



JULY 5, 2017

## **BULLETIN # 02-2017**

**July 5, 2017**

Fertilizer Canada has clarified the treatment of alternative insurance arrangements within the April 2016 Revision of the Agricultural Ammonium Nitrate Code of Practice (AN Code) Implementation Guide.

Protocol F of the AN Code outlines minimum insurance policy requirements for each operation that stores and/or handles ammonium nitrate. Self-insurance by the definition of “no insurance” is not permitted under the AN Code. However, Fertilizer Canada recognizes that some large and established operators maintain sophisticated insurance programs that are not traditional insurance arrangements and may fall under the spectrum of self-insurance. These structured and appropriately-funded risk retention programs or other similar robust self-insurance alternatives may still provide equivalent or superior coverage to the Code insurance requirements for certain ammonium nitrate operations and qualify as equivalent under the AN Code.

Clarifications to the AN Code Implementation Guide have been made with the addition of two new sections:

- Section F3 – Deductibles with limits greater than \$25,000 must be of a reimbursable type and a Reimbursable Deduction Acknowledgement must be completed in addition to Page 1 of the Confirmation of Coverage Form.
- Section F4 – Alternative insurance arrangements greater than \$25,000 must be reviewed by a licenced insurer or underwriter against the required limits under the AN Code and execute a Statement of Equivalent Coverage. If an insurance arrangement contains both insured and alternative components, the sum of coverage must meet or exceed the prescribed coverage minimums.

Any operator interested in pursuing alternative insurance arrangements should see the AN Code Implementation Guide on the Fertilizer Canada website for full details.

**Please note: Self-insurance by the definition of “no insurance” is still not permitted under the AN Code.**

Fertilizer Canada is committed to providing a robust and comprehensible AN Code and will continue to work with the fertilizer industry to maintain our social licence to operate; ensuring that farmers can grow healthy crops with this product for years to come. Should you have any questions, please do not hesitate to contact us at the coordinates below:



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## **AMMONIUM NITRATE CODE OF PRACTICE**

BULLETIN #02-2017

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Regards,

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**FERTILIZER CANADA**

**FERTILISANTS CANADA**

**BULLETIN  
INSURANCE – PROTOCOL F  
Agricultural Ammonium Nitrate  
CODE OF PRACTICE**

**JULY 2017**



**Where  
Stewardship  
Grows**

Section F of the Agricultural Ammonium Nitrate Code of Practice outlines the minimum insurance requirement for facilities that store and handle ammonium nitrate.

NO.		Y/N
F	The manufacturing, distribution and/or retail facility has documentation that gives evidence of current policies of insurance covering all risks of exposure.	

#### **SPECIFIC REQUIREMENTS:**

- a. Environmental impairment liability (EIL) in the minimum amount of \$2 million covering third party bodily injury and property damage and off premises clean up expenses with \$2 million policy aggregate for all occurrences; and \$2 million covering on-premises clean up with \$2 million policy aggregate for all occurrences.
- b. Owned automobile liability, (applicable to any and all vehicles that are owned, or leased or operated by the facility in connection with the facility's business), covering bodily injury or property damage to third party interests in the minimum amount of \$5 million per loss occurrence.
- c. Non-owned automobile liability in the minimum amount of \$5 million per loss occurrence.
- d. Comprehensive General Liability and Product Liability in the minimum amount of \$5 million per loss occurrence.

Note:

- (i) Any endorsement or other policy wording that directly or indirectly selects fertilizers as specifically excluded from coverage, or that selects fertilizers for diminished coverage, is NOT acceptable.
- (ii) Self insurance options are currently not available.

#### **Environmental impairment Liability (EIL) insurance**

Insurance coverage can be obtained through a variety of different policies whose framework will be shaped by the particular risks present at a given operation. For instance, it is a common practice for EIL insurance coverage to be obtained through an “all-encompassing” policy which is applicable to multiple fertilizer products stored at a given site. This type of coverage is acceptable so long as it is inclusive of ammonium nitrate without exception and meets the minimum policy limits **specifically for ammonium nitrate** as outlined in Section F of the AN Code. When an operation stores ammonium nitrate along with other agricultural chemicals, it is likely that higher coverage limits will be required.

## **Deductible Limits Greater than \$25,000**

Deductible limits in excess of \$25,000 must be of a reimbursable type and a Reimbursable Deductible Acknowledgement must be completed in addition to Page 1 of the Confirmation of Coverage Form. This can be found on Page 2 of the Confirmation of Coverage Form.

## **Alternative Insurance Arrangements**

Fertilizer Canada recognizes that some large and established operators maintain sophisticated insurance programs that are not traditional insurance arrangements and may fall under the spectrum of self-insurance. These programs may still provide equivalent or superior coverage to the Code insurance requirements for certain ammonium nitrate operations and qualify as equivalent under the Code. To clarify, in this case “self-insurance” does not equate to “no insurance”, but refers to structured and appropriately-funded risk retention programs or other similar robust self-insurance alternatives. In order to meet the requirements for certification under the AN Code, an operator’s alternative insurance arrangements must meet the following threshold criteria:

- a) Any alternative insurance arrangement over \$25,000 must meet the coverage minimums as specified above and in the AN Code. If an insurance arrangement contains both insured and alternative components, the sum of coverage must meet or exceed the prescribed coverage minimums; and
- b) The insurance arrangements must NOT contain any endorsement or other policy wording that directly or indirectly selects fertilizers as specifically excluded from coverage, or that selects fertilizers for diminished coverage.

As a further compliance obligation, large organizations that choose to pursue alternative insurance arrangements must arrange for a licenced insurer or underwriter to review the applicant’s insurance arrangements and alternative insurance program against the required limits under the AN Code and execute a Statement of Equivalent Coverage attached as Page 3 of the Confirmation of Coverage Form. The reviewing insurer or underwriter must certify that in its opinion the operator’s alternative insurance program provides equivalent coverage to the minimum insurance requirements as set out herein.

Finally, any operator who deploys an alternative insurance scheme in accordance with this Section F must agree to indemnify, defend and hold harmless Fertilizer Canada and its employees, officers, directors, agents and affiliates for any claims, costs (including legal costs), damages, losses and expenses arising out of or resulting from any deficiency in the operator’s self-insurance scheme.

For greater clarity, the Statement of Equivalent Coverage must be completed in addition to Page 1 of the Confirmation of Coverage Form.

**IMPORTANT NOTES:**

*Fertilizer Canada expects that any insurance policy or program entered into by an operator shall meet the requirements under Protocol F of the AN Code regardless of any agreements allowing self-insurance elements. Fertilizer Canada reserves the right to request additional information and/or documentation regarding an operator's insurance policy or program.*

*Operators who deploy alternative insurance programs pursuant to this Section F acknowledge and agree that Fertilizer Canada's decision to allow alternative insurance arrangements is provisional and can be revoked at any time without notice and without recourse.*

# AMMONIUM NITRATE CODE OF PRACTICE

## CONFIRMATION OF COVERAGE FORM-PROTOCOL F

To be provided to Authorized Auditor as part of compliance documentation and a copy forwarded with the audit to the program office.

1. Insurer A		Insurer B		Insurer C	
Name of Insurer:		Name of Insurer:		Name of Insurer:	
Address of Insurer:		Address of Insurer:		Address of Insurer:	
Postal Code:		Postal Code:		Postal Code:	
Tel:		Tel:		Tel:	
2. Company				3. Agent/Broker	
Name of Insured:				Name of Agent/Broker:	
Address of Insured:		Postal Code:		Address of Agent/Broker:	
Covered Location:				Postal Code:	
Policy Number:	Certificate Number:	Policy Period:		Tel:	
<b>AN Compliance #:</b>					

Coverage type	Insurer	\$ Coverage	\$ Deductible	\$ Policy Aggregate
Environmental Impairment Liability (on site) <small>(Note: a combined on-site/off-site EIL policy with a minimum \$2 million combined coverage, \$25,000 max deductible and minimum \$2 million policy aggregate is also permitted)</small>	(A, B or C)	Minimum \$2,000,000	Max \$25,000	Minimum \$2,000,000/occurrence
Environmental Impairment Liability (off site) <small>(to include third party injury and property damage and off premises clean up)</small>	(A, B or C)	Minimum \$2,000,000	Max \$25,000	Minimum \$2,000,000/occurrence
Owned Automobile Liability <small>(applicable to any and all vehicles that are owned, or leased or operated by the facility in connection with the facility's business)</small>	(A, B or C)	Minimum \$5,000,000	Max \$25,000	Minimum \$5,000,000/ occurrence
Non-Owned Automobile Liability	(A, B or C)	Minimum \$5,000,000	Max \$25,000	Minimum \$5,000,000/ occurrence
Comprehensive General Liability	(A, B or C)	Minimum \$5,000,000	Max \$25,000	Minimum \$5,000,000/ occurrence

The undersigned warrants that he or she has reviewed the Ammonium Nitrate Code of Practice insurance protocol; that the coverage represented above is in conformity with the required coverage limits and permitted deductibles.

It is further understood and agreed that the undersigned undertakes to give fifteen (15) "days" notice to the Ammonium Nitrate Code Program Manager if the policy should be cancelled or otherwise terminated prior to the specified policy expiration date; or if the policy should fail to be renewed on a basis that ensures continued compliance with the insurance protocol; or if any other circumstance should occur which prejudices or invalidates a representation of compliance previously given.

Name of Authorized Representative of Insurer:

Signature of Authorized Representative of Insurer:

Date:

# AMMONIUM NITRATE CODE OF PRACTICE

## CONFIRMATION OF COVERAGE FORM-PROTOCOL F

Ammonium nitrate facilities require insurance coverage as outlined in Protocol F of the Agricultural Ammonium Nitrate Code of Practice and Section F of the Agricultural Ammonium Nitrate Code of Practice Implementation Guide. The Standard Confirmation of Coverage Form is designed for use by operators who that have insurance meeting the required levels of coverage, limits and deductibles.

This form must be completed fully and executed by an authorized insurance representative. A separate form is required for each insured location. Any endorsement or other policy wording that directly or indirectly selects fertilizers as specifically excluded from coverage, or that selects fertilizers for reduced coverage, is NOT acceptable.

### Reimbursable Deductible Acknowledgement

Deductible amounts in excess of \$25,000 must be of a reimbursable nature. With a reimbursable deductible, the insurer shall be responsible for paying all losses and loss expenses. The insured shall promptly reimburse the insurer for advancing any element of loss falling within the deductible.

For reimbursable deductibles:	
(a) Insurance representative must complete the Confirmation of Coverage Form, recording the insurance arrangement amounts.	
(b) Insurance representative must complete the reimbursable deductible section immediately below.	
(c) Dealer must sign acknowledging reporting of all incidents.	
The undersigned warrants that the deductibles recorded on page one of the Confirmation of Coverage Form are of a reimbursable nature (as described above).	
Name of Authorized Representative of Insurer:	
Signature of Authorized Representative of Insurer:	Date:
The insured agrees to report all pollution events promptly to the insurer(s) without regard for the size of the deductible.	
Name of Authorized Representative of Insured Premises:	
Signature of Authorized Representative Insured Premises:	Date:



## **Alternative Insurance – Statement of Equivalent Coverage**

Any alternative insurance arrangement by an operator which incorporates agreements such as self-insured risk retentions or other similar insurance program alternatives which may fall under the umbrella of self-insurance must still adhere to the principal requirements of Fertilizer Canada's Agricultural Ammonium Nitrate Code of Practice.

For alternative insurance arrangements:

- (a) Insurance representative must complete the Confirmation of Coverage Form, recording the insurance arrangement amounts.
- (b) Insurance representative must review any alternative insurance arrangements and complete the section below.
- (c) Operator must sign acknowledging reporting of all incidents.

### **Certification of Alternative Insurance Program**

The undersigned warrants that the alternative insurance arrangements recorded on page one of the Confirmation of Coverage Form meet the following criteria:

- a) Any alternative insurance arrangements over \$25,000 has been reviewed by the undersigned Insurer and is confirmed to meet the minimum coverage limits as specified in the Agricultural Ammonium Nitrate Code of Practice. If the insurance arrangement contains both insured and alternative components, the sum of coverage meets the specified limits.
- b) The insurance arrangements do NOT contain any endorsement or other policy wording that directly or indirectly selects fertilizers as specifically excluded from coverage, or that selects fertilizers for reduced coverage; and
- c) The review of the insured and alternative components was conducted by a licensed insurer.

I have reviewed the insurance program of \_\_\_\_\_. In my opinion, this program provides at least equivalent coverage to the minimum insurance requirements as set out in the Agricultural Ammonium Nitrate Code of Practice.

Name of Authorized Representative of Insurer: \_\_\_\_\_

Signature of Authorized Representative of Insurer: \_\_\_\_\_

Date: \_\_\_\_\_

The insured agrees to report all pollution losses promptly to the insurer(s) without regard for the insurance arrangement.

### **Indemnity**

**I, \_\_\_\_\_ agree to indemnify, defend and hold harmless Fertilizer Canada and its employees, officers, directors, agents and affiliates for any claims, costs (including legal costs), damages, losses and expenses arising out of or resulting from any deficiency in the self-insurance program described herein.**

Name of Authorized Representative of Insured Premises: \_\_\_\_\_

Signature of Authorized Representative of Insured Premises: \_\_\_\_\_

Date: \_\_\_\_\_