

**§751. Assessments for deficiencies**

In addition to any fine adjudged under section 750, an assessment for deficiencies in a fertilizer must be made in accordance with this section. For the purposes of this section, a deficiency occurs when an investigational analysis determines that the allowances established in rules adopted under section 748, subsection 3 have been exceeded. [PL 2007, c. 147, §8 (NEW).]

**1. Primary plant nutrients; overall index.** An assessment of 2 times the commercial value of the deficiency or deficiencies as determined under subsection 3 must be made if:

A. The analysis determines that a fertilizer is deficient in one or more of its guaranteed primary plant nutrients; or [PL 2007, c. 147, §8 (NEW).]

B. The analysis determines that the overall index value is deficient. [PL 2007, c. 147, §8 (NEW).]

When a fertilizer is subject to an assessment under both paragraphs A and B, the larger assessment applies.

[PL 2007, c. 147, §8 (NEW).]

**2. Other deficiencies.** When a fertilizer is labeled to guarantee or a bulk fertilizer is accompanied by a statement guaranteeing that the fertilizer contains recognized plant nutrients other than nitrogen, available phosphate or soluble potash, the commissioner may evaluate the fertilizer and prescribe an assessment for deficiencies in any of the claimed nutrients based on commercial values determined under subsection 3.

[PL 2007, c. 147, §8 (NEW).]

**3. Determination of commercial value.** For the purpose of determining the commercial value to be applied in determining assessment under this section, the commissioner shall determine and publish annually the values per unit of total nitrogen, available phosphate and soluble potash or other nutrients that the registrant is required to or may guarantee in fertilizers in this State. The values so determined and published must be used in determining and assessing penalty payments.

[PL 2015, c. 191, §7 (AMD).]

**4. Payment to consumer; commissioner.** Assessments made under subsections 1 and 2 must be paid by the registrant to the consumer of the lot of fertilizer represented by the sample analyzed. The commissioner shall send notification of the amount of the assessment with the results of the analysis sent in accordance with section 745. Assessments must be made within 30 days of the date of the notification. If the consumer cannot be located, the registrant shall submit the assessment to the commissioner for deposit in the commercial fertilizer account under subsection 5.

[PL 2007, c. 147, §8 (NEW).]

**5. Commercial fertilizer account.** The commissioner shall deposit all assessments submitted to the commissioner in accordance with subsection 4 in a dedicated account established within the department. The account is a nonlapsing interest-bearing account. Funds from the account may only be used to pay costs of sampling and analyzing fertilizer.

[PL 2007, c. 147, §8 (NEW).]

**SECTION HISTORY**

PL 2007, c. 147, §8 (NEW). PL 2015, c. 191, §7 (AMD).

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