

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control 80 Department of Agriculture and Industries

Rule No. 80-1-6-.13

Rule Title: Reporting of Fertilizer Sales

 New; X Amend; Repeal; Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety?

 No

Is there a reasonable relationship between the State's police power and the protection of the public health, safety or welfare?

 Yes

Is there another less restrictive method of regulation available that could adequately protect the public?

 No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?

 Yes

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule?

 No

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public?

 Yes

Does the proposed rule have any economic impact?

 No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer John McMillan

Date: June 16 2011

(DATE FILED)
(STAMP)

APA-2

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES
FOOD SAFETY

NOTICE OF INTENDED ACTION

Agency Name: Alabama Department of Agriculture and Industries

Rule No. & Title: 80-1-6-.13 Reporting of Fertilizer Sales

Intended Action: To amend

Substance of Proposed Action: To update fees.

Time, Place, Manner of Presenting Views: Views may be presented in writing to the contact person below or in person on Tuesday, August 9, 2011 at 10:00 a.m., in the Auditorium of the Richard Beard Building, 1445 Federal Drive, Montgomery, Alabama.

Final Date for Comment and Completion of Notice: August 9, 2011.

Contact Person at Agency: Robert J. Russell, Assistant Attorney General and Legal Counsel, Department of Agriculture and Industries, 1445 Federal Drive, Montgomery, Alabama 36107-1123, Telephone No. 240-7117.

June 16 2011
Date

John McMillan
John McMillan
Commissioner of Agriculture
and Industries

Reporting Of Fertilizer Sales.

(a) Before any person sells or offers for sale any commercial fertilizer in this state for use herein or before any person sells such fertilizer for importation into this state for use herein where such person is required to comply with the labeling requirements of Section 2-22-7, such person shall apply for and obtain from the commissioner a license authorizing the sale of commercial fertilizer. The application for a license shall be accompanied by the fee required by subsection (b) of this section and shall be on forms furnished by the Commissioner, which forms shall contain certain information as is necessary for the issuance of the license. All such licenses shall expire on September 30, the end of the fiscal year for which they are issued, and shall be renewed annually as of October 1, upon payment of the required license fee.

(b) The license fee shall be based upon the number of tons of commercial fertilizer sold in or for importation into the state for use therein during the preceding 12-month period which ends on June 30. The amount of the license fee shall be based upon the following schedule:

Tons Sold	License Fee
Less than 100 tons.....	\$ 30.00 <u>\$ 37.50</u>
100 tons or more but less than 1,000 tons.....	\$ 60.00 <u>\$ 75.00</u>
1,000 tons or more but less than 5,000 tons.....	\$120.00 <u>\$ 150.00</u>
5,000 tons or more but less than 10,000 tons.....	\$175.00 <u>\$ 225.00</u>
10,000 tons or more but less than 25,000 tons.....	\$250.00 <u>\$ 300.00</u>
25,000 tons or more but less than 50,000 tons.....	\$325.00 <u>\$ 375.00</u>
50,000 tons or more but less than 75,000 tons.....	\$400.00 <u>\$ 450.00</u>
75,000 tons or more but less than 100,000 tons.....	\$500.00 <u>\$ 525.00</u>
100,000 tons or more.....	\$750.00

If the license fee is not paid within a period of 30 days after the due date, a delinquent penalty of 10 percent of the amount due (minimum \$10.00) shall be added to the license fee. The license fee due under this subsection and delinquent penalty shall constitute a debt and become the basis of judgment against the person required to obtain the license if not paid by such person as required in this subsection. The amount of the license fee required to be paid by persons not previously selling commercial fertilizer in or for importation into this state shall be the minimum fee of \$30.00, which license shall also expire on September 30 following the date of issuance, at which time said license shall be renewable in accordance with subsection (a) of this rule.

~~(c) Each licensee selling or distributing fertilizer or fertilizer material to a nonlicensee (dealer or consumer) in this state shall forward to the Department of Agriculture and Industries, within 48 hours (less legal holidays and Sundays) after shipment, a report showing the following information: Name of purchaser or consignee, county to which product is shipped, quantity (tons) by grade and analysis of fertilizer, whether bagged or bulk, liquid or dry, whether the fertilizer contains economic poisons, and/or secondary elements (Calcium, Magnesium, Sulfur, etc.) and/or micronutrients (Zinc, Boron, etc.). Exchanges and sales between licensees will not be reported. This report may be on a special summary form provided by the Commissioner, a copy of the invoice containing the above information or other methods approved by the Commissioner. This information shall be reported under a uniformly established format.~~

Authors: Charles H. Barnes, John P. Hagood, Robert J. Russell

Statutory Authority: Code of Ala. 1975, §2-22-20.

History: Filed April 19, 1982. **Amended:** Filed August 16, 2004;

Amended: Filed June 16, 2011.