

250.396 Penalty for fertilizer deficiency.

- (1) If the analysis shall show that a fertilizer is deficient in one (1) or more of its guaranteed primary plant nutrients beyond the investigational allowances as established by regulation, or if the overall index value of the fertilizer is below the level established by administrative regulation, a penalty payment shall be assessed. The penalty shall not exceed three (3) times the monetary value of the deficiency or the retail value of the lot of fertilizer, whichever is less, with the penalty assessment being adjusted for the magnitude of the deficiency and the value of any overages of guaranteed nutrients as established by regulation.
- (2) Deficiencies beyond the investigational allowances as established by regulation in constituents other than total nitrogen (N), available phosphate (P205), or soluble potash (K20), which the registrant or licensee is required to or may guarantee, shall be evaluated and penalty payments assessed and paid as established by administrative regulation.
- (3) If, upon satisfactory evidence, a person is shown to have altered the content of a fertilizer shipped to him by a registrant or to have mixed or commingled fertilizer from two (2) or more suppliers so that the result of either alteration changes the analysis of the fertilizer as originally guaranteed, that person shall become responsible for obtaining a registration and shall be held liable for all penalty payments and be subject to other provisions of KRS 250.361 to 250.451, including seizure, condemnation, and stop sale.
- (4) Nothing contained in this section shall prevent any person from appealing to a court of competent jurisdiction praying for judgment as to the justification of the penalty payments.

Effective: July 15, 1994

History: Amended 1994 Ky. Acts ch. 331, sec. 7, effective July 15, 1994. -- Created 1984 Ky. Acts ch. 191, sec. 8, effective July 13, 1984.