed ordinance or restriction.
- (4) Both the commission and the commissioner shall be guided by the provisions of this Section in making their respective determinations.
- (5) The requesting party shall be notified by the decision in writing.
- (6) Any governing authority aggrieved by a final decision of the commissioner shall have a right of judicial review of the administrative process pursuant to the provisions of the Administrative Procedure Act.

D. Notwithstanding the provisions of R.S. 3:1422, municipalities, parishes, and local governmental entities or governing authorities of a public or private group or association, having in effect, on July 1, 2008, an ordinance or restriction affecting the registration, sale, or application of fertilizer shall submit the ordinance to the commissioner on or before December 1, 2008, for approval pursuant to this Section. Any such ordinance or restriction received by the commissioner on or before December 1, 2008, shall continue in full force and effect unless the commissioner disapproves the ordinance or restriction in accordance with this Section. Any such ordinance not received by the commissioner on or before December 1, 2008, shall be void.

## SUBPART II. LOUISIANA AGRICULTURAL LIMING MATERIALS LAW

### §1430.1. Short title

This Subpart may be cited as the Louisiana Agricultural Liming Materials Law.

### §1430.2. Definitions

As used in this Subpart, the following terms shall have the following meanings ascribed to them:

- (1) "Agricultural liming materials" or "materials" means solid or liquid materials which contain calcium or magnesium and which are sold, offered for sale, or distributed for use in neutralizing acidity in agricultural soils.
- (2) "Aragonite" means a soft calcite obtained from ocean deposits.
- (3) "Brand" means any name, trademark, or other designation under which an agricultural liming material is sold.
- (4) "Bulk" means in nonpackaged form.
- (5) "Burnt lime" means a material made from limestone which consists primarily of calcium oxide or a combination of calcium and magnesium oxides.
- (6) "Calcite liming material" means a material composed primarily of calcium carbonate.
- (7) "Cement kiln dust" means waste dust produced in the manufacturing of cement.

- (8) "Chalk" means a soft, friable, loosely consolidated material composed primarily of calcium carbonate.
- (9) "Consumer" means any person who purchases agricultural liming materials for use on fields owned or leased by that person.
- (10) "Distributor" means a person who sells, offers for sale, or distributes agricultural liming materials in this state on the wholesale level.
- (11) "Dolomitic liming material" means a material composed of calcium and magnesium carbonates.
- (12) "Ground shells" means a material obtained by grinding the shells of mollusks.
- (13) "Hydrated lime" means a material made from burnt lime which consists primarily of calcium hydroxide and which may contain magnesium oxide or magnesium hydroxide, or both.
- (14) "Jobber" means a person who buys or sells agricultural liming materials in this state for another person and who is paid commissions for his services.
- (15) "Label" means any written or printed matter on or attached to a package of materials or an invoice for a shipment of bulk materials.
- (16) "Lot" means the quantity of materials from which a sample has been taken and which the sample represents.
- (17) "Manufacturer" means a person who produces agricultural liming materials which are sold, offered for sale, or distributed in this state.
- (18) "Marl" means a granular or loosely consolidated earthy material composed primarily of seashell fragments and calcium carbonate.
- (19) "Person" means any individual, partnership, corporation, association, or other legal entity.
- (20) "Registrant" means a manufacturer who registers an agricultural liming material.
- (21) "Retailer" means a person who sells agricultural liming materials to consumers in this state.
- (22) "Ton" means two thousand pounds avoirdupois.

#### §1430.3. Applicability

A. The provisions of this Subpart shall apply only to materials which are sold, offered for sale, or distributed in this state for the purpose of decreasing the acidity of soils used for agricultural production.

B. Substances which are sold, offered for sale, or distributed in this state for use in the construction or building industries are specifically exempt from the provisions of this Subpart.

#### §1430.4. Administration

A. The commission shall administer and enforce the provisions of this Subpart.

B. The commissioner shall employ such personnel as are necessary to implement the provisions of this Subpart.

C. The commission may adopt such rules and regulations as are necessary to implement the provisions of this Subpart. All rules and regulations adopted under the provisions of this Subpart shall be adopted in accordance with the provisions of the Administrative Procedure Act.

#### §1430.5. Registration

A. No agricultural liming material shall be sold, offered for sale, or distributed in this state unless the material is registered with the commission.

B. Each manufacturer of an agricultural liming material sold, offered for sale, or distributed in this state shall be responsible for registering the material.

C. Each brand under which agricultural liming materials are sold, offered for sale, or distributed in this state shall be registered separately.

D. Applications for registration shall be submitted to the commission on or before the first day of April each year. Each application shall be accompanied by the appropriate fee, a copy of the label for the material, and such other information as the commission by rule may require.

E. If the application is approved, the registration shall be issued on or before the first day of July of the year in which the application was received. Each registration shall be valid for one year beginning on the first day of July of the year in which the registration was issued and ending on the last day of July of the following year.

§1430.6. Labeling. Each package of agricultural liming materials sold, offered for sale, or distributed in this state shall contain a conspicuous and legible label attached to the package. If the materials are sold in bulk form, a copy of the label shall be attached to the invoice which is delivered to the person purchasing the materials. The label shall contain the following information:

(1) The name and the address of the principal office of the manufacturer.

(2) The brand name of the material.

(3) The type of the material.

(4) If the material is dolomitic limestone, the content of elemental magnesium.

(5) If the material is ground shells, the name of the mollusk from which the shells were obtained.

(6) The net weight of the material in the package.

(7) Such other information as the commission by rule may require.

§1430.7. Reports; records

A. Each manufacturer shall submit quarterly reports to the commissioner.

The quarters shall end on the last day of March, June, September, and December. Reports shall be on forms supplied by the commissioner and shall be submitted on or before the thirtieth day after the last day of each quarter. Each report shall contain the following information:

(1) The name and the principal address of the manufacturer.

(2) The amount of each brand and type of material sold in this state.

(3) The name and the principal address of the person to whom the material was sold or delivered.

(4) Such other information as the commission by rule may require.

B. Each distributor, jobber, and retailer who sells, offers for sale, or distributes agricultural liming materials in this state shall keep adequate records to reflect the disposition of all materials in his possession. The records shall be kept for two years. The records required by this Subsection shall be kept in a form acceptable to the commissioner and shall be made available to the commissioner upon request. The records shall contain the following information:

(1) The name and the principal address of each person from whom the distributor, jobber, or retailer purchases or obtains materials.

(2) The name and the principal address of each person to whom the distributor, jobber, or retailer sells or delivers materials.

(3) The amount and type of materials involved in each transaction.

(4) Such other information as the commission by rule may require.

C. All reports and records required by this Section shall be confidential and shall be exempt from the Public Records Law.

#### §1430.8. Standards

A. All solid agricultural liming materials other than marl or chalk shall have a neutralizing value of at least ninety percent. All marl and chalk shall have a neutralizing value of at least fifty percent. The commission by rule shall establish minimum neutralizing values for industrial byproducts which are to be used as agricultural liming materials. Such rules shall be based upon the recommendations of the Louisiana Cooperative Extension Service.

B. Liquid or suspension materials shall have a neutralizing value of at least fifty percent.

C. The neutralizing value of a material shall be expressed as a percentage of the calcium carbonate equivalent.

D. The commission by rule shall classify substances which are harmful to plant growth and by rule shall establish the maximum amounts of these materials which may be present in agricultural liming materials which are sold, offered for sale, or distributed in this state.

E. Solid dolomitic liming materials shall contain at least six percent elemental magnesium derived from magnesium carbonate. Liquid or suspension dolomitic liming materials shall contain at least three percent elemental magnesium derived from magnesium carbonate.

F. Calcite liming materials shall contain less than six percent elemental magnesium.

G. Solid liming materials shall contain less than fifteen percent moisture.

H. The following materials shall meet the following screen standards:

(1) Aragonite: Ninety percent shall pass through a ten-mesh sieve and five percent shall pass through a one-hundred-mesh sieve.

(2) Burnt lime, finely ground limestone, and marl: Ninety-eight percent shall pass through a ten-mesh sieve and seventy percent shall pass through a one-hundred mesh sieve.

(3) Ground limestone: Ninety percent shall pass through a ten-mesh sieve, fifty percent shall pass through a sixty-mesh sieve, and twenty-five percent shall pass through a one-hundred-mesh sieve.

(4) Ground shells: Fifty percent shall pass through a one-hundred-mesh sieve.

(5) Suspension materials: One hundred percent shall pass through a twenty mesh sieve and sixty percent shall pass through a two-hundred-mesh sieve.

I. The state chemist shall determine the neutralizing value, the particle size, and the moisture content of all samples submitted for analysis. The commission in consultation with the state chemist by rule shall establish the method of analysis and the tolerance for all analyses.

#### §1430.9. Complaints

A. Any person who believes that he has suffered damages because he purchased materials which do not meet the standards set forth in R.S. 3:1430.8 or because the amount of materials delivered was less than the net weight stated on the package or on the invoice may file a damage complaint with the commissioner.

B. All damage complaints shall be in writing, shall be on forms prescribed by the commissioner, shall be signed by the complainant, and shall be filed within fifteen days after the date of the sale or the date the deficiency was discovered, whichever is later. Failure to file a timely complaint shall not affect the right of the complainant to institute legal proceedings to recover the damages.

C. Each person who files a damage complaint shall allow the commissioner to inspect and sample the allegedly deficient material.

#### §1430.10. Violations

The following actions are prohibited:

- (1) The sale, offering for sale, or distribution of materials which are not registered with the commissioner.
- (2) The sale, offering for sale, or distribution of materials which do not meet the standards set forth in R.S. 3:1430.8.
- (3) The sale, offering for sale, or distribution of agricultural materials in packages which contain less material than the net weight listed on the package.
- (4) The sale, offering for sale, or distribution of bulk materials which contain less material than the net weight listed on the invoice.
- (5) The making of false or misleading claims concerning any material on the label of the material, orally, on any printed matter, or through any medium.
- (6) Any action which violates any provisions of this Subpart or any provision of the rules and regulations adopted under the provisions of this Subpart.

#### §1430.11. Deficiency assessments; penalties; injunctive relief

A. The commission may impose the following deficiency assessments for the following violations:

- (1) The deficiency assessments for the sale, offering for sale, or distribution of solid materials which do not meet the standard for neutralizing value shall be one percent of the invoice price of the lot from which the sample was taken for each percentage point, or fraction of a percentage point, of the total weight of the lot, by which the material fails to meet the standard.
- (2) The deficiency assessments for the sale, offering for sale, or distribution of solid materials which do not meet the standard for magnesium content shall be one and one-half percent of the invoice price of the lot from which the sample was taken for each percentage point, or fraction of a percentage point, of the total weight of the lot by which the material fails to meet the standard.
- (3) The deficiency assessments for the sale, offering for sale, or distribution of solid materials which do not meet the standard for moisture content shall be one and one-half percent of the invoice price of the lot from which the sample was taken for each percentage point, or fraction of a percentage point, of the total weight of the lot, by which the material fails to meet the standard.
- (4) The deficiency assessments for the sale, offering for sale, or distribution of solid or suspension materials which do not meet screen standard shall be one percent of the invoice price of the lot from which the sample was taken for each percentage point, or fraction of a percentage point, of the total weight of the lot, by which the material fails to meet the standard.
- (5) The deficiency assessments for the sale, offering for sale, or distribution of liquid or suspension materials which do not meet the standard for neutralizing value shall be one

and one-half percent of the invoice price of the lot from which the sample was taken for each percentage point, or fraction of a percentage point, of the total weight of the lot, by which the material fails to meet the standard.

(6) The deficiency assessments for the sale, offering for sale, or distribution of liquid or suspension materials which do not meet the standard for magnesium content shall be two percent of the invoice price of the lot from which the sample was taken for each percentage point, or fraction of a percentage point, of the total weight of the lot, by which the material fails to meet the standard.

B. The minimum penalty for the violations set forth in Subsection A of this Section shall be ten dollars. The maximum penalty for the violations set forth in Subsection A of this Section shall be an amount equal to twice the invoice price of the lot from which the sample was taken.

C. When the commission has evidence which indicates that a person has committed an offense for which the deficiency assessment is found in Subsections A through D of this Section, the commission shall notify the person, by certified mail, return receipt requested, of the facts involved in the alleged offense and the penalty set forth in Subsections A through D of this Section for the alleged offense. If the alleged violator contests the deficiency assessment in writing within fifteen days of the notice, the commissioner shall call a hearing to adjudicate the matter as provided in Subsection G of this Section. An appeal from a deficiency assessment shall be heard and decided in the same manner as provided for in this Section for the assessment of civil penalties.

D. All deficiency assessments assessed under this Section shall be paid by the person owing the assessment within thirty days of notice by the commissioner if the deficiency assessment is not contested and within thirty days of notice of the final decision if the assessment is contested.

E. The commission may assess a civil penalty for violations of R.S. 3:1430.10(3) and (4) in an amount equal to four times the value of the missing material. The value of the missing material shall be determined based on the price of the material as shown on the invoice. The commission may assess a civil penalty of not more than one thousand dollars for any other violation of the prohibitions set forth in R.S. 3:1430.10. Each day on which a violation occurs shall be considered a separate offense.

F. The commission may suspend or revoke the registration of any agricultural liming material for any violation of the provisions of this Subpart or of the rules and regulations adopted under the provisions of this Subpart.

G. Civil penalties may be assessed, and registrations may be suspended or revoked, only by a ruling by the commission based on an adjudicatory hearing held in accordance with the Administrative Procedure Act.

H. The commissioner may institute civil proceedings to enforce his rulings in the district court for the parish in which the violation occurred.

I. The commissioner may institute civil proceedings seeking injunctive relief to restrain and prevent the violation of the provisions of this Subpart or of the rules and regulations adopted under the provisions of this Subpart in the district court for the parish in which the violation occurred.

#### §1430.12. Fees

A. The annual fee for registering agricultural liming materials shall be fifteen dollars payable to the commission.

B. The late fee for each application to register an agricultural liming material, other than an application for initial registration, which is received after the first day of April of each year shall be fifty dollars payable to the commission.

C. Each manufacturer of agricultural liming materials which are sold, offered for sale, or distributed in this state shall pay to the commission a fee of ten cents on each ton of materials delivered in this state. The fee imposed by this Subsection shall be paid quarterly at the same time the tonnage reports required by R.S. 3:1430.7 are submitted to the commissioner.

#### §1430.13. Disposition of fees and penalties

A. All fees and penalties provided for in this Subpart shall be paid to the commission and disposed of as provided in this Section.

B. All deficiency assessments imposed under the provisions of R.S. 3:1430.11(A), (B), (C), or (D) shall be paid to the consumer if the identity of the consumer can be ascertained.

C. All fees, all deficiency assessments imposed under the provisions of R.S. 3:1430.11(A), (B), (C), or (D) for which the consumer cannot be ascertained, and all penalties imposed under the provisions of R.S. 3:1430.11(E), subject to the exceptions contained in Article VII, Section 9 of the Constitution of Louisiana, shall be deposited immediately upon receipt into the state treasury and shall be credited to the Bond Security and Redemption Fund.

D. Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer, prior to placing the remaining funds in the state general fund, shall pay an amount equal to the total amount of the funds paid into the state treasury under the provisions of this Subpart into the Fertilizer Fund created by this Chapter. The funds are to be used for the expenses of the programs established for the purposes of this Subpart and for the other purposes for which funds in the Fertilizer Fund may be used. Section 2. R.S. 44:4.1(B)(1) is hereby amended and reenacted to read as follows:

#### §4.1 Exceptions

\* \* \*

B. The legislature further recognizes that there exist exceptions, exemptions, and limitations to the laws pertaining to public records throughout the revised statutes and codes of this state. Therefore, the following exceptions, exemptions, and limitations are hereby continued in effect by incorporation into this Chapter by citation: (1) R.S. 3:552.24, 556.10, 557.12, 558.10, 559.9, 750, 1313, 1367, 1901, 1401, 1413, 1430.7, 3204, 3221, 3370, 3421, 3706, 4021, 4110

\* \* \*

Section 3. Chapters 10 and 14 of Title 3 of the Louisiana Revised Statutes of 1950, comprised of R.S. 3:1311 through 1373 and 1891 through 1907, are hereby repealed in their entirety. Section 4. The Louisiana State Law Institute is hereby authorized to redesignate Part

II of Chapter 10 of Title 3 of the Louisiana Revised Statutes of 1950, comprised of R.S. 3:1351 through 1357, entitled "Anhydrous Ammonia", as Part III of Chapter 10 of Title 40 of the Louisiana Revised Statutes, comprised of R.S. 40:1911 through 1917, entitled "Anhydrous Ammonia".