

AGRICULTURE VICTORIA



Guide to Victorian Fertiliser Regulations

Agricultural and Veterinary
Chemicals (Control of Use)
(Fertilisers) Regulations 2015



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ACCESSIBILITY

If you would like to receive this publication in an accessible format, please telephone Agriculture Victoria on 136 186 or email chemical.standards@agriculture.vic.gov.au

This document is also available Word format at www.agriculture.vic.gov.au/chemicals

FOREWORD

Victoria's agricultural land resources are dominated by relatively shallow and highly weathered soils, which are low in natural fertility. Only small areas have deep, well drained and fertile soils, and consequently our agricultural production is, in part, dependent on the application of fertilisers to replace nutrients. Therefore, fertilisers are one of the major physical inputs to Australian agricultural production.

Yet some fertilisers may contain impurities such as cadmium or other heavy metals, which with continued use, may impose risks to agricultural production, food safety and domestic and export trade in agricultural commodities. To reduce these risks, the Agricultural and Veterinary Chemicals (Control of Use) (Fertilisers) Regulations 2015 (the Regulations) prescribe requirements for labels and advice notes for fertiliser products sold in Victoria and standards for maximum levels of contaminants in fertilisers sold in Victoria.

INTRODUCTION

The ***Agricultural and Veterinary Chemicals (Control of Use) (Fertilisers) Regulations 2015*** (the Regulations) prescribe requirements for labels and advice notes for fertiliser products sold in Victoria and standards for maximum levels of contaminants in fertilisers sold in Victoria.

The Regulations are made under the *Agricultural and Veterinary Chemicals (Control of Use) Act 1992*. The regulations replace the *Agricultural and Veterinary Chemicals (Control of Use) (Fertilisers) Regulations 2005* (the previous regulations) and are largely consistent with the previous regulations.

This publication is a guide to the Regulations to assist manufacturers and suppliers of fertilisers in Victoria to understand and comply with the Regulations. This guide is not a substitute for the Regulations and should be read in conjunction with the Regulations and other relevant State and Commonwealth legislation.

The Regulations are made up of four parts:

- **Part 1** of the Regulations provides preliminary information such as objectives, authorising provisions, commencement and definitions.
- **Part 2** of the Regulations prescribes requirements for labels and advice notes for fertilisers sold in Victoria.
- **Part 3** of the Regulations prescribes standards for the maximum levels of contaminants in fertilisers sold in Victoria.
- **Part 4** of the Regulations provides transitional provisions to allow for label and advice notes that comply with the previous regulations to be used for a limited period after commencement of the Regulations.

This guide also provides information regarding other regulations and standards that may be relevant to a fertiliser product sold in Victoria. These include Australian Consumer Law, the *National Code of Practice for Fertilizer Description and Labelling* (the COP), regulations relating to importation of fertilisers and regulations relating to agricultural and veterinary chemicals.

PURPOSE AND OBJECTIVES OF REGULATIONS

The Regulations are intended to reduce the risk of impurities in fertilisers negatively impacting upon agricultural production, food safety and domestic and export trade in agricultural commodities; and to impose these requirements in a manner that is largely consistent with other states and territories. To this end, the objectives of the Regulations are to prescribe:

- the requirements for labels and advice notes for fertilisers sold in Victoria; and
- the standards for maximum levels of contaminants in fertilisers sold in Victoria.

SCOPE OF REGULATIONS

The Regulations are made under sections 24, 27 and 76 of the *Agricultural and Veterinary Chemicals (Control of Use) Act 1992* (the Act). The Regulations apply to all fertilisers sold in Victoria, whether they are imported directly into Victoria or manufactured in Victoria.

Fertiliser is defined under the Act to mean a substance that is manufactured, represented, sold or used as a means of directly or indirectly:

- fertilising the soil; or
- supplying nutrients to plants; or
- conditioning the soil by altering the chemical, physical or biological composition of the soil.

Therefore, the name of a product alone does not necessarily indicate whether the product is a fertiliser or not (i.e., this legislation does not only cover products labelled as fertilisers). Products labelled as soil conditioners, soil enhancers and organic waste streams etc. may also come within the definition of a fertiliser.

Sell is broadly defined under the Act to include:

- a) barter; and
- b) exchange; and
- c) agree to sell; and
- d) offer to sell; and
- e) receive for sale; and
- f) have in possession for sale; and
- g) expose for sale; and
- h) send, forward or deliver for sale; and
- i) sell for resale; and
- j) give away for the purpose of advertisement or in furtherance of trade or business or a profession; and
- k) cause or permit someone to sell; and
- l) sell or supply under a contract for services or a contract for work or labour

RESPONSIBILITIES OF MANUFACTURERS AND SUPPLIERS

Fertiliser manufacturers and suppliers must comply with the Regulations.

A person must not:

- **sell a fertiliser without an accompanying label or advice note that complies with the Regulations.**

Section 18(1)(a) of the Act prohibits the sale of a fertiliser unless it is accompanied by a label which complies with the Regulations. The penalty for contravention is 400 penalty units in the case of a corporation and 200 penalty units in any other case.

- **manufacture or sell any fertiliser that does not comply with the Regulations.**

Section 24(1) of the Act prohibits the manufacture or sale of a fertiliser that does not comply with a relevant standard in the Regulations, or contains a constituent that does not comply with that standard. The penalty for contravention is 400 penalty units in the case of a corporation and 200 penalty units in any other case.

Note: the value of a penalty unit is set by the Treasurer of the State of Victoria for each financial year.

The Department of Energy, Environment and Climate Action (DEECA) undertakes fertiliser surveys to assess compliance with the Regulations.

Fertiliser manufacturers and suppliers are encouraged to contact DEECA if they have any queries regarding the Regulations.

REQUIREMENTS FOR LABELS AND ADVICE NOTES

A fertiliser sold in Victoria must be accompanied by a label or advice note that complies with the Regulations.

(Refer to Regulation 7 & 8)

General Requirements for Labels and Advice Notes

A fertiliser sold in a packed form must have a label, and a fertiliser sold in an unpackaged (such as bulk) form must have an advice note.

The printing on any label or advice note must be:

- in English (and may also be given in a language other than English)
- in letters and figures not less than 2 millimetres high.

Each label or advice note must:

- **state the name of the fertiliser.**

This means a name identifying the fertiliser from another fertiliser that may have a similar name. The company name or distinguishing brand may be used for this purpose. For example, 'Blood and Bone' is not acceptable - amend to 'Joe Brown's Blood and Bone.' Terms such as, plant or soil nutrient, plant or soil food, are acceptable in lieu of fertiliser.

- **state the quantity (by weight or volume) of the fertiliser.**

The stated quantity in a label must be the quantity of fertiliser covered by or contained in the package. The stated quantity in an advice note must be the quantity of fertiliser sold. If the product is a concentrate that will be mixed with water, the total made-up quantity can also be stated. For example, 'Quantity 500 millilitres will make up to 100 litres'.

- **state the name and full business address of the Australian wholesale dealer or the seller of the fertiliser (for a label) or the name and full business address of the seller of the fertiliser (for an advice note).**
- **contain the relevant warning statements prescribed under Regulation 10**

The above requirements can be achieved in many ways for a fertiliser sold in unpackaged (such as bulk) form. For example, a detailed receipt/invoice may form the required advice note.

(Refer to Regulation 7 & 8).

Additional Requirements for Advice Notes

To ensure buyers of fertilisers sold in unpackaged (such as bulk) form are provided with the required information, the following additional requirements apply to fertilisers sold in unpackaged form.

When a fertiliser is sold in an unpackaged form, the seller must provide the buyer with an advice note as follows:

- if the fertiliser is collected by the purchaser or purchaser's agent, the advice note must be handed to the purchaser or purchaser's agent at the time the fertiliser is collected;
- if the fertiliser is delivered to the purchaser or purchaser's agent, the advice note accompanying the fertiliser must be handed to the purchaser or purchaser's agent at the time of delivery;
- if the fertiliser is delivered to premises where the purchaser or purchaser's agent is not present, the seller must take reasonable steps to ensure that the advice note is provided to the purchaser within two days of the delivery date.

(Refer to Regulation 8(1) & (2))

Additional Requirements for Fertilisers Containing Heavy Metals

The concentration of cadmium (Cd), mercury (Hg), or lead (Pb) present in a fertiliser must be stated on the label or advice note in the following circumstances —

- a) if the concentration of cadmium (Cd) is greater than 1.0 milligram of cadmium (Cd) per kilogram; or
- b) if the concentration of mercury (Hg) is greater than 0.2 milligrams of mercury (Hg) per kilogram; or
- c) if the concentration of lead (Pb) is greater than 20.0 milligrams of lead (Pb) per kilogram.

(Refer to Regulation 9)

A reference to the concentration or weight of a substance per kilogram of a fertiliser or other substance must be calculated and stated by reference to the mass of the substance in a kilogram of the dry fertiliser or other substance.

(Refer to Regulation 6)

Warning Statements on Labels or Advice Notes – Cadmium, Mercury, Lead

Warning statements regarding cadmium (Cd), mercury (Hg), or lead (Pb) content must be provided on the label or advice note if their concentration exceeds the thresholds prescribed by the Regulations as detailed below.

Cadmium

If the fertiliser contains Cadmium (Cd) in excess of 1.0 milligram per kilogram, the following warning statement must be provided on the label or advice note:

"WARNING—this product contains cadmium. Its use may result in accumulation of cadmium in the soil and may lead to residue levels in plant and animal products in excess of the maximum level specified by the Australia New Zealand Food Standards Code."

Mercury

If the fertiliser contains Mercury (Hg) in excess of 0.2 milligrams per kilogram, the following warning statement must be provided on the label or advice note:

"WARNING—this product contains mercury. Its use may result in accumulation of mercury in the soil and may lead to residue levels in plant and animal products in excess of the maximum level specified by the Australia New Zealand Food Standards Code."

Lead

If the fertiliser contains Lead (Pb) in excess of 20.0 milligrams per kilogram, the following warning statement must be provided on the label or advice note:

"WARNING—this product contains lead. Its use may result in accumulation of lead in the soil and may lead to residue levels in plant and animal products in excess of the maximum level specified by the Australia New Zealand Food Standards Code."

(Refer to Regulation 10)

Warning Statements – Biuret, Molybdenum, Selenium

Warning statements are required on fertiliser labels and advice notes if fertiliser products contain biuret, molybdenum or selenium above prescribed thresholds.

(Refer to Regulation 10)

Biuret

Biuret is defined in Regulation 5 to mean a substance with the chemical name Imidodicarbonic diamide and having the chemical formula $C_2H_5N_3O_2$.

If the fertiliser product contains more than 10.0 grams but not more than 20.0 grams Biuret per kilogram of total nitrogen (N) the following warning statement must be provided on the label or advice note:

"WARNING—this fertiliser contains biuret. Repeated foliar sprays may cause damage to citrus."

If the fertiliser products contains more than 20.0 grams but not more than 30.0 grams Biuret per kilogram of total nitrogen (N) the following warning statement must be provided on the label or advice note:

"WARNING—this fertiliser contains biuret. It is not recommended for repeated foliar application on horticultural crops."

If the fertiliser product contains more than 30.0 grams Biuret per kilogram of total nitrogen (N) the following warning statement must be provided on the label or advice note:

"WARNING—this fertiliser contains biuret. It is not recommended for foliar application except on turf."

(Refer to Regulation 10(2))

Molybdenum

The warning statement required for fertilisers containing molybdenum (Mo) in excess of 10.0 milligrams per kilogram, other than a fertiliser also containing copper (Cu) in an equivalent or greater amount than molybdenum, is—

"WARNING—excessive application of molybdenum to pasture can be harmful to stock animals. Plant levels of molybdenum can be high for up to 4 weeks after application. It is advisable to keep stock animals off areas to which this product has been applied for 4 weeks. "

(Refer to Regulation 10(3))

Selenium

The warning statement required for fertilisers containing selenium (Se) in excess of 10.0 milligrams per kilogram is—

"WARNING—excessive use of this product can be toxic to livestock. This product should not be used if a selenium deficiency does not exist in stock animals grazing on the area where it is to be applied. This product must not be applied at a rate greater than that stated on the label or advice note."

(Refer to Regulation 10(4))

Warning Statement – Fertiliser in Solid Form

The warning statement required for fertiliser sold in a solid form in any quantity without packaging; or in a package weighing more than 5 kilograms is:

"WARNING—the dust from this product may act as an irritant. Avoid inhalation and contact with the eyes and skin."

(Refer to Regulation 10(8))

MAXIMUM LEVELS OF CONTAMINANTS

The Regulations prescribe maximum allowable levels of cadmium, mercury and lead in fertilisers as follows.

Cadmium

The concentration of cadmium (Cd) in a fertiliser that contains 20 grams or more of phosphorus (P) in a kilogram must not exceed 300.0 milligrams for each kilogram of phosphorus (P) in the fertiliser.

The concentration of cadmium (Cd) in a fertiliser that only contains trace elements must not exceed 50.0 milligrams for each kilogram of the fertiliser. **Trace elements** is defined in Regulation 5 to mean the elements boron (B), cobalt (Co), copper (Cu), iron (Fe), manganese (Mn), molybdenum (Mo), or zinc (Zn).

The concentration of cadmium (Cd) in any other fertiliser must not exceed 10.0 milligrams for each kilogram of the fertiliser.

(Refer to Regulation 11)

Mercury

The concentration of mercury (Hg) in a fertiliser must not exceed 5.0 milligrams for each kilogram of the fertiliser.

(Refer to Regulation 12)

Lead

The maximum concentration of lead (Pb) in a fertiliser depends on the content of trace elements in the fertiliser.

Trace elements is defined in Regulation 5 to mean the elements boron (B), cobalt (Co), copper (Cu), iron (Fe), manganese (Mn), molybdenum (Mo), or zinc (Zn).

The concentration of lead (Pb) in a fertiliser partially constituted by trace elements must not exceed 500.0 milligrams for each kilogram of the fertiliser.

The concentration of lead (Pb) in a fertiliser that only contains trace elements must not exceed 2.0 grams for each kilogram of the fertiliser.

The concentration of lead (Pb) in a fertiliser that does not contain trace elements must not exceed 100.0 milligrams for each kilogram of the fertiliser.

(Refer to Regulation 13)

TRANSITIONAL PROVISIONS

The Regulations prescribe different warning statement requirements compared to the previous regulations. The text of some of the required warning statements has been updated for national consistency and to align with the *National Code of Practice for Fertilizer Description and Labelling*.

To allow manufacturers and suppliers of fertiliser products to use their existing stocks of labels and advice notes produced under the previous regulations, transitional provisions exist. The transitional provisions allow fertiliser products with labels that comply with the previous regulations to be sold before 1 October 2016 and fertiliser products with advice notes that comply with the previous regulations to be sold before 1 February 2016 .

(Refer to Regulations 14, 15 & 16)

OTHER REQUIREMENTS AND STANDARDS RELEVANT TO FERTILISERS

Products containing agricultural or veterinary chemicals

Fertiliser products that contain agricultural or veterinary chemicals, or claim to be agricultural or veterinary chemicals, must be registered by the Australian Pesticide and Veterinary Medicines Authority (APVMA). The APVMA determines what is or is not an agricultural or veterinary chemical product.

Importation of Fertilisers

The importation of fertilisers is regulated by the Department of Agriculture and Water Resources (Commonwealth).

The National Code of Practice for Fertilizer Description and Labelling

The *National Code of Practice for Fertilizer Description and Labelling* (the CoP) was developed by Fertilizer Australia in conjunction with the Department of Agriculture and Water Resources and State & Territory fertiliser regulators.

The CoP is not a replacement for the Regulations, as it is not currently underpinned by legislation. However, the CoP incorporates the general requirements of the Victorian Regulations and includes additional standards such as nutrient labelling, which may be applicable in other jurisdictions and form best practice.

The CoP applies to any substance that is manufactured, represented, supplied or used as a means of directly or indirectly fertilising the soil; or supplying nutrients to plants.

The CoP does not apply to substances that are manufactured, represented, supplied or used as a means of directly or indirectly conditioning the soil by altering the chemical, physical or biological condition of the soil e.g., agricultural lime and gypsum products.

The CoP is provided as an appendix to this document on the DEECA website.

The CoP can also be found on the Fertilizer Australia website at: www.fertilizer.org.au

The Fertilizer Australia website also provides information on Fertcare®; a training, quality assurance, certification and accreditation program delivered by independent third parties on behalf of the fertilizer industry.

Australian Consumer Law

Like all products sold in Australia, fertilisers fall under Australian Consumer Law (ACL). Under ACL, businesses must not make false, misleading or deceptive representations about a product or service. In addition, products must be of acceptable quality and be fit for their disclosed purpose.

The Australian Competition and Consumer Commission (ACCC) and State and Territory consumer protection agencies jointly enforce the ACL. Consumer Affairs Victoria is the responsible agency in Victoria.

Frequently asked questions

Q. Who needs to approve our company's fertiliser product before we can sell it in Victoria.

A. Fertiliser products do not require registration or Government approval before they can be sold in Victoria, unless the product contains agricultural or veterinary chemicals, in which case it must be registered by the Australian Pesticides and Veterinary Medicines Authority (APVMA). However, the product must be compliant with the Agricultural and Veterinary Chemicals (Control of Use) (Fertilisers) Regulations 2015.

Q. Does a fertiliser product label or advice note need to specify the nutrient content of the fertiliser?

A. The labelling of nutrient contents is not required under the Victorian regulations. However, detailing the nutrient content of fertilisers is specified in the *National Code of Practice for Fertilizer Description and Labelling*, is best practice, and may be a requirement in other jurisdictions.

Q. My product has been analysed for heavy metals and there are no traces present. Am I still required to state a heavy metal level on the package?

A. If the product does not contain any heavy metal traces, there is no need to state a level for heavy metals on the label or advice note for that product.

Q. I wish to sell a fertiliser product that also controls moss and algae. Do any other regulatory requirements apply to a standard fertiliser?

A. If your product makes claims that indicate it would be considered an agricultural chemical, (e.g., it controls moss and algae) you should contact the APVMA for advice on registration requirements.

Q. Is Zinc Sulphate a fertiliser or a veterinary chemical and does it need to be registered? I was told that I could use it to either treat my sheep for footrot or spray my vines.

A. Zinc sulphate ($ZnSO_4$) can treat both footrot in sheep and zinc deficiency in plants/soil. However, the product quality may vary depending on whether it was manufactured to be used as a veterinary chemical or fertiliser. For information on whether your product would be classified as an agricultural or veterinary chemical, contact the APVMA.

Q. Who registers products containing phosphorous acid?

A. Products containing phosphorous acid could be classified as an agricultural chemical, and therefore may require registration with the APVMA. For information on whether your product would be classified as an agricultural or veterinary chemical, contact the APVMA.

Q. What Government Department should I contact about the importation of fertiliser?

A. Contact the Department of Agriculture and Water Resources (Commonwealth) regarding the importation of fertiliser.

FURTHER INFORMATION

Agriculture Victoria

Telephone: 136 186

www.agriculture.vic.gov.au/chemicals

The Agricultural and Veterinary Chemicals (Control of Use) Act 1992, and the **Agricultural and Veterinary Chemicals (Control of Use) (Fertilisers) Regulations 2015** can be downloaded from the Victorian Law Today section at:

www.legislation.vic.gov.au

Hardcopies of legislation can be purchased from:

SAI Global Bookshop

85 Buckhurst Street, South Melbourne, VIC 3205

Telephone: 131 242

The *National Code of Practice for Fertilizer Description and Labelling* is available at:

www.fertilizer.org.au

Further information about Australian Consumer Law can be found at:

www.consumerlaw.gov.au

or by contacting Consumer Affairs Victoria

Telephone: 1300 55 81 81

www.consumer.vic.gov.au

Environment Protection Authority

Telephone: 1300 372 842 (1300 EPA VIC)

Email: contact@epa.vic.gov.au

www.epa.vic.gov.au