

LAW ON FERTILIZERS

I. BASIC PROVISIONS

Article 1

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

If fertilizers contain pesticides, regulations that govern pesticides shall also apply to trade and application of fertilizers.

If fertilizers contain dangerous substances, regulations that govern dangerous substances shall also apply to trade and application of fertilizers.

Article 2

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

- 1) fertilizers shall mean fertilizing nutrients, biostimulants, land improvement matters and substrates;
- 2) fertilizer shall mean chemical compounds 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 shall mean 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 shall mean 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 shall mean 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 shall mean a material added to land in order to improve physical or chemical characteristics or biological activity of the land;
- 7) biostimulators shall mean 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 shall mean chemical elements necessary for normal growth and development of plants;
- 9) primary nutrients shall mean nitrogen, phosphorus and potassium;
- 10) secondary nutrients shall mean calcium, magnesium, sodium and sulfur;

Procedure and documents for classification and manner of designating the fertilizers according to their types referred to in paragraph 1 of this Article shall be prescribed by the ministry responsible for agriculture (hereinafter referred to as: the Ministry).

Article 4

Fertilizer types shall be 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 shall be in particular:

- mineral fertilizers on the basis of primary nutrients (nitrogen, phosphorus 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 shall be fertilizers which consist of minimum 50% of organic matters and at least 1% of nitrogen, 10% phosphorus and 1% of potassium.

Microbiological fertilizers shall be fertilizers which consist of certain useful microorganisms.

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

Article 5

Ammonium-nitrate fertilizers which contain high concentration of nitrogen referred to in Article 4 paragraph 3, item 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 must 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, must 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, which are used in production of fertilizers referred to in paragraph 1 of this Article, may not increase sensitivity to heat and detonation.

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 referred to in paragraph 1 of this Article shall be kept until the ammonium-nitrate fertilizers which contain high concentration of nitrogen are 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 shall be prescribed 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 prescribed by this Law, the administrative body responsible for fertilizers (hereinafter referred to as: Administrative Body) may:

- 1) temporarily or permanently prohibit 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 referred to in paragraph 1 of this Article shall be regulated by the Ministry, in cooperation with the ministry in charge of environmental protection and ministry in charge of health.

III. PRODUCTION OF FERTILIZERS

Article 9

Fertilizers can be produced by a 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

Article 10

Producer, in the sense of this Law, shall be considered a 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 referred to in paragraph 9 of this Law.

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

IV. CHARACTERISTICS, MARKING AND TRADE OF FERTILIZERS

Article 11

Fertilizers must have certain minimum 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 referred to in paragraph 1 of this Article, if they are marked in the prescribed 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 prescribed by the Ministry.

Article 12

Fertilizers must be labeled.

Label referred to in paragraph 1 of this Article shall be issued by the producer.

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 prescribed conditions;
- name and type of fertilizer;
- name, type and contents of nutrients;
- name and contents of other substances contained in the fertilizer;
- net weight, i.e. volume of fertilizers;
- instructions about manner of use and storage of fertilizers;
- instruction about conditions

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

Label must accompany the bulk fertilizers in circulation.

Package, i.e. leaden seal have to be made in the way that while being opened uncorrectable, visible changes occur.

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 on 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.

Producer, retail or wholesaler distributor of fertilizers and importer of the fertilizers shall be responsible for damage incurred due to wrong, incorrect or incomplete label.

Content of the label, manner of marking and packaging of traded fertilizers shall be prescribed by the Ministry.

Article 13

Testing 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 laboratory.

Testing for the purpose of extension of the expiry date of fertilizers shall be performed by an accredited laboratory.

Methods of testing and sampling for determination of characteristics of fertilizers referred to in paragraph 1 of this Article, as well as permitted variations shall be prescribed 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).

Entry in the Register shall be performed 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.

- field of research;
- manner and time of research;
- license.

Approval referred to in paragraph 1 of this Article shall be issued by the Administrative Body.

Conditions and contents of the application for issuance of approval referred to in paragraph 1 of this Article shall be prescribed by the Ministry.

The Administrative Body shall keep records of issued approvals referred to in 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 by March 31 of the current year for the previous year at latest.

Records referred to in paragraph 1 of this Article shall especially contain the following:

- 1) name and registered office of the producer, i.e. importer of fertilizers;
- 2) number of the decision on entry 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 referred to in paragraph 1 of this Article, as well as manner of submitting the data referred to in paragraph 2 of this Article shall be prescribed 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 characteri

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

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

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

Article 19

Before placing fertilizers on the market in 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 referred in paragraph 1 of this Article the producer shall submit the data on:

- producer (name, registered office, name, address, personal identification number, tax number and code of activity);
- responsible person (name and surname, sex, personal identification number and educational qualification);
- type and name of the fertilizer which 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 prescribed methodology from an accredited laboratory in accordance with Article 13 of this Law;
- label and instruction for use, which contents are prescribed and printed in the language that is officially used in the Republic.

Compensation prescribed by the Ministry shall be paid in the amount of real expenses for issuance of the approval on the occasion of submitting application for obtaining approval for placing fertilizers on the market.

Article 20

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

Approval referred to in paragraph 1 of this Article shall be issued for the period of 10 years.

Notwithstanding 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 be subject to new testing for the purpose of issuance of a new approval.

If approval for certain fertilizers ceased to be valid to be placed on the market, and shelf life of unused quantities, 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.

Fulfillment of conditions for entry 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 by warehouses, 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 entry in the Register of Retail Distributors shall be prescribed 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 approval of the Administrative Body.

V. IMPORT OF FERTILIZERS

Article 24

Import of fertilizers can be performed by 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 handling of fertilizers;
- is entered in the Register of Importers of Fertilizers (hereinafter referred to as: Register of Importers).

Fulfillment of conditions referred to in paragraph 1 of this Article shall be specified by the Administrative Body.

Register of Importers shall be kept by the Administrative Body.

Data from the Register of Importers shall be public.

Entry in the Register of Importers shall be conducted on the basis of an application.

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

Contents, form and manner of keeping the Register of Importers, form, contents and manner of applying for entry in the Register of Importers as well as conditions for storage and handling of fertilizers shall be prescribed 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 referred to in 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 referred to in Article 15 paragraph 1 indent 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.

Article 30

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

If it is not possible to carry out sampling at the border crossing in the prescribed manner, the delivery shall be forwarded 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 labelled contents of nutritive elements.

Customs authorities can neither perform customs clearance nor send deliveries to other customs offices until phytosanitary inspection is executed.

Manner of inspection, sampling and methods of sampling, size of samples referred to in paragraphs 1, 3 and 4 of this Article and procedure referred to in Article 29 paragraph 1 of this Law shall be prescribed by the Ministry.

Article 31

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

Data on production, retail and wholesale trade, transport, 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 decisions on the basis of approval of the Administrative Body.

Contents of the database and manner of keeping the database shall be prescribed by the Ministry.

Article 32

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

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

VI. INSPECTORIAL CONTROL

Article 33

Inspectorial control over implementation of this Law shall be conducted by the Administrative Body through 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 entry in the prescribed 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 material for their production.

2. Administrative Measures and Actions

Article 35

Apart from administrative measures and actions prescribed by the law governing inspection control, phytosanitary inspector shall undertake also the following administrative measures and actions when it determines that the law or other regulation was breached:

- 1) prohibit production of fertilizers, if the producer is not entered or is erased from the Register of Producers;
- 2) prohibit 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) prohibit placement on the market of the fertilizers referred to in Article 15 paragraph 1 item 4 without approval of the Administrative Body;
- 4) prohibit placement on the market of the fertilizers, if producer or importer, before the first placement on the market, did not obtain approval of the Administrative Body;
- 5) prohibit usage of mark "EC FERTILISER" if mineral fertilizer does not fulfil conditions prescribed for that mark;
- 6) prohibit trade of fertilizers, if characteristics do not correspond to the label;
- 7) prohibit to company or entrepreneur to perform activity, if it does not harmonize its business operation, i.e. does not remove deficiencies in terms of conditions prescribed by this Law and regulations adopted on the basis of this Law;
- 8) prohibit import and order return of delivery to the sender, if the results of testing are not in line with the prescribed and labelled contents;
- 9) dispossess and destroy fertilizers that are produced, placed on the market, imported and applied contrary to this Law.

VII. PENAL PROVISIONS

Article 36

An organ, company, other legal person or entrepreneur shall be fined for the offence in the amount ranging from 250-fold to 300-fold the amount of minimum monthly salary in the Republic, 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 prescribed conditions for the production (Articles 9 and 10);
- 3) places on the market fertilizers that do not fulfill prescribed conditions, are not marked in the prescribed 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 (Article 14, paragraph 1);
- 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 prescribed conditions (Articles 20 and 21);
- 9) carries out wholesale trade in fertilizers, although it is not entered in the Register of Distributors (Article 21 paragraph 1);
- 10) carries out retail trade in fertilizers, although it is not entered in the Register of Retail Distributors (Article 22 paragraph 1);
- 11) carries out 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 prescribed conditions (Article 24);
- 13) importer does not obtain approval of the Administrative Body 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 item 2 (Article 26 paragraph 1);

For the offence referred to in paragraph 1 of this Article, a responsible person within an organ, company or other legal person shall also be fined in the amount ranging from 10-fold to 20-fold the amount of minimum monthly salary in the Republic.

For offence referred to in paragraph 1 of Article, protective measures can be imposed, apart from fine, on a company or other legal person and entrepreneur in terms of prohibition of performing business activity for one month to six months period.

Article 37

A company, other legal person or entrepreneur shall be fined for the offence in the amount ranging from 100-fold to 200-fold the

For the offence referred to in paragraph 1 of this Article, a responsible person within a company or other legal person shall also be fined in the amount equal to 20-fold the amount of minimum monthly salary in the Republic.

VII. TRANSITIONAL AND FINAL PROVISIONS

Article 38

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

Until the by-laws are adopted on the basis of authorizations from this Law, by-laws related to fertilizers adopted pursuant to the Law on Plant Protection ("Official Gazette of FRY", no. 24/98 and 26/98) shall apply, not contrary to this Law.

Article 39

Notwithstanding Article 13 paragraph 1 of this Law, testing of fertilizers shall be performed until January 1, 2009 by the existing scientific-research institutions in the area of fertilizers, which shall be determined by the Ministry.

Article 40

Companies and entrepreneurs that engage in the production and import of fertilizers shall be obliged to harmonize their activities with this Law within one year from the date this Law comes into force.

Article 41

Fertilizers that are registered pursuant to the Law on Plant Protection ("Official Gazette of FRY", 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 FRY", no. 24/98 and 26/98) and the Law on Artificial Fertilizers ("Official Gazette of the Socialist Republic of Montenegro", no. 40/75, 45/75, 39/89, 49/91, 17/92, 27/94) shall cease to apply.

Article 43

This Law shall come into force on the eighth day from the day of its publishing in the "Official Gazette of the Republic of Montenegro".