



THE SENATE

FEDERAL REPUBLIC OF NIGERIA

COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT

REPORT

ON

**A BILL FOR AN ACT TO REGULATE THE MANUFACTURE, IMPORTATION, DISTRIBUTION
AND QUALITY CONTROL OF FERTILIZER IN NIGERIA;**

AND FOR OTHER RELATED MATTERS THERETO 2019 (SB 338)

NATIONAL FERTILIZER QUALITY (CONTROL) BILL SB 338, 2019

A Bill

For

An Act to regulate the manufacture, importation, distribution and quality control of fertilizer in Nigeria; and for other related matters.

Clauses	Original Provision	Committee's Recommendation	Remarks
	Commencement { } ENACTED by the National Assembly of the Federal Republic of Nigeria as follows –		
Object of the Bill		1. The object of the Bill shall be to safeguard the interest of - (a) the farmers against nutrient deficiencies, adulteration, misleading claims and short weight; and (b) fertilizer enterprises and contribute to the creation of an enabling environment for private sector investment in the fertilizer industry.	New insertion
	PART I PERMIT OF CERTIFICATE OF REGISTRATION		
Application for permit or certificate of registration	2. (1) A person shall not carry on business as a manufacturer, blender or importer of fertilizer in Nigeria without obtaining a permit or certificate of registration from the Prescribed Authority. (2) A person shall not carry on business as a distributor of		Retained

	<p>fertilizer in Nigeria without obtaining from the Prescribed Authority a certificate of registration.</p> <p>(3) An application for a permit or certificate of registration under subsection (1) or (2) of this section shall be made on such form and in such manner as may be specified by the Prescribed Authority.</p> <p>(4) An application for permit or certificate of registration shall be accompanied by a non-refundable fee as may be prescribed in regulations made pursuant to this Bill.</p>		
<p>Issuance of permit or certificate of registration</p> <p>Cap, C20, LFN, 2004</p>	<p>3. (1) Upon being satisfied that-</p> <p>(a) an application for a permit or a certificate of registration has been made in the prescribed manner,</p> <p>(b) the applicant is incorporated under the Companies and Allied Matters Act,</p> <p>(c) all other requirements as may be specified by regulations made pursuant to this Bill have been complied with,</p> <p>the Prescribed Authority shall issue permits and certificates of registration to the applicant within 30 days of the receipt of an application.</p> <p>(2) A permit or certificate of registration shall not be issued where within three years immediately preceding the date of the making of the application –</p> <p>(a) a previous permit or certificate of registration is under suspension; or</p>		Retained

	<p>(b) the applicant has been convicted of an offence under this Bill or regulations made pursuant to this Bill.</p> <p>(3) Where a permit or certificate of registration is not issued within the period specified in subsection (1) of this section, the applicant shall be informed of the refusal and the reason for the refusal.</p>		
Keeping of records by Prescribed Authority	4. The Prescribed Authority shall keep accurate records containing all the issued permits and certificates of registration.		Retained
Validity of permit or certificate of registration	<p>5. (1) The Prescribed Authority may suspend or cancel a permit or certificate of registration where –</p> <p>(a) the grounds on which it was issued were false or incomplete;</p> <p>(b) the circumstances under which it was issued no longer exists;</p> <p>(c) any of the conditions or undertakings under which it was issued has been contravened; or</p> <p>(d) the standard of quality, safety or efficacy as specified on the application form has not been complied with.</p> <p>(2) A permit or a certificate of registration shall, unless suspended or cancelled, be valid for a period of three years.</p>		Retained
Fees	<p>6. The holder of a permit or certificate of registration shall pay-</p> <p>(a) a renewal of permit or certificate of registration fee every three years;</p> <p>(b) inspection fee for fertilizer manufactured, blended,</p>		Retained

	<p>imported or distributed every year as may be specified by regulations; and</p> <p>(c) an appeal fee pursuant to section 7 of this Bill, if the need arises and other fees as may be specified by regulations made under this Bill.</p>		
Cancellation of permit or certificate of registration	<p>7. (1) Where a permit or certificate of registration is cancelled, an appeal may be lodged with the Minister within 30 days of the cancellation.</p> <p>(2) An appeal made under subsection (1) of this section shall be in writing and be accompanied by such information as may be necessary to support the appeal.</p> <p>(3) The Minister shall determine the appeal within 30 days of the receipt of the appeal and where the-</p> <p>(a) appeal is not determined, within the stipulated time; or</p> <p>(b) person is dissatisfied with the decision of the Minister; an appeal may be made to the Federal High Court.</p>		Retained
	<p>PART II</p> <p>PROHIBITED ACTIVITIES</p>		
Operating with an expired permit or certificate of registration	<p>8. A person shall not operate or carry on business as a manufacturer, blender, importer or distributor of fertilizer in Nigeria with an expired permit or certificate of registration.</p>		Retained
Destructive ingredients or harmful properties	<p>9. A person shall not sell any fertilizer or fertilizer supplement that contains destructive ingredients or properties harmful to plant growth when used according to the accompanying instructions or in accordance with the instructions contained on the label of the package in which the fertilizer or the fertilizer supplement is contained.</p>		Retained

Conversion or diversion of fertilizer	10. A person engaged in the sale, distribution, transportation of fertilizer or who keeps custody of fertilizer shall not, without lawful authority, divert or convert the fertilizer to his own use or the use of another person.		Retained
Obstruction of authorised officers	11. A person shall not obstruct, hinder or prevent a duly authorized officer of the Prescribed Authority from carrying out the duties and responsibilities assigned to such officer under this Bill or regulations made pursuant to this Bill.		Retained
Sale of unbranded or misbranded fertilizer	12. A person shall not engage in the sale of unbranded or misbranded fertilizer.		Retained
PART III INSPECTION AND ENFORCEMENT POWERS			
Power of entry	13. (1) An authorised officer of the Prescribed Authority or a person duly authorised by the Prescribed Authority shall - (a) enter and inspect any premises, building, vehicle, plant or equipment that is used in the manufacture, blending, importation, distribution, sale, storage or transportation of fertilizer; and (b) take official samples from the fertilizer found during an inspection for laboratory analysis for the purpose of ascertaining the quality of the fertilizer as specified in the First Schedule.		Retained
First Schedule	(2) The quantity of samples to be taken pursuant to subsection (1) of this section shall not exceed the quantity stipulated in regulations made under this Bill.	(3) An Authorised Officer is vested with the power to - (a) inspect, during regular business hours, any premises where	Taken from the interpretation of an inspector under clause 28.

		<p>fertilizers are manufactured, stored or sold;</p> <p>(b) inspect any person or a vehicle or receptacle used to move fertilizers from one location to another;</p> <p>(c) draw official samples of fertilizers for analysis; and</p> <p>(d) seize and detain any fertilizer in violation of this Bill as well as any equipment, package, document, or means of transportation associated with such fertilizer.</p>	
Display of permits or certificates of registration	14. A manufacturer, blender, importer or distributor of fertilizer shall conspicuously display his original permit or certificate of registration at his company or point of sale.		Retained
Enforcement	15. Where the Minister has reasonable cause to believe that fertilizer is being sold in violation of any provision of this Bill, the Minister shall issue a written order to stop the sale or disposal of the fertilizer until the Minister or court revokes the order or upon the expiration of the time stated in the order prohibiting the sale or distribution of the fertilizer.		Retained
Allowable variation in fertilizer weight	<p>16. (1) The acceptable deviation of measured fertilizer bag weight from the value claimed on the label shall not be more than 500mg per 50kg bag or 1% across all bag weights.</p> <p>(2) The Minister may by regulations make such modifications to the acceptable deviation of measured fertilizer by weight as considered necessary and prescribe appropriate sanctions for any deviation.</p>		Retained
Labels Second Schedule	17. The minimum requirement for all fertilizer labels is as specified in the Second Schedule to this Bill.		Retained

PART IV OFFENCES AND PENALTIES			
Offences relating to manufacture, importation and distribution of fertilizer First Schedule	<p>18. A person who-</p> <p>(a) manufactures, blends, imports or distributes fertilizer that is deficient in plant nutrient as specified in the First Schedule to this Bill;</p> <p>(b) manufactures, blends, imports or distributes unbranded or misbranded fertilizer;</p> <p>(c) imports, exports or distributes adulterated fertilizer;</p> <p>(d) offers for sale, fertilizer that is underweight;</p> <p>(e) sells condemned fertilizer,</p> <p>(f) diverts or converts fertilizer; or</p> <p>(g) flouts a stop sale order:</p> <p>commits an offence under this Bill.</p>		Retained
Penalty for offences under section 18	<p>19. A person who commits any of the offences listed in section 18 of this Bill or regulations made under this Bill is on conviction, liable to a term of imprisonment of not less than 5 years without option of fine.</p>		Retained
Penalty for offence relating to manufacture, importation and distribution of fertilizer	<p>20. (1) A person who contravenes the provisions of section 2 or 8 of this Bill commits an offence under this Bill and is on conviction:</p> <p>(a) in the case of a manufacturer, blender or importer, to a fine of at least N10,000,000 or N5,000,000; and</p>		Retained

	<p>(b) in the case of a distributor of fertilizer to a fine of N500,000 for each day the offence persists.</p> <p>(2) Any director, employee or agent of the manufacturer, blender, importer or distributor who contravenes the provisions of sections 2 or 8 of this Bill commits an offence unless the director, employee or agent proves that the offence was committed without his knowledge or connivance.</p>		
Penalty for use of destructive ingredient and conversion or diversion, etc. of fertilizer	21.- A person who contravenes the provisions of section 9 or 10 of this Bill commits an offence and liable on conviction to a fine of at least N1,000,000 or to a term of imprisonment of not less than six months or to both.		Retained
Penalties for obstruction of authorised officers	22. A person who contravenes the provision of section 11 of this Bill commits an offence and is liable on conviction to a fine of at least N200,000 or a term of imprisonment of not more than Six months or to both.		Retained
Jurisdiction	23. The Court shall have jurisdiction to try offences under this Bill		Retained
Compensation	<p>24. (1) Where an offender is convicted of an offence under this Bill, the court may order that the offender pays compensation in addition to any other punishment imposed by the court.</p> <p>(2) In awarding compensation, the court shall consider awards aimed at remedying any injury caused to –</p> <p>(a) the farmer or end user;</p> <p>(b) the manufacturer or blender; and</p> <p>(c) the affected community.</p>		Retained

	PART V MISCELLANEOUS		Retained
Power to make Regulations	<p>25. (1) The Minister may by regulations make provisions for carrying into effect the provisions of this Bill and for its due administration, such as the appointment of a National Fertilizer Technical committee herein referred to as NFTC, <i>to facilitate on behalf of government, the implementation of the Bill.</i></p> <p>(2) Without prejudice to the generality of the power to the Minister, the regulations may provide for-</p> <p>(a) the fertilizer regulatory system including inspection, sampling and analysis, registration requirements, labelling requirements, and inspection fee collection procedures;</p> <p>(b) offences and punishments including plant nutrient deficiencies, misbranding, adulteration under-weight, obstruction of inspectors, stop sale orders, seizure, condemnation and sale, authenticity of analytical results, and destructive ingredients;</p> <p>c) environmental and public health issues relating to the use of fertilizer;</p> <p>(d) plant nutrient guarantees;</p> <p>(e) investigational allowances and penalties;</p> <p>(f) publication of deficiency reports and annual fertilizer tonnage reports; and</p> <p>(g) any other matter that may be deemed necessary for the</p>	<p>25.- (1) The Minister may by regulations make provisions for carrying into effect the provisions of this Bill and for its due administration, such as the appointment of a National Fertilizer Technical committee (in the Bill referred to as "the NFTC"), <i>as an advisory body to the prescribed authority.</i></p>	Retained as amended

	implementation of this Bill.		
Repeal of Cap. N39, LFN, 2004 and Cap F25, LFN, 2004	<p>26. The following Acts are repealed -</p> <p>(a) the National Fertilizer Board Act Cap. N39, Laws of the Federation of Nigeria, 2004; and</p> <p>(b) the Fertilizer (Control) Act, 1991, Cap F25, Laws of the Federation of Nigeria, 2004.</p>		Retained
Savings and Transition	<p>27. (1) Without prejudice to section 6 of the Interpretation Act, the repeal of the Acts specified in section 26 of this Bill, shall not affect anything done under those Acts.</p> <p>(2) Every order, requirement, certificate, notice, direction, decision, authorisation, consent, application, request or thing made, issued, given or done under the Acts repealed by this Bill shall, if in force at the commencement of this Bill, continue to be in force and have effect as if made, issued, given or done under the corresponding provisions of this Bill.</p>		Retained
Interpretation	<p>28.- In this Bill-</p> <p>"adulterated fertilizer" means fertilizer -</p> <p>(a) containing any deleterious substance in sufficient amount as to affect or alter the true and original quality of the fertilizer when applied in accordance with directions for use on the label or if adequate warning statements or directions for use which may be necessary to protect plant life, animals, humans, aquatic life, soil, or water are not shown upon the label; or</p> <p>(b) the composition of which falls below or differs from that which it is purported to possess by its label;</p> <p>"applicant" includes a body corporate or legal person;</p>		Retained as amended

	<p>"application" means the request for an approval by an applicant to produce, import, blend or sell fertilizer in Nigeria;</p> <p>"authorized officer" means an officer of the Farm Inputs <u>Support</u> Services Department of the Federal Ministry of Agriculture duly appointed or designated and notified under the present Bill to draw official samples of fertilizers to get their quality tested in a laboratory identified for this purpose, to inspect the fertilizer records being maintained by manufacturers, importers and distributors, and to launch prosecution against the violators of any of the provisions of the Bill.</p> <p>"brand" means design, trade mark, or other specific designation of the Manufacturer, blender or importer under which fertilizer is distributed;</p> <p>"director" means the Director in charge of the Farm Inputs <u>Support</u> Services Department in the Federal Ministry of Agriculture;</p> <p>"director of a manufacturer, blender, importer or distributor" means a principal officer of a company engaged in manufacturing, importing, blending or distribution of fertilizer;</p> <p>"distribute" means to consign, offer for sale, sell, barter, or otherwise supply fertilizer; "employee" means any person</p>	<p>"authorized officer" means an officer of the <i>Farm Inputs Supply Services</i> Department of the Federal Ministry of Agriculture duly appointed or designated and notified under the present Bill to draw official samples of fertilizers to get their quality tested in a laboratory identified for this purpose, to inspect the fertilizer records being maintained by manufacturers, importers and distributors, and to launch prosecution against the violators of any of the provisions of the Bill.</p> <p>"director" means the Director in charge of the Farm Inputs Supply Services Department in the Federal Ministry of Agriculture;</p>	
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	<p>being paid to work for a fertilizer manufacturer, importer, blender, distributor or dealer;</p> <p>"fertilizer" means any organic or inorganic substance or mixture of substances containing one or more recognized plant nutrient that is used to improve plant nutrient content and is designed for use in promoting plant growth;</p> <p>"Court" includes Federal High Court, State High Court and Magistrate Court where applicable.</p> <p>"holder of a permit or a certificate of registration" means a person who has obtained a permit or a certificate of registration pursuant to the provisions of this Bill and as prescribed by regulations made under this Bill;</p> <p>"inspector" means a person appointed or designated and notified under the present Bill to draw official samples of fertilizers, to get their quality tested in a laboratory identified for this purpose, to inspect the fertilizer records being maintained by manufacturers, importers and distributors and to launch prosecution against the violators of any of the provisions of this Bill.</p> <p>"label" includes -</p> <p>(a) all written, printed, marked symbols or graphic matter displayed upon the immediate container used in promoting the sale of fertilizers;</p> <p>(b) statements accompanying a fertilizer, supplement or package used in prompting the sale of fertilizer; or</p>	<p>Deleted</p>	<p>The word, "Inspector" was never mentioned in the Bill, and cannot therefore be defined. Again the Inspector performs the same functions with an authorised officer.</p>
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	<p>(c) advertisements, brochures, posters" television, radio, or internet announcements used in promoting the sale of fertilizer;</p> <p>"lawful authority" means by the authority of any law, rule or regulation or power exercisable by a person pursuant to any public power to command or act in the name of the public;</p> <p>"manufacture" means produce or blend fertilizer;</p> <p>"Minister" means the Minister responsible for Agriculture;</p> <p>"Ministry" means the Ministry responsible for Agriculture.</p> <p>"misbranding" includes –</p> <p>(a) the use of the name or trademark of another manufacturer in a way that is likely to deceive the public;</p> <p>(b) false declaration of the nutrient content of a fertilizer.</p> <p>"nutrient deficient" means a fertilizer is deemed "nutrient deficient" if the analysis of any nutrient is below the guarantee indicated on the bag by an amount exceeding the investigational allowance listed in schedule I of this Bill, or if the overall index value of the fertilizer is below 98%;</p> <p>"official sample" means a sample of fertilizer taken for analysis and designated official by the prescribed authority;</p> <p>"person" means a corporate body, individual, partnership, association, firm, or corporation;</p> <p>"Prescribed Authority" means the Department responsible for</p>		
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	<p>fertilizer in the Federal Ministry of Agriculture;</p> <p>"sell" includes to trade, offer for sale, expose for sale, or have in possession for sale any quantity of fertilizer;</p> <p>"short weight" means deviation in weight of fertilizer content below the claimed weight on the label;</p> <p>"supplement" means any substance or mixture of substances other than fertilizer, that is manufactured, imported or sold for use in the improvement of the physical condition of soil or to aid plant growth or crop yield;</p> <p>"unbranded" means the absence of the name, logo, trademark or other means of identification of a fertilizer and its importer, blender or manufacturer;</p> <p>"underweight" means fertilizer content with ' short weight which exceeds the 0.6% of the weight claimed on the label; and</p> <p>"violation" means a breach of any provision of this Bill or regulations made under this Bill.</p>		
Citation	29. This Bill may be cited as the National Fertilizer Quality (Control) Bill, 2019.		
	Schedules		
	First Schedule Sections 13 (1) (b)		
Investigational allowances and actual values	1. A fertilizer shall be deemed deficient if the analysis of an official sample for any primary plant nutrient is below the minimum guarantee by an amount exceeding the values in the following _		

	Minimum		Available	
	Guarantee (K ₂ O)	Nitrogen (N)	Phosphate(P ₂ O ₅)	Potash
	<u>Percent (%)</u> (%)	<u>Percent (%)</u>	<u>Percent (%)</u>	<u>Percent</u>
	04 or less	0.49	0.67	0.41
	05	0.51	0.67	0.43
	06	0.52	0.67	0.47
	07	0.54	0.68	0.53
	08	0.55	0.68	0.60
	09	0.57	0.68	0.65
	10	0.58	0.69	0.70
	12	0.61	0.69	0.79
	14	0.63	0.70	0.87
	16	0.67	0.70	0.94
	18	0.70	0.71	1.01
	20	0.73	0.72	1.08
	22	0.75	0.72	1.15
	24	0.78	0.73	1.21
	26	0.81	0.73	1.27
	28	0.83	0.74	1.33
	30	0.86	0.75	1.39
	32 or more	0.88	0.76	1.44
	2. For guarantees not listed, under paragraph 1, appropriate value shall be calculated by interpolation.			
	3. A fertilizer shall also be deemed deficient if the actual value is less than ninety-eight (98%) percent of the guaranteed value in the case of straight (single nutrient) fertilizers. The actual value is calculated by comparing the value guaranteed with the value found.			

	4. Plant nutrient values will be calculated on the basis of the price documented in the inspection report of the inspected lot.																																																								
	<p>5. Secondary and micronutrients shall be deemed deficient if the analysis of an official sample is below the guarantee by an amount exceeding the values in the following table -</p> <table border="1" data-bbox="571 367 1265 925"> <thead> <tr> <th rowspan="2">Element of</th> <th rowspan="2">Percent (%)</th> <th colspan="2">Investigational Percent (%)</th> </tr> <tr> <th>Allowance</th> <th>Guarantee</th> </tr> </thead> <tbody> <tr> <td>Calcium</td> <td>0.2</td> <td>+</td> <td>5</td> </tr> <tr> <td>Magnesium</td> <td>0.2</td> <td>+</td> <td>5</td> </tr> <tr> <td>Sulfur</td> <td>0.2</td> <td>+</td> <td>5</td> </tr> <tr> <td>Boron</td> <td>0.003</td> <td>+</td> <td>15</td> </tr> <tr> <td>Cobalt</td> <td>0.0001</td> <td>+</td> <td>30</td> </tr> <tr> <td>Molybdenum</td> <td>0.0001</td> <td>+</td> <td>30</td> </tr> <tr> <td>Chlorine</td> <td>0.005</td> <td>+</td> <td>10</td> </tr> <tr> <td>Copper</td> <td>0.005</td> <td>+</td> <td>10</td> </tr> <tr> <td>Iron</td> <td>0.005</td> <td>+</td> <td>10</td> </tr> <tr> <td>Manganese</td> <td>0.005</td> <td>+</td> <td>10</td> </tr> <tr> <td>Sodium</td> <td>0.005</td> <td>+</td> <td>10</td> </tr> <tr> <td>Zinc</td> <td>0.005</td> <td>+</td> <td>10</td> </tr> </tbody> </table> <p>The maximum allowance when calculated in accordance with the above shall be 1%.</p>	Element of	Percent (%)	Investigational Percent (%)		Allowance	Guarantee	Calcium	0.2	+	5	Magnesium	0.2	+	5	Sulfur	0.2	+	5	Boron	0.003	+	15	Cobalt	0.0001	+	30	Molybdenum	0.0001	+	30	Chlorine	0.005	+	10	Copper	0.005	+	10	Iron	0.005	+	10	Manganese	0.005	+	10	Sodium	0.005	+	10	Zinc	0.005	+	10		
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	Second Schedule	[Section 17]																																																							
	1. The following information in the format presented is the minimum required for all fertilizer labels:																																																								
	(a) For packaged products this information shall either- (i) appear on the front or back of the package and occupy at least one third of a side of the package; or (ii) be printed on a tag and attached to the package.																																																								

	2. (1) This information shall be in a readable and conspicuous form. For bulk products, this same information in written or printed form shall accompany delivery and be supplied to the purchaser at the time of delivery stating-		
	(a) brand (if applicable); (b) grade, only when primary nutrients are claimed; (c) guaranteed analysis;		
	total nitrogen (N) _____ % ammoniacal nitrogen _____ % nitrate nitrogen _____ % urea nitrogen _____ % water-insoluble nitrogen _____ % other recognized and determinable forms of N		
	(d) net weight; (e) sources of nutrients, when shown on the label, shall be listed below the guaranteed analysis statement; and (f) name and address of the applicant.		
	(2) Where the chemical forms of Nitrogen are claimed or required, the form shall be guaranteed in the format shown in paragraph (c) of subsection (1) and the percentages of the individual forms shall add up to the total nitrogen percentage as follows- available phosphate (P ₂ O ₅) _____ % soluble potassium (K ₂ O) _____ % (other nutrients, elemental basis) _____ %		

	<p>If claims are made on the label other than nutrient guarantees, the Prescribed Authority may require that the applicant provide-</p> <p>(a) A testing program conducted by a reputable researcher acceptable to the Director that substantiates the claims made on the label; and</p> <p>(b) A laboratory procedure acceptable to the Director for evaluating these claims.</p>		
	<p style="text-align: center;">EXPLANATORY MEMORANDUM</p> <p>This Bill repeals the National Fertilizer Board Act Cap N39 LFN 2004, the Fertilizer (Control) Act Cap F25 LFN 2004, and re-enacts the National Fertilizer Quality Control Bill, 2019, to provide an improved regulatory framework for the manufacture, importation, sale and distribution of fertilizer in Nigeria.</p>		