

# MISSOURI FERTILIZER LAW AND RULES

## Chapter 266 (Revised 1999) {PRIVATE }

### FERTILIZERS

**266.291. Definitions**—The following words, terms, and phrases, when used in sections 266.291 to 266.351 have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) **"Director"** means the director of the Missouri agricultural experiment station at Columbia, Missouri;

(2) **"Distributor"** means any person who imports, consigns, manufactures, produces or compounds fertilizer, or offers for sale, sells, barter, or otherwise supplies fertilizers for consumption or use in this state; provided that this term shall not apply to any person who purchases fertilizer from a distributor registered under sections 266.291 to 266.351 and which fertilizer has been once sold in compliance with sections 266.291 to 266.351;

(3) **"Essential plant nutrient"** includes any element recognized as being directly required by any plant to complete its life cycle;

(4) **"Fertilizer"** includes any organic or inorganic material of natural or synthetic origin which is added to soil, soil mixtures, or solution to supplement nutrients and is claimed to contain one or more essential plant nutrients. The term "fertilizer" does not include unmanipulated animal and vegetable manure and agricultural liming materials used to reduce soil acidity;

(5) **"Person"** includes individuals, partnerships, associations, firms, corporations, estates, trusts, receivers, or trustees appointed by any state or federal court;

(6) **"Sale", "sold", and "sells"** include exchanges and consignments for sale and means any transfer or barter.

(7) **"Variable rate technology"** means the method of applying two or more fertilizer materials which are blended at variable rates by a spreading vehicle or device during the application process.

#### **266.301. Permit required to sell fertilizer**

**—application.**—It shall be unlawful for any distributor to sell, offer for sale or expose for sale for consumption or use in this state any fertilizer without first securing a permit from the director. Such permit shall expire on the thirtieth day of June of each year. Application for such permit shall be on forms furnished by the director.

#### **266.311. Sale of misbranded fertilizer prohibited—misbranding defined.**

—It shall be unlawful for any person to sell, offer for sale or expose for sale any fertilizer for use or consumption in this state which is misbranded. Any fertilizer shall be deemed to be misbranded if it fails to carry the printed statement required under section 266.321, or if the chemical composition of such fertilizer does not meet the guarantee expressed on said statement within allowable tolerances fixed by the director, or if the container for such fertilizer or any statement accompanying the same carries any false or misleading statement, or if false or misleading statements concerning its agricultural value are made on any advertising matter accompanying or associated with such fertilizer.

**266.321. Labeling information required**—1. Each container of fertilizer sold, offered for sale or exposed for sale for consumption or

use within this state shall bear thereon or have attached thereto in a conspicuous place a plainly written statement in the English language giving the following information:

(1) The name, brand or trademark under which the fertilizer is sold;

(2) The name and address of the person guaranteeing the fertilizer;

(3) Net weight;

(4) The guaranteed chemical composition by weight of the fertilizer, expressed in the following terms:

(a) Percent of total nitrogen (N),

(b) Percent of available phosphate ( $P_2O_5$ ),

(c) Percent of soluble potash ( $K_2O$ ). Unacidulated mineral phosphatic materials and basic slag shall be guaranteed as to both total and available phosphate, and the degree of fineness as expressed in percentage passing through standard mesh sieves. In the case of bone, tankage, and other natural organic phosphate materials, only total phosphate must be guaranteed. If any fertilizer is sold, offered for sale, or exposed for sale in bulk, such plainly written statement herein required shall accompany each lot and parcel of such fertilizer.

2. A fertilizer formulated according to specifications furnished by or for a consumer prior to mixing and intended to be applied using variable rate technology shall be accompanied by a plainly written statement which shows the guaranteed analysis and net weight of each material in the formulation and the name and address of the distributor and the consumer.

**266.331. Sales to be reported—fee to be set by rule**—Every distributor shall, within thirty days after each six-months' period ending June thirtieth and December thirty-first, file with the director on forms supplied by him, a sworn certificate setting forth the information required by the director by rule. At the time of filing such certificate, each distributor shall pay to the director the fee prescribed by the director by rule, which fee shall not exceed one dollar per ton and one dollar ten cents per metric ton; except that sales to fertilizer manufacturers or exchanges between them are hereby exempted. In the event that the director has not prescribed a fee under this section, each distributor required to pay a fee under this section shall pay a fee of one and one-half cents for each one hundred pounds of fertilizer sold by him during the period covered by the certificate filed under this section. The fees so paid to the director shall be used for defraying the expenses in administering sections 266.291 to 266.351 and the rules promulgated under sections 266.291 to 266.351, and for practical and scientific experiments by the Missouri agricultural experiment station in the value and proper use of fertilizer. Such fees may also be used to support such related research and methodology, publications, and educational programs extending the results of the fertilizer experiments as may be of practical use to the farmers of this state.

**266.336. Advisory Council, membership, purpose**—1. There is hereby created an advisory council to the director, which shall be composed of fifteen members appointed by the director pursuant to this section. Of the fifteen members so appointed, five shall be actively employed as fertilizer manufacturers or distributors, five shall be actively engaged in the business of farming, and five shall be chosen from the residents at large of this state. The five members

chosen from the residents at large of this state shall be selected by the director with the approval of a majority of the other ten members of the advisory council.

2. The advisory council shall:

(1) Meet at least once each year;

(2) Annually review with the director the income received and expenditures made under sections 266.291 to 266.351;

(3) Review and approve all rules, and revisions or rescissions thereof, to be promulgated by the director;

(4) Consider all information and advise the director in determining the method and amount of fees to be assessed. In performing its duties under this subdivision, the advisory council shall represent the best interests of the Missouri farmers;

(5) Serve in an advisory capacity in all matters pertaining to the administration of sections 266.291 to 266.351.

3. All members of the advisory council shall serve for terms of three years and until their successors are duly appointed and qualified; except that, of the members first appointed:

(1) Two members who are actively employed as fertilizer manufacturers or distributors, two members actively engaged in the business of farming, and two members chosen from the residents of this state at large shall serve for terms of three years;

(2) Two members who are actively employed as fertilizer manufacturers or distributors, two members actively engaged in the business of farming, and two members chosen from the residents of this state at large shall serve for terms of two years; and

(3) The remaining three members shall serve for terms of one year.

4. All members shall be residents of this state. No member may serve more than two consecutive terms on the advisory council, but any member may be reappointed after he has not been a member of the advisory council for a period of at least three years.

5. All members shall be reimbursed for reasonable expenses incurred in the performance of their official duties in accordance with the reimbursement policy set by the director. All reimbursements paid under this section shall be paid from fees collected under sections 266.291 to 266.351.

6. Every vacancy on the advisory council shall be filled by the director with the approval of a majority of the remaining members of the council. The person selected to fill any such vacancy shall possess the same qualifications required by this section as the member he replaces and shall serve until the end of the unexpired term of his predecessor.

**266.341. Powers of Director**—The duty of enforcing and administering sections 266.291 to 266.351 shall be vested in the director. The director shall, in accordance with chapter 536, RSMo, promulgate all rules necessary to provide for the efficient administration and enforcement of sections 266.291 to 266.351; except that, no rule, nor revision or rescission thereof, may be filed with the secretary of state until it has been approved by a majority of the members of the advisory council created in section 266.336. Any rule or portion of a rule promulgated and approved under any authority in this Act may be suspended by the Joint Committee on Administrative Rules at any time. No rule or portion of a rule promulgated under any authority granted in this Act shall become effective until it has been approved by the Joint Committee on Administrative Rules. If the Joint Committee on Administrative Rules neither approves nor disapproves a rule within thirty (30) days after the Notice of Proposed Rule Making has been published in the Missouri Register, the rule shall stand approved. In the event the Joint Committee on Administrative Rules disapproves or suspends a rule, the Joint Committee shall notify both the department or agency proposing the rule and the Secretary of State. The Secretary of State shall publish in the Missouri Register as soon as practicable, an order withdrawing the rule. The provisions of this Act are nonseverable and the grant of rule making authority is essentially dependent on the

review power vested with the Joint Committee on Administrative Rules. If the review power is held unconstitutional or invalid, the grant of rule making authority shall also be invalid or void. The director or his authorized agents are hereby authorized and empowered to:

(1) Collect samples, inspect, and make analysis of fertilizer sold, offered or exposed for sale within this state; except that, samples taken of fertilizer sold in bulk shall be taken from the bulk container immediately after mixing on the premises of the mixing facility or, when not possible, to be sampled from the bulk container wherever found;

(2) Inspect and audit the books of every distributor who sells, offers for sale, or exposes for sale fertilizer for consumption or use in this state, to determine whether or not the provisions of sections 266.291 to 266.351 are being fully complied with;

(3) Require every distributor to file with the director documentation as prescribed by rules promulgated under sections 266.291 to 266.351. Such documents shall not be required more often than two-week intervals, and all such documents shall be returned to the distributor upon his request;

(4) Enter upon any public or private premises during the regular business hours in order to have access to fertilizer subject to sections 266.291 to 266.351 and the rule and regulations promulgated under sections 266.291 to 266.351, and to take samples and inspect such fertilizer;

(5) Issue and enforce a written or printed "stop-sale, use, or removal" order to the owner or custodian of any fertilizer which is found to be in violation of any of the provisions of sections 266.291 to 266.351, which order shall prohibit the further sale of such fertilizer until sections 266.291 to 266.351 have been complied with or such violation has been otherwise legally disposed of by written authority of the director;

(6) Maintain a laboratory with necessary equipment and employ such employees as may be necessary to aid in the administration of sections 266.291 to 266.351;

(7) Publish each year the full and detailed report giving the names and addresses of all distributors registered under sections 266.291 to 266.351, the analytical results of all samples collected, and a statement of all fees and penalties received and expenditures made under sections 266.291 to 266.351;

(8) Revoke or suspend the permit, or refuse to issue a permit, to any distributor who has willfully violated any of the provisions of sections 266.291 to 266.351 or failed or neglected to pay the fees or penalties provided for in sections 266.291 to 266.351;

(9) Institute and prosecute through the attorney general of this state suits to collect any fees due under the provisions of sections 266.291 to 266.351 which are not promptly paid;

(10) Establish from information secured from manufacturers and other reliable sources the market value of fertilizer and fertilizer materials for the purpose of determining the amount of damages due when the official analysis show an excessive deficiency from the guaranteed analysis.

**266.343. Penalties for deficiency in fertilizer.**—If any fertilizer offered for sale in this state shall upon official analysis prove deficient from its guarantee as stated on the bag or other container, penalties shall be assessed as follows:

(1) For a single ingredient fertilizer containing nitrogen or available phosphate or soluble potash:

(a) When the value of this ingredient is found to be deficient from the guarantee to the extent of three percent and not over five percent, the distributor shall be liable for the actual deficiency.

(b) When the deficiency exceeds five percent of the total value, the penalty shall be three times the actual value of the shortage.

(2) For multiple ingredient fertilizers containing two or more of the single ingredients: Nitrogen or available phosphate or soluble

potash, penalties shall be assessed according to (a), (b) or (c) as herein stated. When a multiple ingredient fertilizer is subject to a penalty under (a), (b) and (c) only the larger penalty shall be assessed.

(a) When the total combined values of the nitrogen or available phosphate or soluble potash is found to be deficient to the extent of three percent and not over five percent, the distributor shall be liable for the actual deficiency in total value.

(b) When the deficiency exceeds five percent of the total value, the penalty shall be three times the actual value of the shortage.

(c) When either the nitrogen, available phosphate, or soluble potash value is found deficient from the guarantee to the extent of ten percent up to the maximum of two units (two percent plant food), the distributors shall be liable for the value of such shortages.

**266.347. Penalties payable to purchaser or director, collection procedure.**—1. The penalties assessed by the director under section 266.343 shall be paid by the distributor to the purchaser of such fertilizer, and in the event such purchaser cannot be ascertained, then said penalty shall be paid to the director and used for the purposes specified in section 266.321, except the maximum paid the purchaser will approximate the actual value of the deficiency.

2. The director shall prepare a written certification of penalties assessed under section 266.343 addressed to the distributor. A copy of such certification of assessment shall be mailed to the distributor liable for the penalty.

3. Any decision, finding, order or ruling of the director made pursuant to the provisions of sections 266.291 through 266.351 shall be subject to judicial review in the manner provided by chapter 536, RSMo.

4. If any distributor shall fail to pay any penalty assessed by the director after the time for judicial review has expired, or after any judgment or decree approving such assessment has become final, the person entitled to such penalty under the provisions of subsection 1 shall be entitled to bring a civil action to recover the same, and in such civil action such persons shall be entitled to recover from the distributor the amount of the penalty, a reasonable attorney's fee and costs of the action.

**266.351. Violation a misdemeanor.**—In addition to the civil penalties provided herein, each violation of any provision of sections 266.291 to 266.351 shall be deemed a misdemeanor.

## **RULES ADOPTED UNDER THE MISSOURI FERTILIZER LAW**

**RSMo 266.291–266.351**

**Title 6—Department of Higher Education**

**Division 250—University of Missouri**

**Chapter 1—Organization and Description**

### **RULE**

#### **6 CSR 250-1.020 Agricultural Experiment Station-General Organization**

*Purpose:* The purpose of this rule is to comply with section 536.023 RSMo. (Supp. 1975) which requires each agency to adopt as a rule a description of its operation and the methods whereby the public may obtain information or make submissions or requests.

1. The Missouri Agricultural Experiment Station is a unit of the University of Missouri-Columbia and was established under authority of the Agricultural Experiment Stations Act (7 USC sections 361a-361i).

2. The object and duty of the Missouri Agricultural Experiment Station is to conduct original and other researches, investigations and experiments bearing directly on and contributing to the establishment and maintenance of a permanent and effective agricultural industry in the United States.
3. The director of the Missouri Agricultural Experiment Station is responsible for the enforcement and administration of the Missouri Fertilizer Law and the Missouri Agricultural Liming Materials Act.
  - (A) The primary responsibilities of the Missouri Agricultural Experiment Station under the Missouri Fertilizer Law are to provide systems of registry, field inspections, laboratory analysis, penalty and enforcement procedures, and publications of results necessary to assure the quality of fertilizers offered for sale in the state.
  - (B) The primary responsibilities of the Missouri Agricultural Experiment Station under the Missouri Agricultural Liming Materials Act are to provide systems of registry, field inspections, laboratory analysis, enforcement procedures and publications of results necessary to assure the quality of liming materials offered for sale in the state.
4. The office of the Director of the Missouri Agricultural Experiment Station is Room 2-69, Agriculture Building, University of Missouri-Columbia, Columbia, MO, 65211, telephone (573)882-3846.

## **Chapter 11—Administration of Mo. Fertilizer Law**

### **6 CSR 250-11.010 Deficiency Penalties**

*PURPOSE:* This rule delineates procedures to be followed in the assessment of penalties and in the disposition of deficient fertilizers.

(1) The market value of fertilizer and fertilizer materials shall be expressed as a dollar value per unit and/or per pound of each primary plant nutrient for the purpose of determining the amount of penalty due when the official analysis shows an excessive deficiency from the guaranteed analysis and these established values shall be reviewed and distributed at least annually.

(A) In event the actual retail price is substantially higher than the value as calculated at the established rates, the penalty shall be based on the retail price.

(2) Penalties shall be assessed on the quantity of fertilizer on hand when the sample is taken. Any lot subject to penalty may be required to be returned to the manufacturer and all costs involved in the return of such fertilizer shall be borne by the manufacturers. Any lot of fertilizer found subject to penalty shall be deemed misbranded and subject to an order to "stop sale".

### **6 CSR 250-11.030 Labeling Additional Plant Nutrients**

*PURPOSE:* This rule prescribes the labeling format for plant nutrients other than nitrogen, phosphorus, and potassium.

(1) Essential plant nutrients in addition to nitrogen, phosphorus, and potassium, when mentioned in any form or manner shall be guaranteed.

(A) Guarantees shall be made on the elemental basis.

(B) Sources of elements guaranteed and proof of availability shall be provided the director of the Mo. Agricultural Experiment Station on request.

(C) The minimum percentages which may be claimed are as follows:

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

(2) Guarantees or claims for the nutrients listed in 6 CSR 250-11.030(1)(C) are the only ones which will be accepted. Proposed labels and directions for use of the fertilizer shall be furnished by the director of the Mo. Agricultural Experiment Station upon request. Any of the above-listed elements which are guaranteed shall appear in the order listed, immediately following guarantees for the primary nutrients, nitrogen, phosphorus and potassium.

#### **6 CSR 250-11.040 Inspection Fee**

*PURPOSE: This rule sets forth the inspection fee.*

The fee provided to be established by rule under section 266.331 shall be fifty cents (50¢) for each ton (2000 pounds) of fertilizer reported. The last registered distributor selling fertilizer for use in Missouri shall be responsible for payment to the director the fee provided by this rule.

#### **6 CSR 250-11.050 Semiannual Reporting Procedures**

*PURPOSE: The purpose of this rule is to establish fertilizer tonnage reporting procedures and clarify responsibility for the inspection fee when more than one distributor is involved.*

(1) The semiannual report required by section 266.331 shall supply the information specified by either Option A or Option B as follows:

(A) The amount of fertilizer sold for consumption or use in the state during the period covered.

(B) The amount of fertilizer purchased, during the period covered, either for reformulation or for resale.

(2) Option A will be available to all distributors and required for all distributors either located outside of the state or selling fertilizers primarily to dealers for resale. Option B may be used only by distributors located within the state selling fertilizers direct to farmers. All fertilizer purchases by distributors choosing Option B must be reported. Any distributor changing from sales to input reporting will be required to submit a beginning inventory record and include this tonnage, with the inspection fee due, in his first semiannual report.

(3) Each eligible distributor will be required to choose either Option A or Option B and follow it as the exclusive reporting basis until a change to the other option is approved by the director. No change in reporting basis will be approved except at the beginning of a semiannual reporting period and following a request for change submitted at least thirty (30) days before the end of the then current reporting period.

(4) Under both reporting procedures, sales to other registered distributors are exempt from inspection fee, but must be reported as a

sales transaction monthly. However, under Option B, any credit claimed for sales to registered distributors will be limited to the amount of fertilizers reported as purchases contained in the products sold.

#### **6 CSR 250-11.060 Documentation of Tonnage**

*PURPOSE: The purpose of this rule is to establish the required documentation of fertilizer purchases or sales to be submitted to the director.*

(1) The documentation required by section 266.341 (3) shall consist of—

(A) For Option A—Invoice copies of sales, or summaries or transcripts (for example, computer printout) of such information including the name and address of the purchaser, the guaranteed analysis and the net weight of each shipment;

(B) For Option B—Invoice copies of shipments received or transcripts (for example, computer printouts) of such information including invoice number, the name and address of the supplier, the guaranteed analysis and the net weight of each shipment; and

(C) Such documents must be submitted to the director at least monthly, and no later than five (5) days after the end of the month covered.

#### **6 CSR 250-11.070 Annual permit fee**

*PURPOSE: This rule establishes and Annual Fee for the permit to sell commercial fertilizer in the state.*

The director will cause to be mailed each year on or about the 15<sup>th</sup> of April a renewal application form to all distributors currently selling fertilizer in the state to renew their permit required by section 266.301 for the coming year. The completed application for each location from which commercial fertilizers are distributed shall be returned to the director by June 1, accompanied by a permit fee of one hundred dollars (\$100) US. New applications shall also be accompanied by a permit fee of one hundred dollars (\$100) US. Permit fees collected will be used to defray administrative costs of distributor registration, with any permit fees collected in excess of administrative costs to be used to support related research proposals.

#### **6 CSR 250-11.080 Collection fee for delinquent filing of a semiannual report.**

*PURPOSE: This rule establishes a collection fee on distributors who do not file a semiannual report within thirty days after each six-month period.*

(1) If the semiannual report described in section 266.331 is not filed and the payment of inspection fees is not made within 30 days after the end of the specified filing period, a collection fee amounting to ten percent (10%) of the amount due or fifty dollars (\$50) US, whichever is greater, shall be assessed against the distributor and added to the amount due.