

Code of Alabama 1975



Title 2 Agriculture

Alabama Fertilizer Law of 1969

Section 2-22-1 ~ Section 2-22-23

Section 2-22-1

Short title.

This chapter shall be known as the Alabama Fertilizer Law of 1969.

(Acts 1969, No. 434, p. 840, §1.)

Section 2-22-2

Definitions.

When used in this chapter, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

(1) **COMMERCIAL FERTILIZER.** Any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manures, marl, lime, limestone, basic slag, gypsum and other materials or products regulated under Chapter 23 of this title. Such term shall include fertilizer material as defined in subdivision (2) of this section, and the provisions and requirements of this chapter applicable to commercial fertilizer shall also apply to fertilizer material.

(2) **FERTILIZER MATERIAL.** A commercial fertilizer containing one or more of the recognized plant nutrients, which is used primarily for its plant nutrient content and which either:

a. Contains important quantities of no more than one of the primary plant nutrients (nitrogen, phosphorus and potassium);

b. Has approximately 85 percent of its plant nutrient content present in the form of a single chemical compound; or

c. Is derived from a plant or animal residue or by-product or a natural material deposit which has been processed in such a way that its content of primary plant

nutrients has not been materially changed except by purification and concentration.

(3) BULK FERTILIZERS. Commercial fertilizer distributed to the purchaser in a solid or fluid state in a nonpackaged form.

(4) BRAND. A term, design or trademark used in connection with one or several grades of commercial fertilizer or fertilizer material.

(5) GUARANTEED ANALYSIS. The minimum percentage of plant nutrients claimed in the following order and form:

a. Total nitrogen (N) percent

Available phosphorus (P₂O₅) percent

Soluble potassium (K₂O) percent

b. For unacidulated mineral phosphatic materials the guaranteed analysis shall express both total and available phosphorus and/or the degree of fineness. For bone, tankage and other organic phosphatic materials, the guaranteed analysis shall express total phosphorus.

c. Guarantees for plant nutrients other than nitrogen, available phosphorus and soluble potassium may be permitted or required by regulation of the board. The guarantees for such other nutrients shall be expressed in the form of the element. The sources of such other nutrients (oxides, salt, chelates, etc.) may be required to be stated on the label. Other beneficial substances or compounds determinable by laboratory methods also may be guaranteed by permission of the commissioner with approval of the State Board of Agriculture and Industries with the advice of Directors of the Agricultural Experiment Station and the Cooperative Extension Service. When any plant nutrients or other substances or compounds are guaranteed, they shall be subject to inspection and analysis in accord with the methods and regulations prescribed by the board.

d. At any time after October 1, 1969, when the State Board of Agriculture and Industries finds after public hearing following due notice that the requirements for expressing the guaranteed analysis of phosphorus and potassium in elemental form would not impose an economic hardship on distributors and users of fertilizer by reason of conflicting labeling requirements among the states, it may require by regulation thereafter that the guaranteed analysis shall be in the following form:

Total nitrogen (N) percent

Available phosphorus (P) percent

Soluble potassium (K) percent

The effective date of said regulation shall be not less than six months following the issuance thereof, and, for a period of two years following the effective date of said regulation, the equivalent of phosphorus and potassium may also be shown in the form of P₂O₅ and K₂O. After the effective date of a regulation issued under the provisions of this section requiring that phosphorus and potassium be shown in the elemental form, the guaranteed analysis for nitrogen, phosphorus and potassium shall constitute the grade.

(6) GRADE. The percentages of total nitrogen, available phosphorus and soluble potassium stated in whole numbers in the same terms, order and percentages as in the guaranteed analysis; provided, that fertilizer materials, bone meal, manures and similar raw materials may be guaranteed in fractional units.

(7) OFFICIAL SAMPLE. Any sample of commercial fertilizer or fertilizer material taken by the commissioner or his agent as prescribed in Section 2-22-11 and designated as official by the commissioner.

(8) TON. A net weight of 2,000 pounds avoirdupois.

(9) PERCENT and PERCENTAGE. The percentage by weight.

(10) PERSON. Any individual, partnership, association, firm, corporation or any combination thereof.

(11) DISTRIBUTOR. Any person who imports, consigns, manufactures, produces, compounds, mixes or blends commercial fertilizer or fertilizer material or who offers for sale, sells, barter or otherwise supplies commercial fertilizer or fertilizer material in this state or for use in this state.

(12) LICENSEE. A person who has been issued a license to manufacture and sell commercial fertilizer and fertilizer material under the requirements of Section 2-22-5.

(13) BOARD. The State Board of Agriculture and Industries.

(14) COMMERCIAL VALUE. The value per unit of plant nutrient in dollars and cents as ascertained and published by the commissioner under the provisions of Section 2-22-14, which values shall be used in computing the dollar rates of penalties provided in this chapter. The "commercial value" as determined under this chapter is provided as a guide in determining the actual value of the commercial fertilizer and fertilizer material and shall not be construed to mean or imply that this chapter in any manner intends to or attempts to be a sales price-controlling or price-fixing chapter, or in any manner to fix, regulate or control the sales price of commercial fertilizer.

(15) SOIL CONDITIONER or SOIL AMENDMENT. Any material or mixture of materials used for promoting or stimulating the growth of plants, grasses or crops increasing their productivity or producing any chemical or physical change in the soil.

(16) LABEL. All written, printed or graphic matter displayed upon the immediate container of or statement accompanying a commercial fertilizer, fertilizer material, soil conditioner or soil amendment.

(17) LABELING. All written, printed or graphic matter upon or accompanying any commercial fertilizer, soil conditioner or soil amendment and all advertisements, brochures, posters or television and radio announcements used in promoting the sale of such products.

(Acts 1969, No. 434, p. 840, §3.) **Section 2-22-3**

Administration of chapter.

This chapter shall be administered by the Commissioner of Agriculture and Industries of the State of Alabama, hereinafter referred to as "commissioner."

(Acts 1969, No. 434, p. 840, §2.)

Section 2-22-4

Fertilizer dealer permit required; relation to Section 2-22-5.

Before any person may sell or offer for sale or exchange in this state any commercial fertilizer to a user thereof, the person shall first procure a fertilizer dealer permit from the commissioner authorizing the person to sell, exchange, or deal therein. The permit shall be issued on payment of a fee established by the Board of Agriculture and Industries not to exceed ten dollars (\$10), and shall expire on September 30 of each year. A permit as required by this section shall be obtained for each separate place of business at which commercial fertilizer is sold or offered for sale to the user thereof. Any person required to procure a license under Section 2-22-5 shall not be required to procure a permit as required by this section as it is the intent of this section that every person who purchases any commercial fertilizer for resale where the fertilizer is not manufactured, mixed, formulated, or labeled by the person is required to obtain the permit required by this section.

(Acts 1969, No. 434, p. 840, §4; Act 2004-516, p. 996, §1.)

Section 2-22-5

Licenses for sale of commercial fertilizer.

(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 established by the Board of Agriculture and Industries within the range as set out in the following schedule:

Tons Sold	License Fee
Less than 100 tons	\$25.00 - 37.50
100 tons or more but less than 1,000 tons	50.00 - 75.00
1,000 tons or more but less than 5,000 tons	100.00 - 150.00
5,000 tons or more but less than 10,000 tons	150.00 - 225.00
10,000 tons or more but less than 25,000 tons	200.00 - 300.00
25,000 tons or more but less than 50,000 tons	250.00 - 375.00
50,000 tons or more but less than 75,000 tons	300.00 - 450.00
75,000 tons or more but less than 100,000 tons	350.00 - 525.00
100,000 tons or more	400.00 - 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 if not paid 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 established by the Board of Agriculture and Industries, 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 section.

(c) In the event of sale or other transfer of ownership of a commercial fertilizer manufacturing or sale facility by a person who has a license required by subsection (a) of this section, such license may be transferred to the new owner; provided, however, that the amount of such new owner's license required on October 1 shall be governed by the amount of the person's previous sales from whom said license was transferred.

(d) It is hereby intended that every person who manufactures or formulates and labels any commercial fertilizer which is sold in or for importation into this state or any person who labels such commercial fertilizer and sells it in or for importation into this state whether manufactured by such person or not shall be required to procure a license and pay the fee therefore as required by this section.

(Acts 1969, No. 434, p. 840, §5; Act 2004-516, §1.)

Section 2-22-6

Cancellation or refusal of licenses.

The commissioner is authorized and empowered to cancel the license of any licensee or refuse to issue a license to any applicant upon satisfactory evidence that the licensee or applicant has used fraudulent or deceptive practices in the evasions or attempted evasions of the provisions of this chapter or any rules and regulations promulgated thereunder; provided, that no license shall be revoked or refused until the licensee shall have been given the opportunity to appear for a hearing before the board, with the further opportunity of appealing to a court of competent jurisdiction for judicial review of such revocation or refusal.

(Acts 1969, No. 434, p. 840, §20.)

Section 2-22-7

Labeling of commercial fertilizers.

(a) Any commercial fertilizer sold in this state for use therein or sold for importation into this state for use therein in containers shall have printed on or affixed to the container a label setting forth in clearly legible and conspicuous form the following information:

- (1) The net weight;
- (2) The brand and grade;
- (3) The guaranteed analysis;
- (4) The materials from which the plant nutrients are derived with the percentage of each as may be required by regulations of the board; and
- (5) The name and principal address of the manufacturer or other person responsible for placing it on the market.

(b) If distributed in bulk, a written or printed statement of the information required by subdivisions (1), (2), (3), (4) and (5) of subsection (a) of this section shall accompany delivery and be supplied to the purchaser at time of delivery.

(c) A commercial fertilizer formulated according to specifications which are furnished by a consumer prior to mixing shall be labeled to show the information contained in subdivisions (1), (3) and (5) of subsection (a) of this section.

(Acts 1969, No. 434, p. 840, §6.)

Section 2-22-8

Licensing and labeling requirements for sale of soil conditioners and soil amendments.

Every person who sells or offers for sale in or for importation into this state any soil conditioner or soil amendment for which label or labeling claims are made that such a product contains plant nutrients shall be subject to all of the requirements of this article for the sale of commercial fertilizer including the license and inspection fee requirement. If any label or labeling claims are made for the release of plant nutrients in the soil or of any bacterial action causing the release of plant nutrients in the soil in connection with the sale of any soil conditioner or soil amendment, a license authorizing the sale of the product shall be obtained from the commissioner. The commissioner may issue such a license in accordance with regulations promulgated by the board.

(Acts 1969, No. 434, p. 840, §7.)

Section 2-22-9

Inspection fee; monthly statement; collection fee; disposition of fees; overpayments; examination, review, audit of sales records.

(a) There shall be paid to the commissioner for all commercial fertilizer sold in this state for use therein or sold for importation into this state for use therein an inspection fee established by the board not to exceed seventy-five cents (\$.75) per ton; provided, that sales to manufacturers or exchanges between them are hereby exempted. Fees so collected, including permit fees and license fees levied under Sections 2-22-4 and 2-22-5, shall be deposited to the credit of the Agricultural Fund of the State Treasury for the regulatory duties of the Department of Agriculture and Industries.

(b) Every person who sells commercial fertilizer in or for importation into this state for use therein, who is licensed under Section 2-22-5 or where such person is required to procure such a license shall file with the commissioner on forms furnished by the commissioner a monthly statement for the period ending on the last day of each month setting forth thereon the number of tons of each grade of commercial fertilizer sold in or for importation into this state for use therein during such month. The person shall also include on the report any information of the type provided by Section 2-22-10 when required to do so pursuant to rules and regulations promulgated by the commissioner with approval of the board. The monthly report of tonnage sales with the amount of inspection fees due thereon shall be due on or before the fifteenth day of the month following the report period. Each such report shall bear a certificate that the amount remitted is correct.

If the tonnage report is not filed and the payment of inspection fee is not made by the twentieth day of the month when due, a collection fee amounting to 10 percent (minimum \$10.00) of the amount may be assessed against the licensee, and the amount of fees due and unpaid shall constitute a debt and become the basis of a judgment against the licensee.

(c) When more than one person is involved in the sale, importation or distribution of a commercial fertilizer, the person who sells the fertilizer to a nonlicensee for resale or use shall be responsible for reporting the tonnage and paying the inspection fee, unless the report and payment was previously made by another licensee.

(d) The inspection fee levied under subsection (a) of this section, the permit fee required by Section 2-22-4 and the license fee levied under Section 2-22-5 shall be paid by cooperative marketing and purchasing associations, and the exemptions allowed such organizations pursuant to Section 2-10-105 or any other exemption statute shall not relieve such associations from the payment of such fees.

(e) Amounts improperly or illegally collected under the provisions of this chapter as overpayments may be refunded to the person entitled thereto in accordance with Section 2-1-6.

(f) The commissioner, or his or her agents or employees may examine, review, and audit the sales records of every person required to remit to the commissioner the inspection fee levied under subsection (a) to verify and determine the accuracy of the amounts remitted monthly as inspection fees and the amount due for a license as required by Section 2-22-5. Every such person shall maintain records as will indicate accurately the tonnage of commercial fertilizer upon which inspection fees are due.

(Acts 1969, No. 434, p. 840, §8; Acts 1981, No. 81-664, p. 1085; Act 2004-516, p. 996, §1.)

Section 2-22-10

Furnishing of semiannual tonnage reports by licensees.

(a) Each licensee shall furnish the commissioner a report showing the number of tons of each grade of fertilizer sold in each county in the state semiannually pursuant to regulations adopted by the board. Said report shall be submitted not later than 30 days following the close of the six-month period; provided, however, that more frequent reports giving this information may be required by the commissioner with the approval of the board. This report may be made on a special summary form provided by the commissioner or by submitting a copy of the invoice. No information furnished the commissioner under this section shall be disclosed in such a way as to divulge the operation of any person.

(b) When more than one person is involved in the sale, importation or distribution of a commercial fertilizer, the licensee who distributes the fertilizer to a nonlicensee is responsible for reporting the tonnage as under subdivision (c) of Section 2-22-9.

(Acts 1969, No. 434, p. 840, §9.)

Section 2-22-11

Inspection, sampling, testing and analysis of commercial fertilizers by commissioner; furnishing of results, etc., to licensees where fertilizers found subject to penalty or legal action.

- (a) It shall be the duty of the commissioner, who may act through his authorized agent, to sample, inspect, make analyses of and test commercial fertilizers distributed within this state at such times and places and to such an extent as he may deem necessary to determine whether such commercial fertilizers are in compliance with the provisions of this chapter.
- (b) The commissioner, individually or through his agent, is authorized to enter upon any public or private premises or carriers during regular business hours in order to have access to commercial fertilizers subject to the provisions of this chapter and the rules and regulations pertaining thereto and to the records relating to their distribution.
- (c) In drawing any official sample and in making any analysis, the officially adopted methods and terminology of the association of official analytical chemists shall be used. In cases not covered by such officially adopted methods and terminology, the commissioner shall, as soon as practicable and from other sources deemed proper, adopt and publish appropriate methods and terminology.
- (d) The commissioner, in determining for administrative purposes whether any commercial fertilizer is deficient in plant food, shall be guided solely by the official sample as defined in subdivision (7) of Section 2-22-2 and obtained and analyzed as provided for in subsection (c) of this section.
- (e) The results of official analysis of any commercial fertilizer which has been found to be subject to penalty or other legal action shall be forwarded by the commissioner to the licensee at least 10 days before the report is submitted to the purchaser. If during that period no adequate evidence to the contrary is made available to the commissioner, the report shall become official. Upon request the commissioner shall furnish to the licensee a portion of any sample found subject to penalty or other legal action.
- (f) The analysis, test and sampling of commercial fertilizers shall be made and conducted in accordance with and be subject to the provisions and requirements of Article 2 of Chapter 2 of this title.

(Acts 1969, No. 434, p. 840, §10.)

Section 2-22-12

Proceedings upon determination of deficiency in guaranteed primary plant nutrients in commercial fertilizers - Generally.

- (a) If the analysis shall show that a commercial fertilizer is deficient in one or more of its guaranteed primary plant nutrients (NPK) beyond the tolerances as established by regulation adopted by the State Board of Agriculture and Industries

pursuant to Section 2-22-20, a penalty shall be assessed in accordance with regulations adopted by the board.

(b) Deficiencies in any other constituent or constituents covered under paragraphs b and c of subdivision (5) of Section 2-22-2, which is required to be or may be guaranteed shall be evaluated by the commissioner and penalties therefor shall be prescribed by the board; provided, however, that in no case shall the penalty exceed the selling price of the fertilizer.

(c) Nothing contained in this section shall prevent any person from appealing to a court of competent jurisdiction for judgment as to the justification of such penalties.

(d) When an official sample of a lot of commercial fertilizer shows a deficiency beyond the tolerance allowed under regulations of the board, a penalty shall be assessed in accordance with regulations promulgated by the board, which penalty shall be paid to the consumer by the licensee, and receipts shall be taken therefor and forwarded to the commissioner within 60 days after receiving written notification of such deficiency and the amount of the penalty from the commissioner. If any consumer of commercial fertilizer which has been determined by official analysis to be deficient and subject to penalty cannot be found, payment of the amount of such penalty shall be made to the commissioner within a period of 60 days for deposit in the State Treasury to the credit of the Agricultural Fund.

(e) Lots of fertilizer in manufacturing plants, on dealers' premises or elsewhere from which samples are drawn and which are determined to be deficient by official analysis or are not otherwise in compliance with the requirements of this chapter, shall be subject to suspension from sale, seizure and condemnation in accordance with Section 2-22-6. Where any such lot of commercial fertilizer or portions thereof are sold by the licensee before the official analysis report is received by the commissioner and before notice has been given to the licensee of such deficiency, the penalty shall be paid to either the consumer of such commercial fertilizer or to the commissioner as provided in subsection (d) of this section.

(Acts 1969, No. 434, p. 840, §11.)

Section 2-22-13

Proceedings upon determination of deficiency in guaranteed primary plant nutrients in commercial fertilizers - Legal actions for recovery of penalty.

In any case wherein the licensee fails or refuses to make payment to the consumer of a penalty within the time required, the consumer may institute legal action against the licensee for the recovery of such penalty as provided in Section 2-22-12. Any judgment against the licensee shall be double the amount of the penalty and shall include a reasonable attorney's fee and court costs. In cases where the licensee is required to pay the amount of any penalty to the commissioner for deposit to the credit of the Agricultural Fund and the licensee fails or refuses to

make such payment within the time required, the commissioner may institute legal action in a court of competent jurisdiction for collection of the amount of the penalty upon 10 days' notice to the licensee following the 60-day payment period.

(Acts 1969, No. 434, p. 840, §13.)

Section 2-22-14

Ascertainment and publication of fair market values of nitrogen, available phosphorus and soluble potassium in commercial fertilizers.

For the purpose of determining the commercial values to be applied under the provisions of Section 2-22-12, the commissioner shall ascertain and publish annually the fair market values per pound of nitrogen, available phosphorus and soluble potassium in commercial fertilizers in this state. The values so determined and published shall be used in determining and assessing penalties.

(Acts 1969, No. 434, p. 840, §12.)

Section 2-22-15

Establishment, etc., of standards of classification for commercial fertilizers generally; adoption of standards for sale of specialty fertilizers; establishment of standards and minimum guarantees for plant nutrients other than nitrogen, phosphorus and available potassium.

The board shall have authority to establish standards of classification for commercial fertilizer according to ratios and grades by which its quality, condition, fertilizing or plant food value may be judged and to alter or modify such standards when found to be necessary. In pursuance thereof, the board is authorized to establish, adopt and promulgate a list of minimum analysis ratios and grades for commercial fertilizers including minimum available plant food content for nitrogen, available phosphorus and available soluble potassium and also for superphosphate with potassium, nitrogen with superphosphate and superphosphate.

The board shall also be authorized to define and to adopt standards for the sale of specialty fertilizers together with conditions and restrictions under which they may be sold and to establish standards and minimum guarantees for plant nutrients other than nitrogen, available phosphorus and soluble potassium. Before the board shall establish and adopt minimum plant food ratios, grades and other activities as authorized in this section, it shall hold a public hearing open to all interested persons, and it shall also request recommendations thereon from the Director of the Agricultural Experiment Station and the Cooperative Extension Service of Auburn University relating to the need for such action.

(Acts 1969, No. 434, p. 840, §14.)

Section 2-22-16

Sale, offer for sale or distribution of misbranded commercial fertilizers; when commercial fertilizers deemed misbranded; adoption of regulations defining plant nutrients or commercial fertilizers.

(a) No person shall sell, offer for sale or distribute misbranded commercial fertilizer. A commercial fertilizer shall be deemed to be misbranded if:

- (1) Its labeling is false or misleading in any particular;
- (2) It is distributed under the name of another fertilizer product;
- (3) It is not labeled as required in Section 2-22-7 and in accordance with regulations prescribed under this chapter; and
- (4) It purports to be or is represented as a commercial fertilizer or is represented as containing a plant nutrient or commercial fertilizer, unless such plant nutrient or commercial fertilizer conforms to the definition of identity, if any, prescribed by regulation of the board.

(b) In adopting the regulations provided for in subdivision (4) of subsection (a) of this section, the board shall give due regard to commonly accepted definitions and official fertilizer terms such as those issued by the Association of American Fertilizer Control Officials.

(Acts 1969, No. 434, p. 840, §15.)

Section 2-22-17

Sale, offer for sale or distribution of adulterated commercial fertilizers; when commercial fertilizers deemed adulterated.

No person shall sell, offer for sale or distribute an adulterated commercial fertilizer product. A commercial fertilizer shall be deemed to be adulterated if:

- (1) It contains any deleterious or harmful ingredient in sufficient amount to render it injurious to beneficial plant life when applied in accordance with directions for use on the label or if adequate warning statements or directions for use, which may be necessary to protect plant life, are not shown upon the label; and
- (2) Its composition falls below or differs from that which it is purported to possess by its labeling.

(Acts 1969, No. 434, p. 840, §16.)

Section 2-22-18

Penalty for manufacture of commercial fertilizer short in weight.

If any commercial fertilizer in the possession of or consigned to the consumer is found by the commissioner to be short in weight, the licensee who manufactures said commercial fertilizer shall, within 30 days after official notice from the commissioner, pay to the consumer a penalty equal to four times the value of the actual shortage.

(Acts 1969, No. 434, p. 840, §19.)

Section 2-22-19

Annual publications.

The commissioner shall publish at least annually and in such form as he may deem proper:

- (1) Information concerning the distribution of commercial fertilizer; and
- (2) The results of analyses based on official samples of commercial fertilizers distributed within the state as compared with the guaranteed analyses.

(Acts 1969, No. 434, p. 840, §17.)

Section 2-22-20

Rules and regulations.

For the administration and enforcement of this chapter, the board is authorized to adopt and promulgate reasonable rules and regulations relating to the sale and distribution of commercial fertilizers necessary to carry out the full intent and meaning of this chapter, including, but not limited to, fixing tolerances for plant food deficiency penalty assessments pursuant to Section 2-22-12, providing for the incorporation into commercial fertilizer of such other substances as pesticides and the proper labeling of such mixture, establish a fee together with such other rules and regulations reasonably necessary to implement, make specific, and interpret the provisions of this chapter. Notwithstanding any other provisions of this chapter and specifically the provisions of subdivision (5) of Section 2-22-2 relating to guaranteed analysis, the commissioner with the approval of the board shall be authorized to require by rules and regulations that the guaranteed analysis of phosphorus and potassium for labeling purposes shall be expressed in the elemental form, but until such rules and regulations are duly promulgated and adopted, the guaranteed analysis shall not be required to be expressed in the elemental form.

(Acts 1969, No. 434, p. 840, §18; Act 2004-516, p. 996, §1.)

Section 2-22-21

Suspension from sale, seizure and condemnation of commercial fertilizers not in compliance with chapter or rules or regulations promulgated thereunder.

Any lot or other quantity of commercial fertilizer not in compliance with the provisions of this chapter or rules and regulations duly adopted and promulgated under this chapter shall be subject to suspension from sale, seizure and condemnation. The issuance of a "suspension from sale or use" or "stop sale" and seizure and condemnation of any lot or other quantity of commercial fertilizer sold, offered for sale or kept for sale in violation of the provisions of this chapter shall be in accordance with such procedure as is now prescribed under Article 2 of Chapter 2 of this title.

(Acts 1969, No. 434, p. 840, §21.)

Section 2-22-22

Violations of chapter or rules or regulations promulgated thereunder deemed misdemeanors; injunctive proceedings to restrain violations of chapter or rules or regulations promulgated thereunder.

(a) Any person who shall violate any of the provisions of this chapter or who fails to perform any duty or requirement imposed by the provisions of this chapter or who violates any rule or regulation duly promulgated thereunder or who shall sell or offer for sale or distribute for sale any commercial fertilizer in violation of the requirements of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished as now prescribed by law for such an offense.

(b) In addition to the penalty provided in subsection (a) of this section, the commissioner may apply by petition to a circuit court, and such court or any judge thereof shall have jurisdiction, for cause shown, to grant a temporary restraining order or permanent injunction or both restraining and enjoining any person from violating or continuing to violate any of the provisions of this chapter or any rule or regulation promulgated under authority of this chapter. Said temporary restraining order or permanent injunction shall be issued without bond.

(Acts 1969, No. 434, p. 840, §22.)

Section 2-22-23

Chapter not to restrict or avoid sales or exchanges of commercial fertilizers between manufacturers, processors, etc., or shipment of fertilizers to manufacturers or processors.

Nothing in this chapter shall be construed to restrict or avoid sales or exchanges of commercial fertilizers to each other by importers, manufacturers or processors who mix fertilizer materials for sale or as preventing the free and unrestricted shipments of commercial fertilizer to manufacturers or processors.

(Acts 1969, No. 434, p. 840, §23.)

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES
AGRICULTURAL CHEMISTRY
ADMINISTRATIVE CODE

CHAPTER 80-1-6
SALE OF COMMERCIAL FERTILIZER

TABLE OF CONTENTS

80-1-6-.01	Purpose
80-1-6-.02	Previous Regulations Withdrawn And Amended
80-1-6-.03	Plant Nutrients To Be Identified
80-1-6-.04	Minor Plant Nutrients, If Claimed, Shall Be Guaranteed
80-1-6-.05	Soil Conditioners Or Amendments Must Be Verified
80-1-6-.06	Penalties For Plant Food Deficiencies
80-1-6-.07	Special Labeling Required For Fertilizer Containing Economic Poisoning
80-1-6-.08	Definitions Of AAFCO Adopted
80-1-6-.09	Guarantee Required For Fertilizer Blended With Other Material
80-1-6-.10	Sampling Of Blended Fertilizer
80-1-6-.11	Retention Of Samples
80-1-6-.12	Inspection Fee Required
80-1-6-.13	Reporting Of Fertilizer Sales

80-1-6-.01 **Purpose.** The purpose of this Chapter is to implement the provisions for Code of Ala. 1975, Chapter 22 of Title 2, denoted as the Alabama Fertilizer Law of 1969.

Author: Charles H. Barnes

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

History: Filed April 19, 1982.

80-1-6-.02 **Previous Regulations Withdrawn And Amended.**
Regulations entitled **Commercial Fertilizer Regulations by State Board of Agriculture and Industries as Amended - January 13, 1970**, adopted October 7, 1969, and effective February 1, 1970, and regulation entitled **Commercial Fertilizer Regulation** adopted February 6, 1973, and effective March 1, 1973, and **Agricultural Chemistry Regulation No. 3** dated

September 25, 1980, are withdrawn and repealed. The following Chapter amending the above referenced regulations is submitted in their place.

Author: Charles H. Barnes

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

History: Filed April 19, 1982.

80-1-6-.03 **Plant Nutrients To Be Identified.** The materials in commercial fertilizer from which each plant nutrient is derived shall be shown immediately following the name of each material on the label or invoice or other accompanying statement; provided, however, that the above requirement shall not apply to specialty (nonfarm) fertilizers.

Author: Charles H. Barnes

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

History: Filed April 19, 1982.

80-1-6-.04 **Minor Plant Nutrients, If Claimed, Shall Be Guaranteed.**

(1) Additional plant nutrients other than nitrogen (N) available phosphorus (P₂O₅), and soluble potassium (K₂O), when mentioned or claimed on the label or container shall be guaranteed in the element form. Guarantees or claims for the following secondary plant nutrients and micronutrients only will be accepted as being of value:

ELEMENT

Calcium (Ca)	Chlorine (Cl)	Manganese (Mn)
Magnesium (Mg)	Cobalt (Co)	Molybdenum (Mo)
Sulfur (S)	Copper (Cu)	Sodium (Na)
Boron (B)	Iron (Fe)	Zinc (Zn)

(2) Any of the above-listed elements which are claimed or guaranteed shall appear in the order listed, immediately following guarantees for the primary nutrients, nitrogen, phosphorus and potassium.

Author: Charles H. Barnes

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

History: Filed with April 19, 1982. **Amended:** Filed August 12, 1987.

80-1-6-.05 Soil Conditioners Or Amendments Must Be Verified.

Those persons requesting a license under the provisions of Code of Ala. 1975, §2-22-8, of the fertilizer law concerning products identified as soil conditioners or soil amendments shall first make application for said license. In conjunction with the license request, all claims made by the applicant concerning plant nutrients, or any other claim, shall be verified by research and experimental data from Auburn University or any other sources acceptable to the Commissioner of Agriculture and Industries.

Author: Charles H. Barnes

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

History: Filed April 19, 1982.

80-1-6-.06 Penalties For Plant Food Deficiencies. If any fertilizer sold in this state shall, upon official analysis, prove to be deficient from its guarantee as stated on the bag or other container, or upon the invoice or other accompanying statement if sales are made in bulk or liquid form, penalties shall be assessed as follows:

(a) For a single ingredient fertilizer containing nitrogen (N), available phosphorus (P_2O_5) or soluble potassium (K_2O), when the deficiency exceeds five percent of the guaranteed content, the penalty shall be three times the commercial value of the deficiency.

(b) In a multiple ingredient fertilizer containing two or more of the ingredients, nitrogen (N), available phosphorus (P_2O_5) and soluble potassium (K_2O), when the deficiency of either such ingredient is 10 percent or more of the guaranteed content thereof, the penalty shall be three times the commercial value of the deficiency.

(c) For a multiple ingredient fertilizer containing two or more of the ingredients, nitrogen (N), available phosphorus (P_2O_5) and soluble potassium (K_2O), if the total combined commercial value of these nutrients is found to be deficient in excess of five percent of the total commercial value, the penalty shall be three times the actual value of the deficiency; provided, however, when a multiple ingredient fertilizer is subject to a penalty under both (b) and (c) above, only the larger penalty shall be assessed.

(d) If the content of calcium, magnesium, sulfur, chlorine, sodium, copper, iron, manganese or zinc in mixed fertilizer shall be shown by official analysis to be deficient to the extent of 35 percent or more from the guarantee, the penalty shall be \$6.00 per ton, provided that the minimum penalty assessed shall be no less than \$25.00.

(e) If the content of boron, molybdenum or cobalt in mixed fertilizers shall be shown by analysis to be deficient from the guarantee to the extent of 50 percent or more, the penalty shall be \$6.00 per ton, provided that the minimum penalty assessed shall be no less than \$25.00.

Author: Charles H. Barnes

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

History: Filed April 19, 1982.

80-1-6-.07 Special Labeling Required For Fertilizer Containing Economic Poisoning.

(1) Each bag or container used for a pesticide-fertilizer mixture in addition to labeling information required on fertilizer packages by the fertilizer law, and the labeling information required on pesticide packages by the Alabama Economic Poison Law, shall also bear a special caution tag of bright yellow color printed in ink of a contrasting color. This tag shall be headed **PESTICIDE-FERTILIZER MIXTURE** or words of like import to inform the purchaser of its contents and such tag shall contain the economic poison ingredient statement and the warning or caution statement required by the Alabama Economic Poison Law.

(2) The labeling information required on the special caution tag may be printed on the bag or other container on a bright yellow background in ink of a contrasting color so as to appear on the container in a prominent and conspicuous manner. Package labels so printed in the required color do not require additional yellow caution tags separately attached.

(3) The use of the yellow tag on fertilizer containing no pesticides is not permitted. The printing of the required information concerning pesticides on the reverse side of the fertilizer tag is not permitted.

(4) Invoices accompanying shipments of fertilizer-pesticide mixtures in bulk (dry or liquid) shall have attached thereto a caution tag as required on bagged deliveries, or in lieu thereof this information may be typed or printed on the invoice in a contrasting color.

Author: Charles H. Barnes

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

History: Filed April 19, 1982.

80-1-6-.08 **Definitions Of AAFCO Adopted.** The definitions for fertilizer materials as approved and adopted by the Association of American Fertilizer Control Officials as presently set forth in official publication No. 22 (1968-69) or as same may hereafter be revised, are hereby adopted and accepted as definitions for materials for the purpose of the administration and enforcement of the Alabama Fertilizer Law.

Author: Charles H. Barnes

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

History: Filed April 19, 1982.

80-1-6-.09 **Guarantee Required For Fertilizer Blended With Other Material.** Every person who sells commercial fertilizer blended with other material at the purchaser's request shall furnish each purchaser with a written and signed statement showing the total weight and grade of all fertilizers and other materials used in the blend, the source of plant nutrients from which the fertilizer materials are derived and the statement shall guarantee that the total number of pounds of nitrogen, phosphorus, potash and other ingredients shown on the invoice of sale are present in the mixture.

Author: Charles H. Barnes

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

History: Filed with April 19, 1982.

80-1-6-.10 **Sampling Of Blended Fertilizer.** When an official sample is taken from fertilizers blended with other material for analysis by the Department of Agriculture and Industries, the information required to be furnished under Rule 80-1-6-.09 above shall be recorded by the sampling inspector on his sample report which information shall be used for computing the actual guarantee of the blended fertilizer product shall be responsible for any deficiencies which occur below the actual guaranteed analysis of the product prior to the addition of the blended material. Penalties shall be assessed as provided in Rule 80-1-6-.06 above.

Author: Charles H. Barnes

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

History: Filed April 19, 1982.

80-1-6-.11 **Retention Of Samples.** All official samples of commercial fertilizer taken and analyzed under the provisions of Code of Ala. 1975, §2-22-11, shall be retained by the Department of Agriculture and Industries as follows:

(a) Samples, after analysis, where no deficiency has been determined, may be discarded at any time following conclusion of the analysis.

(b) Samples, after analysis, where a deficiency has been determined, shall be retained for a period of 180 days. It is found that a period of 180 days is a reasonable time within which to allow the licensee to request a portion of deficient samples, as provided under Code of Ala. 1975, §2-22-11(e). The above period of 180 days may be extended at the discretion of the Chief of the Agricultural Chemistry Division of the Department of Agriculture and Industries upon the request of any interested party.

Author: Charles H. Barnes

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

History: Filed April 19, 1982.

80-1-6-.12 **Inspection Fee Required.**

(a) An inspection fee of 75¢ per ton for all commercial fertilizer sold in this state for use therein or sold for importation into this state for use therein is hereby imposed as provided under the provisions of Code of Ala. 1975, §2-22-9.

(b) Before any person may sell or offer for sale or exchange in this state any commercial fertilizer to a user thereof, the person shall first procure a fertilizer dealer permit from the commissioner authorizing the person to sell, exchange, or deal therein. The permit shall be issued on payment of a fee of \$10.00, and shall expire on September 30 of each year. A permit as required by this section shall be obtained for each separate place of business at which commercial fertilizer is sold or offered for sale to the user thereof. Any person required to procure a license under Section 2-22-5 shall not be required to procure a permit as required by this section as it is the intent of this section that every person who purchases any commercial fertilizer for resale where the fertilizer is not manufactured, mixed, formulated, or labeled by the person is

required to obtain the permit required by this section.

Authors: Charles H. Barnes, Robert J. Russell

Statutory Authority: Code of Ala. 1975, §§2-22-9, 2-22-20.

History: Filed April 19, 1982. **Amended:** Filed August 27, 1991.

Amended: Filed August 16, 2004; effective September 20, 2004.

Amended: Filed August 10, 2011; effective September 14, 2011.

80-1-6-.13 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.....	\$ 37.50
100 tons or more but less than 1,000 tons.....	\$ 75.00
1,000 tons or more but less than 5,000 tons.....	\$150.00
5,000 tons or more but less than 10,000 tons.....	\$225.00
10,000 tons or more but less than 25,000 tons.....	\$300.00
25,000 tons or more but less than 50,000 tons.....	\$375.00
50,000 tons or more but less than 75,000 tons.....	\$450.00
75,000 tons or more but less than 100,000 tons.....	\$525.00

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.

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; effective September 20, 2004. **Amended:** Filed August 10, 2011; effective September 14, 2011.