

SUBMISSION

On

DRAFT ACVM Notice

**Fertiliser, Plant Biostimulants and Soil Conditioners –
requirements for compliance with conditions of exemptions - 31 May 2022**

to

**ACVM Consultation
New Zealand Food Safety
Ministry for Primary Industries
PO Box 2526
Wellington 6140**

ACVM.Consultation@mpi.govt.nz

Date: 8th July 2022
Contact: Dr. Vera Power
Organisation: **The Fertiliser Association of New Zealand**
Postal Address: PO Box 11519, Manners St, Wellington, 6142
Phone: (04) 473 6552
E-mail: info@fertiliser.org.nz

About the Fertiliser Association of New Zealand

- 1 The Fertiliser Association of New Zealand (the Association), is an industry association funded by member companies, to address issues of common public good. Member companies include Ballance Agri-Nutrients Ltd and Ravensdown Ltd. Both are farmer co-operatives with some 40,000 farmer shareholders. Between them, our members supply the majority of all fertiliser used in New Zealand. As co-operatives, they are not driven by maximising the value of product sales, but by delivering best value to farmer shareholders.
- 2 Our members currently have the largest team of on-farm advisers – around 200 – of any of the primary sector groups. Their staff are all well trained, assisting farmers and growers to make informed, evidence-based decisions for their farm systems.
- 3 The Association member companies have invested significantly in products, systems and procedures which support responsible nutrient management to enable a viable primary industry within environmental limits.
- 4 The Association submits on national policy and proposed regulation to support environmental management, with the view that policy and regulation should be enabling, and that controls are both appropriate and necessary while providing for sustainable primary production within environmental limits.

Submission

Key Considerations

- 5 We are generally supportive of the proposal for improved clarity on requirements but have outlined concerns in the Appendix. Our submission focusses on fertilisers rather than soil conditioners or biostimulants.
- 6 Our key concern is the proposed requirement to provide directions to users on:
 - application rates,
 - timing of application and
 - what it can be applied to.
- 7 The purpose for making these a requirement, is not clear. The purpose of the Notice identified in the introduction is:

“This notice specifies requirements that supplement the regulations for the person(s) responsible for the compound to ensure that the conditions for exemption are met. “
- 8 The ACVM Notice: Agricultural Compounds Exempt from Registration, specifies direction for use are required as highlighted as follows, at 2.1.2 (2) (e):

The use directions for an exempt compound product that is an exempt agricultural compound described in column 1 of Schedule 2 of the Regulations

must define a use that meets the conditions relating to that exempt agricultural compound in column 2 of Schedule 2 of the Regulations.

- 9 The conditions for exemption from registration for fertiliser, as specified in Schedule 2, Column 2 are:

“The label information must specify nutrient content value as applicable.

The product must comply with any applicable notice issued under the Act.”

- 10 If the purpose of this Notice is to provide assurance of the appropriate use of fertiliser for safety, efficacy and fitness for purpose, then in contrast to many agrichemicals, the safety and efficacy of fertiliser products is generally dictated not by rate, timing or placement, but other factors such as stock access (for safety) and application methods (efficacy).
- 11 For most fertiliser products, more generic guidance on appropriate, effective use under typical conditions would be more appropriate for meeting the regulatory requirement for 'Directions for Use' in this propose Notice.

Thank you for the opportunity to provide feedback.

Comments on the Specific Provisions in draft ACVM Notice

Provision within the Notice	Comment
<p>2.1 Fitness for Purpose</p> <p>.</p> <p>.</p>	<p>No change requested</p>
<p>2.2 Manufacture in accordance with documented system</p>	<p>No change requested.</p>
<p>2.3 Specifying required information</p> <p>This section applies in relation to regulation 12 of the Regulations.</p> <p>(1) In this section, unless the context otherwise requires:</p> <p>Ca means calcium K means potassium N means nitrogen, P means phosphorus, S means sulphur.</p> <p>(2) For the purposes of regulation 12(2)(b) of the Regulations, where a fertiliser has the main purpose of providing N, P, K or S, or a combination of these elements, the nutrient content value as described in 2.4 (3)(a) below is sufficient to describe the purpose and no other statement of purpose is required.</p>	<p>There is support for 2.3. (1) (2) and (3). The requirement that, where fertiliser has the main purpose of providing N, P, K or S, or combination of these elements, the nutrient content value as described 2.4(3)(a) is sufficient to describe the purpose.</p> <p>The purpose and intent of 2.3(4) is unclear.</p> <p>We assume that the intent is to provide clarification on the direction of use requirements included in the July 2020 Notice. The 2020 notice states that the direction for use must define a use the meets the conditions relating to the exemption. We presumed that the intent of this requirement is to make it clear whether a product is intended for use as a fertiliser, a soil conditioner or a biostimulator or potentially as a mix of these.</p> <p>We recognise that it is typical for application rates to be specified in most agricultural chemicals. However typically these application rates do not vary with crop specific conditions.</p> <p>Fertiliser application, timing and placement is influenced by: whether the farmer is looking to build soil fertility; reduce high soil nutrient levels; match crop maintenance levels; manage livestock health and welfare; or meet specific crop quality criteria. The</p>

<p>(3) For the purposes of regulation 12(2)(d) of the Regulations, a fertiliser, plant biostimulant or soil conditioner must be supplied to the user with the information about the active ingredients presented in the following way:</p> <p>a) Where a fertiliser’s purpose is to provide N, P, K or S, the concentration of N, P, K and S, including zero values where no claim is made for inclusion, must be stated directly below the product name, and separated by hyphens in the order N-P-K-S. The values must be stated as a percentage (%), with no more than one decimal place (e.g. 0.5%). This must describe the elemental content for each element rather than oxide forms. Where any other active ingredient is required to be stated, the nutrient and content value must be stated directly below this.</p> <p>b) Other nutrients, including micronutrients, must be stated in the elemental form as a percentage on a weight per weight (w/w) basis for solid products or weight per volume (w/v) basis for liquid products.</p> <p>c) The form in which the nutrient is present must be stated (e.g. K as sulphate, Ca as chloride).</p> <p>d) Where claims of a microbially active ingredient are made, microbially active ingredients and their concentration in the fertiliser, plant biostimulant, or soil conditioner must be identified.</p> <p>e) Other active ingredients must be stated in metric units, on a weight for weight basis in solid products (e.g. 41 g/kg), and in metric units on a weight per volume basis for liquid products (e.g. 41 g/L).</p> <p>f) For anhydrous ammonia, percentage on a weight per weight basis must be stated.</p>	<p>recommendations are further influenced by soil type, soil test results, price, plant growth stages, product quality requirements (especially so for market garden and arable production), past land use, anticipated production goals, seasonal conditions etc. For many fertiliser products applications can be at any time of year, subject to site conditions and weather.</p> <p>Application rates may be further directed by central or local government requirements on nutrient use – such as the government-imposed cap of 190 Kg N/ha on dairy farms.</p> <p>Examples of wide-ranging advice and information on fertiliser and lime requirements are available on-line:</p> <p>Nutrient Management for Vegetable Crops in New Zealand Fertiliser Use on New Zealand Sheep & Beef Farms Fertiliser use on New Zealand Dairy Farms Fertiliser use on New Zealand Forage Crops Managing Soil Fertility on Cropping Farms Use of trace elements in New Zealand Pastoral Farming Use of Lime in New Zealand Pastoral Farms</p> <p>As currently worded, the requirement would require a fertiliser supplier to seek information on crops, soil type and other conditions to generate a tailored fertiliser recommendation prior to sale. The current wording would essentially make this a legal requirement.</p> <p>In many circumstances these crop requirements are specified by the farmer themselves or by a third-party. It will not be possible for a supplier of fertiliser to always be aware of site-specific conditions, farm plans or regional regulations required for this very precise information to be meaningfully provided.</p> <p>While some generic upper limits can be supplied as a broad guide for products in situations where they are applied as a stand-alone application, it has no meaning when the appropriate agronomic rate can be very different in different situations, and where different regions</p>
--	---

<p>g) Where pH modification is a purpose of the product, the modifying pH value (calcium carbonate equivalence) must be stated.</p> <p>(4) For the purposes of regulation 12(2)(e) of the Regulations, the directions for use supplied with a fertiliser, plant biostimulant, or soil conditioner must include information on:</p> <ul style="list-style-type: none"> a) application rate; b) timing of application(s); c) what it is to be applied to; d) any cautions necessary to avoid damage to the target crop in the recommended use situation; e) a withholding period (if necessary). <p>(5) For the purposes of regulation 12(2)(f) of the Regulations, a fertiliser, plant biostimulant, or soil conditioner must be supplied to a user with a use-by or expiry date where change or deterioration is expected over the time the product would reasonably take to be used, and the change or deterioration would likely cause a harm listed in section 19 of the Act.</p> <p>(6) For the purposes of regulation 12(2)(g) of the Regulations, the following precautions must be taken to prevent or manage risks described in section 19 of the Act when using a fertiliser, plant biostimulant, or soil conditioner as intended on plants intended for use as an animal feed (e.g. pasture, forage crops):</p>	<p>have different regulatory controls. A very generic statement will be so broad as to serve no useful purpose.</p> <p>While recognising that providing an application rate for fertiliser is unworkable, we have not fully considered whether a specified application rate is appropriate for other products such as some biostimulants or soils conditioners where effectiveness is primarily determined by a specific application rate or where adverse impact are managed by limiting to a particular application rate.</p> <p>In order to accommodate the different type of products covered by the notice, an approach would be to vary requirements by product type. The requirements for products where specification of application rate is the major determinant of product effectiveness and safety should be identified separately.</p> <p>Section 2.3(4) also includes a requirement to specify both timing of application and what the product is to be applied to. For these two requirements it is possible to provide very high level general information on spreading, such as the need to consider crop, soil and growth condition at the time of application. This is unlikely to be useful to the user or purchaser.</p> <p>Fertiliser product tends to be applied to a wide range of crops, so again high-level generic information could be provided.</p> <p>Identification of the limited situations in which application is restricted may be more appropriate. This may be relevant for products that are excluded from particular uses under other regulations such as Biosecurity (Ruminant Protein) Regulations 1999.</p> <p>Recommendation for 2.3 (4)</p> <p>Delete: the very detailed specific requirement:</p> <ul style="list-style-type: none"> a) application rate b) timing of application c) what it is to be applied to
--	--

<p>a) a fertiliser, plant biostimulant or soil conditioner containing selenium must be labelled with the following wording, or similar: “Excessive use of selenium (Se) can be toxic to livestock. Before using a supplement or veterinary medicine containing copper on livestock grazing the treated land area, seek advice from a veterinarian or an appropriately qualified source”.</p> <p>b) a fertiliser, plant biostimulant or soil conditioner containing copper must be labelled with the following wording, or similar: “Excessive use of copper (Cu) can be toxic to livestock. Before using a supplement or veterinary medicine containing copper on livestock grazing the treated land area, seek advice from a veterinarian or an appropriately qualified source”.</p> <p>(7) For the purposes of regulation 12(2)(h) of the Regulations, a fertiliser, plant biostimulant, or soil conditioner may be supplied to a user with a mechanism such as a QR Code that provides the batch number, or date and place of manufacture.</p>	<p>and replace with requirements appropriate for each product type.</p> <p>Retain the following provisions, with minor amendment to provide for avoiding harm to livestock the following:</p> <ul style="list-style-type: none"> d) any cautions necessary to avoid damage to the target crop, <u>or harm to livestock</u>, in the recommended use situation; e) a withholding period (if necessary). <p>2.3.(5) for products where deterioration which impacts on the use and efficacy of the product is likely to occur, it is supported that a user be supplied with a use by date, or expiry date, if appropriate.</p> <p>Consideration should be given to the guidance of a ‘Best before date’ if appropriate, as an alternative to a regulated ‘cut off’ date.</p> <p>2.3 (6) A caution about avoiding excessive use is fully supported, and providing for veterinary advice or equivalent qualified source in circumstance where additional supplement may be provided is supported:</p> <p>2.3 (7) The use of a mechanism such as a QR Code that provides the user with a batch number, or date and place of manufacture, for the purposes of regulation 12(2)(h) of the Regulations, a fertiliser, plant biostimulant, or soil conditioner is supported.</p>
---	---