

No. 04/VBHN-BNNPTNT

Hanoi, March 10, 2023

DECREE

ON FERTILIZER MANAGEMENT

The Government's Decree No. 84/2019/ND-CP dated November 14, 2019 on fertilizer management, in force as of January 1, 2020, is amended and supplemented by:

The Government's Decree No. 130/2022/ND-CP dated December 31, 2022, amending and supplementing several Articles of the Government's Decree No. 84/2019/ND-CP dated November 14, 2019, prescribing fertilizer management, and the Government's Decree No. 94/2019/ND-CP dated December 13, 2019, elaborating on several Articles of the Law on Crop Production regarding crop varieties and cultivation, which is in force as from December 31, 2022.

Pursuant to the Law on Government Organization dated June 19, 2015;

Pursuant to the Law on Crop Production dated November 19, 2018;

At the request of the Minister of Agriculture and Rural Development;

The Government herein promulgates the Decree on fertilizer management. [1]

Article 1. Scope

This Decree elaborates on the implementation of clause 5 of Article 36, clause 4 of Article 37, clause 3 of Article 38, clause 2 of Article 40, clause 4 of Article 41, clause 3 of Article 42, clause 3 of Article 44, clause 4 of Article 45, clause 4 of Article 46 and clause 2 of Article 49 regarding fertilizer management in the Law on Crop Production.

Article 2. Interpretation of terms

For the purposes of this Decree, terms used herein shall be construed as follows:

1. "main quality index" of a fertilizer means a fertilizer quality index decisive to the nature and utilities of such fertilizer as prescribed by national technical regulations and used to classify the fertilizer.

2. “additional quality index” of a fertilizer means a fertilizer quality index that influences the nature and utilities of such fertilizer as prescribed by national technical regulations. It is neither a main quality index nor used to classify the fertilizer.

3. “nutrient” in a fertilizer means a chemical element that is necessary for the growth of plants. Nutrients consist of:

a) Macronutrients, including nitrogen (N), phosphorus (P) and potassium (K) which can be absorbed by plants;

b) Secondary nutrients, including calcium (Ca), magnesium (Mg), and sulfur (S) which can be absorbed by plants;

c) Micronutrients, including boron (B), cobalt (Co), copper (Cu), iron (Fe), manganese (Mn), molybdenum (Mo) and zinc (Zn) which can be absorbed by plants.

4. “restricted element in a fertilizer” means an element that is potentially harmful or poses risks to food safety or the environment as prescribed by national technical regulations.

5. “fertilizer production” includes one, multiple or all activities aiming to produce fertilizers through chemical or biological reactions or physical processes such as mixing, formulation, grinding, sieving, preliminary treatment, aging, fermentation, extraction, recycling, moisturizing, granulation, packaging and other activities.

6. “fertilizer trade” includes one, multiple or all the following activities: display, sale, storage, preservation, transportation, wholesale, retail, import and export of fertilizers and other activities to trade fertilizers.

7. “low-quality fertilizer” means a fertilizer whose quality index and/or restricted elements fail(s) to meet the requirements specified in the Decision on recognition of fertilizer for trade in Vietnam (hereinafter referred to as “Recognition Decision”) or national technical regulations.

8. “fake fertilizer” means a fertilizer one main quality index or more of which accounts for only 70% or fewer compared to the proportion registered in the Recognition Decision (excluding main quality indexes being microorganisms).

Article 3. Fertilizer classification

1. Chemical fertilizers (also known as inorganic fertilizers) include different types of fertilizers which are produced mainly from inorganic substances or synthetic organic substances that have been treated through chemical processes or mineral processing. They are further classified according to the compositions, contents or functions of main quality indexes or chemical bonds of nutrients as specified in national technical regulations.

2. Organic fertilizers include different types of fertilizers which are produced mainly from natural organic substances (excluding synthetic organic substances) that have been treated through physical processes (such as drying, grinding, sieving, mixing, moisturizing) or biological processes (such as aging, fermentation, extraction). They are further classified according to the compositions and functions of main quality indexes or production processes as specified in national technical regulations.

3. Biological fertilizers include different types of fertilizers produced through biological processes or natural fertilizers that contain one biological substance or more such as humic acids, fulvic acids, amino acids, vitamins or other biological substances. They are further classified according to the compositions or functions of main quality indexes as specified in national technical regulations.

4. Fertilizers for root are fertilizers of the groups defined in Clause 1, Clause 2 and Clause 3 herein that are used for provision of nutrients to plants through their roots or soil improvement.

5. Foliar fertilizers are fertilizers of the groups defined in Clause 1, Clause 2 and Clause 3 herein that are used to provide nutrients for plants through their stems and leaves.

Article 4. General provisions for administrative procedures provided for in this Decree

1. For dossier submission: Depending on the capacity for receipt and result informing of entities handling administrative procedures (“handling entities”), organizations and individuals shall submit dossiers in person, by post or online (via the national single-window system, online public services, software, email, fax). To be specific:

a) If the dossier is submitted in person or by post: The dossier must include the authentic copies, copies from the master registers, certified copies or copies attached with authentic copies for verification;

b) If the dossier is submitted online: The dossier must include the scanned or photographed copies of the authentic copies.

2. The dossier shall be made into 01 copy.

3. Time limit for informing of adequacy of the dossier:

a) If the dossier is submitted in person: The handling entity shall review the dossier’s composition and inform immediately after the organization or individual has submitted the dossier;

b) If the dossier is submitted by post or online: Within 02 working days, the handling entity shall review the dossier’s composition and, if the dossier is not yet adequate as

regulated, the handling entity shall inform the organization or individual for supplementation.

4. For payment of administrative fees and charges: Organizations and individuals shall pay the fees and charges specified by applicable regulations at the premises of handling entities, by wire transfer or via other services.

5. For informing of results: Handling entities shall inform results of handling of administrative procedures at the dossier receiving location, by post or online.

6. If a regulation in this Decree is inconsistent with regulations of Clauses 1, 2, 3, 4 and 5 herein, the former shall prevail.

7. If a dossier is in a foreign language, it must be translated into Vietnamese and verified by translating authorities.

8. Organizations and individuals shall hold responsibilities for their submitted dossiers.

Chapter II

ISSUANCE, REISSUANCE, EXTENSION AND REVOCATION OF DECISION ON RECOGNITION OF FERTILIZER FOR TRADE AND DECISION ON RECOGNITION OF FERTILIZER TESTING ORGANIZATION

Article 5. Applications, procedures and competence pertaining to issuance of Decision on recognition of fertilizer for trade in Vietnam

1. An application for the Recognition Decision consists of:

a) An application for the Recognition Decision, which is made using Form No. 01 of Appendix I enclosed with this Decree;

b) Basic information on the fertilizer certified by the producer, including type; name; form; guidelines on use; methods of use; service life; safety warnings; quality indexes, restricted elements and testing result;

c) The authentic copy of the report on result of fertilizer testing according to national standards for fertilizer testing (excluding the fertilizers provided for in Clause 2 Article 39 of the Crop Production Law);

d) Certificate of free sale issued by the exporting country (for the fertilizers specified in Points a, b and c Clause 2 Article 39 of the Crop Production Law that are imported).

2. Procedures for and competence in issuance of the Recognition Decision:

The organization or individual shall submit the application specified in Clause 1 herein to a competent affiliate of the Ministry of Agriculture and Rural Development (“competent authority”).

Within 03 months from the date of receipt of the adequate application, the competent authority shall review the application and, if the application is satisfactory, grant the Recognition Decision using Form No. 03 of Appendix I enclosed with this Decree; otherwise, the competent authority must send a written explanation to the applicant.

3. The Recognition Decision is valid for 05 years. An organization or individual that would like to extend the Recognition Decision must apply for extension according to the procedures specified in Article 7 herein 03 months before such Decision expires.

Article 6. Applications and procedures for reissuance of the Recognition Decision

1. An application for reissuance of the Recognition Decision includes:

- a) An application for reissuance of the Recognition Decision, which is made using Form No. 01 of Appendix I enclosed with this Decree;
- b) The document on trademark infringement issued by the intellectual property authority or the court (for change of fertilizer’s name);
- c) The new enterprise registration certificate or investment certificate (for change to applicant’s information);
- d) The authentic copy or certified copy of the fertilizer transfer agreement or contract (for transfer of the fertilizer in the Recognition Decision).

2. Procedures for reissuance of the Recognition Decision:

The organization or individual shall submit the application specified in Clause 1 herein to the competent authority.

Within 07 working days from the date of receipt of the adequate application, the competent authority shall review the application and, if the application is satisfactory, grant the Recognition Decision using Form No. 03 of Appendix I enclosed with this Decree; otherwise, the competent authority must send a written explanation to the applicant.

3. The effective period of the reissued Recognition Decision is the same as that of the issued Recognition Decision.

Article 7. Applications and procedures for extension of the Recognition Decision

1. An application for extension of the Recognition Decision includes:

- a) An application for extension of the Recognition Decision, which is made using Form No. 01 of Appendix I enclosed with this Decree;
- b) Notice of receipt of application for registration of the declaration of conformity or announcement of result of state inspection of imported fertilizer's quality;
- c) Report on fertilizer production, export, import and use, which is made using Form No. 02 of Appendix I enclosed with this Decree.

2. Procedures for extension of the Recognition Decision:

The organization or individual shall submit the application specified in Clause 1 herein to the competent authority.

Within 07 working days from the date of receipt of the adequate application, the competent authority shall review the application and, if the application is satisfactory, extend the Recognition Decision using Form No. 03 of Appendix I enclosed with this Decree; otherwise, the competent authority must send a written explanation to the applicant.

Article 8. Applications, procedures and competence pertaining to revocation of the Recognition Decision

1. For the case provided for in Point a Clause 1 Article 38 of the Crop Production Law, the competent authority shall gather and review the evidences. Within 05 working days from the date of issuance of the conclusion that the fertilizer poses high risks to human health and/or the environment, the competent authority shall issue decision on revocation of the Recognition Decision.
2. For the case provided for in Point b Clause 1 Article 38 of the Crop Production Law, within 05 working days from the date of receipt of the written conclusion on use of fake documents or provision of information different from that of the fertilizer permitted for trade, the competent authority shall issue decision on revocation of the Recognition Decision.
3. The decision on revocation of the Recognition Decision includes:
 - a) Fertilizer name - Fertilizer code;
 - b) Name of organization or individual possessing the fertilizer;
 - c) Reason for disposal of the fertilizer, including legal and scientific grounds;
 - d) Date of entry into force of the decision on revocation of the Recognition Decision.

4. The competent authority issuing a Recognition Decision has the power to issue decision on revocation of such Recognition Decision.

Within 02 working days from the date on which the decision is signed, it must be announced on mass media and the website of the competent authority.

Article 9. Minimum personnel requirements for tests conducted by fertilizer testing organizations

A fertilizer testing organization must ensure there are adequate personnel to conduct a test, among which, there must be at least 05 official employees (public employees or workers under indefinite duration contracts or contracts for duration of at least 12 months) besides the person in charge of the test.

Article 10. Applications, procedures and competence pertaining to issuance of Decision on recognition of fertilizer testing organization

1. An application for Decision on recognition of fertilizer testing organization (“testing organization recognition decision”) consists of:

- a) An application for recognition of the fertilizer testing organization, which is made using Form No. 04 of Appendix I enclosed with this Decree;
- b) A description of eligibility to conduct fertilizer tests, which is made using Form No. 05 of Appendix I enclosed with this Decree.

2. Procedures for and competence in issuance of the testing organization recognition decision:

The organization or individual shall submit the application specified in Clause 1 herein to the competent authority.

Within 20 working days from the date of receipt of the adequate application, the competent authority shall review the application and, if the application is satisfactory, carry out an inspection of the fertilizer testing organization’s eligibility to conduct fertilizer tests.

If the fertilizer testing organization passes the inspection, within 05 working days from the date on which the inspection is completed, the competent authority shall issue the testing organization recognition decision using Form No. 06 of Appendix I enclosed with this Decree.

If remedial actions are required according to the inspection record, within 05 working days from the date of receipt of the requirement for remedy, if the fertilizer testing organization satisfies the requirements as regulated, the competent authority shall issue the testing organization recognition decision using Form No. 06 of Appendix I enclosed

with this Decree; otherwise, the competent authority must send a written explanation to the applicant.

Article 11. Revocation of testing organization recognition decision

1. The testing organization recognition decision will be revoked in any of the following cases:

a) Data forgery or provision of fictitious data in a fertilizer testing report;

b) Erasure or modification to falsify the contents of an issued decision;

c) Lack of remedial actions upon conclusion from the competent authority that the testing organization fails to satisfy the requirements specified in Clause 1 Article 40 of the Crop Production Law.

2. Within 10 working days from the date of receipt of information on any of the violations prescribed in Clause 1 herein, the competent authority issuing the testing organization recognition decision shall review such information and issue decision on revocation of the testing organization recognition decision if the fertilizer testing organization did violate one of the regulations in Clause 1 herein; and announce such decision on the website of the competent authority.

3. A fertilizer testing organization whose testing organization recognition decision has been revoked may apply for such decision again 24 months after the date on which the competent authority issued the revocation decision.

Chapter III

ISSUANCE, REISSUANCE AND REVOCATION OF CERTIFICATE OF ELIGIBILITY FOR FERTILIZER PRODUCTION AND CERTIFICATE OF ELIGIBILITY FOR FERTILIZER TRADE

Article 12. Specific provisions for fertilizer production requirements

1. Point a Clause 2 Article 41 of the Crop Production Law is specified as follows: The production area shall be separated by walls and fences; have reinforced workshops; and walls, ceilings, dividers and doors meeting quality control requirements.

2. Point b Clause 2 Article 41 of the Crop Production Law is specified as follows: Production lines, machinery and equipment for fertilizer production must be commensurate with the production of each type or form of fertilizers as prescribed in Appendix II enclosed with this Decree.

3. Point c Clause 2 Article 41 of the Crop Production Law is specified as follows: They must have laboratories conforming to ISO 17025 standards or enter into contracts with

other designated testing organizations according to regulations of laws on product and goods quality, excluding establishments for the sole purpose of fertilizer packaging.

4. Point d Clause 2 Article 41 of the Crop Production Law is specified as follows: They must establish a quality control system in conformity with ISO 9001 or equivalent; for new establishments, such system must be established no later than 1 year from the date of issuance of the certificate of eligibility for fertilizer production.

Article 13. Competence in issuance, reissuance and revocation of certificate of eligibility for fertilizer production and certificate of eligibility for fertilizer trade, and inspection of eligibility

1. Competent affiliates of the Ministry of Agriculture and Rural Development have the power to inspect, issue, reissue and revoke the certificate of eligibility for fertilizer production, which is made using Form No. 10 of Appendix I enclosed with this Decree.

2. Departments of Agriculture and Rural Development have the power to inspect, issue, reissue and revoke the certificate of eligibility for fertilizer trade, which is made using Form No. 11 of Appendix I enclosed with this Decree.

3. The authorities issuing the certificate of eligibility for fertilizer production and certificate of eligibility for fertilizer trade (hereinafter referred to as “certificates of eligibility”) must announce issuance, reissuance and revocation of such certificates on their web portals.

Article 14. Application for certificate of eligibility for fertilizer production

1. An application for certificate of eligibility for fertilizer production, which is made using Form No. 07 of Appendix I enclosed with this Decree.

2. A description of eligibility to produce fertilizers, which is made using Form No. 09 of Appendix I enclosed with this Decree.

3. A photocopy of the bachelor degree or higher of the person directly managing production of fertilizers as prescribed in Point e Clause 2 Article 41 of the Crop Production Law.

4.[2] (*repealed*)

Article 15. Application for certificate of eligibility for fertilizer trade

1. An application for certificate of eligibility for fertilizer trade, which is made using Form No. 08 of Appendix I enclosed with this Decree.

2.[3] Information about the certificate of completion of training or refresher course on fertilizers shown in the Application for Certificate of eligibility for fertilizer trade or the

photocopy of the secondary diploma or higher qualification of the direct trader as prescribed in Point c Clause 2 Article 42 of the Crop Production Law.

Article 16. Application for reissuance of certificate of eligibility for fertilizer production and certificate of eligibility for fertilizer trade

1. For expired certificates of eligibility for fertilizer production. The organization or individual that would like to continue producing fertilizers must apply for reissuance of the certificate of eligibility for fertilizer production according to regulations of Article 14 herein 03 months before the date such certificate expires. If the contents of the application dossier remain unchanged, the organization or individual shall submit the application for issuance of the certificate of eligibility for fertilizer production using Form No. 07 of Appendix I enclosed with this Decree.

2. For lost or damaged certificates of eligibility

a) An application for reissuance of the lost or damaged certificate, which is made using Form No. 08 of Appendix I enclosed with this Decree;

b) The primary copy of the issued certificate (for damaged certificates).

3. For change of information about organizations/individuals on certificates of eligibility.

a) An application for reissuance of the lost or damaged certificate, which is made using Form No. 08 of Appendix I enclosed with this Decree;

b)[4] (*deleted*)

c) The primary copy of the issued certificate.

4. For change of the production or trading site

a) An application for reissuance specified in Article 14 or Article 15 herein;

b) The primary copy of the issued certificate.

5. For change of fertilizer type, fertilizer form or production capacity on certificates of eligibility for fertilizer production

a) An application for reissuance of the certificate of eligibility for fertilizer production, which is made using Form No. 07 of Appendix I enclosed with this Decree;

b) A description of eligibility to produce fertilizers, which is made using Form No. 09 of Appendix I enclosed with this Decree;

c) The authentic copy of the issued certificate of eligibility for fertilizer production.

Article 17. Procedures for issuance and reissuance of certificate of eligibility for fertilizer production and certificate of eligibility for fertilizer trade

1. Certification procedures:

a) Procedures for issuance of the certificate of eligibility for fertilizer production: The organization or individual shall submit the application to the competent authority defined in Clause 1 Article 13 herein.

Within 20 working days from the date of receipt of the adequate application, the competent authority shall review its contents and, if it is satisfactory, carry out an inspection of the applicant's eligibility to produce fertilizers and fulfillment of the obligations of fertilizer producing organizations and individuals defined in Point i Clause 2 Article 50 of the Crop Production Law, and make a record of the inspection using Form No. 12 of Appendix I enclosed with this Decree.

In case the applicant is unqualified, it must take remedial actions and inform the competent authority of such actions in writing for inspection of the remedied contents. If the applicant passes such inspection, the competent authority shall issue the certificate of eligibility for fertilizer production using Form No. 10 of Appendix I enclosed with this Decree within 05 working days from the date of completion of the inspection. In case of refusal to grant the Certificate of eligibility for fertilizer production, a written reply, clearly stating reasons, must be sent to the applicant.

b) Procedures for issuance of the certificate of eligibility for fertilizer trade: The organization or individual shall submit the application to the competent authority defined in Clause 2 Article 13 herein.

Within 10 working days from the date of receipt of the adequate application, the competent authority shall review its contents and, if it is satisfactory, carry out an inspection of the applicant's eligibility to trade fertilizers, and make a record of the inspection using Form No. 12 of Appendix I enclosed with this Decree.

In case the applicant is unqualified, it must take remedial actions and inform the competent authority of such actions in writing for inspection of the remedied contents. If the applicant passes such inspection, within 03 working days from the date the inspection is completed, the competent authority shall issue the certificate of eligibility for fertilizer trade using Form No. 11 of Appendix I enclosed with this Decree. In case of refusal to grant the Certificate of eligibility for fertilizer trade, a written reply, clearly stating reasons, must be sent to the applicant.

2. Certificate reissuance procedures

a) Reissuance of the certificate of eligibility for fertilizer production for the cases stated in Clauses 1, 4 and 5 Article 16 herein shall be carried out according to the procedures specified in Point a Clause 1 of this Article.

b) Reissuance of the certificate of eligibility for fertilizer trade for the case stated in Clause 4 Article 16 herein shall be carried out according to the procedures specified in Point b Clause 1 of this Article.

c) For the cases stated in Clauses 2 and 3 Article 16 of this Decree, procedures for reissuance of certificates of eligibility:

Within 05 working days from the date of receipt of the adequate application, the authority shall reissue certificates of eligibility. In case of refusal, they must send a written response, clearly stating reasons.

The effective period of the new certificate is the same as that of the preexisting certificate.

Article 18. Revocation of certificate of eligibility for fertilizer production and certificate of eligibility for fertilizer trade

1. An establishment producing or trading fertilizers will have its certificate of eligibility revoked if:

a) It uses false documents or provides incorrect information, which distorts the nature of the application for the certificate of eligibility; or

b) It erases or modifies the contents of the certificate of eligibility for the purpose of falsification.

2. The revocation of certificates of eligibility prescribed in Clause 1 herein shall be carried out by the competent authority issuing them.

Within 10 working days from the date of receipt of information on any of the violations prescribed in Clause 1 herein, the competent authority issuing the certificate of eligibility shall review such information and issue decision on revocation of the certificate if the establishment producing or trading fertilizers did violate one of the regulations in Clause 1 herein; and announce such decision on the website of the competent authority.

3. An organization or individual whose certificate of eligibility has been revoked may apply for such certificate again 24 months after the date on which the competent authority issued the revocation decision.

Chapter IV

FERTILIZER IMPORT, STATE INSPECTION OF FERTILIZER IMPORT, FERTILIZER SAMPLING AND FERTILIZER ADVERTISEMENT

Article 19. Fertilizer import

1. Organizations and individuals shall import fertilizers according to regulations of Article 44 and Article 46 of the Crop Production Law.
2. In case of import authorization as prescribed in Clause 1 Article 44 of the Crop Production Law, the authorized organization or individual must present the authorization letter from the organization or individual possessing the fertilizer granted the Recognition Decision to customs authorities and state inspection authorities.
3. In addition to the documents required by goods import regulations, the organization or individual importing fertilizers must submit the following documents to customs authorities directly or via the national single-window system: Result of state inspection of imported fertilizer's quality for the cases specified in Clause 1 and Points b, c and g Clause 2 Article 44 of the Crop Production Law; or fertilizer import permit for the cases specified in Clause 2 Article 44 of the Crop Production Law.

Article 20. Applications, procedures and competence pertaining to issuance of fertilizer import permits

1. An application for the fertilizer import permit includes:
 - a) A fertilizer import application, which is made using Form No. 13 of Appendix I enclosed with this Decree;
 - b) A technical declaration, which is made using Form No. 14 of Appendix I enclosed with this Decree;
 - c) Documents on quality indexes, guidelines on use, safety warnings and restricted elements of the fertilizer from the producer;
 - d) Certificate of free sale issued by the exporting country (for import of the fertilizers specified in Points a, b, c, d, dd, e and g Clause 2 Article 44 of the Crop Production Law);
 - dd) Confirmation of or invitation to the fair or exhibition in Vietnam (for the case provided for in Point dd Clause 2 Article 44 of the Crop Production Law);
 - e) Research scheme for the fertilizer to be imported (for the case provided for in Point e Clause 2 Article 44 of the Crop Production Law);
 - g) Import contract, export contract or contract of export processing with foreign partners (for the cases provided for in Point h Clause 2 Article 44 of the Crop Production Law).

2. Procedures for and competence in issuance of fertilizer import permits:

The organization or individual shall submit the application specified in Clause 1 herein to the competent authority.

Within 07 working days from the date of receipt of the complete and valid application, the competent authority shall issue the fertilizer import permit using Form No. 15 of Appendix I enclosed therewith; if the application is rejected, the competent authority must send a written explanation to the applicant.

Article 21. Applications, procedures, contents and competence regarding state inspection of imported fertilizer's quality

1. An application for state inspection of quality of an imported fertilizer (hereinafter referred to as "quality inspection") includes:

- a) A quality inspection application, which is made using Form No. 16 of Appendix I enclosed with this Decree;
- b) Photocopies of the following documents: Sale contract; enclosed goods list (including registered quantity and code of each batch); goods invoices; bill of lading (for air, marine or railway freight).

2. Procedures for quality inspection and sampling:

- a) The organization or individual shall submit the application specified in Clause 1 herein to the state inspection authority defined in Clause 4 herein;
- b) The state inspection authority shall review the application specified in Clause 1 herein within 01 working day.

If the application is satisfactory, the state inspection authority shall leave its confirmation on the application and proceed to take samples according to regulations of laws.

If the application is unsatisfactory, the state inspection authority shall send a written explanation to the applicant.

c) Taking samples for quality inspection

Compare the fertilizer batch at the sampling location with the information included in the application. If the information matches, proceed to take samples. The samples must be sealed and a record of sampling for the quality inspection must be drawn up using Form No. 17 of Appendix I enclosed with this Decree.

All quality indexes and restricted elements of the fertilizer must be tested according to regulations of the national technical regulation on fertilizer quality. If testing of a quality index is not yet available in domestic laboratories, the fertilizer management authority shall consider and accept the quality testing result of the producer.

d) Announcement of inspection results

Within 10 working days from the date of sampling, the state inspection authority shall announce the result of the quality inspection to the organization or individual using Form No. 18 of Appendix I enclosed with this Decree.

The fertilizer may be returned to its storage while the inspection result is being processed and shall be subject to regulations on procedures for customs inspection and supervision of imports and exports.

3. Exemption from quality inspection

a) Exemption from quality inspection may be granted to fertilizers having the same name, code and form as a fertilizer of the same production establishment, origin and importer that has passed the quality inspection three consecutive times. The weight of each import after such exemption is granted must not exceed the total weight of the 3 imports which served as the basis for such exemption.

b) The exemption is valid for 12 months. For a fertilizer granted the exemption, frequency of sampling for 01 year according to regulations of Point c Clause 2 herein is a maximum of 20% of the regular frequency and the samples are randomly selected by the inspection authority.

c) During the validity period of the exemption, the importer shall submit the quality inspection application specified in regulations of Point a Clause 1 herein to the state inspection authority defined in Clause 4 of this Article. The inspection authority shall take samples for the quality inspection with the frequency specified in Point b Clause 3 herein.

In case sampling is not required, within 2 days from the date of receipt of the valid application, the state inspection authority shall announce the result of the quality inspection to the organization or individual using Form No. 18 of Appendix I enclosed with this Decree.

d) Application for exemption from the quality inspection and procedures thereof are provided for in the Government 's Decree No. 74/2018/ND-CP dated May 15, 2018 amending a number of Articles of the Decree No. 132/2008/ND-CP dated December 31, 2008 detailing implementation of a number of Articles of the Law on Product and Food Quality and the Decree No. 154/2018/ND-CP dated November 09, 2018 amending a number of regulations on investment and business conditions in sectors under management of Ministry of Science and Technology and certain regulations on specialized inspections.

dd) During the validity period of the exemption, if imports being traded are found to have violated regulations of a national technical regulation and/or the Recognition Decision, the fertilizer management authority shall annul such exemption in writing.

4. State inspection authorities in charge of the quality inspection include the Plant Protection Department or certification bodies for the declaration of conformity which possess laboratories that meet the requirements specified in the Decrees No. 74/2018/ND-CP and No. 154/2018/ND-CP and are authorized by the Plant Protection Department for each period of time.

Article 22. Sampling and testing of fertilizers

1. Fertilizer sampling

- a) Sampling methods are provided for by national standards for fertilizer sampling;
- b) If sampling of a fertilizer is not yet regulated by national standards for fertilizer sampling, the organization or individual importing or exporting such fertilizer must formulate its sampling method. The Plant Protection Department shall decide to approve such method within 20 working days.

2. Fertilizer testing

- a) Testing of fertilizer quality for the purpose of state management of import, export and trade shall be carried out by appointed laboratories.
- b) Methods for testing of quality indexes and restricted elements in fertilizers are stipulated by national technical regulations. If the method for such testing for a fertilizer is not yet provided for by national technical regulations, the Plant Protection Department shall decide to approve an experimental method and put it to use.

Article 23. Training contents and duration, and competence in issuance of fertilizer sampling certificate

1. Training shall focus on:

- a) Regulations of applicable laws on fertilizers;
- b) Fertilizer sampling methods according to national standards;
- c) Fertilizer sampling practice.

2. Training duration: 05 days.

Based on post-training test results, competent authorities shall issue the fertilizer sampling certificate using Form No. 19 of Appendix I enclosed with this Decree.

3. Organizations and individuals that would like to receive training in fertilizer sampling may register in person, by post or online with competent authorities.

4. The Plant Protection Department shall formulate programs and compile training materials concerning fertilizer sampling; take charge and cooperate with schools and institutes in organizing training and issuing fertilizer sampling certificates.

Article 24. Applications, procedures and competence regarding confirmation of fertilizer advertisement contents

1. An application for confirmation of fertilizer advertisement contents consists of:

a) An application for confirmation of fertilizer advertisement contents, which is made using Form No. 20 of Appendix I enclosed with this Decree;

b) A valid copy of the Recognition Decision;

c) 02 advertisement scripts and recording/video files or designs suitable to the type and form of advertising (excluding advertising via seminars, conferences and events);

d) For advertising via seminars, conferences and events: agenda (with detailed contents); schedule; venue; contents of the speech and handouts; name, position and qualification of the speaker.

2. Procedures and competence regarding confirmation of fertilizer advertisement contents:

The organization or individual shall submit the application specified in Clause 1 herein to a Department of Agriculture and Rural Development;

Within 05 working days from the date of receipt of the adequate application, the Department of Agriculture and Rural Development shall review the application and, if the application is satisfactory, issue a written confirmation of the advertisement contents using Form No. 21 of Appendix I enclosed with this Decree; otherwise, a written explanation must be sent to the applicant.

The written confirmation of advertisement contents shall be valid nationwide.

3. For advertising via seminars, conferences and events, the organization or individual possessing a fertilizer granted the written confirmation of its advertisement contents must send a notice of the advertising form, time and location and a copy of the confirmation to the Department of Agriculture and Rural Development of the province where the advertisement takes place for any necessary inspection.

Chapter V

RESPONSIBILITIES FOR STATE MANAGEMENT OF FERTILIZERS

Article 25. Responsibilities of the Ministry of Agriculture and Rural Development

1. Propose legislative documents on fertilizer management, fertilizer development strategies, planning, programs, plans and policies; and fertilizer export and import to the Government for promulgation.
2. Formulate national technical regulations and standards for fertilizers.
3. Manage registration, tests, production, trade, export, import, quality control, labeling, advertisement and use of fertilizers in Vietnam.
4. Organize research, collect and manage information and documents concerning fertilizer production and trade; carry out international cooperation in the fertilizer sector.
5. Provide training and refresher courses, disseminate legislative documents on fertilizers.
6. Organize inspection, supervision, settlement of complaints and denunciations and handling of violations concerning fertilizers.
7. Develop a system of laboratories capable of serving state management of fertilizers; designate referee laboratories which provide the conclusion upon disputes or denunciations regarding fertilizer testing results.
8. Announce list of fertilizers granted free sale in Vietnam on the web portal of the Plant Protection Department.
9. Delegate fertilizer management power to affiliates and localities; inspect fulfillment of fertilizer management responsibilities of localities; assign the Plant Protection Department to receive and handle administrative procedures within the competence of the Ministry of Agriculture and Rural Development and implement this Decree ex officio.

Article 26. Responsibilities of Departments of Agriculture and Rural Development

1. Propose incentive policies for production, trade and use of fertilizers within their provinces to provincial People's Committees.
2. Receive, supervise and inspect declarations of conformity for fertilizers of organizations and individuals; inspect fertilizer testing and advertisement in provinces; announce list of organizations and individuals that have registered their declarations of conformity for fertilizers on the Departments' web portals.
3. Take charge and cooperate with relevant bodies in educating and providing guidelines on laws and fertilizer quality information to producers, traders and consumers.
4. Inspect and handle administrative violations against fertilizer regulations within their provinces as prescribed by law. Periodically inspect eligibility for fertilizer trade within their provinces according to regulations of this Decree. Cooperate with the Ministry of Agriculture and Rural Development and relevant ministries and regulatory bodies in

inspecting, monitoring, and settling complaints and denunciations; handle fertilizer production, trade and advertisement violations within their provinces.

5. Assign provincial plant protection and quarantine authorities to receive and handle administrative procedures within the competence of Departments of Agriculture and Rural Development; ex officio manage fertilizers in provinces and submit reports on performance of such task to the Plant Protection Department annually or upon request.

Chapter VI

IMPLEMENTATION CLAUSE^[5]

Article 27. Grandfather clauses

1. Results of fertilizer tests conducted according to regulations of the Government's Decree No. 108/2017/ND-CP dated September 20, 2017 on fertilizer management and before the effective date of the Crop Production Law may continue to be used.
2. For licences, certificates, recognition decisions and quality inspections whose applications have been submitted before the effective date of this Decree but are not yet concluded, they shall be handled according to regulations of the Decree No. 108/2017/ND-CP.
3. If the fertilizer's type, component or name in a Recognition Decision granted before the effective date of this Decree is against regulations of the national technical regulation on fertilizer quality, Appendix V enclosed with the Decree No. 108/2017/ND-CP may be used as the basis for certification of conformity and/or declaration of conformity for such fertilizer before the Recognition Decision expires. The competent authority shall consider and change the fertilizer's type, component or name in the Recognition Decision for free sale of fertilizer in Vietnam issued before the effective date of this Decree according to the national technical regulation on fertilizer quality at the request of the organization or individual before the Recognition Decision expires.
4. The decisions on recognition of fertilizer testing eligibility issued according to regulations of the Decree No. 108/2017/ND-CP are equivalent to testing organization recognition decisions provided for in this Decree.
5. Certificates of training in fertilizer sampling issued before the effective date of this Decree are equivalent to the fertilizer sampling certificates prescribed in this Decree.
6. Fertilizers labeled according to regulations of the Decree No. 108/2017/ND-CP and produced, imported, traded and used before the effective date of the Crop Production Law may continue to be traded and used until the expiration date written on their labels. Fertilizer labels and packaging containing fertilizer labels in compliance with regulations of the Decree No. 108/2017/ND-CP that were produced or printed before the effective

date of the Crop Production Law may continue to be used within 02 years starting from such effective date.

7. The fertilizer import permits issued according to regulations of the Decree No. 108/2017/ND-CP may continue to be used until they expire.

Article 28. Entry into force

1. This Decree is entering into force as from January 1, 2020.
2. The Government's Decree No. 108/2017/ND-CP dated September 20, 2017 on fertilizer management is annulled from the date on which this Decree comes into force.
3. This Decree annuls the legislative documents included in Appendix III enclosed with this Decree.

Article 29. Implementation

1. The Minister of Agriculture and Rural Development shall be responsible for providing guidance on implementation of this Decree.
2. Ministers, Heads of Ministry-level agencies, Heads of Governmental bodies, Presidents of People's Committees of provinces and centrally-affiliated cities and other organizations and individuals involved shall be responsible for implementing this Decree./.

**CERTIFIED AS A CONSOLIDATED
DOCUMENT BY**

**PP. MINISTER
DEPUTY MINISTER**

Nguyen Hoang Hiep

Appendix I [6]

(To the Government's Decree No. 130/2022/ND-CP dated December 31, 2022)

APPLICANT'S NAME

SOCIALIST REPUBLIC OF VIETNAM

Independence – Freedom – Happiness

No.:

... , *day* *month* *year*

**APPLICATION FOR ISSUANCE/RE-ISSUANCE OF CERTIFICATE OF
ELIGIBILITY FOR FERTILIZER PRODUCTION**

To Plant Protection Department

1. Name:
2. Address:
3. Telephone number: Fax: E-mail:
4. Fertilizer plant located at:
5. Certificate of Enterprise Registration/ Certificate of Science and Technology Organization: No.....issued on
.....at.....

6. Documentary evidence of environmental protection measure prescribed in law on environmental protection (specifying name, number, time of issuance):

.....
.....

herein requests grant of the Certificate of eligibility for fertilizer production

Manufacturing type: Fertilizer production

Fertilizer packaging

**Method of conferral
of the Certificate:** Initially issued

Re-issued (for the...time)

Reasons for re-
issuance:.....

Attached documents:

.....

We pledge that information included in the application and attached documents are true and comply with laws on fertilizer.

APPLICANT

(Signature, seal/digital signature)

Appendix II [7]

(To the Government's Decree No. 130/2022/ND-CP dated December 31, 2022)

APPLICANT'S NAME

SOCIALIST REPUBLIC OF VIETNAM

Independence – Freedom – Happiness

No.

... , Date (dd/mm/yyyy)

**APPLICATION FOR ISSUANCE/RE-ISSUANCE OF CERTIFICATE OF
ELIGIBILITY FOR FERTILIZER TRADE**

To:.....[8]

1. Applicant's name:

Address:

Owner/legal representative:.....

Telephone number: Fax: E-mail:.....

ID card/Citizen ID card: No..... Date of issuance: Place of issuance:

2. Place of storage of fertilizer (if any):

3. Certificate of Enterprise Registration/ Certificate of Business Household
Registration/Certificate of Science and Technology Organization: No.....issued on
.....at.....

4. Certificate of completion of professional fertilizer training held by the direct trader:
No.....issued on.....at.....[9]

herein requests grant of the Certificate of eligibility for fertilizer trade

Issued Reissued (for the...time)

Reasons for re-issuance:.....

Attached documents:
.....

We pledge to comply with laws in the fertilizer sector and other provisions of relevant laws.

APPLICANT

(Signature, seal/digital signature)

[1] The Government’s Decree No. 130/2022/ND-CP dated December 31, 2022, amending and supplementing several Articles of the Government’s Decree No. 84/2019/ND-CP dated November 14, 2019, prescribing fertilizer management, and the Government’s Decree No. 94/2019/ND-CP dated December 13, 2019, elaborating on several Articles of the Law on Crop Production regarding crop varieties and cultivation, has the following legal bases:

“Pursuant to the Law on Government Organization dated June 19, 2015; the Law on Amendments and Supplements to certain Articles of the Law on Government Organization and the Law on Local Government Organization dated November 22, 2019;

Pursuant to the Law on Crop Production dated November 19, 2018;

At the request of the Minister of Agriculture and Rural Development;

The Government promulgates the Decree No. 84/2019/ND-CP dated November 14, 2019, prescribing fertilizer management, and the Government’s Decree No. 94/2019/ND-CP dated December 13, 2019, elaborating on several Articles of the Law on Crop Production regarding crop varieties and cultivation.”

[2] This clause is abolished according to clause 2 of Article 1 in the Government's Decree No. 130/2022/ND- CP dated December 31, 2022, amending and supplementing

several Articles of the Government's Decree No. 84/2019/ND-CP dated November 14, 2019, prescribing fertilizer management, and the Government's Decree No. 94/2019/ND-CP dated December 13, 2019, elaborating on several Articles of the Law on Crop Production regarding crop varieties and cultivation, which is in force as from December 31, 2022.

[3] This clause is amended and supplemented according to clause 1 of Article 1 in the Government's Decree No. 130/2022/ND-CP dated December 31, 2022, amending and supplementing several Articles of the Government's Decree No. 84/2019/ND-CP dated November 14, 2019, prescribing fertilizer management, and the Government's Decree No. 94/2019/ND-CP dated December 13, 2019, elaborating on several Articles of the Law on Crop Production regarding crop varieties and cultivation, which is in force as from December 31, 2022._

[4] This point is abolished according to clause 3 of Article 1 in the Government's Decree No. 130/2022/ND-CP dated December 31, 2022, amending and supplementing several Articles of the Government's Decree No. 84/2019/ND-CP dated November 14, 2019, prescribing fertilizer management, and the Government's Decree No. 94/2019/ND-CP dated December 13, 2019, elaborating on several Articles of the Law on Crop Production regarding crop varieties and cultivation, which is in force as from December 31, 2022.

[5] Article 3, Article 4 and Article 5 in the Government's Decree No. 130/2022/ND-CP dated December 31, 2022, amending and supplementing several Articles of the Government's Decree No. 84/2019/ND-CP dated November 14, 2019, prescribing fertilizer management, and the Government's Decree No. 94/2019/ND-CP dated December 13, 2019, elaborating on several Articles of the Law on Crop Production regarding crop varieties and cultivation, which is in force as from December 31, 2022, have the following regulatory provisions:

“Article 3. Entry into force

This Decree shall enter into force as from the signature date.

Article 4. Grandfather clauses

Applications received before the effective date of this Decree shall be subject to the Decree No. 84/2019/ND-CP and the Decree No. 94/2019/ND-CP.

Article 5. Implementation responsibilities

Ministers, Heads of Ministry-level agencies, Heads of Governmental bodies, Presidents of People's Committees of provinces and centrally-affiliated cities, other organizations and individuals involved shall be responsible for implementing this Decree.”

[6] This Form is replaced according to clause 4 of Article 1 in the Government's Decree No. 130/2022/ND-CP dated December 31, 2022, amending and supplementing several

Articles of the Government's Decree No. 84/2019/ND-CP dated November 14, 2019, prescribing fertilizer management, and the Government's Decree No. 94/2019/ND-CP dated December 13, 2019, elaborating on several Articles of the Law on Crop Production regarding crop varieties and cultivation, which is in force as from December 31, 2022.

[7] This Form is replaced according to clause 4 of Article 1 in the Government's Decree No. 130/2022/ND-CP dated December 31, 2022, amending and supplementing several Articles of the Government's Decree No. 84/2019/ND-CP dated November 14, 2019, prescribing fertilizer management, and the Government's Decree No. 94/2019/ND-CP dated December 13, 2019, elaborating on several Articles of the Law on Crop Production regarding crop varieties and cultivation, which is in force as from December 31, 2022.

[8] Name of the competent agency

[9] This may be skipped if the application has included the copy of the secondary education diploma or higher of the direct seller as defined in point c of clause 2 of Article 42 in the Law on Crop Production.

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