

Ammonium Nitrate Requirements for Texas

Feed and Fertilizer Control Service
Office of the Texas State Chemist



Recently, ammonium nitrate legislation was passed in Texas which impact the manufacturers and distributors that sell or offer for sale ammonium nitrate or ammonium nitrate material.

HB 2546

- ❑ Passed during the 80th legislative session
- ❑ Administered by the Office of the Texas State Chemist
- ❑ Texas Fertilizer Control Act § 63.151-157
- ❑ Commercial Fertilizer Rules § 65.1(8) & § 65.6

The legislation, House Bill 2546, was passed during the 80th legislative session, is administered by the Office of the Texas State Chemist, and resides in the Texas Commercial Fertilizer Control Act, Chapter 63, Subchapter I, Sections 63.151 – 63.157. The Office of the Texas State Chemist, referred to as the “Service” promulgated Commercial Fertilizer Rules, Chapter 65, Subchapter A, Section 65.1 (8) and Section 65.6.



HB 2546

- ❑ Sec 63.151 Definitions
- ❑ Sec 63.152 Registration Required
- ❑ Sec 63.153 Security Required
- ❑ Sec 63.154 Sale of Ammonium Nitrate
- ❑ Sec 63.155 Maintenance of Records
- ❑ Sec 63.156 Suspension of Registration
- ❑ Sec 63.157 Criminal Penalty

The Act contains seven sections in the ammonium nitrate regulation.

Sec 63.151 Definitions

- ❑ Ammonium nitrate means ..
- ❑ Ammonium nitrate material means ... if the fertilizer's nitrogen content derived from the ammonium nitrate is at least 28% of the fertilizer by weight
- ❑ Fertilizer Rule **§65.1(8)** ...*U.S. government issued form of identification issued by a U.S. federal, state, outlying possession, or local government agency that includes a picture of the person photograph and an expiration date...*

Section 63.151 defines ammonium nitrate and ammonium nitrate material as the following: (1) Ammonium nitrate means ammonium salt of nitric acid that contains more than 33% nitrogen, one-half of which is the 50 ammonium form and one-half of which is the nitrate form. Common grades of ammonium nitrate include (33-0-0, 33.5-0-0, and 34-0-0). (2) Ammonium nitrate material means solid fertilizer that includes ammonium nitrate as a component, if the fertilizer's nitrogen content derived from the ammonium nitrate is at least 28% of the fertilizer by weight. The regulation does not apply to grades of fertilizer with less than 28% nitrogen. So, as an example a grade of 27-0-0 or 25-0-15 does not meet the definition for ammonium nitrate material. Grades of fertilizer blends greater than or equal to 28% nitrogen when ammonium nitrate is the sole source of nitrogen meet the definition for ammonium nitrate material. Grades of fertilizer blends with more than one source of nitrogen, such as urea or ammonium sulfate, may require formula review by the Service to determine if the regulation applies when the labeling does not provide sufficient information to identify if the product meets the definition of ammonium nitrate material.

Certain forms of identification are required to purchase ammonium nitrate or ammonium nitrate material. The only acceptable form of identification to provide personal information for the purchase of ammonium nitrate or ammonium nitrate materials is U.S. government identification issued by a Federal, state, outlying possession, or local government agency that includes a photograph and an expiration date. These ID's may include a driver's license or non-driver identification card issued by a state, Federal, outlying possession, or local U.S. government agency.

Sec 63.152 Registration Required

- §65.152
 - (a) registration required
 - (b) an application (available on the OTSC website at <http://otscweb.tamu.edu/>)
 - (c) must display the registration

Section 63.152 requires a person hold a valid or current certificate of registration issued by the Service in order to offer for sale or sell ammonium nitrate. The application for registration must be (1) submitted on a form prescribed by the Service, (2) accompanied by a fee in an amount sufficient to cover the Service's cost to administer this subchapter (the current fee is \$75.00), and (3) requires annual renewal. An application is available on the OTSC website @ <http://otscweb.tamu.edu>. All certificates of registration expire on Aug. 31st each year. A person engaging in the sale of ammonium nitrate or ammonium nitrate material must display the certificate of registration in conspicuous public view in the person's place of business. (Examples include display by the cash register, bulletin boards near the cash register, and near entrances and exits, but again, must be in conspicuous view of the public).

Sec 63.153 Security Required

- §65.153 ... take steps to secure the ammonium nitrate or ammonium nitrate material ... against vandalism, theft, or other unauthorized access
 - Fenced or enclosed and locked
 - Inspect daily
 - Establish and maintain ongoing inventory

Section 63.153 requires a person who engages in the sale of ammonium nitrate or ammonium nitrate material to take steps to secure the material against vandalism, theft, or other unauthorized access, including (1) ensuring that a storage facility is fenced or otherwise enclosed and locked when unattended; (2) inspecting a storage facility daily for signs of vandalism and to verify its structural integrity; and (3) establishing and maintaining ongoing inventory control procedures for the ammonium nitrate or ammonium nitrate material.

Sec 63.154 Sale of Ammonium Nitrate

- §65.154
 - Require person making the purchase to
 - Display form of identification
 - Provide other personal information
 - Make a record of the sale

 - The Service shall
 - Adopt rules allowing refusal of sale
 - Distribute forms to record information

Section 64.154

(a) Before completing a sale of ammonium nitrate or ammonium nitrate material, a person engaging in those sales shall:

(1) require the person making the purchase to:

(A) display a driver's license or other form of identification containing the person's photograph;

(B) provide the other personal information required by Subdivision (2); and

(C) sign for the purchase; and

(2) make a record of the sale, including:

(A) the name of the person making the purchase;

(B) the date of the purchase;

(C) the purchaser's address, date of birth, and phone number;

(D) the form of identification the purchaser presented;

(E) whether the purchase is being made on behalf of another person; and

(F) the amount and brand name of the ammonium nitrate or ammonium nitrate material purchased.

(b) The Service shall:

(1) adopt rules allowing a person to refuse to sell ammonium nitrate or ammonium nitrate material based on the season or the location of the sale; and

(2) distribute forms to each person registered under this subchapter to be used to record the information required under Subsection (a).

§65.6 Rules for refusing sale

- The sale of ammonium nitrate or ammonium nitrate material may be refused to any person attempting to purchase under unusual patterns or circumstances, such as, out of season, outside their normal purchasing area, a person that is unknown to the registered facility or to a person that lacks clear knowledge of the use of ammonium nitrate or ammonium nitrate material for agronomic purposes.

- Report any refusal of sale immediately to the Office of the Texas State Chemist

The rule 65.6 provides for the refusal of sale to any person attempting to purchase under unusual patterns or circumstances, such as, out of season, outside their normal purchasing area, a person that is unknown to the registered facility or to a person that lacks clear knowledge of the use of ammonium nitrate or ammonium nitrate material for agronomic purposes. Any refusal of sale should be reported immediately to the Service.

Sec 63.155 Maintenance of Records

- Records must be maintained and kept for two years from the date of sale using the form developed by the Service.

- §65.6 (c) involving records of training
 - Employees of facilities that are registered to offer for sale or sell ammonium nitrate or ammonium nitrate material must be trained in the law, rules, policies, and procedures for the sale of ammonium nitrate and documentation of the training maintained on-site.

Section 63.155 Requires that all records made under Section 63.154 must be maintained and kept for 2 years from the date of sale using the forms developed by the Service. The records shall only be made available for review upon request from (1) Office of the Texas State (2) Department of Public Safety or (3) a law enforcement agency of the United States. Employees of facilities that are registered to offer for sale or sell ammonium nitrate or ammonium nitrate material must be trained in the law, rules, policies, and procedures for the sale of ammonium nitrate and documentation of the training maintained on-site. (Examples of training include this presentation, review of the law, rule, policies, and procedures, and presentations by OTSC field Investigators).

Sec 63.156 Suspension of Registration

- ❑ The service can suspend a person's registration

Section 63.156 If the Service finds that a person registered under this subchapter offered to sell or sold ammonium nitrate or ammonium nitrate material in violation of this subchapter or a rule adopted under this subchapter, the Service may: (1) suspend a person's registration for a period of 90 days for a first violation; and (2) suspend a person's registration for a period of at least 90 days or revoke the person's registration for a second or subsequent violation.

Sec 63.157 Criminal Penalty

- ❑ A person commits an offense if
 - ❑ Tamper with ammonium nitrate ..
 - ❑ Presents false identification
 - ❑ Purchases with the intent to manufacture an explosive device

Section 63.157

(a) A person commits an offense if the person:

(1) tampers with ammonium nitrate or ammonium nitrate material stored on the property of another; or

(2) presents false identification to purchase ammonium nitrate or ammonium nitrate material.

(b) A person commits an offense if the person purchases ammonium nitrate or ammonium nitrate material with the intent to manufacture an explosive device.

(c) A person commits an offense if the person offers to sell or sells ammonium nitrate or ammonium nitrate material and does not hold a registration issued under this subchapter.

(d) An offense under Subsection (a) or (c) is a Class A misdemeanor.

(e) An offense under Subsection (b) is a felony of the third degree.

(f) It is an exception to the application of Subsection (b) that the person holds a permit or license issued under 18 U.S.C. Section 843. (This requires an application for a user permit or limited permit or a license to import, manufacture, or deal in explosive materials and shall be in such form and contain such information as the Attorney General demands).

(g) If conduct constituting an offense under this section is also an offense under another law, the actor may be prosecuted under this section, the other law, or both.

Application for Registration



Office Of The Texas State Chemist

P.O. Box 3160
College Station, TX 77841-3160
Main: (979) 845-1121
Fax: (979) 845-1189
Web: ootsc.tamu.edu

APPLICATION TO TEXAS FEED & FERTILIZER CONTROL SERVICE, COLLEGE STATION, TEXAS FOR A PERMIT TO DISTRIBUTE AMMONIUM NITRATE OR AMMONIUM NITRATE MATERIAL, AS PRESCRIBED BY SECTION 63.151 AND 63.152 OF THE TEXAS AGRICULTURE CODE.

Permit # _____ Tax # (Federal I.D.) _____

Name of Firm _____ Telephone Number _____ Fax Number _____

Street Address _____ City _____ State _____ Zip _____

Mailing Address _____ City _____ State _____ Zip _____

Email Address _____ Website Address _____

Print or Type Name _____

Signature _____

Title _____

Date _____

IMPORTANT: Applications for Ammonium Nitrate Permits should be accompanied by the \$75.00 annual fee.

Return Form to: Texas Feed and Fertilizer Control Service, P.O. Box 3160, College Station, TX 77841-3160

The application for registration requires information including the name of firm, the street and mailing address, the telephone and fax number, a Federal tax I.D. number, and the signature, title, and date from a responsible person of the company.

Registration Certificate



Office Of The Texas State Chemist
P.O. Box 3160
College Station, TX 77841-3160
Main: (979) 845-1121
Fax: (979) 845-1389
Web: otsc.tamu.edu

Permit No. ##### - #

In accordance with the provisions of Chapter 63 of the Texas Agriculture Code (1981) permission is hereby granted to

Company A
P. O. Box B
Anywhere, Texas #####

to sell and distribute ammonium nitrate and/or ammonium nitrate materials.

This permit is conditioned upon compliance by the grantee with all laws and rules pertaining to the distribution of ammonium nitrate in the State of Texas, and shall remain in force and effect until <<expiration date>>.

Texas Feed & Fertilizer Control Service

August 20, 2007

Roger D. Hoestenbach, Associate Director

The registration certificate will provide the permit number, permission to sell ammonium nitrate and ammonium nitrate material, and the signature and date from a responsible person of the Service.

Identification and Address

Ammonium Nitrate Sales Record:
Section 63.154 (a) of the TX Fertilizer Control Act

Instructions for Use: Complete a separate form for each purchaser. The purchasers' signature in the top portion of this form is required annually. Multiple loads may be listed under one sales record. A signature is required for every load by the person picking up or delivering the ammonium nitrate or ammonium nitrate material and an initial by the fertilizer company employee.

IDENTIFICATION & ADDRESS

Name of Purchaser: _____
Print Name *Signature (Annual)*

Address of Purchaser: _____
Physical Address *City* *State* *Zip Code*

Form of Identification: _____
Form of Identification *Expiration Date* *Date of Birth*

Contact Information: _____
Home Phone *Work Phone* *FAX*

Purchase made on behalf of someone else: Yes No _____
if yes, name of person purchased for

The forms distributed by the Service and used to record the information required include: the Name and Signature of the purchaser; the Address of the purchaser, including physical address, City, State, and Zip Code; the form of identification for the purchaser, including expiration date and date of birth; and contact information for the purchaser, including home phone, office phone, and fax numbers. A separate form must be completed for each purchaser. The purchasers' signature is required annually. Multiple loads for the purchaser may be listed under one sales record.

APPLICATION AND USE INFORMATION				
Date (of pickup or delivery)	Signature (person picking up or delivering product)	Brand and Grade of Fertilizer	Amount and Use	Initial (by fertilizer company employee)

Comments: If transaction refused, provide details and contact the Service
Immediately at (979) 845-1121

Additional information collected on the prescribed form includes the date of pickup or delivery, the signature of the person picking up or delivering the product (examples include a farm or ranch hand, a custom applicator, or an employee of the fertilizer company that will be spreading or custom applying the fertilizer on the farm or ranch), the brand and grade of fertilizer, the amount and use of the fertilizer (examples include the crop to be applied to, the application rate, and whether the fertilizer was custom applied, spread, or delivered), and an initial by the responsible fertilizer company employee. The additional signature is required by the person picking up or delivering the ammonium nitrate or ammonium nitrate material and an initial by the fertilizer company employee for every load.

If a fertilizer sales transaction is refused, provide details on the form and contact the Office of the Texas State Chemist immediately at (979) 845-1121.

Best Management Practices Audit

Yes No N/A	Facility manufactures, transports, stores, or distributes ammonium nitrate or ammonium nitrate material
Yes No N/A	Facility is registered to offer for sale or sell ammonium nitrate or ammonium nitrate material
Yes No N/A	Facility registration is displayed within conspicuous public view

BMP audits will be conducted by the Service in order to determine compliance with the regulation regarding registration and conspicuous display of the registration certificate.

Best Management Practices Audit

Yes	No	N/A	Employees of facilities that offer for sale or sell ammonium nitrate or ammonium nitrate material are trained in the law, rule, policies, and procedures for the sale of ammonium nitrate and documentation of the training is maintained on-site
Yes	No	N/A	Facility keeps sales records required by law, on forms prescribed by the Service, and are only available for inspection by the Service, public safety, or enforcement agency of the United States
Yes	No	N/A	When sale refused, the Service has been notified

Training of the employees at the facility in the law, rule, policies and procedures, if the documentation of the training is maintained on-site, recordkeeping requirements are kept on forms prescribed by the Service which are available for review and inspection only by the Office of the Texas State Chemist, the Department of Public Safety, and a law enforcement agency of the United States, and reporting any refusals of sale to the Service.

Best Management Practices Audit

Yes	No	N/A	Facility has security fencing adequate to be secured or locked
Yes	No	N/A	Fertilizer storage and equipment areas have a means to be secured and locked
Yes	No	N/A	Facility is inspected daily for signs of vandalism and to verify its structural integrity
Yes	No	N/A	Facility has established and maintains ongoing inventory control procedures for the ammonium nitrate or ammonium nitrate material

The audits will also determine compliance with the required security measures, daily inspections for signs of vandalism and to verify its structural integrity, and the establishment and maintenance of ongoing control procedures for the ammonium nitrate or ammonium nitrate material.



Security may include perimeter fencing for grounds and buildings.



The ability to secure and lock storage buildings.



Any unsecured storage buildings or bins will need to have security fencing or doors installed that can be locked.



The security must be adequate to prevent tampering, vandalism, and theft of ammonium nitrate and ammonium nitrate material.

Summary

- There are seven sections in the ammonium nitrate regulation
- The rules enables companies to refuse sale of ammonium nitrate
- Train your employees in all provisions of the law and rule
- Report any incidents of sale refusal immediately to the Office of the Texas State Chemist

In summary, there are seven sections in the ammonium nitrate regulations, the rules enable companies to refuse the sale of ammonium nitrate or ammonium nitrate materials, there is requirement to train your employees in all provisions of the law and rule, and a requirement to report any incidents of refusal of sale immediately to the Office of the Texas State Chemist.



With your help in complying with the law, rule, and policies of the ammonium nitrate regulations, we can make a difference in securing Texas and our homeland!!!