

19.FERTILIZERS CONTROL ORDER (FCO) 1985

ORDER

Under the Essential Commodities Act, 1955 (10 of 1955), the Central Government makes the Fertilizers (Control) Order, 1985. It shall come into force on the date of its publication in the Official Gazette. In this Order, some of the definitions are used

Act means the Essential Commodities Act, 1955 (10 of 1955).

"certificate of source" means a certificate given by a State Government, Commodity Board, manufacturer, + importer, pool handling agency

Commodity Board means the Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942) or the Rubber Board constituted under section 4 of the Rubber Act, 1947 (24 of 1947)

compound or complex fertilizers means a fertilizers containing two or more nutrients during the production of which chemical reaction takes place

controller means the person appointed as Controller of Fertilizers by the Central Government and includes any other person empowered by the Central Government to exercise or perform all or any of the powers, of the Controller under this Order.

"dealer" means a person carrying on the business of selling fertilizers whether wholesale or retail or industrial use* and includes a manufacturer, +Importer, and a pool handling agency carrying on such business and the agents of such person, manufacturer, +importer or pool handling agency.

fertilizer means any substance used or intended to be used as a fertilizer of the soil and/or crop and specified in Part A of Schedule I and includes a mixture of fertilizers and special mixture of fertilizers.

"grade" means the nutrient element contents in the fertilizer expressed in percentage

"granulated mixture" means a mixture of fertilizers made by intimately mixing two or more fertilizers with or without inert material, and granulating them together, without involving any chemical reaction.

"importer" means a person who imports fertilizers in accordance with the Export and Import Policy of the Central Government, as amended from time to time.

inspector" means an Inspector of Fertilizers appointed under clause 27.

"manufacturer" means a person who produces fertilizers or mixtures of fertilizers and the expression "manufacture" with its grammatical variations shall be construed accordingly.

"mixture of fertilizers" ***means a mixture of fertilizers made by physical mixing two or more fertilizers with or without inert material in physical or granular form and includes a mixture of NPK fertilizers, a mixture of micronutrient fertilizers and a mixture of NPK with micronutrient fertilizers.

"physical mixture" means a mixture of fertilizers made by physically mixing two or more fertilizers with or without inert material necessary to make a required grade, without involving any chemical reaction.

"prescribed standard" means-in relation to a fertilizers included in column 1 of Part A of Schedule-I, the standard set out in the corresponding entry in column 2, subject to the limits of permissible variation as specified in Part B of that Schedule

PRICE CONTROL-Fixation of prices of fertilizers

The Central Government may, with a view to regulate equitable distribution of fertilizers and making fertilizers available at fair prices, by notification in the Official Gazette, fix the maximum prices or rates at which any fertilizers may be sold by a dealer, manufacturer, +importer or a pool handling agency. The Central Government may consider the local conditions of any area, the period of storage of fertilizers and other relevant circumstances, fix different prices or rates for fertilizers having different periods of storage or for different areas or for different classes of consumers. No dealer, manufacturer +importer or pool handling agency shall sell or offer for sale any fertilizers at a price exceeding the maximum price or rate fixed under this clause.

Display of stock position and price list of fertilizers

Every dealer, who makes or offers to make a retail sale of any fertilizers, shall prominently display in his place of business:-**the quantities of opening stock of different fertilizers** held by him on each day & a list of prices or rates of such fertilizers fixed under clause 3 and for the time being in force.

Issue of cash/credit memorandum

Every dealer shall issue a cash or credit memorandum to a purchaser of a fertilizers in FormM*

CONTROL ON DISTRIBUTION OF FERTILIZERS BY MANUFACTURER/ IMPORTER

Allocation of fertilizers to various States

The Central Government may, with a view to secure equitable distribution and availability of fertilizers to the farmers in time, by notification in the Official Gazette, direct any manufacturer/importer to sell the fertilizers produced by him in such quantities and in such State or States and within such period as may be specified in the said notification.

AUTHORISATION OR REGISTRATION OF DEALERS”

Registration of Industrial dealers and authorization of other dealers

No person shall sell, offer for sale or carry on the business of selling of fertilizer at any place as wholesale dealer or retail dealer except under and in accordance with clause 8:

Application for intimation or registration

Every person intending to sell or offer for sale or carrying on the business of selling of fertilizer as Industrial Dealer shall obtain a certificate of registration from the controller by making an application in Form A together with the fee prescribed While, a manufacturer, an importer, a pool handling agency, wholesaler and a retail dealer intending to sell or offer for sale shall make a Memorandum of Intimation to the Notified Authority, in Form A1 duly filled in, in duplicate, together with the fee prescribed under clause 36 and certificate of source in Form O. On receipt of a Memorandum of Intimation, complete in all respects, the Notified Authority shall issue an acknowledgement of receipt in Form A2 and it shall be deemed to be an authorization letter granted and the concerned person as authorised dealer for the purposes of this Order.

A certificate of registration granted before the commencement of the Fertilizers (Control) Amendment Order, 2003, shall be deemed to be an authorization letter granted under the provisions of this Order: when the applicant is a State Government, a manufacturer or an importer or a pool-handling agency, it shall not be necessary for it or him to submit Form O.

Grant or refusal of certificate of registration

The Controller, shall grant a certificate of registration in Form 'B' within thirty days of the receipt of application to any person who applies for it under clause 8; no certificate of registration shall be granted to a person: -if his previous certificate of registration is under suspension; or it has been cancelled within a period of one year immediately preceding the date of application; or if he has been convicted of an offence under the Act, or if he fails to enclose with the application a certificate of source ; or if the application is incomplete in any respect;

Period of validity of certificate of registration and letter of authorization

Every certificate of registration granted, **be valid for a period of three years from the date of its issue.**

Renewal of certificates of registration and authorization letters

Every holder of a certificate of registration granted make an application for renewal to the Controller, in Form C, or to the Notified Authority in Form A1, respectively, in duplicate, together with the fee prescribed under clause 36 for such renewal and a certificate of source as required under clause 8.

Manufacture of Mixtures of Fertilizers - Restriction on preparation of mixtures of fertilizer

No person shall carry on the business of preparing any mixture of fertilizers. or special mixture of fertilizers except under and in accordance with the terms and conditions of a certificate of manufacture granted to him under clauses 15 or 16.

Standards of mixtures of Fertilizers

Subject to the other provisions of the order, no person shall manufacture any *mixture of fertilizers whether of solid or liquid fertilizers unless such mixture conforms to the standards set out in the notification to be issued by the Central Government in the Official Gazette;

Application for certificate of manufacture of mixtures of fertilizers

Every person desiring to obtain a certificate of manufacture for preparation of any mixture of fertilizers or special mixture of fertilizers shall possess such mixture, *and possess the minimum laboratory facility as specified in clause 21A of this Order. An applicant shall make an application to the registering authority if he is an applicant for a certificate of **manufacture for any mixture of fertilizers** in Form D, in duplicate, together with the fee prescribed there for under clause 36; or, if he is an applicant for a certificate of manufacture for any **special mixture, in Form E, in duplicate**, together with the fee prescribed there for under the said clause 36 and an attested copy of the requisition of the purchaser.

Grant or refusal of certificate of manufacture for preparation of mixtures of fertilizers

On receipt of an application under clause 14, the registering authority shall, by order in writing, grant or refuse **within forty-five days from the date of receipt of the application, furnish to the applicant a copy of the order so passed;** to the applicant in Form G

Period of validity of a certificate of manufacture for preparation of mixtures of fertilizers

Every certificate of manufacture granted under clause 15 for preparation of a mixture of fertilizers shall, unless suspended or cancelled, be valid for a period of three years from the date of issue.

Renewal of certificate of manufacture for preparation of mixtures of fertilizers

Every holder of a certificate of manufacture for preparation of a mixture of fertilizers desiring to renew the certificate, shall, before the date of expiry of the said certificate of manufacture make an application to the registering authority in Form D in duplicate, together with the fee prescribed for this purpose under clause 36.

Manufacturers/Importers pool handling agencies to comply with certain requirements in regard to packing and marking, etc.2

Every manufacturer/importer and pool handling agency shall, in regard to packing and marking of containers of fertilizers, comply with the following requirements, namely:-Every container in which any fertilizers is packed shall conspicuously be Superscribed with the word "FERTILIZERS" and shall bear only such particulars in case of containers the gross weight of which is 5 kg or less, no such printing of superscription and other particular shall be necessary

if such super superscription and other particulars are printed on a separate label which is securely affixed to such container. in case fertilizer bags are in cut, torn or damaged condition during transportation or is handling during loading or unloading operation, the manufacturer of such fertilizer may, under intimation to the State Government and the Central Government, repack the fertilizer in new bags or restandardise the quantity in terms of declared weight. Every fertilizers bag in which any fertilizers is packed for sale shall be of such weight and size as may be specified by the Central Government from time to time in this behalf

Manufacturers to comply with certain requirements for laboratory facilities:-

Every manufacturer shall, in order to ensure quality of their product, possess minimum laboratory facility, as may be specified from time to time by the Controller.

Disposal of non-standard fertilizers

Notwithstanding anything contained In this Order, a person may sell, offer for sale, stock or exhibit for sale or distribute, [any fertillser except any fertillser imported by the Central Government] which, not being an adulterated fertilizers, does not conform to the prescribed standard (hereinafter in this Order referred to as non-standard fertilizers) subject to the conditions that:- the container of such non-standard fertilizers is conspicuously super scribed in red colour with the words "non-standard" and also with the sign "X"; and an application for the disposal of non-standard fertilizers in Form H is submitted to the [Notified authority] to grant a certificate of authorization for sale of such fertilizers and a certificate of authorization with regard to their disposal and price is obtained in Form such non-standard fertilizers shall be sold only to the manufacturers of mixtures of fertilizers or special mixtures of fertilizers or research farms of Government or Universities or such bodies. The price per unit of the non-standard fertilizers shall be fixed by the notified authority If a manufacture or importer detects or as reasonable doubt about the standard of the fertilizer manufactured or imported by him, and dispatched for sale as deteriorated in quality during transit due to natural calamity and is not of the prescribed standards, he may, within fifteen days from the date of dispatch from factory or port, apply with detailed justifications to the Central Government for obtaining permission for reprocessing the same in a factory to meet the prescribed standards and the Central Government may, after considering the facts, permit the re-processing of such fertilizer on the terms and conditions as may be notified by the Central Government in this behalf.

ENFORCEMENT AUTHORITIES

Appointment of registering authority The State Government may, appoint such number of persons, as it thinks necessary, to be registering authorities for the purpose of this Order for industrial dealers, and may, define the limits of local area within which each such registering authority shall exercise his jurisdiction.

Notified Authority- The State Government may, appoint such number of persons, to be Notified Authorities for the purpose of this Order and define the local limits within which each such Notified Authority shall exercise his jurisdiction.

Appointment of inspectors-The State Government, or the Central Government may, by notification in the Official Gazette appoint such number of persons, to be inspectors of fertilizers for the purpose of this Order, and may, in any such notification, define the limits of local area within which each such inspector shall exercise his jurisdictions.

Qualifications for appointment of fertilizers Inspectors

No person shall be eligible for appointment as Fertilizers Inspector under this Order unless he possesses the following qualifications, namely:-Graduate In agriculture or science with chemistry as one of the subjects, from a recognized university; and Training or experience in the quality control of fertilizers and working in the State or Central Government Department of Agriculture.

Powers of Inspectors

An inspector may, with a view to securing compliance with this Order:- require any manufacturer, +importer, pool handling agency, wholesale dealer or retail dealer to give any information in his possession with respect to the manufacture, storage and disposal of any fertilizer manufactured or, in any manner handled by him draw samples of any fertilizers in accordance with the procedure of drawal of samples laid down in Schedule II. Provided that the inspector shall prepare the sampling details in duplicate In Form J, and hand over one copy of the same to the dealer or his representative from whom the sample has been drawn; enter upon and search any premises where any fertilizers is manufactured/ Imported or stored or exhibited for sale,; seize any books of accounts or documents relating to manufacture, storage or sale of fertilizers, etc. in respect of which he has reason to believe that any contravention of this

Order has been or is being or is about to be committed; Where any fertilizers is seized by an inspector under this clause, he shall forthwith report the fact of such seizure to the collector whereupon the provisions of sections 6A, 6B, 6C, 6D and 6E of the Act, shall apply to the custody, disposal and confiscation of such fertilizers. Every person, if so required by an inspector, shall be bound to afford all necessary facilities to him for the purpose of enabling him to exercise his powers under sub-clause (1).

ANALYSIS OF SAMPLES

Laboratory for analysis

A fertilizer sample, drawn by an inspector, shall be analyzed in accordance with the instructions contained in Schedule II in the **-Central Fertilizers Quality Control and Training Institute, **Faridabad or Regional Fertilizers Control Laboratories at Bombay, Madras or Kalyani (Calcutta)** or in any other laboratory notified for this purpose by the State Government [with the prior approval of the Central Government. Every laboratory in order to ensure accurate analysis, of fertilizers samples, possess minimum equipment and other laboratory facilities, as may be specified from time to time by the Controller in this behalf

Qualifications for appointment of fertilizers analyst in the fertilizer control laboratories

No person shall be eligible for appointment as fertilizers analyst for analysis of fertilizers samples in the laboratories notified under clause 29 of the Order, unless he possesses the following qualifications, namely:-graduate in Agriculture or Science with chemistry as one of the subjects from a recognized university; and training In fertilizers quality control and analysis at **Central Fertilizer Quality Control and Training Institute, Faridabad.** Provided that the fertilizers analysts appointed before the commencement of this Order, who do not possess the requisite training, shall undergo prescribed training, within a period of three years, in the Central Fertilizers Quality Control " and Training Institute, Faridabad from the date of commencement of this Order.

Laboratories for referee analysis

Every laboratory referred to in sub-clause (1) of clause 29 shall be designated as referee laboratory for the purpose of analysis of any sample of fertilizers : Provided that no such laboratory which carried out the first analysis of the fertilizers sample shall be so designated in respect of that sample: Further in respect of any sample the analysis of which has been challenged, may be sent for referee analysis to any one of the other laboratories except those which are located in the State or where the first analysis has been done. Central Fertilizers Quality Control and Training Institute and Regional laboratories shall be considered as one group of laboratories and a sample first analysed by any one of them, shall not be sent for referee analysis to any other in that group, but only to any other laboratory notified by a State Government.

Time limit for analysis, and communication of result

Where sample of a fertilizer has been drawn, the same shall be dispatched along with a memorandum in Form K to the laboratory for analysis within a period of seven days from the date of its drawl. The laboratory shall analyze the sample and forward the analysis report in Form L within [30 days] from the date of receipt of the sample in the laboratory to the authority specified in the said memorandum.

The authority to whom the analysis report is sent under sub-clause (2) shall communicate the result of the analysis to the dealer/manufacturer/Importer/pool handling agency from whom the sample was drawn within [15 days] from the date of receipt of the analysis report of the laboratory.

Maintenance of records and submission of returns, etc.

The controller may by an order made in writing direct the dealers. manufacturers/ importers, and pool handling agencies:- to maintain such books of accounts, records, etc. relating to their business in Form 'N'. and to submit to such authority, returns and statements in such form and containing such information relating to their business and within such time as may be specified in that order. Where a person holds certificates of registration for retail sale and wholesale sale of fertilizers, he shall maintain separate books of accounts for these two types of sales made by him.

Fees

The fees payable for grant, amendment or renewal of an authorization letter or certificate of registration or certificate of manufacture a duplicate of such certificates or, renewal thereof

under this Order shall be such as the State Government may, from time to time fix, subject to the maximum fees fixed for different purposes by the Central Government and different fees may be fixed for different purposes or for different classes of dealers or for different types of mixtures of fertilizers or special mixture. Any fee paid under sub-clause (1) shall not be refundable unless the grant or renewal of any certificate of registration or certificate of manufacture or duplicate copy of such certificate or renewal under this Order has been refused.

The fees payable for grant, amendment, renewal or duplicate copy of certificate of registration for industrial dealer and the authority to whom and the manner in which such fee shall be paid, shall be such as may be specified by the Controller from time to time by notification in the Official Gazette*