

Biosecurity - Fertiliser, Liming Materials and Trace Element Products Initial Investigation Procedure

| | | | |
|----------------|--|------------------|------------|
| NUMBER: | INT17/21583 | VERSION: | 1.0 |
| AUTHORISED BY: | Director Plant Biosecurity & Product Integrity | AUTHORISED DATE: | 02/06/2017 |
| ISSUED BY: | Biosecurity & Food Safety | EFFECTIVE DATE: | 01/07/2017 |
| CATEGORY: | Operations and Industry | REVIEW DATE: | 01/07/2018 |

Management of the biosecurity risk

Contamination of fertilisers, liming materials and trace element products by cadmium, mercury or lead may result in accumulation in the environment, plants and animals. This presents risks to animal health, market access, food safety, environment, ecological processes and organisms.

This procedure provides operational guidance required to achieve the outcomes of the NSW Department of Primary Industries (DPI), an office within the NSW Department of Industry, policy on fertilisers, liming materials and trace element products. It specifies the response required by NSW DPI when a breach of the mandatory measures stated in clauses 43 or 44 of the regulation occurs.

The purpose of the procedure is to ensure compliance with mandatory measures prescribed in clause 43 (maximum concentrations of cadmium, lead and mercury) and 44 (labelling of parcels) of the Biosecurity Regulation 2017 (the Regulation).

Scope

The *Biosecurity Act 2015* (the Act) promotes biosecurity as a shared responsibility between government, industry and communities. This procedure is a State Priority for NSW and should be read in conjunction with the Fertilisers, Liming Materials and Trace Elements policy. The procedure applies to staff of Biosecurity and Food Safety within NSW DPI. This procedure provides detail for collecting information from the public or from staff within the department and providing advisory material by the Farm Chemicals Section prior to referring a report to NSW DPI (Biosecurity and Food Safety Compliance) for regulatory action by an authorised officer.

Biosecurity legislation summary

Division 11 of the Regulation details the requirements for manufacturers and importers of fertiliser, liming materials and trace element products to supply products within maximum limits for cadmium, mercury and lead. Clause 44 states the requirement for manufacturers and importers to ensure that products also comply with labelling requirements regarding cadmium, mercury and lead.

The owner/managers and vendors of food producing plants and animals have a general biosecurity duty under the Act to take reasonably practical steps to prevent or minimise the risk of contamination of food products by cadmium, mercury and lead.

The collection, use and disclosure of information in accordance with this procedure, including any internal or external discussion or distribution of information, must be in compliance with the *Privacy and Personal Information Protection Act 1998* or be exempted by the operation of section 387 of the Act.

Section 387 (2) of the Act provides authority for the disclosure of information about a person, without the consent of the person: to a public sector agency, or to any other person, but only if the disclosure is reasonably necessary for the purpose of exercising a biosecurity risk function.

Work health and safety

The *Work Health and Safety Act 2011* places an obligation on the agency (NSW DPI) as a person conducting a business or undertaking and workers provide a safe and healthy workplace. Safe Work Method Statements that support activities included in this procedure must be used to identifying, assessing and controlling risks.

NSW DPI will work to create a safe and supportive work environment when undertaking any activities for this procedure.

The Work Health and Safety Act (2011) (available at: <http://www.legislation.nsw.gov.au/#/view/act/2011/10>) and the NSW Government Department of Industry Work health and safety policy (available at: <https://intranet.industry.nsw.gov.au/policies/current-policies>) apply to all people using this procedure.

Contents

| | |
|--|---|
| Fertilisers, liming material and trace element products investigation procedure..... | 3 |
| 1. Roles and responsibilities | 3 |
| 2. Requirements of the Regulation..... | 3 |
| 3. Receiving reports of breaches of the Regulation | 3 |
| 4. Verify report and collect relevant information..... | 3 |
| 5. Identifying a Breach to the Act and Regulation..... | 4 |
| 6. Issue advisory letter | 4 |
| 7. Compliance action..... | 4 |
| 8. Definitions and acronyms..... | 4 |
| 9. Documentation | 4 |
| 10. Records | 4 |
| 11. Revision History | 5 |
| 12. Contact | 5 |

Fertilisers, liming material and trace element products investigation procedure

1. Roles and responsibilities

Staff of the NSW DPI who are responsible for enforcing, administering or executing the Act and the Regulation must ensure that:

- there is communication with manufacturers, wholesalers and retailers to inform them of their legislated responsibilities
- authorised officers are trained to enable them to conduct inspections/audits and ensure compliance
- compliance actions are consistent with the procedure
- all reports are approached using this procedure and re-directed appropriately
- maintain records of their activities.

2. Requirements of the Regulation

The Regulation prescribes requirements for the maximum concentrations of cadmium, lead and mercury and the labelling requirements for fertiliser, liming material and trace element product parcels imported, supplied or used in NSW.

Fertilisers, liming material or trace element products must not be imported, supplied or used within NSW unless the product complies with the maximum concentrations of cadmium, lead or mercury requirements in clause 43(2) of the Regulation.

Labelling requirements for fertilisers, liming material or trace elements imported, supplied or used within NSW are stated in clause 44 of the Regulation and require clear indication of the proportion of cadmium, lead and mercury labelled on the parcel. A prescribed warning must be on the parcel if the concentration of cadmium, lead or mercury are above the levels in clause 44(2) of the Regulation.

3. Receiving reports of breaches of the Regulation

Breaches of clause 43 (Maximum concentrations of cadmium, lead and mercury) and/or clause 44 (Labelling of parcels) of the Regulation may be reported by an individual, an organisation, authorised officers, or other NSW DPI and LLS staff in the course of business.

Reports of alleged breaches of mandatory measures under Division 11 of the Regulation are made to the Farm Chemicals section, within NSW DPI Plant Biosecurity and Product Integrity or NSW DPI Biosecurity and Food Safety Compliance. Reports can be made verbally on the phone or in person, or via email.

Reports can be made by calling 02 6391 3100 or biosecurity@dpi.nsw.gov.au

4. Verify report and collect relevant information

NSW DPI (Farm Chemicals) will proceed by speaking to the person reporting the incident or alleged breach. Information will be collected to determine whether there has been a breach to the Act and/or Regulation which requires compliance action by authorised officer. NSW DPI (Farm chemicals) will collect the following details:

- the nature of the alleged breach
- contact details of the person reporting the breach
- further issues arising as a result of the breach
- details of the breach including manufacturer, product label, laboratory reports and any other relevant information.

Information can be collected by speaking to the person who submitted the report. Where compliance action is required the case will be referred to NSW DPI (Biosecurity and Food Safety Compliance) for regulatory action by an authorised officer.

5. Identifying a Breach to the Act and Regulation

A breach to clause 43 of the Regulation would constitute the concentration of cadmium, lead or mercury in fertilisers, liming material or trace elements that exceed the prescribed maximum. Breaches of clause 43 of the Regulation will be referred to NSW DPI (Biosecurity and Food Safety Compliance) for regulatory action by an authorised officer.

A breach to clause 44 of the Regulation would constitute the following:

- false labelling on parcel of fertilisers, liming material or trace element products
- failure to label prescribed warning when concentrations exceed the concentration in clause 44(2).

A breach of clause 43 of the Regulation is a breach of the maximum limits and will be referred for compliance action.

A breach of clause 44 may be due to ignorance. If this is the case, advisory information will be sent to the manufacturer. If the breach continues then the matter will be referred for compliance action.

6. Issue advisory letter

Where a breach of clause 44(Labelling of parcels) is reported, an advisory letter may be issued detailing the requirements of the Regulation to provide correct labelling. Education and advisory material should be the initial response as ignorance may have been the cause of the breach.

If the letter does not result in corrective action, the issue is referred to the NSW DPI (Biosecurity and Food Safety Compliance) for compliance action by an authorised officer.

7. Compliance action

If evidence indicates that, a breach has occurred and cannot be rectified through an advisory letter or educational material, the case will be referred to the NSW DPI (Biosecurity and Food Safety Compliance) for investigation and compliance action by an authorised officer.

8. Definitions and acronyms

DPI NSW Department of Primary Industries

9. Documentation

Biosecurity Act 2015

Biosecurity Regulation 2017

Fertiliser, Liming Materials and Trace Element Products Policy

Primefact: Labelling requirements for Fertilisers, Liming Materials and Trace Element Products

National Code of Practice for Fertilizer Description and Labelling

Chemical traceback investigation procedure

10. Records

Policy - Records Management (IND-I-177)

Policy - Information Security (IND-I-197)

Policy - Classified Information (IND-I-196)

Policy -Government Information (Public Access) (IND-I-178)

Policy - Biosecurity collection, use and disclosure of information

Procedure - Biosecurity collection, use and disclosure of information

11. Revision History

| Version | Date issued | Notes | By |
|---------|-------------|---|-------------------------------------|
| 1.0 | 01/07/2017 | New policy developed in response to the <i>Biosecurity Act 2015</i> . | Technical Specialist Farm Chemicals |

12. Contact

Technical Specialist Farm Chemicals

02 6391 3625