

§ 69-24-1. Short title.

Mississippi Statutes

Title 69. AGRICULTURE, HORTICULTURE, AND ANIMALS

Chapter 24. FERTILIZING MATERIALS AND ADDITIVES

Current through 3/27/2018

§ 69-24-1. Short title

This chapter shall be known as the "Mississippi Soil and Plant Amendment Law of 1978".

Cite as Miss. Code § 69-24-1

Source: Laws, 1978, ch. 322, § 1, eff. 7/1/1978.

§ 69-24-3. Administration.

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§ 69-24-3. Administration

This chapter shall be administered by the commissioner of agriculture and commerce of the State of Mississippi, hereinafter referred to as the commissioner, and the State Chemist of Mississippi, as specified in the following sections.

Cite as Miss. Code § 69-24-3

Source: Laws, 1978, ch. 322, § 2, eff. 7/1/1978.

§ 69-24-5. Definitions.

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§ 69-24-5. Definitions

As used in this chapter, the following terms shall have the definition ascribed to them herein unless the context requires otherwise:

- (a) "Amending ingredient" means a substance which will improve the physical or chemical characteristics of the soil or improve crop production or quality when applied to the soil, plant or seed.
- (b) "Brand" means the term, designation, trade mark, product name or other specific designation under which individual soil or plant amendments are offered for sale.
- (c) "Bulk" means in nonpackaged form.
- (d) "Distribute" means to import, consign, manufacture, produce, compound, mix or blend soil or plant amendments, or offer for sale, sell, barter or otherwise supply soil or plant amendments in this state.
- (e) "Distributor" means any person who imports, consigns, manufactures, produces, compounds, mixes or blends soil or plant amendments, or who offers for sale, sells, barter, or otherwise supplies soil or plant amendments in this state.
- (f) "Inert ingredients" means the non-amending ingredients present in soil or plant amendments.
- (g) "Ingredient form" means the chemical compound, such as salt, chelate, oxide, acid, etc., of an ingredient or the physical form of an ingredient.
- (h) "Investigational allowance" means an allowance for variations inherent in the taking, preparation and analysis of an official sample of soil or plant amendment.
- (i) "Label" means the display of all written, printed or graphic matter upon the immediate container or statement accompanying a soil or plant amendment.
- (j) "Labeling" means all written, printed, or graphic matter, upon or accompanying any soil or plant amendment, or advertisements, brochures, posters, or television or radio announcements used in promoting the sale of such soil or plant amendment.
- (k) "Minimum percentage" means that percent of soil or plant amending ingredient, when

mentioned in any form or manner, that must be present before the product will be accepted for registration.

- (l) "Official sample" means any sample of soil or plant amendment taken by the commissioner or his agent and designated as "Official" by the commissioner and state chemist.
- (m) "Percent" or "percentage" means parts per hundred by weight.
- (n) "Person" means individual, partnership, association, firm, or corporation.
- (o) "Plant amendment" means any substance applied to plants or seeds which is intended to improve germination, growth, yield, product quality, reproduction, flavor or other desirable characteristics of plants except commercial fertilizers, soil amendments, agricultural liming materials, unmanipulated animal and vegetable manures, pesticides, plant regulators, Rhizobium legume inoculants, and other materials which may be exempted by regulation; provided that, commercial fertilizer shall be included if it is represented to contain, as an amending ingredient, a substance other than a recognized plant food element or is represented as promoting plant growth by means other than supplying a recognized plant food element.
- (p) "Registrant" means the person who registers soil or plant amendments under the provisions of this chapter.
- (q) "Soil amendment" means and includes any substance which is intended to improve the physical, chemical or other characteristics of the soil or improve crop production, except the following: commercial fertilizers, plant amendments, agricultural liming materials, agricultural gypsum, unmanipulated animal manures, topsoil, unmanipulated vegetable manures, pesticides, and herbicides, Rhizobium legume inoculants, and other material which may be exempted by regulation; provided that commercial fertilizer shall be included if it is represented to contain, as an amending ingredient, a substance other than a recognized plant food element or is represented as promoting plant growth by means other than supplying a recognized plant food element.
- (r) "Ton" means a net weight of two thousand (2,000) pounds avoirdupois.
- (s) "Weight" means the weight of material as offered for sale.

Cite as Miss. Code § 69-24-5

Source: Laws, 1978, ch. 322, § 3, eff. 7/1/1978.

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§ 69-24-7. Labeling

- (1) The following information shall appear on the fact or display side of all containers or accompany bulk shipments of soil or plant amendments; it shall be in a readable and conspicuous form, and shall be considered the label:
 - (a) net weight
 - (b) brand name
 - (c) minimum guaranteed analysis amending ingredients
name of ingredient %

and continued until all soil and/or plant amending ingredients are listed and percentages given.
 - (d) inert ingredients. %
 - (e) purpose of product
 - (f) direction for application
 - (g) name and address of the registrant
- (2) No information or statement shall appear on any package, label, delivery slip, or advertising matter which is false or misleading to the purchaser as to the use, value, quality, analysis, type or composition of the soil or plant amendment.
- (3) The commissioner and State Chemist may require proof of claims made for any soil or plant amendments. If no claims are made, the commissioner and State Chemist may require proof obtained in controlled scientific experiments of usefulness and value of the soil or plant amendment. For evidence of proof they may rely on experimental data, evaluation, or advice supplied from such sources as the director of the Mississippi Agricultural and Forestry Experiment Station and the director of the Mississippi Cooperative Extension Service. The experimental results shall be related to Mississippi conditions for which the product is intended. The commissioner and State Chemist may accept or reject other sources of proof cited as additional evidence in their evaluation of

soil or plant amendments.

- (4) No amending ingredient may be listed or guaranteed on the labels or labeling of soil or plant amendments without the permission of the commissioner and State Chemist. The commissioner and State Chemist may allow a soil or plant amending ingredient to be listed and guaranteed on the label or labeling if satisfactory supportive data is provided to substantiate the value and usefulness of such soil or plant amending ingredient. The commissioner and State Chemist may rely on outside sources such as the director of the Mississippi Agricultural and Forestry Experiment Station and the director of the Mississippi Cooperative Extension Service for assistance in evaluating the data submitted. When a soil amending ingredient is permitted to be listed or guaranteed, its concentration in the soil or plant amendment must be determinable by approved laboratory methods, and it shall be subject to inspection and analysis. The commissioner and State Chemist may prescribe methods and procedures of inspection and analysis of the soil or plant amending ingredient. The commissioner and State Chemist may stipulate, by regulation, the minimum qualities of soil or plant amending ingredient(s) required in soil or plant amendments.
- (5) The commissioner and State Chemist may allow labeling by volume rather than weight in subsection (1) for liquid products. The commissioner and State Chemist may allow payment of inspection fees on a calculated weight equivalent to that volume.

Cite as Miss. Code § 69-24-7

Source: Laws, 1978, ch. 322, § 4, eff. 7/1/1978.

§ 69-24-9. Registration of each separate soil or plant amendment product.

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§ 69-24-9. Registration of each separate soil or plant amendment product

- (1) Each separately identified product shall be registered before being distributed in this state. The application for registration shall be submitted to the commissioner and State Chemist on the form furnished or approved by the commissioner and shall be accompanied by a fee of Twenty-five Dollars (\$ 25.00) per product. Upon approval by the commissioner and

State Chemist, a copy of the registration shall be furnished to the applicant. All registrations expire on June 30, following registration. Each manufacturer shall submit to the commissioner and State Chemist copies of labels and advertising literature with the registration request for each soil or plant amendment.

- (2) A distributor shall not be required to register any brand of soil or plant amendment which is already registered under this act by another person, providing the label and labeling do not differ in any respect.
- (3) Before registering any soil or plant amendment, the commissioner and State Chemist may require evidence to substantiate the claims made for the soil or plant amendment and proof of the value and usefulness of the soil or plant amendment as in Section 69-24-7(3), (4).
- (4) The commissioner and State Chemist may, by regulation, set the minimum amount of any soil or plant amending ingredients that must be present before a soil or plant amendment can be registered and sold.
- (5) If the application for renewal of the soil or plant amendment registration provided for in this section is not filed prior to July 1 of any one year, a penalty of Twenty-five Dollars (\$ 25.00) shall be assessed and added to the original fee and shall be paid by the applicant before the renewal soil or plant amendment registration shall be issued; provided, however, that such penalty shall not apply if the applicant furnishes an affidavit that he has not distributed this soil or plant amendment subsequent to the expiration of his prior registration.

Cite as Miss. Code § 69-24-9

Source: Laws, 1978, ch. 322, § 5, eff. 7/1/1978.

§ 69-24-11. Refusal or cancellation of registration; hearing.

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§ 69-24-11. Refusal or cancellation of registration; hearing

The commissioner and State Chemist are authorized and empowered to refuse registration of a soil or plant amendment if they find the brand of soil or plant amendment violates any section of this chapter or the rules and regulations promulgated under this chapter. The commissioner and State Chemist are authorized and empowered to cancel the registration of any brand of soil or plant amendments upon satisfactory evidence that the registrant has used fraudulent or deceptive practices in the evasions or attempted evasions of the provisions of this chapter, or any rules or regulations promulgated thereunder; provided, that no registration shall be revoked until the registrant shall have been given the opportunity to appear for a hearing by the commissioner and State Chemist.

Cite as Miss. Code § 69-24-11

Source: Laws, 1978, ch. 322, § 6, eff. 7/1/1978.

§ 69-24-13. [Effective Until 7/1/2018] Inspection fees; tonnage payments; penalties; disclosure of information.

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§ 69-24-13. [Effective Until 7/1/2018] Inspection fees; tonnage payments; penalties; disclosure of information

- (1) There shall be paid to the commissioner for all soil or plant amendments distributed in this state an inspection fee of Thirty-five Cents (\$.35) per ton; provided, however, that products sold in packages of ten (10) pounds or less or one (1) gallon or less, shall be subject to an annual inspection fee of Fifty Dollars (\$ 50.00) in lieu of the Thirty-five Cents (\$.35) per ton fee. Such annual inspection fee shall be paid upon date of registration.
- (2) Every person who distributes a soil or plant amendment in the state shall file with the commissioner, on forms furnished by him, quarterly statements for periods ending September 30, December 31, March 31 and June 30, setting forth the number of net tons of each soil or plant amendment distributed in the state during such quarter. The report shall be due within thirty (30) days following each quarter. Such statement shall be accompanied by a payment of the inspection fee at the rate of Thirty-five Cents (\$.35) per ton, except as specified in subsection (1) of this section.

- (3) When more than one (1) distributor is involved in the distribution of a soil or plant amendment product, the last registrant who distributes to a non-registrant (dealer or consumer) is responsible for reporting the tonnage and paying the inspection fees unless the reporting and paying of fees has been made by a prior distributor of the soil or plant amendment product. If the report is not filed or is filed falsely, or the inspection fee is not paid within thirty (30) days following each quarter, the commissioner and State Chemist may revoke the registration of such products and a penalty of Ten Dollars (\$ 10.00) per day for each subsequent day shall be assessed against the registrant. The inspection fee and the penalty shall constitute a debt and become the basis for a judgment against such registrant, which may be collected by the commissioner and in any court of competent jurisdiction without prior demand.
- (4) The report required by this section shall not be a public record, and it shall be a misdemeanor for any person to divulge any information given in such report which would reveal the business operations of a person or registrant making the report; provided, however, that nothing contained in this subsection shall be construed to prevent or make unlawful the use of information concerning the business operation of any registrant in any action, suit, or proceeding instituted under this chapter, including any civil action for collection of unpaid inspection fees, which action is hereby authorized and which shall be as an action at law in the name of the commissioner.
- (5) All fees paid to the commissioner for registration, inspection, or penalties for product deficiencies shall be deposited into the general fund account of the State of Mississippi.

Cite as Miss. Code § 69-24-13

Source: Laws, 1978, ch. 322, § 7, eff. 7/1/1978.

Note: *This section is set out twice. See also § 69-24-13, as amended by Laws, 2018, ch. TBD, SB 2457, §1, eff. 7/1/2018.*

§ 69-24-13. [Effective 7/1/2018] [Inspection fees; tonnage payments; penalties; disclosure of information].

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§ 69-24-13. [Effective 7/1/2018] [Inspection fees; tonnage payments; penalties; disclosure of information]

- (1) There shall be paid to the commissioner for all soil or plant amendments distributed in this state an inspection fee of Thirty-five Cents (\$.35) per ton . However, products sold in packages of ten (10) pounds or less or one (1) gallon or less shall be subject to an annual inspection fee of Fifty Dollars (\$50.00) in lieu of the Thirty-five Cents (\$.35) per ton fee. The annual inspection fee shall be paid upon date of registration.
- (2) Every person who distributes a soil or plant amendment in the state shall file with the commissioner, on forms furnished by him, an annual statement setting forth the number of net tons of each soil or plant amendment distributed in the state during the previous year. The statement shall be due within thirty (30) days following the reporting year. The statement shall be accompanied by a payment of the inspection fee at the rate of Thirty-five Cents (\$.35) per ton, except as specified in subsection (1) of this section.
- (3) When more than one (1) distributor is involved in the distribution of a soil or plant amendment product, the last registrant who distributes to a nonregistrant (dealer or consumer) is responsible for reporting the tonnage and paying the inspection fees unless the reporting and paying of fees has been made by a prior distributor of the soil or plant amendment product. If the statement is not filed or is filed falsely, or the inspection fee is not paid within thirty (30) days following the reporting year, the commissioner and State Chemist may revoke the registration of the products and a penalty of Ten Dollars (\$10.00) per day for each subsequent day shall be assessed against the registrant. The inspection fee and the penalty shall constitute a debt and become the basis for a judgment against the registrant, which may be collected by the commissioner and in any court of competent jurisdiction without prior demand.
- (4) The statement required by this section shall not be a public record, and it shall be a misdemeanor for any person to divulge any information given in the statement which would reveal the business operations of a person or registrant filing the statement; provided, however, that nothing contained in this subsection shall be construed to prevent or make unlawful the use of information concerning the business operation of any registrant in any action, suit, or proceeding instituted under this chapter, including any civil action for collection of unpaid inspection fees, which action is hereby authorized and which shall be as an action at law in the name of the commissioner.
- (5) All fees paid to the commissioner for registration, inspection, or penalties for product deficiencies shall be deposited into the General Fund account of the State of Mississippi.

Cite as Miss. Code § 69-24-13

Source: Laws, 1978, ch. 322, § 7, eff. 7/1/1978.

History. Amended by Laws, 2018, ch. TBD, SB 2457, §1, eff. 7/1/2018.

Note: *This section is set out twice. See also § 69-24-13, effective until 7/1/2018.*

§ 69-24-15. Sampling, inspection and analysis.

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§ 69-24-15. Sampling, inspection and analysis

- (1) It is the duty of the commissioner and State Chemist, who may act through their duly authorized agents, to sample, inspect, make analyses of, and test soil or plant amendments distributed within the State of Mississippi at any time and place, and to such an extent they may deem necessary to determine whether such soil or plant amendments are in compliance with the provisions of this chapter. The commissioner, individually or through his agents, is authorized to enter upon any public or private premises of carriers during regular business hours in order to have access to soil or plant amendments subject to provisions of the chapter and the rules and regulations pertaining thereto, and to the records relating to their distribution.
- (2) The methods of analysis and sampling shall be those adopted by the State Chemist from sources such as the Association of Official Analytical Chemists, or other sources acceptable to the State Chemist.
- (3) The results of official analyses of soil or plant amendments and portions of official samples shall be distributed by the State Chemist as provided by regulation.

Cite as Miss. Code § 69-24-15

Source: Laws, 1978, ch. 322, § 8, eff. 7/1/1978.

§ 69-24-17. Penalties for deficient analysis; determination of commercial values.

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§ 69-24-17. Penalties for deficient analysis; determination of commercial values

- (1) If the analysis shall show that any soil or plant amendment falls short of the guaranteed analysis in any one (1) soil or plant amending ingredient, or in total soil or plant amending ingredients, beyond "investigational allowances" as established by regulation, a penalty of three (3) times the commercial value of such deficiency shall be assessed against the registrant by the commissioner on all the products represented by the sample analyzed.
- (2) All penalties assessed under this section shall be paid to the commissioner within thirty (30) days after the date of notice to the registrant from the Department of Agriculture and Commerce. The commissioner shall deposit the amount of the penalty into the General Funds account of the State Treasury.
- (3) Nothing contained in this section shall prevent any person from appealing to a court of competent jurisdiction for a judgment as to the justification of such penalties imposed under subsection (1) and (2) above.
- (4) The penalties payable in subsections (1) and (2) above shall in no manner be construed as limiting the consumer's right to bring a civil action in damage against the registrant paying said civil penalties.
- (5) For the purpose of determining commercial values to be applied under the provisions of this section, the commissioner shall determine from the registrant's sales invoice the values charged for the soil or plant amending ingredients. If no invoice is available or if the invoice fails to provide sufficient information, the commissioner may use other methods to determine values. The values so determined shall be used in determining and assessing penalties.

Cite as Miss. Code § 69-24-17

Source: Laws, 1978, ch. 322, § 9, eff. 7/1/1978.

§ 69-24-19. Misbranding.

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§ 69-24-19. Misbranding

No person shall distribute a misbranded soil or plant amendment. A soil or plant amendment shall be deemed to be misbranded if:

- (a) its labeling is false or misleading in any particular;
- (b) if it is distributed under the name of another soil or plant amendment;
- (c) if it is not labeled as required in Sections 69-24-7 and 69-24-9 and in accordance with regulations prescribed under this chapter;
- (d) if it purports to be or is represented as a soil or plant amendment or represented as containing a soil or plant amendment, unless such soil or plant amendment conforms to the definitions of identity, if any, prescribed by regulation. In the adopting of such regulations, the commissioner and State Chemist shall give due regard to commonly accepted definitions and official terms such as those issued by the Association of American Plant Food Control Officials; or
- (e) if it does not conform to ingredient form, minimums, labeling and investigational allowances in the regulations adopted by the commissioner and State Chemist.

Cite as Miss. Code § 69-24-19

Source: Laws, 1978, ch. 322, § 10, eff. 7/1/1978.

§ 69-24-21. Adulteration.

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§ 69-24-21. Adulteration

No person shall distribute an adulterated soil or plant amendment. A soil or plant amendment shall be deemed to be adulterated if:

- (a) it contains any deleterious or harmful agent in sufficient amount to render it injurious to beneficial plant, human, animal or aquatic life when applied in accordance with directions for use on the label, or if adequate warning statements and directions for use, which may be necessary to protect plant, human, animal or aquatic life are not shown upon the label;
- (b) if its composition falls below or differs from that which it is purported to possess by its labeling; or
- (c) if it contains unwanted crop or weed seed, or primary noxious or secondary noxious weed seed.

Cite as Miss. Code § 69-24-21

Source: Laws, 1978, ch. 322, § 11, eff. 7/1/1978.

§ 69-24-23. "Stop sale, use or removal" orders.

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§ 69-24-23. "Stop sale, use or removal" orders

The commissioner may issue and enforce a written or printed "stop sale, use or removal" order to the owner or custodian of any lot of soil or plant amendment and to hold at a designated place, when the commissioner finds said soil or plant amendment is offered or exposed for sale in violation of any of the provisions of this chapter, until the law has been complied with and said soil or plant amendment is released in writing by the commissioner, or said violation has been otherwise legally disposed of by written authority. The commissioner shall release the soil or plant amendment so withdrawn when the requirements of the provisions of the chapter have been complied with and all costs and expenses incurred in connection with the withdrawal from sale have been paid.

§ 69-24-25. Violations; notice; hearings; penalties; warnings; injunctive relief.

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§ 69-24-25. Violations; notice; hearings; penalties; warnings; injunctive relief

- (1) If it shall appear from the examination of any soil or plant amendment that any of the provisions of this chapter or the rules and regulations issued thereunder have been violated, the commissioner shall cause notice of the violations to be given to the registrant, distributor, or possessor from whom said sample was taken. Any person so notified shall be given opportunity to be heard under such rules and regulations as may be prescribed by the commissioner and State Chemist. If it appears after such hearing, either in the presence or absence of the person so notified, that any of the provisions of this chapter or rules and regulations issued thereunder have been violated, the commissioner and State Chemist may certify the facts to the proper prosecuting attorney.
- (2) Any person convicted of violating any provision of this chapter or the rules and regulations issued thereunder shall be guilty of a misdemeanor and punished as provided for in Section 99-19-31. Appeals from convictions under this subsection shall be as in other cases at law.
- (3) Nothing in this chapter shall be construed as requiring the commissioner, State Chemist or their representative to report for prosecution or for the institution of seizure proceedings as a result of minor violations of the chapter when they believe that the public interests will be best served by a suitable notice of warning in writing.
- (4) It shall be the duty of each prosecuting attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.
- (5) The commissioner is hereby authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule or regulation promulgated under the chapter

notwithstanding the existence of other remedies at law. Said injunction shall be issued without bond.

Cite as Miss. Code § 69-24-25

Source: Laws, 1978, ch. 322, § 13, eff. 7/1/1978.

§ 69-24-27. Adoption and enforcement of rules and regulations.

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§ 69-24-27. Adoption and enforcement of rules and regulations

The commissioner and State Chemist may adopt, amend or repeal rules and regulations relating to sampling, analytical methods, forms, minimum percentage, soil or plant amending ingredients, exempted materials, investigational allowances, definitions, records, labels, labeling, liability bond, misbranding, mislabeling and the distribution of soil or plant amendments as may be necessary to carry into effect the full intent and meaning of this chapter.

Cite as Miss. Code § 69-24-27

Source: Laws, 1978, ch. 322, § 14; Laws, 2004, ch. 518, §2, eff. 7/1/2005.