

**DECISION No. 100/2008/QĐ-BNN OF
OCTOBER 15, 2008, PROMULGATING
THE REGULATION ON FERTILIZER
PRODUCTION, TRADING AND USE**

**THE MINISTER OF AGRICULTURE
AND RURAL DEVELOPMENT**

Pursuant to the Government's Decree No. 01/2008/ND-CP of January 3, 2008, defining the functions, tasks, powers and organizational structure of the Ministry of Agriculture and Rural Development;

Pursuant to November 21, 2007 Law No. 05/2007/QH12 on Product and Goods Quality of the XIIth National Assembly, the 2nd session;

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. 191/2007/ND-CP of December 31, 2007, amending and supplementing a number of articles of the Government's Decree No. 113/2003/ND-CP of October 7, 2003, on management of fertilizer production and trading;

At the proposal of the Director of the Cultivation Department,

DECIDES:

Article 1.- To promulgate together with this Decision the Regulation on fertilizer production,

trading and use.

Article 2.- This Decision takes effect 15 days after its publication in "CONG BAO" and replaces the Agriculture and Rural Development Minister's Decision No. 36/2007/QĐ-BNN of April 24, 2007, on fertilizer production, trading and use.

Article 3.- The director of the Office of the Ministry, the director of the Cultivation Department, the director of the Science and Technology Department, directors of provincial-level Agriculture and Rural Development Services, heads of concerned units and concerned organizations and individuals shall implement this Decision.

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

**REGULATION ON FERTILIZER
PRODUCTION, TRADING AND USE**

(Promulgated together with the Agriculture and Rural Development Minister's Decision No. 100/2008/QĐ-BNN of October 15, 2008)

Chapter I

GENERAL PROVISIONS

Article 1.- Scope of regulation

This Regulation applies to fertilizer production, processing, trading, use and *quality management*, announces the list of fertilizers permitted for production, trading and use in Vietnam (below referred to as the *fertilizer list*) and assigns responsibilities of state management of fertilizers, except inorganic fertilizer production.

Article 2.- Subjects of application

Domestic and foreign organizations and individuals engaged in the activities specified in Article 1 in the Vietnamese territory shall implement this Regulation.

When treaties to which Vietnam has acceded otherwise provide, those treaties prevail.

Chapter II

**FERTILIZER QUALITY
MANAGEMENT**

Article 3.- Announcement of applied standards, certification and announcement of technical regulation conformity

Domestic fertilizer producers and importers shall:

1. Announce applied standards under Article 23 of the *Law on Product and Goods Quality* and label goods according to the law on goods labeling.

2. Have fertilizers specified in Appendix 1 to this Regulation certified and announced for technical regulation conformity.

3. The order of and procedures for certifying and announcing technical regulation conformity

comply with the Science and Technology Minister's *Decision No. 24/2007/QĐ-BKHCN* of September 29, 2007, promulgating the Regulation on certification of standard conformity and technical regulation conformity and announcement of standard conformity and technical regulation conformity.

4. Register their written announcement on technical regulation conformity of fertilizers at the provincial-level Agriculture and Rural Development Service of the locality where they are headquartered under the guidance of Appendix 2 to this Regulation (*not printed herein*).

5. Fertilizer specifications related to food safety and hygiene such as heavy metal, harmful microorganisms and growth stimulants must not exceed the limits set in Appendix 3 to this Regulation (*not printed herein*).

Article 4.- Fertilizer sampling and analysis

1. Fertilizer sampling for quality analysis and inspection

a/ Fertilizers must be sampled according to the method indicated in announced applied standards. When announced applied standards do not clearly specify the sampling method, samples must be taken according to Vietnam standards, or according to branch or international standards if Vietnam standards are unavailable;

b/ Fertilizers must be sampled by a person who is recognized or designated to take charge of fertilizer sampling.

2. Quality analysis and inspection of fertilizer samples

a/ To be conducted according to the analysis method specified in written announcements on applied standards on fertilizers. When such announcement does not clearly specify the analysis method, to apply Vietnam standards, or branch or international standards if Vietnam standards are unavailable;

b/ To be conducted by laboratories or accreditation organizations recognized or designated by competent state agencies.

Article 3.- Specifications subject to compulsory examination, allowable quantitative errors, compulsory quantitative specifications, units of calculation.

1. Specifications subject to compulsory examination of elements specified in announced applied standards on fertilizers or on the fertilizer list:

a/ Inorganic fertilizers, including mono- and multi-element fertilizers:

- Total N (N_{ts}) content for nitrogenous fertilizers;
- Effective P_2O_5 (P_2O_{5hh}) content for phosphatic fertilizers;
- Soluble K_2O (K_2O_{hl}) content for potassic fertilizers;
- Calcium content, calculated in Ca or CaO for calcic fertilizers;
- Magnesium content, calculated in Mg or MgO for magnesian fertilizers;

- Sulfur content, calculated in effective S for sulfuric fertilizers;

- Silicon content, calculated in effective SiO_2 for silicic fertilizers;

Contents of trace elements: Bo (B); copper (Cu); iron (Fe), manganese (Mn); molybdenum (Mo) and zinc (Zn) in effective form for fertilizers registered to contain these elements;

- Biuret content for urea fertilizer;

- Free acid content for superphosphate fertilizer;

- Cd content for imported phosphate fertilizer.

b/ Organic, mineral organic and bio-organic fertilizers:

- Moisture (for powder fertilizers);

- Total organic content;

- N_{ts} content for organic and bio-organic fertilizers;

- N_{ts} , P_2O_{5hl} and K_2O_{hl} contents for mineral organic fertilizers;

- Contents of humic acid and biological substances for bio-organic fertilizers made from peat;

- Decompo for organic and bio-organic fertilizers (due to changes of temperature of fertilizers in a certain period);

- pH_{H_2O} for organic and bio-organic leaf fertilizers;

- Contents of heavy metals including arsenic (As), cadmium (Cd), lead (Pb) and mercury (Hg) for fertilizers made from urban garbage, industrial waste from farm produce and food processing and waste from animal raising;

- Density of harmful microorganisms including E. Coli, Salmonella and Coliform for fertilizers made from urban garbage; industrial waste from farm produce and food processing and waste from animal raising.

c/ Microbiological organic fertilizers and microbiological fertilizers:

- Moisture (for powder fertilizers);
- Total organic content, for microorganic organic fertilizers;
- Density of registered useful microbiological;
- Density of harmful microorganisms specified at Point b, Clause 1 of this Article;
- Contents of heavy metals specified at Point b, Clause 1 of this Article, for microbiological organic fertilizers.

d/ Leaf fertilizers with or without growth regulator; growing medium; additives; fertilizer efficiency-boosting substances; water-absorbent substances; soil improvers:

- To examine quantitative specifications specified in written announcements on applied standards or specifications specified in the fertilizer list for each type of product above;
- Contents of heavy metals specified at Point b, Clause 1 of this Article;
- Contents of heavy metals specified at Point b, Clause 1 of this Article for leaf fertilizers of organic origin and growing medium.

2. Allowable quantitative errors and compulsory quantitative specifications for fertilizer elements are specified in Appendix 3 to this

Regulation (*not printed herein*).

3. Units of calculation of fertilizer elements are specified in Appendix 4 to this Regulation (*not printed herein*).

Chapter III

FERTILIZER LIST

Article 6.- Conditions for fertilizers to be on the fertilizer list

1. Tested fertilizers recognized by the Cultivation Department as a new technical method (new fertilizers).

2. Fertilizers which have not been tested but meet the following criteria:

a/ Single or multiple macro-element fertilizer with total nutrient content $N_{ts} + P_2O_{5sh} + K_2O_{nt} \geq 18\%$;

b/ Multiple macro-element fertilizers with total nutrient content $N_{ts} + P_2O_{5sh} + K_2O_{nt} \geq 18\%$ added with either of secondary elements, trace elements and organic elements < 10% or with all these three elements;

c/ Secondary-element root fertilizers containing a separate element with a content of $\geq 5\%$ or 2-4 nutrients of effective Ca, Mg, S, SiO_2 with a total content of $\geq 10\%$;

d/ Micro-element root fertilizers containing one of the following nutrients with a content of at least:

B: 200mg/kg (liter)	Co: 50mg/kg (liter)
Cu: 500mg/kg (liter)	Fe: 100mg/kg (liter)

Mn: 500mg/kg (liter)

Mo: 5mg/kg (liter)

Zn: 500mg/kg (liter).

3. Fertilizers created by scientific research projects accredited by a ministerial- or state-level Science and Technology Council and recognized as new fertilizers. Dossiers of fertilizer list registration are specified in Appendix 5 to this Regulation (*not printed herein*).

Article 7.- Supplementation and modification of the fertilizer list

1. Once every 3 or 6 months, the Cultivation Department shall propose the Minister of Agriculture and Rural Development to supplement and modify the fertilizer list.

2. Modification and supplementation of the fertilizer list cover:

a/ Adding fertilizers specified in Clauses 1 and 3, Article 6 of this Regulation to the fertilizer list.

b/ Changing or adding names of fertilizers, fertilizer owners and units taking over production technologies for fertilizers already on the fertilizer list.

3. The following fertilizers shall be removed from the fertilizer list:

a/ Fertilizers no longer existing on the market;

b/ The use of fertilizers found to be harmful to production, environment and food safety and hygiene;

c/ Fertilizers on the fertilizer list of which the registration time specified in Clause 4 of this Article expires, but are not re-registered with the Ministry

of Agriculture and Rural Development;

d/ Through two consecutive examinations in a year fertilizers found to contain elements and contents of nutrients failing to meet announced applied standards.

4. Registration on the fertilizer list is valid for five years. Three months before the expiration of this time limit, fertilizer owners shall make re-registration.

Chapter IV

FERTILIZER PRODUCTION, TRADING AND USE

Article 8.- Fertilizer production and processing

1. Fertilizer production conditions:

Organizations and individuals producing fertilizers (other than inorganic fertilizers and traditional organic fertilizers) must fully satisfy the conditions specified in Clause 4, Article 1 of Decree No. 191/2007/ND-CP.

2. Fertilizer processing conditions:

Organizations and individuals processing fertilizers (other than inorganic fertilizers and traditional organic fertilizers) must fully satisfy the conditions specified at Points a, b, d and e, Clause 4, Article 1 of Decree No. 191/2007/ND-CP.

3. Fertilizers permitted for production include:

a/ Those on the fertilizer list;

b/ Those used for testing under testing registration certificates and written requests for fertilizer production for testing under the guidance

of Appendix 7 to this Regulation (*not printed heretn*);

c/ Those for export under contracts with foreign partners.

Article 9.- Fertilizer trading conditions

1. Fertilizer traders that fully satisfy the conditions specified in Article 19 of Decree No. 113/2003/ND-CP may trade in fertilizers on the fertilizer list.

2. Fertilizers circulated on the market must be labeled in accordance with the law on goods labeling.

3. Fertilizer agents shall carry out agency procedures under the Commercial Law. Fertilizer sellers shall comply with the rights and obligations specified in the Law on Product and Goods Quality.

4. Organizations and individuals wishing to advertise a fertilizer on the mass media shall comply with the advertisement law and are subject to the Cultivation Department's verification of the truthfulness of fertilizer information before the fertilizer is advertised.

Article 10.- Fertilizer use

1. Fertilizers permitted for use include:

a/ Those on the fertilizer list.

b/ Fertilizers in the testing period may only be used according to testing registration certificates.

c/ Treated traditional organic fertilizers meeting food safety and hygiene and environmental

sanitation requirements.

2. Fertilizers must be used according to the production process promulgated by competent agencies or recommendations of fertilizer producers.

3. Fertilizer use must ensure high productivity and food safety without polluting the environment.

Article 11.- Fertilizer export and import

1. Fertilizer export and import comply with Clause 5, Article 1 of Decree No. 191/2007/ND-CP and other relevant regulations.

2. The Cultivation Department's written approval is required for the import of:

a/ New fertilizers for testing;

b/ Materials being fertilizers or other materials not on the fertilizer list for the production of the following fertilizers:

- Those on the fertilizer list;

- Those for export under contracts with foreign partners;

c/ Fertilizers used exclusively for sports courses;

d/ Special-purpose fertilizers, which are domestically unavailable, of foreign-invested companies for production purpose within these companies;

e/ Fertilizers as sample goods, gifts or for scientific research or testing purposes.

f/ Tested fertilizers which are proposed by a Science and Technology Council to be recognized

as new technical methods (new fertilizers) and recognized by the Cultivation Department as new fertilizers pending inclusion in the fertilizer list.

3. A dossier of fertilizer import registration comprises:

a/ An import registration application made according to the form in Appendix 8 to this Regulation (*not printed herein*);

b/ A technical declaration made according to the form in Appendix 9 to this Regulation (*not printed herein*);

c/ A brief introduction on technological plan, elements and utilities of the fertilizer (the foreign language version and the Vietnamese translation notarized or certified by a registered translation establishment).

Article 12.- Renaming of units taking over production technology and units taking over fertilizer ownership

1. Registration of renaming of units taking over fertilizer production technology must meet the following requirements:

a/ Fertilizers are on the fertilizer list;

b/ There is a relevant transfer contract in compliance with the Law on Technology Transfer enclosed with detailing documents.

2. Registration of renaming of units taking over fertilizer ownership must meet the following requirements:

a/ Fertilizers are on the fertilizer list;

b/ There is an ownership right transfer contract

in compliance with the Civil Code.

3. Organizations and individuals registering renaming of units receiving full transfer or units taking over fertilizer ownership right specified in Clauses 1 and 2 of this Article shall submit a dossier to the Cultivation Department. Such a dossier comprises:

a/ A registration application made according to the form in Appendix 10 to this Regulation (*not printed herein*);

b/ A technology transfer contract or ownership transfer contract between involved parties certified by competent authorities (when such certification is required by law);

4. The Cultivation Department shall evaluate dossiers and propose the Minister of Agriculture and Rural Development to add such changes to the fertilizer list.

Chapter V

ASSIGNMENT OF RESPONSIBILITIES AND HANDLING OF VIOLATIONS

Article 13.- Responsibilities of the Cultivation Department

1. To draft, propose competent authorities to promulgate, and organize the implementation of, legal documents, mechanisms and policies on fertilizer production (except inorganic fertilizer production), trading, use and quality management.

2. To act as the key agency in assisting the

Minister in the state management of fertilizer production (except inorganic fertilizer production), trading, use and quality management.

3. To grant and withdraw fertilizer import permits according to Clause 2, Article 11 of this Regulation.

4. To grant and withdraw registration certificates of domestic fertilizer production for testing.

5. To make the fertilizer list and submit it to the Ministry of Agriculture and Rural Development for promulgation.

6. To collect registration dossiers of fertilizers which are not subject to testing but meet the criteria specified in Clauses 2 and 3, Article 6 of this Regulation for adding to the fertilizer list.

7. To collect and manage fertilizer information and materials, to propagate and disseminate the law on and experience in fertilizer production, trading and use.

8. To organize examination and inspection of, and handle violations of regulations on, fertilizer production and trading conditions (except inorganic fertilizer production) and violations of regulations on fertilizer quality and use.

9. To enter into international cooperation on fertilizer production, trading, quality management and use (except inorganic fertilizer production).

10. To verify and certify the truthfulness of fertilizer information registered for advertisement.

Article 14.- Responsibilities of the Science, Technology and Environment Department

1. To coordinate with concerned agencies in organizing research into and application of scientific and technological advances to fertilizer-related activities (except inorganic fertilizer production).

2. To organize the elaboration of technical regulations and standards on fertilizers.

3. To carry out international cooperation on research into and application of scientific and technological advances to fertilizer-related activities (except inorganic fertilizer production).

Article 15.- Responsibilities of provincial-level Agriculture and Rural Development Services

1. To forecast fertilizer demand of their localities under the unified guidance of the Cultivation Department.

2. To assume the prime responsibility for assisting provincial-level People's Committees in:

a/ Performing the state management of fertilizer production, trading and quality management, guiding the proper and efficient use of fertilizers with less environmental pollution;

b/ Examining, inspecting, and handling violations of regulations on, production conditions (except inorganic fertilizer production), and fertilizer trading, quality, labeling and advertisement by organizing workshops, building demonstration models and adopting regulations on fertilizer use, and reporting examination and inspection results to the Cultivation Department.

3. To coordinate with other local functional branches in assisting provincial-level People's Committees in performing the state management, examination and inspection of, and handling of violations of regulations on, inorganic fertilizer production and trading.

4. To receive fertilizer producers' and traders' written announcements on technical regulation conformity of fertilizer quality according to Appendix 11 to this Regulation (*not printed herein*).

5. To report to the Cultivation Department on local organizations' and individuals' fertilizer production trading, use and quality in December every year.

Article 16.- Responsibilities of fertilizer producers traders and users

1. Fertilizer producers, traders and users shall comply with Decree No. 113/2003/ND-CP, Decree No. 191/2007/ND-CP, this Regulation and other relevant laws.

2. Fertilizer producers and importers shall announce applied standards on goods labels or other media according to the law on goods labeling and the Law on Product and Goods Quality; ensure that goods quality meets the standards displayed on goods labels only with allowable errors specified in Appendix 2 to this Regulation (*not printed herein*).

3. In December every year, to report on their fertilizer production and trading to the provincial-level Agriculture and Rural Development Service

of the locality where they are headquartered.

Article 17.- Handling of violations

1. Organizations and individuals violating regulations on fertilizer production and trading shall be handled pursuant to the following legal documents:

a/ Violations of regulations on fertilizer production and trading conditions shall be handled according to Decree No. 06/2008/ND-CP of January 16, 2008, promulgating the Regulation on administrative sanctioning in commercial activities.

b/ Violations of regulations on fertilizer weight and quality shall be sanctioned according to the following documents:

- Articles 30, 40 and 66 of the Law on Product and Goods Quality and its guiding documents;

- The Government's Decree No. 126/2005/ND-CP of October 10, 2005, on administrative sanctioning in measurement and product and goods quality;

- Decree No. 95/2007/ND-CP of July 4, 2007, amending and supplementing a number of articles of the Government's Decree No. 126/2005/ND-CP of October 10, 2005, on administrative sanctioning in measurement and product and goods quality;

- Decree No. 37/2005/ND-CP of March 18, 2005, on procedures for taking coercive measures to enforce administrative sanctioning decisions.

2. For imported fertilizers failing to meet announced applied standards or relevant Vietnam technical regulations:

- To compel re-export or destruction of those containing heavy metals, harmful microorganisms and other hazardous substances at a level higher than prescribed;

- To compel re-processing to meet announced applied standards or use only as materials for the production of other fertilizers for fertilizers other than those specified at Point a, Clause 2 of this Article. The Cultivation Department shall propose schemes to handle such fertilizers, designate units to supervise the scheme implementation and report thereon to the Minister of Agriculture and Rural Development for decision on handling.

4. Organizations and individuals that abuse their positions and powers to commit acts of violating this Regulation or other acts against the law on state management of fertilizers shall, depending on the nature and severity of their violations, be handled according to law.

Article 18.- Transitional provisions

1. While in circulation and use, newly produced and imported must meet compulsory quantitative specifications specified in Appendix 3 to this Regulation (*not printed herein*) from the effective date of this document.

2. Fertilizers on the fertilizer list already produced, imported, circulated and used prior to the effective date of this document which have quality specifications not in conformity with compulsory quantitative specifications specified in Appendix 3 to this Regulation (*not printed herein*) may be traded according to the announced standards until October 31, 2009. Past this date, the production, import, circulation and use of these fertilizers must comply with compulsory quantitative specifications specified in this Regulation.

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

Appendix 1

List of fertilizers subject to certification and announcement of technical regulation conformity

*(Attached to the Agriculture and Rural Development Minister's Decision
No. 100/2008/QĐ BNN of October 15, 2008)*

No.	Type of fertilizer	Specifications subject to certification and announcement of technical regulation conformity
1	Urea	- Biuret content
2	Superphosphate	- Free acid content
3	Imported phosphate	- Cadmium content

4	Organic	<ul style="list-style-type: none"> - Total organic content - Moisture (for powder fertilizers) - N_{15} content - pH_{H_2O} (for leaf fertilizers)
5	Bio-organic	<ul style="list-style-type: none"> - Total organic content - Moisture (for powder fertilizers) - N_{15} content - Decompo - Contents of humic acid and biological substances (for fertilizer made from peat) - pH_{H_2O} (for leaf fertilizers)
6	Mineral organic	<ul style="list-style-type: none"> - Total organic content - Moisture (for powder fertilizers) - Total contents $N_{15} + P_2O_{5ht} + K_2O_{ht}$; $N_{15} + P_2O_{5ht}$; $N_{15} + K_2O_{ht}$; $P_2O_{5ht} + K_2O_{ht}$
7	Microbiological organic	<ul style="list-style-type: none"> - Moisture (for powder fertilizers) - Total organic content - Density of each type of useful microorganism
8	Microbiological	<ul style="list-style-type: none"> - Density of each type of useful microorganism
9	Fertilizers added with growth regulators	<ul style="list-style-type: none"> - Content of each growth regulator - Total content of growth regulators
10	For organic; mineral organic; microbiological organic and bio-organic fertilizers made from urban garbage, industrial waste from farm produce and food processing, waste from animal raising	<ul style="list-style-type: none"> - Contents of heavy metals including arsenic (As), cadmium (Cd), lead (Pb) and mercury (Hg). - Density of harmful microorganisms including E.Coli, Salmonella and Coliform.

* Notes: The technical regulation for each specification is specified in Section b, Appendix 3 to this Regulation (not printed herein).