

2003/ND-CP of October 7, 2003, on management of fertilizer production and trading; and Decree No. 15/2010/ND-CP of March 1, 2010, on sanctioning of administrative violations in fertilizer production and trading;

Pursuant to the November 21, 2007 Law on Product and Goods Quality;

Pursuant to the Government's Decree No. 132/2008/ND-CP of December 31, 2008, detailing a number of articles of the Law on Product and Goods Quality;

The Ministry of Agriculture and Rural Development promulgates the Regulation on fertilizer production, trading and use.

Article 1. To promulgate together with this Circular the Regulation on fertilizer production, trading and use.

Article 2. This Decision takes effect 45 days from the date of its signing and replaces the Agriculture and Rural Development Minister's Decision No. 100/2008/QĐ-BNN of October 15, 2008, on fertilizer production, trading and use.

Article 3. The Chief of the Ministry Office, the director of the Cultivation Department, the director of the Department of Legal Affairs, the director of the Science, Technology and Environment Department, directors of provincial-level Agriculture and Rural Development Departments, heads of units and organizations and individuals involved in fertilizer production, trading and use in Vietnam shall implement this Circular.

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

Circular No. 36/2010/TT-BNNPTNT of June 24, 2010, promulgating the Regulation on fertilizer production, trading and use

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; and Decree No. 75/2009/ND-CP amending Article 3 of 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 the Government's Decree No. 113/2003/ND-CP of October 7, 2003, on management of fertilizer production and trading; Decree No. 191/2007/ND-CP of December 31, 2007, amending and supplementing a number of articles of the Government's Decree No. 113/

Regulation on fertilizer production, trading and use

(Promulgated together with the Agriculture and Rural Development Minister's Circular No. 36/2010/TT-BNNPTNT of June 24, 2010)

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Regulation details and guides a number of provisions on fertilizer quality management; production of fertilizers of all kinds, except inorganic fertilizers; import, processing, trading and use of fertilizers; list of fertilizers permitted for production, trading and use in Vietnam; and assignment of responsibilities for state management of fertilizers under the Government's Decree No. 113/2003/ND-CP of October 7, 2003, on management of fertilizer production and trading (below referred to as Decree No. 113/2003/ND-CP), and the Government's Decree No. 191/2007/ND-CP of December 31, 2007, amending and supplementing a number of articles of Decree No. 113/2003/ND-CP (below referred to as Decree No. 191/2007/ND-CP).

Article 2. Subjects of application

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

Article 3. Interpretation of terms

1. Group-1 fertilizers include fertilizers which are on the list of fertilizers permitted for production, trading and use in Vietnam (below

referred to as the fertilizer list) but are not specified in Clause 2 of this Article.

2. Group-2 fertilizers include fertilizers which are on the fertilizer list and the list of likely unsafe products and goods under management of the Ministry of Agriculture and Rural Development promulgated together with the Agriculture and Rural Development Minister's Circular No. 50/2009/TT-NBBPTNT of August 18, 2009, and fertilizers specified in Appendix 1 to this Regulation.

Chapter II

FERTILIZER QUALITY MANAGEMENT

Article 3. Announcement of applicable standards, certification and announcement of regulation conformity

1. Announcement of applicable standards

a/ Announcement of applicable standards applies to all fertilizers of groups 1 and 2 upon their production, import or distribution on the market.

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

c/ Fertilizer producers, importers and traders shall themselves announce quality criteria, basic properties, warning information and standard numbers of their fertilizers on any of the following:

- Fertilizer packings;
- Fertilizer labels;
- Documents attached to fertilizer packings.

Contents of announcement of applicable standards must not contravene requirements of national technical regulations.

2. Regulation conformity certification and announcement

a/ Regulation conformity certification and announcement apply to group-2 fertilizers, DAP fertilizers and baked phosphate fertilizers upon production and importation.

b/ The order and procedures for regulation conformity certification and announcement for fertilizers must comply with the Agriculture and Rural Development Minister's Circular No. 83/2009/TT-BNNPTNT of December 25, 2009, guiding regulation conformity certification and announcement in the domains under management of the Ministry of Agriculture and Rural Development. Regulation conformity announcement shall be registered at provincial-level Agriculture and Rural Development Departments of localities where registration applicants are headquartered and made according to the form provided in Appendix 2 to this Regulation.

3. Fertilizer criteria related to food hygiene and safety include heavy metals and harmful microorganisms not exceeding the permitted levels prescribed in Appendix 3 to this Regulation. For fertilizers added with growth regulators, only growth regulators on the list specified in Appendix 4 to this Regulation may be used with total contents of growth regulators not exceeding 0.5% of the volume of such fertilizers.

Article 4. Fertilizer sampling and fertilizer quality analysis

1. Fertilizer sampling

a/ Group-1 fertilizers shall be sampled according to national standards (TCVN) applicable to such fertilizers. If no national standards are available yet, sampling shall be conducted according to manufacturer's standards applied and announced by manufacturers or international standards applicable to such fertilizers;

b/ Group-2 fertilizers shall be sampled according to national technical regulations (QCVN) applicable to such fertilizers. If no national technical regulations are available yet, sampling shall be conducted according to national standards or international standards applicable to such fertilizers;

c/ Fertilizers shall be sampled by a person who possesses a valid fertilizer sampling certificate granted by the Cultivation Department.

2. Fertilizer quality analysis

a/ For group-1 fertilizers: Their quality shall be analyzed according to national standards applicable to such fertilizers. If no national standards are available yet, analysis shall be conducted according to manufacturer's standards applied and announced by manufacturers or importers or international standards applicable to such fertilizers;

b/ For group-2 fertilizers: Their quality shall be analyzed according to national technical regulations applicable to such fertilizers. If no national technical regulations are available yet, analysis shall be conducted according to national standards or international standards applicable to such fertilizers;

c/ Fertilizer quality shall be analyzed by a fertilizer quality analysis and testing laboratory or certification organization accredited or

designated by the Cultivation Department.

Article 5. Criteria subject to compulsory inspection, acceptable nutritious contents upon analysis and inspection, compulsory quantity, units of calculation

1. Criteria subject to compulsory inspection for group-1 fertilizers

Criteria in the announcement of applicable standards which are shown on packings or labels or attached documents of fertilizer lots to be inspected.

2. Criteria subject to compulsory inspection for group-2 fertilizers

a/ Compulsory criteria specified in Appendix 3 to this Regulation;

b/ Criteria in the announcement of applicable standards which are shown on packings or labels or attached documents of fertilizer lots to be inspected.

3. Acceptable nutritious contents upon analysis and inspection and compulsory quantities of fertilizer elements are specified in Appendix 3 to this Regulation.

4. Units of calculation of fertilizer elements are specified in Appendix 5 to this Regulation.

Chapter III

FERTILIZER LIST

Article 6. Conditions for fertilizers to be included in the fertilizer list

1. Fertilizers have been assayed and are recognized by the Cultivation Department as new fertilizers.

2. The following fertilizers are not required to be assayed but must reach corresponding

standards below:

a/ Single or multiple macro-element inorganic root fertilizers with a total nutritious content of: Total nitrogen (N_{ts}) + Effective phosphate ($P_{2}O_{5hh}$) + Effective potassium ($K_{2}O_{hh}$); $N_{ts} + P_{2}O_{5hh} + K_{2}O_{hh} \geq 18\%$;

b/ Fertilizers specified at Point a, Clause 2 of this Article which are added with any of secondary elements, trace elements and organic elements < 10% or with two or all of these three elements;

c/ Secondary-element root fertilizers which contain:

- A separate nutritious element of calcium (Ca) or magnesium (Mg) or sulfur (S) or effective silicon (S_iO_{2hh}) with a content $\geq 5\%$;

- 2-4 nutritious elements of Ca, Mg, S, S_iO_{2hh} with a total content $\geq 10\%$;

d/ Micro-element root fertilizers which contain one of the nutritious elements below with a content of at least:

Boron (B): 2,000 mg/kg (liter);

Cobalt (Co): 500 mg/kg (liter);

Copper (Cu): 15,000 mg/kg (liter);

Iron (Fe): 10,000 mg/kg (liter);

Manganese (Mn): 15,000 mg/kg (liter);

Molybdenum (Mo): 50 mg/kg (liter);

Zinc (Zn): 15,000 mg/kg (liter).

3. To be traded, traditional organic fertilizers must be processed up to organic fertilizer standards specified in Appendix 3 to this Regulation and assayed and, if recognized as new fertilizers, included in the additional fertilizer list.

4. Fertilizers that are outcomes of scientific research projects accepted by a ministerial- or

state-level science and technology council and recognized as new fertilizers.

Article 7. Promulgation of fertilizer lists

1. Once every three (3) months at most, the Cultivation Department shall collect and examine fertilizer dossiers and submit to the Minister of Agriculture and Rural Development for promulgation the following fertilizer lists:

a/ Additional fertilizer list, including fertilizers specified in Clauses 1, 2 and 3, Article 6 of this Regulation.

b/ Modified fertilizer list, including fertilizers already available on the fertilizer list upon handover of whole production technologies or transfer of ownership with changes in:

- Name of fertilizer;
- Name of fertilizer owner.

c/ Rejected fertilizer list, including fertilizers already on the fertilizer list and falling into any of the following cases:

- They no longer exist on the market;
- There is a proof of harm to human health, plants, the eco-environment or food hygiene and safety during their use;
- Past the time limit specified in Clause 2 of this Article, they are not re-registered with the Ministry of Agriculture and Rural Development;
- After two (2) consecutive inspections in a year, their quality criteria appear to be lower than acceptable nutritious contents through analysis and inspection as specified in Appendix 3 to this Regulation.

2. A fertilizer list is valid for five (5) years. Three (3) months before the expiration of a fertilizer list, an organization or individual having fertilizers included in this list that wishes to re-

register them shall send one (1) dossier set to the Cultivation Department. Such a dossier comprises:

a/ A written re-registration of fertilizers into a fertilizer list, made according to the form provided in Appendix 6 to this Regulation;

b/ A copy of the valid business registration certificate or investment certificate containing fertilizer production, processing or trading.

Article 8. Procedures for registration of fertilizers into a fertilizer list

1. For fertilizers specified in Clauses 1, 2 and 3, Article 6 of this Regulation, the Cultivation Department shall gather and include them into the additional fertilizer list.

2. For fertilizers specified in Clause 4, Article 6 of this Regulation, an organization or individual that registers a fertilizer into the additional fertilizer list shall send one (1) dossier set to the Cultivation Department. Such a dossier comprises:

a/ A written registration of a fertilizer into the fertilizer list, made as guided in Appendix 7 to this Regulation;

b/ A copy of the Science and Technology Council's acceptance test record, certified by the managing agency;

c/ A report on research results, signed and stamped by the managing agency;

d/ A copy of the managing agency's decision recognizing the Science and Technology Council's acceptance test results or an equivalent proof, certified by the managing agency;

e/ A technical declaration, made as guided in Appendix 8 to this Regulation.

3. For fertilizers specified at Point b, Clause

1, Article 7 of this Regulation, an organization or individual that wishes to register for the renaming of a fertilizer or the fertilizer owner shall send one (1) dossier set to the Cultivation Department. Such a dossier comprises:

a/ A written registration, made as guided in Appendix 9 to this Regulation;

b/ A valid technology transfer contract under law, in case of whole technology transfer, or a transfer contract between the involved parties under the civil law, in case of transfer of ownership of a fertilizer.

Chapter IV

PRODUCTION, PROCESSING, TRADING, EXPORT, IMPORT AND USE OF FERTILIZERS

Article 8. Fertilizer production and processing

1. Fertilizers permitted for production include:

a/ Fertilizers on the fertilizer list;

b/ Fertilizers used for assay as specified in Appendix 10 to this Regulation;

c/ Fertilizers domestically produced for export under contracts.

2. Fertilizer production conditions

Producers of fertilizers (except traditional organic fertilizers for on-site use but not for trading) must fully satisfy the following conditions:

a/ For group-1 fertilizers: the conditions specified in Clause 4, Article 1 of Decree No. 191/2004/ND-CP;

b/ For group-2 fertilizers: the conditions specified in relevant national technical regulations applicable to such fertilizers.

2. Fertilizer processing conditions

a/ Organizations and individuals that process fertilizers of groups 1 and 2 must fully satisfy the conditions specified at Points a, b, d and e, Clause 4, Article 1 of Decree No. 191/2004/ND-CP;

b/ Organizations and individuals that process group-2 fertilizers must fully satisfy the conditions specified in relevant national technical regulations applicable to such fertilizers.

Article 9. Fertilizer trading

1. Fertilizer traders must fully satisfy the conditions specified in Article 13 of Decree No. 113/2003/ND-CP.

2. To be traded, traditional organic fertilizers must satisfy the conditions like other fertilizers.

3. To be circulated on the market, fertilizers must have labels under the law on goods labeling.

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

5. Organizations and individuals may hold workshops on, introduce, and build demonstration models for, only fertilizers on the fertilizer list and shall, at least five (5) days before holding such workshops or demonstration models, notify their contents to provincial-level Agriculture and Rural Development Departments of localities in which such workshops or models will be held.

6. The advertising of fertilizers in the mass media must comply with the law on advertising.

7. The transportation by road motor vehicles of fertilizers or fertilizer materials containing substances on the list of dangerous goods promulgated together with the Government's

Decree No. 104/2009/ND-CP of November 9, 2009, must comply with this Decree.

8. The export or import of fertilizers or fertilizer materials containing substances on the list of hazardous substances specified in Appendices 2 and 3 to the Industry Ministry's Circular No. 01/2006/TT-BCN of April 11, 2006, guiding the management of export and import of hazardous chemicals and products containing hazardous chemicals, narcotic pre-substances of chemicals according to technical standards which are subject to the Industry Ministry's specialized management, must comply with this Circular.

Article 10. Fertilizer export and import

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

2. The import of fertilizers outside the fertilizer list in the cases below is subject to the Cultivation Department's written approval:

- a/ New fertilizers for assay;
- b/ Fertilizers or other materials not yet named on the fertilizer list for fertilizer production:
 - On the fertilizer list;
 - Only for export under contracts;
- c/ Fertilizers to be used exclusively for sports grounds;
- d/ Special-use fertilizers of foreign-invested companies for production activities within these companies;
- e/ Fertilizers to be used as samples or for scientific research, fertilizers given as gifts;
- f/ Assayed fertilizers which are recognized by the Cultivation Department as new fertilizers pending addition to the fertilizer list.

3. To register for the import of fertilizers

specified in Clause 2 of this Article, an organization or individual shall send one (1) dossier set to the Cultivation Department. Such a dossier comprises:

a/ A written registration for import, made according to the form provided in Appendix 11 to this Regulation;

b/ A technical declaration, made according to the form provided in Appendix 8 to this Regulation;

c/ One (1) foreign-language document introducing materials, composition and content of nutrients, utilities, use instructions, warnings upon fertilizer transportation, storage and use enclosed with its Vietnamese translation signed and stamped by a translation body or by the registering unit.

Article 11. Fertilizer use

1. Fertilizers permitted for use include:

- a/ Fertilizers on the fertilizer list;
- b/ Treated traditional organic fertilizers which pose no risk of pollution due to harmful microorganisms or substances hazardous to humans, animals, plants or the environment;
- c/ Fertilizers under assay which may be used only in places and on a scale specified in assay registration certificates.

2. Fertilizers must be used according to the technical cultivation process promulgated by a competent agency or recommendations of fertilizer producers or importers.

Chapter V

ASSIGNMENT OF RESPONSIBILITIES AND HANDLING OF VIOLATIONS

**Article 12. Responsibilities of the Cultivation
Department**

1. To elaborate, 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 perform the state management of fertilizers in production, quality inspection and use as assigned by the Minister.

3. To grant and revoke import licenses for fertilizers specified in Clause 2, Article 10 of this Regulation.

4. To grant and revoke written registrations for fertilizer assay and permits for domestic production of fertilizers for assay.

5. To set up councils for appraising fertilizer assay results and recognizing new fertilizers.

6. To gather and submit to the Minister of Agriculture and Rural Development for promulgation:

- a/ The additional fertilizer list;
- b/ The modified fertilizer list;
- c/ The rejected fertilizer list.

7. To collect and manage information and data on fertilizers, propagate and disseminate legal knowledge and experience concerning fertilizer production, trading and use nationwide.

8. To train, and grant or revoke certificates to or from, fertilizer samplers.

9. To appraise dossiers of, evaluate, accredit or designate, fertilizer quality analysis laboratories or certification organizations and fertilizer regulation conformity certification organizations; to guide procedures for regulation conformity certification or announcement for fertilizers specified in Clause 2, Article 3 of this

Regulation.

10. To examine, inspect, handle or propose competent agencies to handle violations related to fertilizer production and trading conditions, fertilizer quality and use, fertilizer assay and sampling, and fertilizer quality testing.

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

Article 13. Responsibilities of the Science, Technology and Environment Department

1. To assume the prime responsibility for, and coordinate with concerned agencies in, researching and applying scientific and technological advances to fertilizer-related activities.

2. To elaborate and submit to competent authorities for promulgation or announcement national standards or technical regulations on fertilizers.

3. To enter into international cooperation on research into and application of scientific and technological advances to fertilizer-related activities.

Article 14. Responsibilities of provincial-level Agriculture and Rural Development Departments

To assist provincial-level People's Committees in performing the state management of fertilizer production (except inorganic fertilizer production), trading and use in localities, specifically as follows:

1. To forecast crop-based and annual demands for fertilizers in localities.

2. To submit to provincial-level People's Committees for promulgation management regulations and mechanisms and policies on fertilizer production, trading and use in localities in compliance with regulations of the Government and the Ministry of Agriculture and Rural Development.

3. To receive fertilizer regulation conformity announcements from fertilizer producers and traders according to Appendix 12 to this Regulation.

4. To provide use instructions of fertilizers to ensure proper application of techniques, efficiency, food hygiene and safety and no pollution.

5. To examine, inspect, and handle violations related to fertilizer production and trading conditions, fertilizer quality and fertilizer labeling; assay, advertising, demonstration and use of and workshops on fertilizers under this Circular and relevant legal documents; and report the results of examination, inspection and handling of violations to the Cultivation Department.

Article 15. Responsibilities of fertilizer producers, importers, traders and users

1. To fully comply with regulations on fertilizer production, trading, export and import conditions; renaming of fertilizer owners or units that are transferred whole fertilizer production technologies; fertilizer advertising, workshops and demonstration under Decree No. 113/2003/ND-CP, Decree No. 191/2007/ND-CP, this Circular and other relevant regulations.

2. To announce standards applicable to fertilizers upon their production, import or circulation on the market. To announce regulation conformity for fertilizers specified in Clause 2, Article 3 of this Regulation under the law on

regulations, standards and labeling of fertilizer products and commodities.

3. To ensure conformity of the quality of produced, imported or traded fertilizers with announced applicable standards or national technical regulations.

4. To create conditions for functional agencies to examine and inspect fertilizer production, import and trading activities.

5. In December every year or upon request of competent agencies, to report on fertilizer production, import and trading to provincial-level Agriculture and Rural Development Departments of localities in which they are headquartered.

Article 16. Handling of violations

1. Violators of regulations on fertilizer production, processing, export, import, trading, assay, recognition, naming, renaming, sampling or quality analysis shall be handled under the following documents:

a/ The Government's Decree No. 15/2010/ND-CP of March 1, 2010, on the sanctioning of administrative violations in fertilizer production and trading;

b/ The Government's Decree No. 06/2008/ND-CP of January 16, 2008, on the sanctioning of administrative violations in commercial activities;

c/ The Government's Decree No. 107/2008/ND-CP of September 22, 2008, on the administrative sanctioning of acts of speculation and hoarding, excessive price hiking, rumor spreading, smuggling and trade fraud;

d/ The Government's Decree No. 37/2005/ND-CP of March 18, 2005, on procedures for applying coercive measures to enforce administrative sanctioning decisions.

2. Violators of regulations on announcement of applicable standards and regulation conformity announcement or certification shall be handled under the Government's Decree No. 54/2009/ND-CP of June 5, 2009, on the sanctioning of administrative violations in the domains of standards, metrology and product and goods quality.

3. Imported fertilizers not up to national technical regulations shall be destroyed or re-exported, imported fertilizers not up to announced applicable standards shall be re-exported.

Article 17. Transitional provisions

1. Fertilizers which were domestically produced or imported before the effective date of this Circular and contain compulsory quantities incompliant with this Circular but compliant with the Agriculture and Rural Development Ministry's Decision No. 100/2008/QD-BNN of October 15, 2008, may be further traded and used within 6 months after this Circular takes effect.

2. Fertilizer lots with samples taken for quality analysis by state agencies' inspection and examination teams before the effective date of

this Circular must still satisfy compulsory quantitative criteria and allowable quantitative errors specified in the Agriculture and Rural Development Ministry's Decision No. 100/2008/QD-BNN of October 15, 2008.-

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

** Note: All the appendices mentioned in this Circular are not printed herein.*