

2003/ND-CP of July 18, 2003 defining the functions, tasks, powers and organizational structure of the Ministry of Agriculture and Rural Development;

Pursuant to the National Assembly Standing Committee's December 24, 1999 Ordinance No. 18/1999/PL-UBTVQH10 on Goods Quality;

Pursuant to the Government's Decree No. 113/2003/ND-CP of October 7, 2003 on management of fertilizer production and trading;

Pursuant to the Government's Decree No. 179/2004/ND-CP of October 21, 2004 prescribing the State management over product and goods quality;

At the proposal of the director of the Agriculture Department,

DECIDES:

Article 1.- To promulgate together with this Decision the Regulation on management of fertilizer production, trading and use.

Article 2.- This Decision takes effect fifteen days after its publication in the Official Gazette. All the previous regulations contrary to this Decision are hereby annulled.

Article 3.- The director of the Office and the director of the Agriculture Department, of the Ministry, the directors of the provincial/municipal Services of Agriculture and Rural Development, the heads of the units as well as the concerned organizations and individuals shall have to implement this Decision.

DECISION No. 72/2004/QĐ-BNN OF DECEMBER 8, 2004 PROMULGATING THE REGULATION ON MANAGEMENT OF FERTILIZER PRODUCTION, TRADING AND USE

**THE MINISTER OF AGRICULTURE AND
RURAL DEVELOPMENT**

Pursuant to the Government's Decree No. 86/

***For the Minister of Agriculture and
Rural Development***

Vice Minister

BUI BA BONG

REGULATION ON MANAGEMENT OF FERTILIZER PRODUCTION, TRADING AND USE

(Promulgated together with Decision No. 72/2004/QĐ-BNN of December 8, 2004)

I. GENERAL PROVISIONS

1. Regulation scope and subjects of application

a/ This Regulation applies to the production, trading and use of fertilizers, the publicization of lists of fertilizers permitted for production, trading and use in Vietnam, and the assignment of responsibilities for fertilizer management;

b/ Domestic and foreign organizations and individuals engaged in activities related to fertilizers in the Vietnamese territory must observe this Regulation; in cases where international treaties which Vietnam has acceded to otherwise provide for, such international treaties shall apply.

2. Interpretation of terms

In this Regulation, the terms below are construed as follows:

a/ Assorted root fertilizers, foliar fertilizers, inorganic fertilizers (mineral fertilizers, chemical fertilizers), single fertilizers (single mineral fertilizers), compound fertilizers, mixed fertilizers (mixed mineral fertilizers), microbiological fertilizers, bio-organic fertilizers, fertilizers added with growth regulators, and allowable toxic contents are construed as in Article 4, Chapter I of the Government's Decree No. 113/2003/ND-CP of October 7, 2003 (hereinafter called Decree No. 113/2003/ND-CP) on management of fertilizer production and trading;

b/ Macronutrients (hereinafter called macro-element fertilizers) mean nutritious elements used by plants in large quantities, including nitrogen, phosphorus and potassium;

c/ Secondary nutrients (hereinafter called secondary-element fertilizers) mean nutritious elements used by plants in medium quantities, including calcium, magnesium and sulfur;

d/ Micronutrients (hereinafter called micro-element fertilizers) mean nutritious elements used by plants in small quantities, including iron, zinc, copper, boron, molybdenum and other trace elements;

e/ Multi-nutrient fertilizers mean inorganic fertilizers containing two or more macronutrients, excluding secondary nutrients and micronutrients;

f/ Microbiological organic fertilizers mean fertilizers produced from organic raw materials and containing one or more useful microbe species, with a density compatible with the promulgated standards;

g/ Mineral organic fertilizers mean fertilizers produced from organic raw materials and added with one or more nutritious elements, including at least one macronutrient;

h/ Nutritious contents mean the quantities of nutrients in fertilizers which are expressed in weight unit/weight unit (g/kg...), percentage (%) or parts per million (ppm); in case of liquid fertilizers, weight unit/volume unit (mg/liter, g/liter...) may also be used;

i/ Traditional organic fertilizers mean fertilizers originated from animals or plants such as buffalo and cow dung, pig and chicken excrements, human excrement, urine and assorted green manure;

j/ Soil-improving materials mean the substances to be applied to soil in order to raise its fertility,

improve physical, chemical and biological characteristics of soil, so as to create conditions for plants to well grow and develop, thus giving high yield and high quality of farm produce;

k/ List of fertilizers permitted for production, trading and use in Vietnam (hereinafter called the fertilizer list) means the list of assorted fertilizers recognized and permitted for production, trading and use in Vietnam by the Ministry of Agriculture and Rural Development.

II. FERTILIZER LIST

1. The Ministry of Agriculture and Rural Development shall publicize the fertilizer list in each period. Fertilizers to be included in the fertilizer list consist of:

a/ Fertilizers which, through assays, are recognized as new technical advances (new fertilizers) by the Ministry of Agriculture and Rural Development.

b/ Fertilizers which have not yet gone through assays but satisfy the following criteria:

- Being compound fertilizers, mixed mineral fertilizers with the total content of macronutrients $N + P_2O_5$ (efficient) + $K_2O \geq 18\%$, in which N is symbolized for nitrogen, P for phosphorus (P_2O_5) and K for potassium (calculated in K_2O);

- Being assorted root compound fertilizers and mixed mineral fertilizers with the total content of macronutrients $N + P_2O_5$ (efficient) + $K_2O \geq 18\%$, added with secondary nutrients and micronutrients;

- Being assorted root compound fertilizers and mixed mineral fertilizers with the total content of macronutrients $N + P_2O_5$ (efficient) + $K_2O \geq 18\%$, added with organic matters < 10%;

- Being assorted root micro-element fertilizers

with the minimum content of elements as follows:

B: 0.02% Cl: 0.1% Co: 0.005% Cu: 0.05%

Fe: 0.01% Mn: 0.05% Mo: 0.0005% Zn: 0.05%

c/ Fertilizers which are the outcomes of scientific research subjects, pre-acceptance tested and recognized as new fertilizers by the ministerial- or State-level specialized fertilizer councils, and must be registered into the fertilizer list with the Ministry of Agriculture and Rural Development.

A registration dossier consists of:

- An application for registration into the fertilizer list;

- A pre-acceptance test and evaluation record of the specialized fertilizer scientific council;

- A report on the outcomes of the research subject;

- The managing ministry's decision or certification on the results of pre-acceptance test and evaluation of the specialized scientific council;

- Other relevant documents (chemical, physical and biological characteristics; results of analysis of composition and content of nutrients in fertilizers, use instructions, etc.)

2. Annually, the Ministry of Agriculture and Rural Development shall review the fertilizer list in order to:

a/ Add the fertilizers mentioned at Points a and c, Clause 1, Section II of this Regulation to the fertilizer list.

b/ Exclude from the fertilizer list the following types of fertilizer:

- Fertilizers which are no longer available on the market;

- Fertilizers which, in the course of use, are

detected as having caused harms to production and environment;

- Fertilizers which had been on the fertilizer list for more than 5 years but are not re-registered with the Ministry of Agriculture and Rural Development;

- Fertilizers which, after 3 consecutive inspections, are not up to the publicized quality standard.

3. Organizations and individuals may transfer technologies for production of the fertilizers on the fertilizer list. The transfer of fertilizer production technologies shall comply with the Government's Decree No. 45/1998/ND-CP of July 1, 1998 detailing the technology transfer and the Science and Technology Ministry's Circular No. 11/2002/TT-BKHON of November 29, 2002.

III. PRODUCTION AND USE OF FERTILIZERS

1. Conditions for production of assorted inorganic fertilizers shall be prescribed by the Ministry of Industry.

2. The production of assorted foliar fertilizers, microbiological fertilizers, bio-organic fertilizers, microbiological organic fertilizers, mineral organic fertilizers, fertilizers added with growth regulators and soil-improvement preparations must meet the following conditions:

a/ Having fertilizer business registration papers granted by competent State bodies and fully meeting the conditions prescribed in Article 5, Chapter II of Decree No. 113/2003/ND-CP;

b/ Having or hiring at least one official specialized in fertilizers, who possesses university or higher degree;

c/ Having or renting fertilizer-testing laboratories for self-inspection of fertilizer quality for each lot of products;

3. Fertilizers permitted for production:

a/ Fertilizers on the fertilizer list;

b/ Fertilizers prescribed at Point c, Clause 1, Section II of this Regulation which, however, must be registered with, and approved in writing by, the Ministry of Agriculture and Rural Development;

c/ Permitted varying level upon quality inspection is $\pm 5\%$ for each registered major element in fertilizers, and $\pm 9\%$ of the total major nutritious elements in fertilizers when quality standards are publicized.

4. Use of fertilizers:

a/ Fertilizers permitted for use include:

- Fertilizers on the fertilizer list;

- Processed traditional organic fertilizers which ensure food hygiene and safety and environmental sanitation;

- Fertilizers which are the outcomes of scientific research subjects, pre-acceptance tested and recognized as new fertilizers by the ministerial- or State-level specialized fertilizer councils, which have been already registered with the Ministry of Agriculture and Rural Development.

b/ The use of fertilizers must comply with the "use instructions" given by fertilizer-producing and -trading organizations or individuals.

IV. IMPORT, EXPORT AND TRADING OF FERTILIZERS

1. Organizations and individuals may import

assorted fertilizers on the fertilizer list publicized by the Ministry of Agriculture and Rural Development and bear responsibility for the quality of imported fertilizers.

2. The import of raw materials for fertilizer production or the import of fertilizers in other special cases must be approved in writing by the Ministry of Agriculture and Rural Development.

3. The import of new fertilizers not yet on the fertilizer list for assay must be approved in writing by the Ministry of Agriculture and Rural Development. Only fertilizers permitted for extensive use overseas can be imported for assay. The import of fertilizers which have not yet been assayed or are being in the assaying process overseas is not permitted. A dossier of application for the import of fertilizers for assay consists of:

a/ An application of registration for fertilizer import (made according to a set form);

b/ Documents on specifications of the to be-assayed fertilizers:

- Trade names and other names;

- Types of fertilizer (foliar fertilizers, root fertilizers);

- Names of producing firms/companies and countries;

- Characteristics: form (in liquid, granule, powder), color;

- Nutritious components and contents (clearly stating the analyzing methods) as follows:

+ Foliar fertilizers: Macronutrients, secondary nutrients, micronutrients, organic matters, carriers and growth regulators (if any);

+ Bio-organic fertilizers: Content of organic matters, biological active ingredients, humidity,

pH_{KCl}, other nutrients (if any);

+ Mineral organic fertilizers: Content of organic matters, macronutrients, secondary nutrients, micronutrients, moisture;

+ Microbiological fertilizers: Types and density of useful microorganisms, moisture;

+ Microbiological organic fertilizers: Organic matters, types and density of useful microorganisms, moisture;

+ Fertilizers added with growth regulators: Composition, content of nutritious elements of basic fertilizers and growth regulators permitted for use;

+ Soil-improvement preparations: Components and contents of each element in preparations.

c/ Documents on fertilizers' toxicity: Fertilizers produced from industrial garbage, urban garbage and other types containing toxic elements with heavy metal content to be analyzed: Pb, Hg, Cd, As; density of disease-causing microorganisms (E. Coli, Salmonella); ascaris roes.

d/ For imported fertilizers: Names of producing firms/companies and countries; documents permitting the production and trading, and use instructions overseas, fertilizer labels.

e/ For home-made fertilizers: Technological processes and their authors; preliminary assay results (if any) and use instructions given by producing establishments.

f/ Origins and components of fertilizer major raw materials.

4. Organizations and individuals may export fertilizers at their customers' requests.

5. Fertilizers circulated on the market must have goods labels compliant with the Prime Minister's Decision No. 178/1999/QĐ-TTg of August 30, 1999

and current regulations.

6. The trading of fertilizers on the market requires fertilizer business registration papers granted by competent State bodies.

7. Fertilizer agent shops must carry out all the agency procedures prescribed in the Commercial Law.

V. ORGANIZATION OF IMPLEMENTATION

1. The Agriculture Department

a/ To elaborate and submit to competent authorities for promulgation, and organize the implementation of, legal documents as well as mechanisms and policies on the production (except for production of inorganic fertilizers) and use of fertilizers;

b/ To coordinate with relevant agencies in drawing up plans and policies on production of organic fertilizers and use of fertilizers;

c/ To receive and evaluate dossiers of application for fertilizer import; to grant and withdraw permits for fertilizer import and permits for import of raw materials for fertilizer production;

d/ To receive and evaluate dossiers of registration for import of fertilizers for assay; to grant and withdraw permits for import of fertilizers for assay;

e/ To receive and settle dossiers of quality standard publicization, standard conformity publicization and re-registration into the fertilizer list for fertilizers of production and business enterprises with 100% foreign investment capital;

f/ To make the fertilizer list and submit it to the Ministry of Agriculture and Rural Development for publicization;

g/ To collect and manage information and data on fertilizers;

h/ To examine, inspect and handle violations in the production (except for production of inorganic fertilizers), trading and use of fertilizers;

i/ To propagate and disseminate knowledge and experiences on production, trading and use of fertilizers;

j/ To enter into international cooperation on the production (except for production of inorganic fertilizers), trading and use of fertilizers.

2. The Science and Technology Department

a/ To coordinate with relevant agencies in organizing the research into and application of advanced sciences and technologies to the production of organic fertilizers and use of fertilizers;

b/ To elaborate processes, regulations and standards on production of organic fertilizers and use of fertilizers as well as fertilizer quality inspection standards, and submit them to competent authorities for promulgation;

c/ To enter into international cooperation on the research into and application of advanced sciences and technologies to the production and use of organic fertilizers.

3. The provincial/municipal Services of Agriculture and Rural Development

a/ To devise plans on demands for fertilizer use in their respective localities;

b/ To perform the State management over fertilizers (except for production of inorganic fertilizers), to direct and guide the use of assorted fertilizers efficiently, not causing environmental pollution;

c/ To examine, inspect and handle violations in the production (except for production of inorganic fertilizers), trading and use of fertilizers managed by their respective localities. To report on results of examinations, inspections and handling of violations to the Agriculture Department;

d/ To receive and settle dossiers of quality standard publicization, standard conformity publicization and re-registration into the fertilizer list for fertilizers produced and traded by enterprises in their respective localities;

e/ To report in December every year to the Agriculture Department on the production (except for production of inorganic fertilizers), trading, use, quality standard publicization and standard conformity publicization of fertilizers by organizations and individuals in their respective localities.

4. Responsibilities of fertilizer-producing and -trading organizations and individuals

a/ Fertilizer-producing and -trading organizations and individuals must strictly abide by the provisions of the Government's Decree No. 113/2003/ND-CP on management of fertilizer production and trading, the provisions of this Regulation and other relevant law provisions;

b/ Organizations and individuals that wish to advertise fertilizers by organizing workshops or building demonstration models must observe the Ordinance on Advertisement, the Government's Decree No. 24/2003/ND-CP of March 13, 2003 detailing the implementation of the Ordinance on Advertisement and other relevant law provisions, and obtain the consents of the Services of Agriculture and Rural Development of the provinces or cities where advertisements are made;

c/ Organizations and individuals that have fertilizer-distribution agents must ensure the publicized fertilizer quality and provide registrations of quality standard publicization and standard conformity publicization to their dependent agents;

d/ Fertilizer agents of all levels must have fertilizer business registration papers granted by competent agencies and valid copies of quality standard publicization papers of assorted fertilizers;

e/ In December every year, enterprises with 100% foreign investment capital shall report on the production and trading of fertilizers to the Agriculture Department of the Ministry of Agriculture and Rural Development; fertilizer-producing and -trading organizations and individuals in the provinces shall report on the production (except for production of inorganic fertilizers) and trading of fertilizers to the provincial/municipal Services of Agriculture and Rural Development of the localities where they are headquartered.

VI. HANDLING OF VIOLATIONS

1. The provincial/municipal Services of Agriculture and Rural Development shall propose the provincial/municipal People's Committees to temporarily cease or stop production/business activities of organizations and individuals that fail to meet the conditions prescribed in Article 5, Chapter II of Decree No. 113/2003/ND-CP and this Regulation.

2. For imported fertilizers not up to the registered quality standards, depending on their qualities, they may be subject to administrative sanction or re-export.

3. For produced, traded and used fertilizers

which, after 3 consecutive inspections, fail to reach the publicized quality standards, their production shall be temporarily ceased or stopped, and such shall be widely announced on the mass media.

4. Those who abuse their positions or powers to commit acts of violating the provisions of Decree No. 113/2003/ND-CP and this Regulation, or commit other acts against law provisions on the State management over fertilizers shall, depending on the nature and seriousness of their violations, be disciplined or examined for penal liability; if causing damage, they must pay compensations therefor according to law provisions.

***Vice Minister of Agriculture and
Rural Development***
BUI BA BONG