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THE SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

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DECREE

PRESCRIBING ADMINISTRATIVE PENALTIES FOR VIOLATIONS ARISING IN THE FERTILIZER SECTOR

Pursuant to the Law on Government Organization dated June 19, 2015;

Pursuant to the Law on Handling of Administrative Violations dated June 20, 2012;

In the light of the request of the Minister of Agriculture and Rural Development;

The Government hereby issues the Decree that stipulates administrative penalties for violations arising in the fertilizer sector.

Chapter I

GENERAL PROVISIONS

Article 1. Scope

1. This Decree prescribes violating acts, penalty forms, rates and corrective measures to mitigate consequences resulted from administrative violations, authority to impose administrative penalties and authority to issue administrative penalty notices in the fertilizer sector.
2. Fertilizer-sector administrative violations other than those specified in this Decree shall be subject to penalties prescribed in other relevant Decrees of the Government on imposition of administrative penalties for violations arising within its jurisdiction.

Article 2. Subjects of application

1. This Decree shall apply to organizations and individuals committing administrative violations in the fertilizer sector within the territory of Vietnam.
2. Individuals referred to in Clause 1 of this Article include business households bound to apply for business registration under the provisions of the Enterprise Law; family households involved in agricultural, forestry, fishery and salt production industries, and peddlers, merchant dealers, travelling vendors or service providers who earn low income and are exempted from business registration requirements under laws.

3. Organizations referred to in Clause 1 of this Article are comprised of:

- a) Economic organizations established under the Enterprise Law, e.g. private enterprises, joint-stock companies, limited liability companies and partnerships;
- b) Economic organizations established under the provisions of the Law on Cooperatives, e.g. cooperatives and cooperative alliances;
- c) Economic organizations established under the provisions of the Law on Investment, e.g. domestic investors, foreign investors and foreign-invested economic organizations;
- d) Public service entities and other organizations prescribed by laws.

Article 3. Statute of limitations for administrative penalties

1. Statute of limitations for administrative penalties for violations arising in the fertilizer sector shall be 01 year while the statute of limitations for those arising in fertilizer manufacturing, export and import operations shall be 02 years.

2. The date on which the statute of limitations for administrative penalties referred to in Clause 1 of this Article commence shall be subject to Point b, c and d Clause 1 Article 6 of the Law on Administrative Penalties.

Article 4. Penalty forms and corrective measures

1. Organizations and individuals committing administrative violations arising in the fertilizer sector shall be subject to administrative penalties imposed in the form of warnings or monetary fines.

2. Depending on the nature and seriousness of violations, violating organizations and individuals shall face the following supplemental penalties:

- a) Definite-term deprivation of the right of use of the Certificate of conformity with fertilizer manufacturing requirements/the fertilizer manufacturing License, the Certificate of fulfillment of fertilizer trading conditions, the Decision on recognition of conformance to fertilizer testing requirements, the Certificate of registration of business scope or the appointment Decision;
- b) Definite-term suspension of fertilizer production and trading activities;
- c) Confiscation of material objects or equipment used as evidence for administrative violations arising in the fertilizer sector;
- d) Seizure of the Certificate of conformity with fertilizer manufacturing requirements/the fertilizer manufacturing License, the Certificate of fulfillment of fertilizer trading conditions, or the fertilizer import License.

3. This Decree prescribes that the following corrective measures may be taken to mitigate consequences:

a) Forcible seizure of fertilizers for retests;

b) Forcible reprocessing of fertilizers without obtaining the Decision on authorization for marketing of fertilizers in Vietnam or transformation of them into input materials for production of finished fertilizer products;

c) Forcible recall and return of expired fertilizers to manufacturers;

d) Forcible disgorgement of ill-gotten gains obtained by commission of administrative violations;

dd) Forcible destruction;

e) Forcible re-export;

g) Forcible annulment of fertilizer test results; fertilizer sampling results; fertilizer quality analysis and test results;

h) Forcible recovery and elimination of documents and materials;

i) Forcible repayment of monetary amounts equal to value of material objects exhibiting violations in the event that they have already been used, removed or concealed.

Article 5. Monetary penalty amounts and authority to impose monetary penalties

1. The maximum amount of monetary penalty imposed on an individual and organization committing an administrative violation arising in the fertilizer sector shall be VND 100,000,000 and VND 200,000,000, respectively.

2. The amount of monetary penalty stipulated herein shall be the amount of penalty for administrative violations committed by individuals. If organizations commit the same violation, the amount of monetary penalty imposed on these organizations shall be 02 times as much as that imposed on individuals.

3. Authority to impose administrative penalties of different office holders which is prescribed herein shall be accepted as authority to impose administrative penalty for an administrative violation committed by individuals; in the case of monetary penalties, authority to impose such penalties on organizations shall be 02 times as much as that on individuals.

Chapter II

VIOLATING ACTS, PENALTY FORMS, RATES AND CORRECTIVE MEASURES TO MITIGATE CONSEQUENCES RESULTED FROM ADMINISTRATIVE VIOLATIONS ARISING IN THE FERTILIZER SECTOR

Article 6. Violations against fertilizer production regulations

1. Warnings shall be given as a form of penalty for failure to submit annual review reports on fertilizer production, import and export.
2. The amount of monetary penalty ranging from VND 5,000,000 to VND 10,000,000 shall be imposed for one of the following violations:
 - a) Do not set up spaces intended for separate storage of raw materials and finished products;
 - b) Do not install shelves, linings and covers used for handling of finished products;
 - c) Do not prepare annual review reports on fertilizer production, import and export during 02 consecutive years, or do not make ad-hoc reports upon the request of the relevant regulatory authority;
 - d) Neither have recognized laboratories nor enter into contracts with appointed testing organizations in order to carry out assessment of indicators for quality of fertilizers manufactured on their own.
3. The amount of monetary penalty ranging from VND 10,000,000 to VND 15,000,000 shall be imposed for one of the following violations:
 - a) Persons authorized direct management of manufacturing of fertilizers have not obtained at least a undergraduate degree in such majors as crop farming, plant protection, soil agro-chemistry, agronomy, chemistry and biology;
 - b) Do not meet the deadline for recall of fertilizers stipulated in competent authority's decisions.
4. The amount of monetary penalty ranging from VND 15,000,000 to VND 20,000,000 shall be imposed for one of the following violations:
 - a) Do not keep samples of specific batches under regulations on the sample storage duration;
 - b) Do not keep a record of test results under regulations on record-keeping duration of specific fertilizer batches;
 - c) Do not establish the quality management system compliant with ISO 9001 or equivalent (except fertilizer plants that have been established for fewer than 1 year; or those only specializing in fertilizer packaging).

5. The amount of monetary penalty ranging from VND 20,000,000 to VND 25,000,000 shall be imposed for use of fertilizer manufacturing lines and machinery used from the raw material processing stage to the finished product manufacturing stage which do not comply with the technological process specified in the registration application for the certificate of conformity with fertilizer production requirements with relevant competent authorities.

6. The amount of monetary penalty ranging from VND 25,000,000 to VND 30,000,000 shall be imposed for one of the following violations:

a) Do not carry out testing and assessment of quality of each batch of finished fertilizers before selling them on the market;

b) Do not recall fertilizers under the decision granted by a competent authority.

7. The amount of monetary penalty ranging from VND 60,000,000 to VND 70,000,000 shall be imposed for manufacturing of fertilizers containing factors in excess of the permitted maximum limit.

8. The amount of monetary penalty shall be imposed for violations against regulations on the Certificate of conformity with fertilizer manufacturing requirements/the fertilizer manufacturing License as follows:

a) The amount of monetary penalty ranging from VND 10,000,000 to VND 15,000,000 shall be imposed for violations such as, at one's free will, marking, erasing, correcting or changing information displayed on the Certificate of conformity with fertilizer manufacturing requirements/the fertilizer manufacturing License;

b) The amount of monetary penalty ranging from VND 20,000,000 to VND 30,000,000 shall be imposed for refusal to give back the Certificate of conformity with fertilizer manufacturing requirements/the fertilizer manufacturing License under the decision granted by a competent authority;

c) The amount of monetary penalty ranging from VND 30,000,000 to VND 40,000,000 shall be imposed for manufacturing of fertilizers of which types are not specified in the Certificate of conformity with fertilizer manufacturing requirements/the fertilizer manufacturing License;

d) The amount of monetary penalty ranging from VND 40,000,000 to VND 50,000,000 shall be imposed for continuation in manufacturing of fertilizers even when such manufacturing activity has been subject to the suspension decision, or the Certificate of conformity with fertilizer manufacturing requirements/the fertilizer manufacturing License has expired, impounded or revoked;

dd) The amount of monetary penalty ranging from VND 50,000,000 to VND 60,000,000 shall be imposed for manufacturing fertilizers at locations which are not specified in the Certificate of conformity with fertilizer manufacturing requirements/the fertilizer manufacturing License;

e) The amount of monetary penalty ranging from VND 60,000,000 to VND 70,000,000 shall be imposed for manufacturing fertilizers without obtaining the Certificate of conformity with fertilizer manufacturing requirements/the fertilizer manufacturing License;

g) The amount of monetary penalty ranging from VND 70,000,000 to VND 80,000,000 shall be imposed for manufacturing fertilizers with the Decision on authorization of marketing of fertilizers in Vietnam which has expired or revoked.

9. e) The amount of monetary penalty ranging from VND 80,000,000 to VND 90,000,000 shall be imposed for manufacturing fertilizers without obtaining the Decision on authorization of marketing of fertilizers in Vietnam that are worth under VND 200,000,000 or to earn illegal gains which are worth less than VND 100,000,000, except for manufacturing of fertilizers for research and testing purposes; manufacturing fertilizers in pilot manufacturing projects or programs for assistance in transfer of engineering and technological advances which are implemented within the project or program execution duration.

10. With respect to manufacturing fertilizers without obtaining the Decision on authorization of marketing of fertilizers in Vietnam to the minimum value of VND 200,000,000 or manufacturing fertilizers to earn illegal gains which are worth VND 100,000,000 or above, except for manufacturing of fertilizers for research and testing purposes, or manufacturing fertilizers in pilot manufacturing projects or programs for assistance in transfer of engineering and technological advances which are implemented within the project or program execution duration, the person accorded authority over this case shall promptly send documentation related to this violation to a criminal procedures authority to initiate criminal prosecution process under Article 62 of the Law on Handling of Administrative Violations; if the criminal procedures authority decides not to bring a criminal lawsuit, decides to revoke the decision on filing of a criminal case, decides to suspend the investigation process or decides to terminate the prosecution process, and such manufacturing is proved to be an administrative violation, the amount of monetary penalty for that violation shall range from VND 90,000,000 to VND 100,000,000.

11. Supplemental penalties

a) Depriving of the right to use the Certificate of conformity with fertilizer manufacturing requirements/the fertilizer manufacturing License for the period from 03 to 06 months shall be imposed for any violation referred to in Clause 4 of this Article which is committed in multiple times or repeated;

b) Depriving of the right to use the Certificate of conformity with fertilizer manufacturing requirements/the fertilizer manufacturing License for the period from 06 to 09 months shall be imposed for any violation referred to in Clause 5 and 6 of this Article which is committed in multiple times or repeated;

c) Depriving of the right to use the Certificate of conformity with fertilizer manufacturing requirements/the fertilizer manufacturing License for the period from 09 to 12 months shall be imposed for any violation referred to in Clause 7 of this Article which is committed in multiple times or repeated;

d) Depriving of the right to use the Certificate of conformity with fertilizer manufacturing requirements/the fertilizer manufacturing License for the period from 06 to 09 months shall be imposed for any violation referred to in Point c and dd Clause 8 of this Article;

dd) Depriving of the right to use the Certificate of conformity with fertilizer manufacturing requirements/the fertilizer manufacturing License for the period from 09 to 12 months shall be imposed for any violation referred to in Clause 9 of this Article;

e) Depriving of the right to use the Certificate of conformity with fertilizer manufacturing requirements/the fertilizer manufacturing License for the period of 24 months shall be imposed for any violation referred to in Clause 10 of this Article;

g) Termination of fertilizer manufacturing for the period from 03 to 09 months shall be imposed for any violation referred to in Point e and g Clause 8 of this Article;

h) Seizure of the Certificate of conformity with fertilizer manufacturing requirements/the fertilizer manufacturing License shall be imposed for any violation referred to in Point a Clause 8 of this Article.

12. Corrective measures

a) The measure to forcibly recall fertilizers for retests shall be applied to any violation referred to in Point a Clause 6 of this Article;

b) The measure to forcibly recall fertilizers which are then subject to destruction shall be applied to any violation referred to in Clause 7 of this Article;

c) The measure to forcibly destroy, reprocess fertilizers without obtaining the Decision on marketing authorization in Vietnam or convert them into input materials intended for manufacturing of finished fertilizer products shall be applied to any violation referred to in Clause 9 and 10 of this Article;

d) The measure to forcibly disgorge ill-gotten gains shall be applied to any violation referred to in Clause 9 and 10 of this Article.

Article 7. Violations against fertilizer trading regulations

1. Violations against fertilizer trading regulations, including offering for sale, sale, custody, storage, transportation, wholesaling, retailing, export of fertilizers and other efforts in selling fertilizers in the market, shall be subject to Article 7 hereof; violations against regulations on importation of fertilizers shall be subject to Article 8 hereof.

2. The amount of monetary penalty ranging from VND 1,000,000 to VND 3,000,000 shall be imposed for one of the following violations:

a) Failing to maintain conformity with fertilizer trading requirements set out in Article 19 of the Decree No. 108/2017/ND-CP during the business period;

b) Keeping or storing fertilizers in the same place as or together with other commodities such as foods and beverages, animal feeds, pharmaceuticals and veterinary drugs;

c) Trading fertilizers during the period of research, test, or in pilot manufacturing projects without obtaining the Decision on marketing authorization in Vietnam.

3. The amount of monetary penalty ranging from VND 5,000,000 to VND 7,000,000 shall be imposed for one of the following violations:

a) At one's free will, marking, erasing, correcting or changing information displayed on the Certificate of conformity with fertilizer trading requirements;

b) Trading fertilizers even when such trading activity has been subject to the suspension decision, or the Certificate of conformity with fertilizer trading requirements has expired or withdrawn;

c) Trading fertilizers with the Decision on marketing authorization in Vietnam which has been revoked.

4. The amount of monetary penalty ranging from VND 7,000,000 to VND 10,000,000 shall be imposed for trading fertilizers without obtaining the Certificate of conformity with fertilizer trading requirements.

5. The amount of monetary penalty ranging from VND 10,000,000 to VND 15,000,000 shall be imposed for trading of fertilizers containing factors in excess of the permitted maximum limit.

6. Trading fertilizers without obtaining the Decision on marketing authorization in Vietnam or trading fertilizers which have expired shall be subject to the following penalties:

a) Warning shall be imposed if violating fertilizers are worth less than VND 1,000,000;

b) The amount of monetary penalty ranging from VND 500,000 to VND 1,000,000 shall be imposed for trading a batch of fertilizers worth from VND 1,000,000 to VND 2,000,000;

c) The amount of monetary penalty ranging from VND 1,000,000 to VND 2,000,000 shall be imposed for trading a batch of fertilizers worth from VND 2,000,000 to less than VND 3,000,000;

d) The amount of monetary penalty ranging from VND 2,000,000 to VND 3,000,000 shall be imposed for trading a batch of fertilizers worth from VND 3,000,000 to less than VND 5,000,000;

- dd) The amount of monetary penalty ranging from VND 4,000,000 to VND 6,000,000 shall be imposed for trading a batch of fertilizers worth from VND 5,000,000 to less than VND 7,000,000;
- e) The amount of monetary penalty ranging from VND 6,000,000 to VND 7,000,000 shall be imposed for trading a batch of fertilizers worth from VND 7,000,000 to less than VND 10,000,000;
- g) The amount of monetary penalty ranging from VND 8,000,000 to VND 10,000,000 shall be imposed for trading a batch of fertilizers worth from VND 10,000,000 to less than VND 15,000,000;
- h) The amount of monetary penalty ranging from VND 10,000,000 to VND 15,000,000 shall be imposed for trading a batch of fertilizers worth from VND 15,000,000 to less than VND 25,000,000;
- i) The amount of monetary penalty ranging from VND 15,000,000 to VND 20,000,000 shall be imposed for trading a batch of fertilizers worth from VND 25,000,000 to less than VND 35,000,000;
- k) The amount of monetary penalty ranging from VND 25,000,000 to VND 35,000,000 shall be imposed for trading a batch of fertilizers worth from VND 35,000,000 to less than VND 50,000,000;
- l) The amount of monetary penalty ranging from VND 40,000,000 to VND 50,000,000 shall be imposed for trading a batch of fertilizers worth from VND 50,000,000 to less than VND 70,000,000;
- m) The amount of monetary penalty ranging from VND 50,000,000 to VND 60,000,000 shall be imposed for trading a batch of fertilizers worth from VND 70,000,000 to less than VND 100,000,000;
- n) The amount of monetary penalty ranging from VND 60,000,000 to VND 70,000,000 shall be imposed for trading a batch of fertilizers worth from VND 100,000,000 to less than VND 150,000,000;
- o) The amount of monetary penalty ranging from VND 70,000,000 to VND 80,000,000 shall be imposed for trading a batch of fertilizers worth from VND 150,000,000 to less than VND 200,000,000;
- p) With respect to trading fertilizers without obtaining the Decision on authorization of marketing of fertilizers in Vietnam to the minimum value of VND 200,000,000, the person accorded authority over this case shall promptly send documentation related to this violation to a criminal procedures authority to initiate criminal prosecution process under Article 62 of the Law on Handling of Administrative Violations; if the criminal procedures authority decides not to bring a criminal lawsuit, decides to suspend the investigation process or decides to terminate

the prosecution process, and such trading activity is proved to be an administrative violation, the amount of monetary penalty for that violation shall range from VND 90,000,000 to VND 100,000,000.

7. Supplemental penalties

a) Depriving of the right to use the Certificate of conformity with fertilizer trading requirements or suspension of fertilizer trading activities for the period from 01 to 03 months shall be imposed for any violation referred to in Point i and k Clause 6 of this Article which is committed in multiple times or repeated;

b) Depriving of the right to use the Certificate of conformity with fertilizer trading requirements or suspension of fertilizer trading activities for the period from 03 to 06 months shall be imposed for any violation referred to in Point l and m Clause 6 of this Article which is committed in multiple times or repeated;

c) Depriving of the right to use the Certificate of conformity with fertilizer trading requirements or suspension of fertilizer trading activities for the period from 06 to 09 months shall be imposed for any violation referred to in Clause 5 and Point n Clause 6 of this Article which is committed in multiple times or repeated;

d) Depriving of the right to use the Certificate of conformity with fertilizer trading requirements or suspension of fertilizer trading activities for the period from 09 to 12 months shall be imposed for any violation referred to in Point o Clause 6 of this Article;

dd) Depriving of the right to use the Certificate of conformity with fertilizer trading requirements or suspension of fertilizer trading activities for the period from 12 to 15 months shall be imposed for any violation referred to in Point p Clause 6 of this Article;

e) Suspension of fertilizer trading activities for the period from 03 to 09 months shall be imposed for any violation referred to in Clause 4 of this Article;

g) Seizure of the Certificate of conformity with fertilizer trading requirements shall be imposed for any violation referred to in Point a Clause 3 of this Article.

8. Mitigative measures

a) The measure to forcibly recall expired fertilizers which are then returned to manufacturers shall be applied to any violation referred to in Clause 6 of this Article;

b) The measure to forcibly destroy, reprocess fertilizers without obtaining the Decision on marketing authorization in Vietnam or convert them into input materials intended for manufacturing of finished fertilizer products shall be applied to any violation referred to in Clause 6 of this Article;

c) The measure to forcibly recall fertilizers which are then subject to destruction shall be applied to any violation referred to in Clause 5 of this Article.

Article 8. Violations against fertilizer import regulations

1. The amount of monetary penalty ranging from VND 5,000,000 to VND 10,000,000 shall be imposed for one of the following violations:

a) At one's free will, marking, erasing, correcting or changing information displayed on the fertilizer import License;

b) Manufacturing, marketing or failure to maintain the original state of fertilizers without obtaining the notification of state inspection of quality of imported fertilizers.

2. Import of fertilizers which do not meet quality standards, import of expired fertilizers or fertilizers without the fertilizer import License with respect to those of which import requires the import License shall be subject to the following penalties:

a) The amount of monetary penalty ranging from VND 3,000,000 to VND 5,000,000 shall be imposed for import of a batch of fertilizers worth less than VND 30,000,000;

b) The amount of monetary penalty ranging from VND 5,000,000 to VND 10,000,000 shall be imposed for importing a batch of fertilizers worth from VND 30,000,000 to less than VND 50,000,000;

c) The amount of monetary penalty ranging from VND 10,000,000 to VND 15,000,000 shall be imposed for importing a batch of fertilizers worth from VND 50,000,000 to less than VND 100,000,000;

d) The amount of monetary penalty ranging from VND 15,000,000 to VND 25,000,000 shall be imposed for import of a batch of fertilizers worth at least VND 100,000,000.

3. Supplemental penalties

Seizure of the fertilizer import License shall be imposed for any violation referred to in Point a Clause 1 of this Article.

4. Mitigative measures

a) The measure to forcibly re-export fertilizers shall be applied to any violation referred to in Clause 2 of this Article if imported fertilizers do not meet quality standards or do not have the import License which is legally required for import.

After duration of 30 days of receipt of the decision on imposition of penalty from relevant competent authorities, if there is a delay in re-export of violating fertilizers, the person accorded relevant authority as stipulated in Clause 4 Article 13 hereof shall issue the decision on seizure or

destruction of objects indicating such violation in accordance with applicable regulations, except if there are sound grounds for such delay.

b) The measure to forcibly re-export or destroy fertilizers shall be applied to any violation referred to in Clause 2 of this Article if these imported fertilizers are expired.

c) The measure to forcibly disgorge the monetary amount equal to the value of material object exhibiting violation if such object has been used or concealed shall be applied to import of fertilizers failing to meet quality standards as prescribed in Clause 2 of this Article.

Article 9. Violations against regulations on fertilizer product sampling, analysis and testing of quality of fertilizer products

1. The amount of monetary penalty ranging from VND 5,000,000 to VND 10,000,000 shall be imposed for one of the following violations against regulations on fertilizer product sampling for assessment and certification of conformity or for state management purposes:

a) Collecting fertilizer samples without obtaining the Certificate of training in fertilizer sampling or the Certificate of training as a fertilizer sampling technician;

b) Failure to apply the sampling method conforming to national standards for fertilizer sampling, except for fertilizers for which the national fertilizer sampling standard is not available.

2. The amount of monetary penalty ranging from VND 10,000,000 to VND 15,000,000 shall be imposed for failure to declare the sampling method, sample analysis and testing method in conformity with the technical regulations, national standards or fundamental standards for fertilizers for which the technical regulations and national standards are not available.

3. The amount of monetary penalty for violation against fertilizer testing regulations:

a) The amount of monetary penalty ranging from VND 30,000,000 to VND 40,000,000 shall be imposed for analysis and testing of quality of fertilizers intended for state management purposes in which the test used falls outside of the stipulated scope of tests;

b) The amount of monetary penalty ranging from VND 40,000,000 to VND 50,000,000 shall be imposed for analysis and testing of quality of fertilizers intended for state management purposes without obtaining recognition or permission from competent authorities.

4. Supplemental penalties

Depriving of the right to use the Certificate of registration of business scope or the designation decision for the period from 06 to 12 months shall be imposed for any violation referred to in Clause 3 of this Article.

5. Mitigative measures

The measure to forcibly to waive the fertilizer sampling result, fertilizer quality analysis and test result shall be applied to any violation prescribed in Clause 1 and 3 of this Article.

Article 10. Violations against fertilizer testing regulations

1. The amount of monetary penalty ranging from VND 5,000,000 to VND 10,000,000 shall be imposed for one of the following violations:

- a) Failure to keep fertilizer testing documentation as legally prescribed;
- b) Failure to submit annual review reports on performance of fertilizer testing organizations or ad-hoc reports requested by relevant competent authorities.

2. The amount of monetary penalty ranging from VND 15,000,000 to VND 20,000,000 shall be imposed for one of the following violations:

- a) Failure to maintain fulfillment of eligibility conditions of fertilizer testing organizations during the testing process;
- b) Failure to comply with technical regulations, standards and processes as well as testing requirements in accordance with applicable regulations.

3. The amount of monetary penalty ranging from VND 20,000,000 to VND 30,000,000 shall be imposed for provision of incorrect test results.

4. The amount of monetary penalty ranging from VND 30,000,000 to VND 40,000,000 shall be imposed for provision of test results even though there is none of fertilizer tests or fertilizer tests do not conform to applicable regulations.

5. The amount of monetary penalty ranging from VND 40,000,000 to VND 50,000,000 shall be imposed for one of the following violations:

- a) Erasing or correcting information included in fertilizer testing documents;
- b) Using falsified and misleading documents or materials to obtain recognition of conformance to fertilizer testing requirements which is not so serious that criminal prosecution may be brought.

6. Supplemental penalties

a) Deprivation of the right to use the Decision on recognition of conformity with testing requirements for the period from 06 to 12 months shall be imposed for any violation referred to in Clause 2 of this Article which is committed in multiple times or repeated;

b) Deprivation of the right to use the Decision on recognition of conformity with testing requirements for the period from 09 to 12 months shall be imposed for any violation referred to in Clause 4 of this Article;

c) Deprivation of the right to use the Decision on recognition of conformity with testing requirements for the period from 12 to 18 months shall be imposed for any violation referred to in Clause 5 of this Article.

7. Mitigative measures

a) The measure to forcibly waive fertilizer test results shall be applied to any violation referred to in Clause 2, 3, 4 and 5 of this Article;

b) The measure to forcibly recall and destroy documents and materials shall be applied to any violation referred to in Clause 5 of this Article.

Article 11. Violations against fertilizer usage regulations

1. Warning penalty shall be imposed for using fertilizers without observing instructions for use printed on fertilizer product labels.

2. The amount of monetary penalty ranging from VND 500,000 to VND 1,000,000 shall be imposed for using fertilizers of which origin is not clear.

Chapter III

AUTHORITY TO IMPOSE ADMINISTRATIVE PENALTIES AND ISSUE ADMINISTRATIVE VIOLATION NOTICES

Article 12. Authority to impose penalties delegated to the Chairpersons of all-level People's Committees

1. The Chairperson of commune-level People's Committee shall be accorded the following powers:

a) Impose penalties represented in the form of warning;

b) Impose a fine of up to VND 5,000,000;

c) Seize any material object or equipment used in commission of administrative violation which is worth up to VND 5,000,000;

d) Apply corrective measures to mitigate consequences as stipulated in Point dd Clause 3 Article 4 hereof.

2. The Chairperson of district-level People's Committee shall be accorded the following powers:

- a) Impose penalties represented in the form of warning;
- b) Impose a fine of up to VND 50,000,000;
- c) Deprive of the right to use certificates, licenses or suspend business within a specified duration;
- d) Seize any material object or equipment used in commission of administrative violation which is worth up to VND 50,000,000;
- dd) Apply corrective measures to mitigate consequences as stipulated in Point a, b, c, d, dd, g, h and i Clause 3 Article 4 hereof.

3. The Chairperson of province-level People's Committee shall be accorded the following powers:

- a) Impose penalties represented in the form of warning;
- b) Impose a fine of up to VND 100,000,000;
- c) Deprive of the right to use certificates, licenses or suspend business within a specified duration;
- d) Seize any material object or equipment used in commission of administrative violation;
- dd) Apply corrective measures to mitigate consequences as stipulated in Clause 3 Article 4 hereof.

Article 13. Authority to impose penalties delegated to the sector-specific fertilizer inspector

1. The inspector in the agriculture and rural development sector and the person tasked with carrying out inspections in the fertilizer sector when on duty shall be vested with the following powers:

- a) Impose penalties represented in the form of warning;
- b) Impose a fine of up to VND 500,000;
- c) Seize any material object or equipment used in commission of administrative violation which is worth up to VND 500,000;
- d) Apply corrective measures to mitigate consequences as stipulated in Point dd Clause 3 Article 4 hereof.

2. The chief inspector of the Department of Agriculture and Rural Development, the Director of the Crop Production and Plant Protection Subdepartment, the Leader of the inspector team in the

Agriculture and Rural Development sector, the Leader of the inspector teams specializing in the following sectors, such as Plant Protection Department, Crop Production and Plant Protection Subdepartment, shall be vested with the following powers:

- a) Impose penalties represented in the form of warning;
- b) Impose a fine of up to VND 50,000,000;
- c) Deprive of the right to use certificates, licenses or suspend business within a specified duration;
- d) Seize any material object or equipment used in commission of administrative violation which is worth up to VND 50,000,000;
- dd) Seize the Certificate of conformity with fertilizer manufacturing requirements/the fertilizer manufacturing License, the Certificate of fulfillment of fertilizer trading conditions, or the fertilizer import License;
- e) Apply corrective measures to mitigate consequences as stipulated in Clause 3 Article 4 hereof.

3. The leader of the sector-specific inspector team subordinate to the Ministry of Agriculture and Rural Development shall be vested with the following powers:

- a) Impose penalties represented in the form of warning;
- b) Impose a fine of up to VND 70,000,000;
- c) Deprive of the right to use certificates, licenses or suspend business within a specified duration;
- d) Seize any material object or equipment used in commission of administrative violation which is worth up to VND 70,000,000;
- dd) Seize the Certificate of conformity with fertilizer manufacturing requirements/the fertilizer manufacturing License, the Certificate of fulfillment of fertilizer trading conditions, or the fertilizer import License;
- e) Apply corrective measures to mitigate consequences as stipulated in Clause 3 Article 4 hereof.

4. The chief inspector of the Ministry of Agriculture and Rural Development, and the Director of the Plant Protection Department shall be vested with the following powers:

- a) Impose penalties represented in the form of warning;
- b) Impose a fine of up to VND 100,000,000;

c) Deprive of the right to use certificates, licenses or suspend business within a specified duration;

d) Seize any material object or equipment used in commission of administrative violation;

dd) Seize the Certificate of conformity with fertilizer manufacturing requirements/the fertilizer manufacturing License, the Certificate of fulfillment of fertilizer trading conditions, or the fertilizer import License;

e) Apply corrective measures to mitigate consequences as stipulated in Clause 3 Article 4 hereof.

Article 14. Authority to impose penalties delegated to the People's Public Security force

1. Officers of the People's Public Security force when on duty shall be vested with the following powers:

a) Impose penalties represented in the form of warning;

b) Impose a fine of up to VND 500,000.

2. Heads who supervise the persons referred to in Clause 1 of this Article shall be vested with the following powers:

a) Impose penalties represented in the form of warning;

b) Impose a fine of up to VND 1,500,000.

3. Sheriffs of commune-level police departments, Commanders of police stations and Heads of police stations at border checkpoints or export processing zones shall be vested with the following powers:

a) Impose penalties represented in the form of warning;

b) Impose a fine of up to VND 2,500,000;

c) Seize any material object or equipment used in commission of administrative violation of which value does not exceed the monetary penalty amount specified in Point b of this Clause;

d) Apply corrective measures to mitigate consequences as stipulated in Point dd Clause 3 Article 4 hereof.

4. Sheriffs of district-level police departments, Heads of specialized units of the Road and Rail Traffic Police Department, Heads of specialized units of the Water Traffic Police Department; Heads of units of province-level police departments, including Head of social order administrative management unit, Head of order maintenance police unit, Head of police unit for social order crime investigation, Head of police unit for investigation into crimes against

economic order and management regulations and corruption, Head of drug crime investigation police unit, Head of road and rail traffic police unit, Head of water traffic police unit, Head of environmental crime prevention and control police unit, Head of internal political security unit, and Head of economic security unit, shall be accorded the following powers:

- a) Impose penalties represented in the form of warning;
- b) Impose a fine of up to VND 20,000,000;
- c) Deprive of the right to use certificates, licenses or suspend business within a specified duration;
- d) Seize any material object or equipment used in commission of administrative violation of which value does not exceed the monetary penalty amount specified in Point b of this Clause;
- dd) Apply corrective measures to mitigate consequences as stipulated in Point a, b, dd, g and h Clause 3 Article 4 hereof.

5. Directors of province-level police departments shall be vested with the following powers:

- a) Impose penalties represented in the form of warning;
- b) Impose a fine of up to VND 50,000,000;
- c) Deprive of the right to use certificates, licenses or suspend business within a specified duration;
- d) Seize any material object or equipment used in commission of administrative violation of which value does not exceed the monetary penalty amount specified in Point b of this Clause;
- dd) Apply corrective measures to mitigate consequences as stipulated in Point a, b, d, dd, g, h and i Clause 3 Article 4 hereof.

6. Director of the Internal Political Security Department, Director of the Economic Security Department, Director of the Cultural and Ideological Security Department, Director of the Information Security Department, Director of the Police Department for Social Order Administrative Management, Director of the Police Department for Investigation into Crimes against Economic Order and Management Regulations and Corruption, Director of the Drug Crime Investigation Police Department, Director of the Road and Rail Traffic Police Department, Director of the Water Traffic Police Department, Director of the Environmental Crime Prevention and Control Police Department, and Director of the High-technology Crime Prevention and Control Police Department, shall be vested with the following powers:

- a) Impose penalties represented in the form of warning;
- b) Impose a fine of up to VND 100,000,000;

c) Deprive of the right to use certificates, licenses or suspend business within a specified duration;

d) Seize any material object or equipment used in commission of administrative violation;

dd) Apply corrective measures to mitigate consequences as stipulated in Point a, b, d, dd, g, h and i Clause 3 Article 4 hereof.

Article 15. Authority to impose penalties delegated to the Customs authority

1. Team leaders of Customs Subdepartments and team leaders of Post-clearance Inspection Subdepartments shall be vested with the following powers:

a) Impose penalties represented in the form of warning;

b) Impose a fine of up to VND 5,000,000.

2. Directors of Customs Subdepartments, Directors of Post-clearance Inspection Subdepartments, Leaders of Control Teams of provincial, inter-provincial or centrally-affiliated city Customs Departments, Leaders of Smuggling Control Teams, Leaders of Customers Procedures Teams, Leaders of Maritime Control Teams and Leaders of Intellectual Property Right Control and Protection Teams subordinate to the Smuggling Investigation and Prevention Department, a subsidiary of the General Department of Customs, shall be vested with the following powers:

a) Impose penalties represented in the form of warning;

b) Impose a fine of up to VND 25,000,000;

c) Seize any material object or equipment used in commission of administrative violation of which value does not exceed the monetary penalty amount specified in Point b of this Clause;

d) Apply corrective measures to mitigate consequences as stipulated in Point dd, e and i Clause 3 Article 4 hereof.

3. Director of the Smuggling Investigation and Prevention Department, Director of the Post-clearance Inspection Department, a subsidiary of the General Department of Customs, and Directors of the provincial, inter-provincial or centrally-affiliated city Customs Departments, shall be vested with the following powers:

a) Impose penalties represented in the form of warning;

b) Impose a fine of up to VND 50,000,000;

c) Deprive of the right to use certificates, licenses or suspend business within a specified duration;

d) Seize any material object or equipment used in commission of administrative violation of which value does not exceed the monetary penalty amount specified in Point b of this Clause;

dd) Apply corrective measures to mitigate consequences as stipulated in Point dd, e and i Clause 3 Article 4 hereof.

4. Director of the General Department of Customs shall be accorded the following powers:

a) Impose penalties represented in the form of warning;

b) Impose a fine of up to VND 100,000,000;

c) Seize any material object or equipment used in commission of administrative violation;

d) Apply corrective measures to mitigate consequences as stipulated in Point dd, e and i Clause 3 Article 4 hereof.

Article 16. Authority to impose penalties delegated to the Market Regulatory Authority

1. Market control officers on duty shall be vested with the following powers:

a) Impose penalties represented in the form of warning;

b) Impose a fine of up to VND 500,000.

2. The Chief of the Market Regulatory Team shall be accorded the following powers:

a) Impose penalties represented in the form of warning;

b) Impose a fine of up to VND 25,000,000;

c) Seize any material object or equipment used in commission of administrative violation of which value does not exceed the monetary penalty amount specified in Point b of this Clause;

d) Apply corrective measures to mitigate consequences as stipulated in Point b, c and dd Clause 3 Article 4 hereof.

3. Head of the Market Regulatory Subdepartment of the Department of Industry and Trade, Head of the smuggling prevention and control unit, Head of the counterfeit commodity prevention and control unit, and Head of the commodity quality control unit of the Market Regulatory Department, shall be accorded the following powers:

a) Impose penalties represented in the form of warning;

b) Impose a fine of up to VND 50,000,000;

c) Seize any material object or equipment used in commission of administrative violation of which value does not exceed the monetary penalty amount specified in Point b of this Clause;

d) Deprive of the right to use certificates, licenses or suspend business within a specified duration;

dd) Apply corrective measures to mitigate consequences as stipulated in Point b, c and dd Clause 3 Article 4 hereof.

4. Director of the Market Regulatory Department shall be accorded the following powers:

a) Impose penalties represented in the form of warning;

b) Impose a fine of up to VND 100,000,000;

c) Seize any material object or equipment used in commission of administrative violation;

d) Deprive of the right to use certificates, licenses or suspend business within a specified duration;

dd) Apply corrective measures to mitigate consequences as stipulated in Point b, c and dd Clause 3 Article 4 hereof.

Article 17. Authority to impose penalties delegated to the Border Guard force

1. Duty holders of the Border Guard force when on duty shall be vested with the following powers:

a) Impose penalties represented in the form of warning;

b) Impose a fine of up to VND 500,000.

2. Heads who supervise those referred to in Clause 1 of this Article shall be vested with the following powers:

a) Impose penalties represented in the form of warning;

b) Impose a fine of up to VND 2,500,000.

3. Head of the border guard station, Head of the coast guard group and Chief Commander of the border guard section, and Chief Commander of the maritime port guard force, shall be vested with the following powers:

a) Impose penalties represented in the form of warning;

b) Impose a fine of up to VND 20,000,000;

c) Seize any material object or equipment used in commission of administrative violation of which value does not exceed the monetary penalty amount specified in Point b of this Clause;

d) Apply corrective measures to mitigate consequences as stipulated in Point b and dd Clause 3 Article 4 hereof.

4. Chief Commander of the province-level border guard, and Chief Commander of coast guard naval squadron of the High Command of the border guard, shall be vested with the following powers:

a) Impose penalties represented in the form of warning;

b) Impose a fine of up to VND 100,000,000;

c) Deprive of the right to use certificates, practicing certificates or suspend business within a specified duration;

d) Seize any material object or equipment used in commission of administrative violation;

dd) Apply corrective measures to mitigate consequences as stipulated in Point b and dd Clause 3 Article 4 hereof.

Article 18. Authority to impose penalties delegated to the Coast Guard Police

1. Coastguard policemen on duty shall be vested with the following powers:

a) Impose penalties represented in the form of warning;

b) Impose a fine of up to VND 1,500,000.

2. Heads of specialized units of the Coast Guard Police shall be vested with the following powers:

a) Impose penalties represented in the form of warning;

b) Impose a fine of up to VND 5,000,000.

3. Heads of specialized units of the Coast Guard Police and Heads of stations of the Coast Guard Police shall be vested with the following powers:

a) Impose penalties represented in the form of warning;

b) Impose a fine of up to VND 10,000,000;

c) Apply corrective measures to mitigate consequences as stipulated in Point dd Clause 3 Article 4 hereof.

4. Heads of marine groups of the Coast Guard Police shall be vested with the following powers:

- a) Impose penalties represented in the form of warning;
- b) Impose a fine of up to VND 20,000,000;
- c) Seize any material object or equipment used in commission of administrative violation of which value does not exceed the monetary penalty amount specified in Point b of this Clause;
- d) Apply corrective measures to mitigate consequences as stipulated in Point b and dd Clause 3 Article 4 hereof.

5. Heads of naval squadrons of the Coast Guard Police shall be vested with the following powers:

- a) Impose penalties represented in the form of warning;
- b) Impose a fine of up to VND 30,000,000;
- c) Seize any material object or equipment used in commission of administrative violation of which value does not exceed the monetary penalty amount specified in Point b of this Clause;
- d) Apply corrective measures to mitigate consequences as stipulated in Point b and dd Clause 3 Article 4 hereof.

6. Regional commanders of the Coast Guard Police shall be vested with the following powers:

- a) Impose penalties represented in the form of warning;
- b) Impose a fine of up to VND 50,000,000;
- c) Seize any material object or equipment used in commission of administrative violation of which value does not exceed the monetary penalty amount specified in Point b of this Clause;
- d) Apply corrective measures to mitigate consequences as stipulated in Point b and dd Clause 3 Article 4 hereof.

7. Commander of the Coast Guard Police shall be vested with the following powers:

- a) Impose penalties represented in the form of warning;
- b) Impose a fine of up to VND 100,000,000;
- c) Deprive of the right to use certificates, licenses or suspend business within a specified duration;

d) Seize any material object or equipment used in commission of administrative violation;

dd) Apply corrective measures to mitigate consequences as stipulated in Point b and dd Clause 3 Article 4 hereof.

Article 19. Delegation of penalty imposition authority

1. Authorized persons of all-level People's Committees, Specialized inspectors and people's policemen shall be accorded authority to impose administrative and other supplemental penalties, and apply corrective measures to mitigate consequences arising from administrative violations referred to herein in accordance with regulations on authority laid down in Article 12, 13 and 14 hereof and within their delegated functions, duties and powers.

2. Authorized persons of Customs authorities shall be accorded authority to impose administrative and other supplemental penalties, and apply corrective measures to mitigate consequences arising from administrative violations referred to in Article 8 hereof in accordance with regulations on authority laid down in Article 15 hereof and within their delegated functions, duties and powers.

3. Authorized persons of market regulatory authorities shall be accorded authority to impose administrative and other supplemental penalties, and apply corrective measures to mitigate consequences arising from administrative violations referred to in Article 7 hereof in accordance with regulations on authority laid down in Article 16 hereof and within their delegated functions, duties and powers.

4. Authorized persons of border guard forces shall be accorded authority to impose administrative and other supplemental penalties, and apply corrective measures to mitigate consequences arising from administrative violations referred to in Article 7 and 8 hereof in accordance with regulations on authority laid down in Article 17 hereof and within their delegated functions, duties and powers.

5. Authorized persons of coast guard forces shall be accorded authority to impose administrative and other supplemental penalties, and apply corrective measures to mitigate consequences arising from administrative violations referred to in Article 7 and 8 hereof in accordance with regulations on authority laid down in Article 18 hereof and within their delegated functions, duties and powers.

Article 20. Authority to issue administrative violation notices

1. Such authority shall be delegated to persons accorded authority to impose administrative penalties as provided in Article 12 through Article 18 hereof within their assigned functions, duties and powers.

2. Such authority shall be delegated to public officers and employees working in entities stipulated in Article 12 through Article 18 hereof when on duty within their assigned functions and powers in the fertilizer sector.

Chapter IV

IMPLEMENTARY PROVISIONS

Article 21. Entry into force

1. This Decree shall come into effect from the signature date, except Clause 4 Article 7 hereof which will enter into force from September 20, 2020 with respect to organizations or individuals that have engaged in trades in fertilizers since earlier than September 20, 2017.

2. This Decree shall repeal Article 19, 20, 21, 23, 24 and 25 of the Decree No. 163/2013/ND-CP dated November 12, 2013 prescribing administrative penalties for violations arising in the chemical, fertilizer and industrial explosive sector; Clause 18, 19, 20, 21, 22 and 23 Article 1 of the Decree No. 115/2016/ND-CP dated July 8, 2016 amending and supplementing certain articles of the Government's Decree No. 163/2013/ND-CP dated November 12, 2013 prescribing administrative penalties for violations arising in the chemical, fertilizer and industrial explosive sector.

Article 22. Transitional provision

Fertilizer-sector administrative violations committed and discovered prior to the entry into force of this Decree which are subject to the verification and decision process shall be sanctioned under the Government's Decree No. 163/2013/ND-CP dated November 12, 2013 prescribing administrative penalties for violations arising in the chemical, fertilizer and industrial explosive sector, and the Decree No. 115/2016/ND-CP dated July 8, 2016 amending and supplementing certain articles of the Decree No. 163/2013/ND-CP dated November 12, 2013, except that administrative violations referred to in this Decree on which lesser legal liabilities are imposed shall be subject to penalties provided in this Decree.

Article 23. Implementation responsibilities

1. The Minister of Agriculture and Rural Development shall be responsible for providing guidance on and presiding over implementation of this Decree.

2. Ministers, Heads of Ministry-level agencies, Heads of Governmental bodies, and Chairpersons of People's Committees of centrally-affiliated cities and provinces, shall be responsible for implementing this Decree./.

**PP. THE GOVERNMENT
THE PRIME MINISTER**

Nguyen Xuan Phuc

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