

Pursuant to Article 88 Paragraph 2 of the Constitution of the Republic of Montenegro
I hereby enact

Decree on Promulgation of Fertilizer Law

I promulgate the **Fertilizer Law** adopted by the Constituent Assembly of the Republic of Montenegro at its sixth session of the first regular session held in 2007 on July 24, 2007.

No. 01-961/2

Podgorica, August 2, 2007

President of the Republic of Montenegro,
Filip Vujanović, in his own hand

Fertilizer Law

The Law is published in the "Official Gazette of the Republic of Montenegro", No. 48/2007 dated August 9, 2007

I. BASIC PROVISIONS

Article 1

This Law shall regulate conditions for production, trade, characteristics and application of fertilizers, as well as other issues that are significant for production and trade of the fertilizers.

If fertilizers contain also pesticides, then regulations that regulate pesticides shall also be applied to trade and application of fertilizers.

If fertilizers contain also dangerous substances, then regulations that regulate dangerous substances shall also be applied to trade and application of fertilizers.

Article 2

Certain expressions used in this Law shall have the following meaning:

- 1) fertilizers are fertilizing nutrients, biostimulators, land improvement matters and substrates;
- 2) fertilizer is chemical compound of mineral and organic origin and mixture of these compounds, regardless of the physical state, as well as certain microorganisms, which are used for direct or indirect fertilizing and improvement of the land fertility;
- 3) mineral (inorganic) fertilizer is fertilizer, which consists of the nutritive elements in the form of inorganic salts obtained through extraction, industrial procedures, which can be physical or chemical;
- 4) Organic fertilizer is fertilizer which consists of nutritive elements in the form of organic matter of plant or animal origin, obtained through processing or synthesis of organic compounds;
- 5) Substrate is a product, which serves as a base so that plants take roots, and it can be of organic (peat, compost, etc.) or mineral (active land, zeolite, tuff, perlite, grodan, etc.) origin;
- 6) Land improvement matter is a matter added to land in order to improve physical or chemical characteristics or biological activity of the land;

- 7) Biostimulators are substances of synthetic or natural origin (hormones, vitamins, amino acids, humus acids, etc.), which have stimulating effect on physiological biochemical processes in plants;
- 8) Plant nutrients are chemical elements necessary for normal growth and development of plants;
- 9) Primary nutrients are nitrogen, phosphor and potassium;
- 10) Secondary nutrients are calcium, magnesium, sodium and sulfur;
- 11) Micronutrients are iron, boron, zinc, cobalt, copper, manganese, molybdenum and selenium;
- 12) Simple (one-component) fertilizer is fertilizer which consists of only one of the primary nutrients;
- 13) Compound (multi-component) fertilizer is fertilizer, which consists of at least two primary nutrients, obtained through chemical process or mixing or through combination of both processes;
- 14) Complex fertilizer is fertilizer obtained through chemical reaction, dissolution or granulation – in solid state, and which consists of at least two primary nutrients;
- 15) Mixed fertilizer is fertilizer obtained through dry mixing of several fertilizers, without chemical reaction;
- 16) Foliar fertilizer is fertilizer intended for reinforced nutrition through leaves;
- 17) Liquid fertilizer is fertilizer in suspension or solution;
- 18) Dissolute fertilizer is liquid fertilizer that does not consist of solid matters;
- 19) Fertilizer suspension is two phases fertilizer, in which solid matters are preserved in suspension in liquid phase;
- 20) Tolerance is permitted variation of contents of nutrients;
- 21) Package is packing material used for keeping, preserving and distribution of fertilizers;
- 22) Bulk fertilizer is a fertilizer which is not packed;
- 23) Characteristics of fertilizers are characteristics regulated by technical regulations and standards;
- 24) Series (group) of fertilizers in production is quantity which is produced through the same technological process, under the same conditions, having the same characteristics;
- 25) Series (group) of fertilizers in trade is quantity for which the producer determined the same characteristics at the time of forwarding;
- 26) Series (group) of fertilizers in import is quantity imported by the same transport vehicle, of the same characteristics and origin;
- 27) Application is bringing the fertilizers into land or directly into plants.

II. TYPES OF FERTILIZERS

Article 3

Fertilizers may be produced, placed on the market and applied in the Republic of Montenegro (hereinafter referred to as: the Republic), if they are classified as defined types of fertilizers and entered in the Register of Fertilizers (hereinafter referred to as: the Register).

Procedure and documents for classification and manner of designating the fertilizers according to their type from paragraph 1 of this Article shall be regulated by the Ministry in charge of agricultural affairs (hereinafter referred to as: the Ministry).

Article 4

Fertilizer types are the following:

- 1) mineral (inorganic) fertilizers;
- 2) organic fertilizers;
- 3) microbiological fertilizers;

Fertilizer can be:

- 1) Simple (one-component) and
- 2) Compound (multi-component), which can be complex and mixed:
 - depending on the physical state: solid and liquid;
 - depending on the manner of application and foliar.

Special types of mineral fertilizers are in particular:

- mineral fertilizers on the basis of primary nutrients (nitrogen, phosphor and potassium);
- mineral fertilizers on the basis of secondary nutrients (calcium, magnesium, sodium and sulfur);
- mineral fertilizers on the basis of micronutrients (iron, boron, zinc, cobalt, copper, manganese, molybdenum and selenium);
- ammonium-nitrate fertilizers which contain high concentration of nitrogen.

Organic fertilizers are fertilizers which consist of minimum 50% of organic matters and at least 1% of nitrogen, 1% of phosphor and 1% of potassium.

Microbiological fertilizers are fertilizers which consist of certain useful microorganisms.

The Ministry shall regulate in more detail the types of fertilizers from paragraph 1, items 1, 2 and 3 of this Article.

Article 5

Ammonium-nitrate fertilizers which contain high concentration of nitrogen from Article 4 Paragraph 3, Subparagraph 4 of this Law shall be mineral fertilizers, which consist of at least 28% of nitrogen in the form of ammonium-nitrate.

Ammonium-nitrate fertilizers which contain high concentration of nitrogen, which are placed on the retail market, have to be in the original package.

Ammonium-nitrate fertilizers which contain high concentration of nitrogen, which are placed on the market, apart from the trade conditions regulated by this Law, have to meet also special technical and chemical conditions in terms of contents of heavy metals and other matters.

Ammonium-nitrate fertilizers which contain high concentration of nitrogen may contain also inorganic and inert matters.

Raw materials' sensitivity to heat and detonation, which are used in production of fertilizers from paragraph 1 of this Article, may not increase.

Transport of ammonium-nitrate fertilizers which contain high concentration of nitrogen shall be carried out in accordance with the regulations which regulate transport of dangerous substances.

Article 6

The producer of ammonium-nitrate fertilizers which contain high concentration of nitrogen, which are placed on the market, for the purpose of control and possibility of observing trade in the ammonium-nitrate fertilizers which contain high concentration of nitrogen, shall be obliged to keep records consisting of: name, registered office of the producer and name of the responsible person in the registered office, in which the fertilizers or its basic components are produced.

Records from paragraph 1 of this Article shall be kept until the ammonium-nitrate fertilizers which contain high concentration of nitrogen are placed on the market, as well as two years after the producer ceases to place on the market the ammonium-nitrate fertilizers which contain high concentration of nitrogen.

Manner of keeping records is determined by the Ministry.

Article 7

Before the ammonium-nitrate fertilizers which contain high concentration of nitrogen are placed on the market, the producer must have evidence about test on detonation resistance.

Conditions for ammonium-nitrate fertilizers which contain high concentration of nitrogen in terms of characteristics, limit values, as well as methods for checking harmonization with the limit values, detonation resistance, manner of storage and handling shall be regulated by the Ministry.

Article 8

If scientific and technical data determine that a fertilizer represents a risk for health of humans, animals, plants and environment, although it fulfills the conditions regulated by this Law, the administrative body in charge of fertilizer affairs (hereinafter referred to as: Administrative Body) may:

- 1) temporarily or permanently forbid production and placement on the market, or
- 2) determine special conditions for production, placement on the market and application of that fertilizer.

Manner of adopting and implementation of measures from paragraph 1 of this Article shall be regulated by the Ministry, in cooperation with the Ministry in charge of environmental protection affairs and Ministry in charge of health affairs.

III. PRODUCTION OF FERTILIZERS

Article 9

Fertilizers can be produced by a business company or entrepreneur (hereinafter referred to as: producer), which is entered in the Register of Producers of Fertilizers (hereinafter referred to as: Register of Producers).

Producer can be entered in the Register of Producers, if:

- it meets the conditions in terms of human resources and equipment;
- it obtained consent in relation to environmental impact assessment;

The Ministry shall regulate in detail the conditions in terms of human resources and equipment from paragraph 1 of this Article as well as contents and manner of keeping the Register of Producers.

Fulfillment of conditions for entry in the Register of Producers shall be determined by the Administrative Body.

The Register of Producers shall be kept by the Administrative Body.

The Ministry shall decide in relation to the appeal against the decision on fulfillment of conditions from paragraph 4 of this Article, as well as in relation to other administrative acts adopted by the Administrative Body pursuant to this Law.

Data from the Register of Producers shall be public.

Producer shall be bound to control the production of each series of fertilizers for the purpose of checking the characteristics before placing them on the market.

The producer shall keep records about control of production from paragraph 8 of this Article.

Records mentioned in paragraph 9 of this Article have to be kept until fertilizers are placed on the market as well as in the course of the period of two years after the production ceased.

The producer shall be bound to submit to the Administrative Body data on production of fertilizers every six months.

More detailed contents and manner of keeping records from paragraph 9 of this Article and manner of delivering the data from paragraph 11 of this Article shall be regulated by the Ministry.

Article 10

Producer, in the sense of this Law, shall be considered a business company or entrepreneur that performs packaging or repackaging as well as final processing by which it changes characteristics of fertilizers (hereinafter referred to as: finisher), that meets conditions from paragraph 9 of this Law.

Packaging, repackaging and final processing of fertilizers can be done by a business company or an entrepreneur only with consent of the producer of fertilizers.

IV. CHARACTERISTICS, MARKING AND TRADE OF FERTILIZERS

Article 11

Fertilizers have to have certain least content of nutrients as well as relevant chemical, physical, physiological and other features.

Fertilizers can be placed on the market, if they fulfill the conditions from paragraph 1 of this Article, if they are marked in regulated manner and if by their proper usage they do not put in danger health of humans, animals, plants and environment.

Mineral fertilizers that fulfill conditions for trade in the area of European Union are marked in the following way: "EC FERTILISER".

Characteristics and other conditions for production of fertilizers shall be regulated by the Ministry.

Article 12

Fertilizers have to be labeled.

Fertilizers have to correspond to the characteristics stated in the label.

Label shall in particular contain the following data:

- name and registered office of producer, i.e. importer;
- trade name of the fertilizer;
- title "EC FERTILISER" written in capital block letters, if mineral fertilizer meets the regulated conditions;
- name and type of fertilizer;
- name, type and contents of nutrients;
- name and contents of other matters contained in the fertilizer;
- net weight, i.e. volume of fertilizers;
- instructions about manner of usage and storage of fertilizers;
- instruction about conditions for usage of fertilizers;

Fertilizers which are placed on the market in the original package must have completely visible label inserted in the package or inseparably affixed. If leaden seal is affixed on the package, then name and mark of the producer that performed packaging must be inserted on the package.

Label must accompany the bulk fertilizers.

Package, i.e. leaden seal have to be made in the way that while being opened it becomes visibly, uncorrectable changed.

Label must be clearly written, legible in the language officially used in the Republic and in the manner which disables its erasing or removing.

Label must be separate from any other data in the packages.

Liquid fertilizers can be placed on the market, if the producer provided the instruction for usage, storage and dangers in the process of application and storage.

Retail or wholesale producer, distributor of fertilizers and importer of the fertilizers is responsible for damage incurred due to wrong, incorrect or incomplete label.

Label in more detail, manner of marking and packaging of traded fertilizers shall be regulated by the Ministry.

Article 13

Examination of fertilizers and raw materials for their production, for the purpose of determination of chemical and physical features and biological values, can be executed by accredited laboratories, i.e. authorized institutions that have accredited laboratories.

Examination for the purpose of extension of the expiry date of fertilizers shall be done by an accredited laboratory.

Methods of examination and sampling for determination of characteristics of fertilizers from paragraph 1 of this Article, as well as permitted variations shall be regulated by the Ministry.

Article 14

Fertilizers that are produced or imported in the Republic, before being placed on the market, must be entered in the Register of fertilizers (hereinafter referred to as: Register).

Registration in the Register shall be done on the basis of an application.

Along with the application, the producer, i.e. importer shall submit label and instruction for use of fertilizers written in the language officially used in the Republic.

Fulfillment of conditions for registration in the Register shall be determined by decision of the Administrative Body.

Register shall be kept by the Administrative Body.

Data from the Register shall be public.

Fertilizers entered in the Register shall be inserted into the List of Fertilizers, which is published in the „Official Gazette of the Republic of Montenegro“.

Conditions in more detail for registration in the Register, contents and manner of keeping the Register, contents of the application and List of Fertilizers shall be regulated by the Ministry.

Article 15

The following from Article 14 of this Law shall not be entered in the Register.

- 1) fertilizers that are intended for export;
- 2) fertilizers that are produced according to request of a foreign buyer;
- 3) fertilizers that are used for scientific-research purposes;
- 4) fertilizers (experimental production or remainder from export), which are placed on the market of the Republic in certain quantity and at certain time.

Fertilizers from paragraph 1 item 4 of this Article can be placed on the market on the basis of the Administrative Body's approval.

Producer, i.e. importer shall be bound to submit to the Administrative Body an application with necessary documentation for obtaining an approval for the fertilizers from paragraph 1 item 4 of this Article.

Fertilizers from paragraph 1 item 4 of this Article have to meet conditions from Article 11 paragraphs 1 and 2 of this Law and must have printed (inserted) mark in the package "Produced according to the production specification" and meet conditions stated in the production specification.

The contents of the request and necessary documentation from paragraph 3 of this Article shall be regulated by the Ministry.

Article 16

Institutions that are registered to do scientific-research activities can for the purpose of scientific researches and examinations of new fertilizers, on the basis of the Administrative Body's approval, import and use samples of fertilizers that do not meet regulated conditions.

Along with the request for obtaining an approval from paragraph 1 of this Article the following data shall be enclosed:

- name and registered office of the institution;
- type and quantity of fertilizers intended for usage;
- purpose of research;
- field of research;
- manner and time of research;
- license.

Approval from paragraph 1 of this Article shall be issued by the Administrative Body.

Conditions in more detail and contents of the application for issuance of approval from paragraph 1 of this Article shall be regulated by the Ministry.

The Administrative Body shall keep records about approvals from paragraph 2 of this Article.

Article 17

Administrative Body shall keep records about trade of fertilizers.

Producer, i.e. importer of fertilizers shall be obliged to submit to the Administrative Body the data on trade in fertilizers on March 31 of the current year at latest.

Records from paragraph 1 of this Article shall especially contain the following:

- 1) name and registered office of the producer, i.e. importer of fertilizers;
- 2) no. of the decision on registration in the Register of Producers, i.e. importer of fertilizers;
- 3) type and quantity of fertilizers placed on the market;
- 4) manner of placing on the market (import, export, retail and wholesale trade, stocks).

Form and manner of keeping records from paragraph 1 of this Article, as well as manner of submitting the data from paragraph 2 of this Article shall be regulated by the Ministry.

Article 18

Fertilizers shall be used in accordance with the principles of good agricultural practice, which implies application of certain type of fertilizers in accordance with: needs of plants, characteristics of land, climate characteristics, conditions for sowing and seeding.

Commission for Fertilizers Application Monitoring appointed by the Ministry shall perform monitoring of fertilizers application in accordance with the principles of sustainable development and provide expert's opinion and proposals in this field.

Members of the Commission from paragraph 2 of this Article shall be appointed from among scientists and experts from the field of plant nutrition, agro chemistry, pedology etc.

Principles of good agricultural practice, detailed instructions for application of fertilizers in accordance with paragraph 1 of this Article, programs of actions and measures for endangered zones shall be regulated by the Ministry.

Fertilizers and raw materials, which shelf life expired, must be recorded and destroyed in the regulated way.

Destruction of fertilizers and raw materials shall be performed in accordance with the environmental protection regulations.

Manner of destruction of fertilizers and raw materials shall be regulated by the Ministry.

Article 19

Before placing fertilizers on the market of the Republic, producer shall be obliged to obtain an approval for placing fertilizers on the market from the Administrative Body.

Along with the application for obtaining the approval from paragraph 1 of this Article the producer shall submit the data on:

- producer (name of the producer's company, registered office, name, address, personal identification number, tax number and code of activity);
- responsible person (name and surname, address, personal identification number and educational qualification);
- type and name of the fertilizer which is placed on the market and documentation on:
- registration of fertilizers from the authority in charge in the state where the fertilizer is produced;
- characteristics of fertilizers according to the regulated methodology, from an accredited laboratory in accordance with Article 13 of this Law;
- label and instruction for use, which contents are regulated and printed in the language that is officially used in the Republic;

Compensation regulated by the Ministry shall be paid to the amount of real expenses for issuance of the approval on the occasion of submitting application for obtaining approval for fertilizers.

Article 20

Fulfillment of conditions from Article 19 of this Law shall be determined by the Administrative Body, which shall also issue approval for placement on the market.

Approval from paragraph 1 of this Article shall be issued for the period of 10 years.

By way of exception of paragraph 2 of this Article, depending on characteristics of certain fertilizers, Administrative Body can determine a shorter term of validity of approval.

Upon expiry of validity of approval for placement on the market, fertilizers shall become subject to renewed examination for the purpose of issuance of a new approval.

If approval for certain fertilizer ceased to be valid to be placed on the market, and unused quantities' shelf life, which is written in label, did not expire, these quantities could be placed on the market for another six months from the date of expiry of approval.

Article 21

Wholesale trade of fertilizers can be carried on by a business company or entrepreneur (hereinafter referred to as: Distributor) entered in the Register of wholesale distributors of fertilizers (hereinafter referred to as: Register of Distributors), if it:

- has permanently employed a person who graduated from at least IV grade of secondary agricultural school or secondary school education – department of chemistry, who shall be responsible for activities of procurement, trade, storage and issuance of fertilizers;
- owns or rents warehouse of relevant capacity as storage for fertilizers;
- has concluded a contract with producer (domestic) on distribution of fertilizers in the territory of the Republic;
- does not change the composition of fertilizers.

Register of Distributors shall be kept by the Administrative Body.

Registration in the Register of Distributors shall be done on the basis of an application.

Fulfillment of conditions for registration in the Register of Distributors shall be determined by the Administrative Body.

Data from the Register of Distributors shall be public.

Conditions that have to be met as regards warehouses, as well as storage, keeping and handling conditions for fertilizers for the purpose of preserving characteristics, contents, form and manner of keeping the Register of Distributors and manner of applying for registration in the Register of Distributors shall be regulated by the Ministry.

Article 22

Retail trade of fertilizers can be done by a business company and entrepreneur who is entered in the Register of retail distributors of fertilizers (hereinafter referred to as: Register of Retail Distributors), if it:

- has permanently employed a person who graduated from at least IV grade of secondary agricultural school or secondary school education – department of chemistry, who shall be responsible for activities of procurement, trade, storage and issuance of fertilizers;

- has in the place of sale a separate part with porch with palettes or a premise for storage of big packages of fertilizers (over 5kg, i.e. liters), which ensures maintenance of characteristics and proper and safe handling;
- has in the place of sale a separate part or premise for sale of small packages of fertilizers (up to 5kg, i.e. liters).

Register of Retail Distributors shall be kept by the Administrative Body.

Registration in the Register of Retail Distributors shall be done on the basis of an application.

Fulfillment of conditions for registration in the Register of Retail Distributors shall be determined by the Administrative Body.

Data from the Register of Retail Distributors shall be public.

Conditions that have to be met as regards warehouses, as well as storage, keeping and handling conditions for fertilizers for the purpose of preserving characteristics, contents, form and manner of keeping the Register of Distributors and manner of applying for registration in the Register of Retail Distributors shall be regulated by the Ministry.

Article 23

Trade in bulk fertilizers, apart from ammonium-nitrate with high concentration of nitrogen, can be done only between producer of fertilizers and primary agricultural producer as final user, along with Administrative Body's approval.

V. IMPORT OF FERTILIZERS

Article 24

Import of fertilizers can be done by a business company and entrepreneur under the condition that it has concluded a contract with the producer on distribution of fertilizers in the territory of the Republic and if it;

- owns or rented a customs warehouse, which meets conditions for keeping fertilizers;
- has permanently employed a person who completed at least high education in the field of agriculture, who shall be responsible for activities of procurement, trade, storage and issuance of fertilizers;
- is entered in the Register of importers of fertilizers (hereinafter referred to as: Register of Importers).

Fulfillment of conditions from paragraph 1 of this Article shall be regulated by the Administrative Body.

Register of Importers shall be kept by the Administrative Body.

Data from the Register of Importers shall be public.

Registration in the Register of Importers shall be done on the basis of an application.

If business company or entrepreneur from paragraph 1 of this Article is at the same time also distributor, i.e. retail distributor, it has to meet also the conditions from Articles 21 and 22 of this Law.

Contents, form and manner of keeping the Register of Importers, form, contents and manner of applying for registration in the Register of Importers as well as more detailed conditions for storage and handling of fertilizers shall be regulated by the Ministry.

Article 25

Before the first placement of fertilizers on the market in the Republic the importer shall be obliged to obtain approval for placement on the market from the Administrative Body.

Approval from paragraph 1 of this Article shall be issued by the Administrative Body pursuant to Articles 19 and 20 of this Law.

Article 26

Import of raw materials for production of fertilizers can be carried out only for the needs of production of fertilizers which are entered in the Register and for the needs from Article 15 paragraph 1 subparagraph 2.

Import of raw materials for production of fertilizers shall be carried out only for the needs of producers which are entered in the Register of Producers.

Article 27

Sampling and control of characteristics shall not be necessary for the following raw materials: ammonium, sulfuric acid, phosphorous acid and raw phosphates.

Article 28

Import of fertilizers and raw materials can be carried out only through border crossings, at which customs and phytosanitary inspection are established.

Customs procedure can not start before phytosanitary inspection is executed, apart from transit procedure and procedure of customs storage.

If delivery of fertilizers or raw materials (hereinafter referred to as: delivery) arrives to border crossing, at which phytosanitary inspection is not organized, customs office's organs shall forward the delivery to the nearest border crossing, at which phytosanitary inspection is organized.

Article 29

Importers shall be obliged to report to the Administrative Body - phytosanitary inspector about received delivery at the border crossing.

Deliveries shall be subject to phytosanitary inspection after arrival to border crossing for the purpose of checking documentation, identification and visual examination aimed at check up of characteristics of fertilizers.

Article 30

During procedure of phytosanitary inspection on the occasion of import phytosanitary inspector takes a sample of delivery when there is a suspicion that the delivery does not correspond to the regulated characteristics.

If it is not possible to carry out sampling at the border crossing in the regulated manner, the delivery shall be sent to the customs clearance place under the customs control, at which the sampling shall be carried out.

Taken samples shall be sent to an accredited laboratory at importer's expense for the purpose of checking type of fertilizer and labeled contents of nutritive elements.

Customs office's organs can neither perform customs clearance nor send deliveries to other customs offices until phytosanitary inspection is executed.

Manner of inspection, taking samples and methods of sampling, size of samples from paragraphs 1, 3 and 4 of this Article and procedure from Article 29 paragraph 1 of this Law shall be regulated by the Ministry.

Article 31

Administrative body shall establish database about fertilizers for the purpose of updating data, analyses, planning and monitoring of effects of undertaken measures pursuant to this Law.

Data on production, retail and wholesale trade, import, types of fertilizers etc. shall be entered into the database.

Data from the database can be used, on the basis of an application, for scientific-research purposes and preparation of studies on the basis of Administrative Body's approval.

Contents of the database in more detail and manner of keeping the database shall be regulated by the Ministry.

Article 32

For the purpose of monitoring production, trade, import, characteristics and application of fertilizers, the Administrative Body shall establish an information system.

Manner of information system establishment shall be regulated by the Ministry.

VI. INSPECTION CONTROL

Article 33

Inspection control over implementation of this Law shall be done by the Administrative Body's phytosanitary inspectors, pursuant to the Law.

1. Authorizations of Phytosanitary Inspector

Article 34

Phytosanitary inspector shall perform inspection control, in particular over:

- 1) fulfilment of conditions for registration in the regulated registers;
- 2) keeping professional records;
- 3) fulfilment of conditions for production, placement on the market, trade and usage of fertilizers;
- 4) marking and labelling of the fertilizers;
- 5) production and trade of fertilizers and raw materials for their production.

2. Administrative Measures and Actions

Article 35

Apart from administrative measures and actions regulated by the law, which regulates inspection control, phytosanitary inspector shall be obliged to undertake also the following administrative measures and actions when he/she determines that the law or other regulation was breached:

- 1) forbid production of fertilizers, if the producer is not entered or is erased from the Register of Producers;
- 2) forbid placement on the market of the fertilizers that are produced in the Republic or are imported in the Republic, if they are not entered in the Register;
- 3) forbid placement on the market of the fertilizers from Article 15 paragraph 1 item 4 without approval of the Administrative Body;

- 4) forbid placement on the market of the fertilizers, if producer or importer, before the first placement on the market, did not obtain Administrative Body's approval;
- 5) forbid usage of mark "EC FERTILISER", if mineral fertilizer does not fulfil conditions regulated for that mark;
- 6) forbid trade of fertilizers, if characteristics do not correspond to the label;
- 7) forbid to business company or entrepreneur to perform activity, if it does not harmonize its business, i.e. does not remove deficiencies in terms of conditions regulated by this Law and regulations adopted on the basis of this Law;
- 8) forbid import and order return of delivery to the sender, if the results of examination are not in line with the regulated and labelled contents;
- 9) dispossess and destroy fertilizers that are produced, placed on the market, imported and applied contrary to this Law.

VII. PENALTY PROVISIONS

Article 36

Fine to the amount of minimum wage rate in the Republic multiplied by two hundred fifty times up to three hundred times shall be determined as penalty to a body, business company i.e. other legal person or entrepreneur, if it:

- 1) produces or places on the market a fertilizer that is not classified as fertilizer of defined type (Article 4);
- 2) produces i.e. performs final processing of fertilizers, although it does not fulfill regulated conditions for their production (Articles 9 and 10);
- 3) places on the market fertilizers that do not fulfill regulated conditions, are not marked in the regulated manner and endanger health of humans, animals, plants and environment by proper usage (Article 11 paragraph 2);
- 4) places on the market fertilizers produced or imported in the Republic, which were not entered in the Register or were erased from the Register before being placed on the market;
- 5) imports and uses samples of fertilizers for the purpose of scientific research and examinations without approval of the Administrative Body (Article 16 paragraph 1);
- 6) uses fertilizers contrary to the principles of good agricultural practice (Article 18 paragraph 1);
- 7) places on the market fertilizers, for which it did not obtain approval of the Administrative Body before the placement on the market (Article 19 paragraph 1 and Article 25 paragraph 1);
- 8) places on the market, although it does not fulfill the regulated conditions (Articles 20 and 21);
- 9) carries on wholesale trade in fertilizers, although it is not entered in the Register of Distributors (Article 21 paragraph 1);
- 10) carries on retail trade in fertilizers, although it is not entered in the Register of Retail Distributors (Article 22 paragraph 1);
- 11) carries on trade in bulk fertilizers, apart from ammonium-nitrate fertilizers with high concentration of nitrogen, without approval of the Administrative Body (Article 23);
- 12) imports fertilizers, although it does not fulfill the regulated conditions (Article 24);

13) importer does not obtain Administrative Body's approval for placement of fertilizers on the market before the first placement on the market in the Republic (Article 25);

14) imports raw materials for production of fertilizers, which are not entered in the Register and do not serve for the purposes of Article 15 paragraph 1 item 2 (Article 26 paragraph 1);

Responsible person of an organ, business company or other legal person shall be fined for offence from paragraph 1 of this Article to the amount of the minimum wage rate in the Republic multiplied by ten to twenty times.

For offence from paragraph 1 of this Article, protective measures can be imposed, apart from fine, on a business company i.e. other legal person and entrepreneur in sense of forbidding doing business for one month to six months period.

Article 37

Fine to the amount of the minimum wage rate in the Republic multiplied by one hundred to two hundred times shall be imposed on business company i.e. other legal person and entrepreneur, if:

- 1) producer of ammonium-nitrate fertilizers with high concentration of nitrogen does not keep records of trade in these fertilizers (Article 6);
- 2) producer of ammonium-nitrate fertilizers with high concentration of nitrogen, before placement of these fertilizers on the market does not obtain evidence on detonation resistance examination (Article 7 paragraph 1);
- 3) producer does not carry out control of production of each series of fertilizers for the purpose of checking the characteristics, before placement on the market, and it does not keep records about control of the production and if it does not submit data on production of fertilizers to the Administrative Body each six months (Article 12 paragraph 1);
- 4) fertilizers are not labeled (Article 12 paragraph 1);
- 5) mark "EC FERTILISER" is not written in capital block letters, if mineral fertilizer fulfills the conditions for that designation (Article 12 paragraph 4 subparagraph 3);
- 6) label does not correspond to the fertilizer placed on the market in bulk form (Article 12 paragraph 6)
- 7) package, i.e. leaden seal is not made so that on the occasion of opening it changes visibly and incorrigibly (Article 12 paragraph 7);
- 8) places on the market liquid fertilizers for which the producer did not provide an instruction for usage, storage and dangers on the occasion of application and storage (Article 12 paragraph 10);
- 9) places on the market fertilizers from Article 15 paragraph 1 item 4 in the package which does not consist of printed (inserted) mark "Produced according to the production specification" and does not meet the conditions stated in the production specification and without an approval of the Administrative Body (Article 15 paragraphs 2 and 4);
- 10) does not submit data from Article 17 paragraph 2 of this Law;
- 11) destroys fertilizers and raw materials contrary to the regulations related to environmental protection (Article 18 paragraphs 5 and 6);
- 12) places on the market fertilizers, for which approval for placement on the market expired and the unused quantities' shelf life denoted on the label did not expire, for a longer period than six months from the date of expiry of the approval (Article 20 paragraph 5);

13) stores fertilizers in the warehouses that do not fulfill the regulated conditions (Article 21 paragraph 1 Article 22 paragraph 1).

Fine to the amount of the minimum wage rate in the Republic multiplied by twenty times shall also be imposed on responsible person in a business company i.e. other legal person for offence from the paragraph 1 of this Article.

VII. TRANSITIONAL AND FINAL PROVISIONS

Article 38

By-law acts for implementation of this Law shall be adopted within six months from the date when this Law comes into force.

Until the by-law acts are adopted, on the basis of authorization by means of this Law, application of by-law acts that are related to fertilizers, if not contrary to this Law, adopted pursuant to the Law on Plant Protection (“Official Gazette of the Republic of Montenegro”, no. 24/98 and 26/98) shall be valid.

Article 39

By way of exception of Article 13 paragraph 1 of this Law, examinations of fertilizers shall be executed by the existing scientific-research institutions dealing with fertilizers, which shall be determined by the Ministry.

Article 40

Business companies and entrepreneurs that produce, carry on trade and import of fertilizers shall be obliged to harmonize their activities with this Law within one year from the date when this Law comes into force.

Article 41

Fertilizers that are registered pursuant to the Law on Plant Protection (“Official Gazette of the Republic of Montenegro”, no. 24/98 and 26/98) shall be entered in the Register pursuant to this Law.

Article 42

Once this Law comes into force the provisions of the Law on Plant Protection related to fertilizers (“Official Gazette of the Republic of Montenegro”, no. 24/98 and 26/98) and the Law on Artificial Fertilizers (“Official Gazette of the Republic of Montenegro”, no. 40/75, 45/75, 39/89, 49/91, 17/92, 27/94) shall cease to be valid.

Article 43

This Law shall come into force on the eight day from the day of its publishing in the “Official Gazette of the Republic of Montenegro”.

SU-SK Number 01-344/6

Podgorica, July 24, 2007

Constituent Assembly of the Republic of Montenegro

Speaker,
Ranko Krivokapić, in his own hand