

South Carolina Fertilizer Permitting and Security Training Manual



**Department of Plant Industry
Regulatory & Public Service Programs
Clemson University**

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Overview of DPI and the Fertilizer Permitting Program

New security measures since the September 11th tragedy have pervaded nearly every part of our lives. Due to the potential for misuse of certain fertilizers, Clemson University's Department of Plant Industry (DPI) has found it necessary to begin requiring permits for fertilizer distributors.

This training manual is intended to help you better understand how these changes and new permits will affect you.

Historical

South Carolina and Clemson University have a long-standing involvement in the fertilizer regulatory arena. The Department of Plant Industry (DPI) is part of the University's Regulatory Services. Since 1890, Regulatory Services has been an integral part of the Clemson University mission by ensuring the safe and effective use of agricultural products, such as pesticides, fertilizer and lime. Also, Regulatory Services has helped protect SC agriculture through programs involving quarantined pests, invasive species, nursery inspections, seed certification and organic certification.

The Department of Plant Industry has two primary program missions:

- 1) to protect South Carolina's agricultural resources and natural ecosystems from the introduction and spread of plant and honey bee pests and invasive species;
- 2) to enhance the efficiency of South Carolina's agricultural producers by providing unbiased, third party quality assurance programs for the fertilizer, organic and seed industries.

In addition, DPI enhances agricultural security in South Carolina by staffing and equipping the State Plant Emergency Response Team.

Because of terrorist activity in recent years, administrators and regulators both recognized a need to extend the scope of the fertilizer regulatory program to include consumer protection and public safety. In a 1998 publication by the National Academy of Science, ammonium nitrate fertilizer was identified as the number one material likely to be misused by terrorists. This was based on the availability and ease of acquisition of ammonium nitrate fertilizers. The publication also recommended actions on the part of state regulatory agencies, which included permitting of dealers to sell such potentially hazardous fertilizer materials.

The terrorist attacks that took place on September 11, 2001, motivated administrators to take measures to prevent the likelihood of terrorist misuse of fertilizers in South Carolina. This resulted in the permitting statutes we now have in place. On July 4th, 2002, Governor Jim Hodges signed into law the statutes that provide for the permitting system described here.

The purpose of these amendments to the SC Fertilizer Law is to increase the safety and security of the citizens of South Carolina by safeguarding the sale of materials with potential to be misused as dangerous explosives or other unintended uses. South Carolina is the *first* state in the nation to enact a law like this. It **requires** fertilizer manufacturers and dealers to obtain permits to sell products that meet certain criteria.

The changes in the law affect three groups of individuals: registrants, dealers, and distributors.

Registrants are companies that guarantee the nutrient content of their product to consumers and are liable for the contents of the products they sell.

Dealers are companies that sell commercial fertilizers acquired from a registrant or another dealer, but do not guarantee the contents of the products that they sell.

Distributors are companies who import or manufacture commercial fertilizers or who otherwise supply commercial fertilizer in the State of South Carolina. Dealers and registrants are both considered distributors in South Carolina.

A copy of the relevant sections of the SC Fertilizer Law as amended can be found in Appendix B, page 16.

Terms Defined

There are two types of permits required in the amended law: General Fertilizer Permits and Restricted Fertilizer Permits. These permitting requirements are effective immediately.

Anyone who sells **any** fertilizer products in packages greater than forty pounds must obtain a **General Fertilizer Permit**. Persons selling Restricted Fertilizers in any quantity are required to obtain a **Restricted Fertilizer Permit**. Restricted fertilizers are defined as follows:

“Restricted Fertilizers” are those commercial fertilizers that are determined by the Crop Pest Commission, which if misused, present an unreasonable threat to public safety due to potential explosive capacity or some other hazardous quality.

Presently, these fertilizers include:

- **ammonium nitrate (33% or greater),**
- **urea (45% or greater), and**
- **anhydrous ammonia.**

These are currently the **ONLY** materials that fall into the restricted category. No blends, such as 10-10-10, are considered Restricted Fertilizers.

“General fertilizers” include all fertilizer products not defined as “restricted fertilizers.”

Restricted Fertilizer permits will be required for **ALL** companies who wish to sell Restricted Fertilizers. There is a \$250 fee for the Restricted Fertilizer Permit for all companies that are not registrants. Registrants may receive the restricted permit with their annual registration simply by indicating their intent to distribute Restricted Fertilizers on their registration forms.

General Fertilizer Permits will be required for **ALL** companies that sell fertilizer in packages of more than 40 pounds. There is currently no fee for this permit. If you sell fertilizer only in packages of 40 pounds or less, you are not required to have a General Fertilizer Permit.

Please be aware that even if you sell or shelve only *one* package of fertilizer that is over the 40-pound limit, you **MUST have a General Fertilizer Permit. Also, if you sell commercial fertilizers in the State of South Carolina without a permit, your products may be placed under a stop sale, use or removal order until you obtain a valid permit.**

Registrants will receive the appropriate permit for no additional fee by indicating on their registration form whether or not they intend to sell Restricted Fertilizers. Non-registrants will be required to obtain a General Fertilizer Permit (if they sell or stock fertilizers in greater than 40-pound packages) or a Restricted Fertilizer Permit if they wish to sell the Restricted Fertilizer materials.

Restricted Fertilizer Permit holders **must require and record a valid driver's license number or other approved picture identification number from anyone purchasing a Restricted Fertilizer.** This information is to be kept for a minimum of two years. No distributor or registrant may sell restricted fertilizers to another distributor who does not hold proof of a valid Restricted Fertilizer Permit.

All permits expire on June 30th of each year.

Who is Affected

To explain more thoroughly, the following groups will be required to obtain a fertilizer permit before engaging in the practice of selling fertilizer in the State of South Carolina.

General Fertilizer Permits: Anyone who sells or offers for sale any fertilizer in packages greater than 40 pounds must obtain a general fertilizer permit. This includes but is not limited to retailers (home and garden, feed and seed, nursery and landscape, etc.). **General fertilizer permits only authorize the sale of non-restricted products.**

Restricted Fertilizer Permits: Anyone who sells or offers for sale ammonium nitrate, urea and/or anhydrous ammonia as straight grade materials. This would include any retailer, distributor or manufacturer that offers any restricted fertilizer for sale. **There is no package size exemption for restricted fertilizer materials.**

Definition of fertilizer products currently deemed as restricted by the commission

- **Ammonium Nitrate** – is chiefly the ammonium salt of nitric acid. It shall contain not less than thirty three percent (33%) nitrogen, one half of which is the ammonium form and one half in the nitrate form.
- **Urea** – is the commercial synthetic acid amide of carbonic acid and shall not contain less than forty five percent (45%) nitrogen.
- **Anhydrous Ammonia** – Eighty two percent (82%) nitrogen that is liquid under pressure

*** Currently there are no specific blended materials on the restricted fertilizer list. However, blends made from ammonium nitrate must be composed of less than 80% ammonium nitrate to be considered as non-restricted. This percentage is based on the explosive capacity of ammonium nitrate.

Dealing with Suspicious Purchases

It is extremely important for dealers of restricted fertilizer products to understand that they have the legal right to deny anyone access to any fertilizer materials. If a dealer is uncomfortable with making a sale the appropriate course of action is to refuse the sale.

Dealers should be on the look out for the following:

- Persons wishing to purchase materials during the off season,
- Persons requesting unusual quantities of materials,
- Persons they do not know wishing to buy restricted materials, and
- Persons not actively involved in crop production wishing to purchase restricted products.

Alternatives to refusing a sale:

- Ask the person what they intend to use the products for.
- Try recommending an alternative material. If he/she insists on buying only the restricted product, do not be afraid to ask them *why*.
- Question the consumer about his or her production practices.

Whenever a dealer encounters a suspicious attempt to purchase restricted fertilizer products, he should record any details, including a description of the person, and contact the State regulatory agency and/or the local, state or federal law enforcement authorities **immediately**. *See the section of this manual that contains important contact information.*

Contact the Department
of Plant Industry at
864.646.2140 if you
have ANY questions
regarding the new laws.

Plant and Product Security Information

Some agricultural crop production materials may be targeted by terrorists, and careful steps should be taken to make sure such materials are safeguarded.

Checklist for Fertilizer Manufacturers, Dealers and Distributors

Facility Security Considerations

1. Is the perimeter secure? Fenced and locked? Inspected daily for signs of attempted entry, vandalism and structural integrity?
2. Is the facility secure? Locked? Outside lights working and adequate to cover the entire facility and parking areas?
3. Are security systems in good working order? Cameras operational? Alarms functional? Have security guards been considered for after business hours?
4. Have you contacted local law enforcement about increasing surveillance of your location?
5. Is the door locked if the front desk is unattended?
6. Do you conduct pre-employment background checks?
7. Are visitors given a pass, escorted and recorded?

Considerations Preceding the Sale of Certain Crop Production Materials

1. Do you know the customer? Is the customer a legitimate user?
2. If the customer is a stranger, has an on-site inspection been performed prior to selling and delivering the material?
3. Are cash sales limited to known customers?
4. Are deliveries made only to secure storage areas?
5. Have you advised your customers about the potential theft and criminal misuse of the products they are purchasing and asked them to safeguard the materials?
6. Have employees be on the lookout for suspicious activities and for people they do not know. Have employees ask unknown persons to identify themselves and state their purpose for being there.

7. Know who has keys and access to hazardous material storage areas.
8. Retrieve keys and identification materials from all employees at once when their employment ends.
9. Develop an emergency response plan and make sure all employees are of aware of what to do in case of an emergency.

Security Tips for Hauling Fertilizers

1. Check the quantity of material when loading. Compare with paperwork to be sure no product is missing. Lock doors as necessary.
2. Go directly to the delivery point whenever possible, taking the best route available to avoid high population areas, tunnels, and bridges.
3. Exercise extreme caution if it becomes essential to stop. Avoid unguarded and poorly lighted areas where theft is a substantial risk. Be on your way as soon as possible.
4. Be alert to vehicles following your truck, strangers asking questions, or anyone snooping around your cargo.
5. Do not pick up hitchhikers, do not talk about your cargo on CB radios, and do not discuss your cargo with those who are not involved.
6. Always contact your customer if you find you will be late for a delivery.
7. Check your load at delivery to ensure that no product is missing. Do not leave any product at field sites unless it is well attended or secured within buildings. Always obtain a signed delivery ticket.
8. Carefully check the background of all new drivers. Every driver should be properly licensed and trained in good practices for handling fertilizer that may be hazardous in the hands of dangerous people.
9. Immediately report any suspicious activities to the proper authorities. *See section on important contact information.*

Frequently Asked Questions

- 1.) I stock a considerable amount of fertilizers, both restricted and non-restricted; however, the products are for my own use, and I do not sell them to anyone. Do I have to have a permit?

If fertilizers are solely for someone's own use (private or commercial) no permit is required. However, if a lawn care or landscape company applies fertilizers and bills specifically for the fertilizer, they must obtain an appropriate permit.

- 2.) I sell ammonium nitrate but only in packages of 40 pounds or less. Does this mean I do not need a restricted permit?

NO! Anyone engaged in selling restricted fertilizers, regardless of package size, must have a restricted fertilizer permit. The 40-pound package size limit only applies to the general fertilizer permit.

- 3.) I distribute branded fertilizers produced by a major manufacturer. May I use their permit numbers in order to sell these products?

NO! A permit is only valid for the business located at the address printed on the face of the permit. Each location that qualifies must obtain a valid permit.

- 4.) I do not sell enough restricted fertilizer product in a year to warrant paying the \$250 fee for the permit. What can I sell in place of the restricted fertilizers?

There are a tremendous number of alternative nitrogen sources that can be sold with out a restricted fertilizer permit. A few of these would include:

Calcium Nitrate 15.5-0-0 Sodium Nitrate 16-0-0 Potassium Nitrate 15-0-0 Ammonium Sulfate 20.5-0-0	Isobutylene Diurea 30-0-0 Sulfur Coated Urea 30-40% N methylenediurea 42-0-0 dimethylenetriurea 40-0-0 polymer coated urea 40-0-0	34-0-0 made from ammonium sulfate and/or urea with filler Neutroform and Neutraline nitrogen: 38-0-0 and 40-0-0 Nitrogen solutions: 19-0-0, 25-0-0, 28-0-0, 30-0-0, 32-0-0
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- 5.) I am a restricted permit holder and often sell restricted products out-of-state. Do I have to require a valid restricted permit number for out of state distributors?

Under SC Law, we do not have the authority to require that out-of-state dealers have a restricted fertilizer permit (unless they make sales into SC); however, you *are* required to obtain a valid state or federal drivers license number for the person placing the order.

- 6.) I am a fertilizer dealer that often spreads fertilizer for my customers. If they order a restricted product and I spread it for them, what information do I need to record and keep on file?

Dealers who apply restricted fertilizers for consumers may record their restricted permit number in lieu of a drivers license. The dealer must indicate that he spread the material. This does not apply when dealers simply deliver material to a consumer's location without spreading it.

- 7.) If someone I do not know wants to buy restricted products, do I have the legal right to deny them the material?

YES! A dealer has the right to deny anyone access to any fertilizer products if they are uncomfortable about the circumstances.

- 8.) There are several of my customers who do not have drivers licenses. In the past, I have sold them a considerable amount of restricted products. How should I handle situations like this?

The law is very specific with regards to the recordkeeping requirements relating to restricted fertilizer sales. You must record a valid state or federal drivers license number or other approved picture ID for each consumer purchasing a restricted product. If the consumer does not have a drivers license, but does have another form of picture ID, check with our department to see if it will suffice.

- 10).When do these changes to the law go into affect and what is the deadline for obtaining a permit?

The changes to the SC Fertilizer Law were made effective July 4, 2002; therefore, permits should be obtained immediately.

Important Contact Information

Phone Numbers

- **Regulatory & Public Service Programs, Clemson University – 864-646-2120**
- **Department of Plant Industry – 864-646-2140**
- **Department of Pesticide Regulation – 864-646-2150**
- **The Fertilizer Institute/Be Aware Be Secure – 1-800-800-3835**
- **For Emergencies Call 911**

Web Sites

<http://drpsp.clemson.edu>

<http://dpi.clemson.edu>

<http://dpr.clemson.edu>

<http://www.tfi.org>

Appendix A

Application for Fertilizer Permits

Instructions

- 1) If you stock or offer for sale any fertilizer products in greater than 40 pound packages you are required to obtain a General Fertilizer Permit. There is no fee for this permit.
- 2) If you plan to offer for sale, the Restricted Fertilizers, ammonium nitrate, urea, or anhydrous ammonia, as unblended, single-nutrient fertilizers, you are required to obtain a Restricted Fertilizer Permit. If you are **not** a SC fertilizer registrant there is a \$250 fee for this permit.
- 3) If you require both a Restricted and General Fertilizer Permit, please complete only the Restricted Fertilizer Permit Application as it will suffice for both permits.
- 4) Complete the appropriate application below and return it in the business reply envelope provided, along with appropriate fees (if required).
- 5) For questions call 864-646-2140.

The applications are on the following page.



South Carolina General Fertilizer Permit Application

Department of Plant Industry
511 Westinghouse Road, Pendleton, SC 29670

Company Name	_____
Person Responsible	_____
Mailing Address	_____
Street Address	_____
City, State, Zip Code	_____
Phone Number	_____
Fax Number	_____
E-Mail Address	_____
Signature	Date: _____

Instructions: If you sell **any** fertilizer products in packages greater than 40 pounds, you must complete the above application in order to obtain a General Fertilizer Permit. Complete all applicable information and return in the postage paid envelope provided. For questions call 864-646-2140.



South Carolina Restricted Fertilizer Permit Application

Department of Plant Industry
511 Westinghouse Road, Pendleton, SC 29670

Company Name	_____
Person Responsible	_____
Mailing Address	_____
Street Address	_____
City, State, Zip Code	_____
Phone Number	_____
Fax Number	_____
E-Mail Address	_____

Circle each of the materials below that you intend to offer for sale
Ammonium Nitrate Urea Anhydrous Ammonia

Signature:	Date: _____
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APPENDIX B

Relevant Statutes as Amended

The following statutes outline who is required to obtain a fertilizer permit and who is exempt from these requirements. The definitions of the two categories of permits are contained in these sections also. Additional provisions include gaining access to drivers license information and penalties for violations.

SECTION 46-25-210. Registration of fertilizer; application; fee.

(B)(1) A person desiring to become a distributor of fertilizer as defined in this chapter, **except for those distributing specialty fertilizers only in packages of forty pounds or less**, shall obtain an annual permit from the commission before engaging in such business. **The exception for specialty fertilizer sales does not include ammonium nitrate or urea as a single nutrient fertilizer.** Permits shall not be required for persons distributing only specialty fertilizers in packages of forty pounds or less; however, no person shall distribute restricted fertilizers in any quantity without a restricted fertilizer permit. Applications for a permit to do such business in South Carolina shall be submitted on application forms furnished by the commission or its agent. Upon approval of the commission, a copy of the permit shall be furnished to the applicant and when furnished, shall authorize the person receiving it to do business as a distributor. All permits shall expire on June thirtieth of each year.

(2) The two authorized categories of permits are a general fertilizer permit and a restricted fertilizer permit. **A person who engages in the distribution of commercial fertilizers without a valid permit must have all commercial fertilizer placed under a stop sale order until a valid permit is obtained.**

(3) A **general fertilizer permit** authorizes the permit holder to engage in the distribution of commercial fertilizers except those determined by the commission to be restricted fertilizers as defined in this chapter. This permit category is included in the application of all fertilizer registrants. A person holding a general fertilizer permit may not engage in the distribution of restricted fertilizers. No fee will be charged for this permit.

(4) A **restricted fertilizer permit** authorizes the permit holder to engage in the distribution of all commercial fertilizers, including those that are designated as restricted fertilizers. A restricted fertilizer permit holder may refuse to sell to persons attempting to purchase restricted fertilizers out of season, in unusual quantities, or under suspect purchase patterns. A restricted fertilizer permit holder must record a valid state or federal driver's license number, or other picture identification card number approved for purchaser identification use by the commission, for the purchaser of restricted fertilizer. This information and additional records as set forth by the commission must be maintained for a minimum of two years. A registrant may obtain this permit by indication of intent to distribute restricted fertilizers on the application for registration. No distributor or registrant shall supply restricted fertilizers to a distributor or other persons or entities for resale who do not hold a valid restricted fertilizer permit. The annual permit fee shall be two hundred fifty dollars. Fertilizer registrants shall not be subject to permitting fees.

(5) Notwithstanding another provision of law, the Department of Public Safety must provide to the director access to identifying information and drivers' license records as needed to verify the identity of permit holders and persons purchasing restricted fertilizer. For homeland security purposes, identifying information relating to the holder of a general or restricted fertilizer permit is exempt from disclosure under the Freedom of Information Act.

(C) Except as provided in this section, a person who violates a provision of this section is guilty of a misdemeanor and, upon conviction, is subject to the criminal penalties prescribed in Section 46-9-90(A) and the civil penalties prescribed by this chapter.”

The section below outlines penalties for violations of the permitting requirements.

SECTION 46-9-90. Penalties for violating chapter or regulations; denial, suspension, revocation, or modification of license or certificate; civil penalties; hearing on suspension; judicial appeal not to act as stay of penalty; authority of commission to enforce its ordinances and regulations in court.

(A) A person violating this chapter or chapters assigned to or regulations of the commission is guilty of a misdemeanor and, upon conviction, must be fined not less than fifty nor more than five hundred dollars or imprisoned not less than ten nor more than thirty days for a first offense and for a second offense in the discretion of the court.