

Uradni list RS 29/2006 z dne 21. 3. 2006

1180. Zakon o mineralnih gnojilih (ZMinG-1), stran 2969.

On the basis of the second indent of the first paragraph of Article 107 and the first paragraph of Article 91 of the Constitution of the Republic of Slovenia I herewith announce the

ORDER
on the publication of the Mineral Fertilizers Act (ZMinG-1)

I herewith announce the Mineral Fertilisers Act (ZMinG-1), which was adopted by the National Assembly of the Republic of Slovenia at the session on 6 March 2006.

No. 001-22-32/06

Ljubljana, 14 March 2006

Dr. Janez Drnovšek
President
of the Republic of
Slovenia

MINERAL FERTILISERS ACT (ZMinG-1)

Article 1

(content)

- (1) This Act for the implementation of Regulation (EC) No 2003/2003 issued by the European Parliament and the Council on 13 October 2003 relating to fertilizers (OJ L 304 of 21. 11. 2003, p. 1, as amended; furtheron as: Regulation 2003/2003/EC) shall lay down the authority competent for the implementation of the Regulation 2003/2003/ES; the competent control authority and the method of sampling for the analysis for the purposes of such control; the labelling of mineral fertilisers placed on the market, in Slovene language.
- (2) This Act shall also lay down the placing on the market of mineral fertilisers in the Republic of Slovenia, which do not meet requirements laid down in Regulation 2003/2003/EC.
- (3) In addition to requirements laid down by this Act, the placing on the market and the use of mineral fertilisers, when containing substances with dangerous properties, shall also be subject to regulations governing chemicals.
- (4) The placing on the market and the use of mineral fertilisers containing, in addition to nutrients, also plant protection products, shall be subject to regulations governing plant protection products.
- (5) For mineral fertilisers referred to in the second paragraph of this Article the sampling, analysis and test methods shall apply, laid down in Regulation 2003/2003/ES.

Article 2

(competent authorities)

Authorities competent for the implementation of Regulation 2003/2003/EC shall be the authority, competent for administrative, professional and development tasks in the field of mineral fertilisers (furtheron as: competent authority), and the authority competent for inspecting the implementation of regulations in the field of mineral fertilisers, both being bodies under the responsibility of the ministry of agriculture, forestry and food.

Article 3

(meaning of terms)

- (1) According to this Act, mineral fertilisers shall be all compounds and substances, irrespective of their physical state, which contain plant nutrients and are to be added to soil or plants in order to improve plant growth, increase the crop, improve the crop quality or improve soil fertility, and have been obtained in an industrial procedure.
- (2) Mineral ammonium nitrate fertilisers of high nitrogen content, straight or compound, shall be ammonium nitrate based products manufactured for use as fertilisers and containing more than 28 % by mass of nitrogen in relation to ammonium nitrate.
- (3) Terms specified in Regulation 2003/2003/EC shall apply also for mineral fertilisers which fail to meet the conditions laid down in this Regulation.

Article 4

(conditions for placing on the market)

- (1) Mineral fertilisers may be placed on the market providing to meet conditions laid down in Regulation 2003/2003/EC.
- (2) Mineral fertilisers which fail to meet the conditions laid down in Regulation 2003/2003/EC may be placed on the market within the territory of the Republic of Slovenia, if they meet the conditions as to minimum quality, are labelled in accordance with this Act and, when properly used, do not present a risk to soil fertility, human and animal health and the environment.
- (3) Minister responsible for agriculture, forestry and food (furtheron as: minister) shall lay down conditions as to minimum quality, referring in particular to minimum content of macro-nutrients and micro-nutrients, deviations from the declared nutrient content, declaration of nutrients, labelling of mineral fertilisers, which contain macro-nutrients, secondary nutrients and micro-nutrients, and the maximum content of heavy metals and other substances contained in the product.

Article 5

(authorisation for placing on the market)

- (1) Prior to the first placing on the market in the Republic of Slovenia a producer or an importer shall be granted authorisation by a competent authority for a mineral fertiliser, which does not meet the conditions laid down in Regulation 2003/2003/EC.
- (2) The authorisation referred to in the previous paragraph shall not be required when the mineral fertiliser meets the conditions laid down in Regulation 2003/2003/EC.

Article 6

(application for authorisation)

- (1) Application for the marketing authorisation for a mineral fertiliser which does not meet the conditions laid down in Regulation 2003/2003/EC shall include:
 - information concerning the producer or importer (business name and registered office, evidence on entry into the register);
 - information concerning the type and the trade name of the product;
 - composition by indicating the content of nutrients, heavy metals and other substances contained in the product;
 - description of essential raw materials and their origin;
 - description of production process.
- (2) On the basis of the information referred to in the previous paragraph, which indicate that the mineral fertiliser meets the conditions laid down in the regulation governing minimum quality for mineral fertilisers, the head of the competent authority shall issue a decision permitting the placing on the market of the mineral fertiliser.
- (3) When a product, which is the subject of the application for the issue of marketing authorisation for a mineral fertiliser, does not meet the conditions laid down in the regulation governing minimum quality for mineral fertilisers, the authorisation shall be refused. Such product, when placed on the market, shall not be labelled as a mineral fertiliser.

Article 7

(prohibition or limitation of production, import, placing on the market and use)

When, considering technical and professional knowledge, a grounded suspicion exists that a fertiliser or raw material for a fertiliser, which has already been placed on the market, poses a risk to safety or health of humans or the environment, or the analysis show that the content of heavy metals and other dangerous substances have been exceeded, the competent authority shall order prohibition or limitation of production, import, placing on the market and use, and withdrawal from the market and farm storehouses. This shall be decided by the competent authority, issuing a decision *ex officio*. Appeal against such decision shall not stay its execution.

Article 8

(labelling)

- (1) Mineral fertilisers placed on the market may be marked »EC FERTILISER« provided to meet the conditions laid down in Regulation 2003/2003/EC. Such marking shall also be in Slovene language and shall include information in relation to marking, laid down in Regulation 2003/2003/EC.
- (2) Mineral fertilisers, which are placed on the market within the territory of the Republic of Slovenia and do not meet the conditions laid down in Regulation 2003/2003/EC shall also be labelled in Slovene language. Such labelling shall include the number of authorisation for the placing on the market and information as to marking, laid down in Regulation 2003/2003/EC, except the marking »EC FERTILISER«.
- (3) When a mineral fertiliser, which does not meet the conditions laid down in Regulation 2003/2003/EC, has been placed on the market as a packed mineral fertiliser, the information specified in the previous paragraph shall be printed or attached to the package in some other manner.
- (4) When a mineral fertiliser, which does not meet the conditions laid down in Regulation 2003/2003/EC, has been placed on the market in bulk, the information specified in the second paragraph shall appear on the accompanying documents.
- (5) When a mineral fertiliser, which does not meet the conditions laid down in Regulation 2003/2003/EC, has been packed in packages of over 100 kg, the information specified in the second paragraph of this Article shall appear only on the accompanying documents.
- (6) Package or closing system or a seal on a mineral fertiliser, which does not meet the conditions laid down in Regulation 2003/2003/EC, shall be made in such a way that, when it is opened, irreparable damages occur.
- (7) The information on a mineral fertiliser, which does not meet the conditions laid down in Regulation 2003/2003/EC, given on the packages and accompanying documents, shall be clear and legible and in the manner as to remain indelible or unremovable.

Article 9

(ammonium nitrate fertilisers of high nitrogen content)

- (1) Pursuant to Annex III of Regulation 2003/2003/EC a manufacturer shall submit to the competent authority the proof that the high nitrogen content ammonium nitrate fertiliser has passed the test of resistance to detonation.
- (2) To ensure the traceability of ammonium nitrate EC fertilisers of high nitrogen content, which do not meet the conditions laid down in Regulation 2003/2003/EC and are placed on the market in the Republic of Slovenia, each manufacturer or importer of such mineral fertiliser shall maintain records, containing the following information:
 - name and address or business name and registered office of the manufacturer of the mineral fertiliser or its principal components,
 - trade name of the mineral fertiliser or principal components for such fertiliser,
 - produced quantities or quantities placed on the market,
 - results of the passed test of resistance to detonation of high nitrogen content ammonium nitrate fertiliser, in accordance with Annex III of Regulation 2003/2003/EC.
- (3) The record referred to in the previous paragraph shall be available for as long as the fertiliser is being supplied to the market, and for a further period of 2 years after the manufacturer stopped supplying it.
- (4) Ammonium nitrate fertilisers of high nitrogen content, which do not meet the conditions laid down in Regulation 2003/2003/EC, shall be made available to the final user only in packaged form.
- (5) The manufacturer or importer shall submit the proof referred to in the fourth indent of the second paragraph of this Article to the competent authority at least 5 days before placing the fertiliser on the market.

Article 10

(tasks of the competent authority)

Concerning the implementation of Regulation 2003/2003/EC, the competent authority shall perform the following tasks in particular:

1. temporarily prohibit the placing on the market of a certain EC fertiliser, referred to in the first paragraph of Article 15 of Regulation 2003/2003/EC;
2. inform EC Member States and the Commission of the temporary prohibition of the placing on the market of a certain EC fertiliser, referred to in the first paragraph of Article 15 of Regulation 2003/2003/EC;
3. inform the Commission of any changes in relation to approved laboratories within the territory of the Republic of Slovenia, pursuant to Regulation 2003/2003/EC;
4. inform the Commission of any changes to national regulations, adopted on the basis of Regulation 2003/2003/EC.

Article 11

(control)

- (1) Implementation of Regulation 2003/2003/EC, of this Act and regulations, issued on the basis thereof, shall be controlled by agricultural inspector (furtheron as: agricultural inspector).
- (2) Appeal against the decision of the agricultural inspector shall not stay its execution.

Article 12

(taking and analysing samples)

- (1) Chemical analysis of samples for inspection purposes shall be carried out by a laboratory authorised by the minister. The minister shall authorise the laboratory provided this to meet the following conditions:
 1. that it is registered for the activity of performing chemical analysis;
 2. that it is evident from the written documentation of the laboratory that its activity of performing chemical analysis is independent of commercial business, which would threaten its independence, impartiality and fairness, and the chain of command of the staff is clear;
 3. that it has a quality manual, indicating its quality system and documents associated with test performance;
 4. that it is technically qualified and properly equipped concerning the type of activity;
 5. that it has introduced test methods;
 6. that it cooperates in inter-laboratory comparative tests;
 7. that it is provided with personnel with adequate professional education and employs at least one person of relevant higher education qualification in relation to the activity;
 8. that it applies test methods which are internationally recognised (standard, reference, etc.) and properly validated.
- (2) When carrying out inspection procedure of the placing on the market of mineral fertilisers, the agricultural inspector shall take a sample and divide this into two equal parts. One part shall be furnished to the laboratory for analysis, referred to in the previous paragraph, which shall elaborate and provide the inspector with the results of analysis within 15 days following that of acceptance of the sample, and the second part of the sample shall be kept by the laboratory for an eventual repeated analysis.
- (3) A customer in the inspection procedure who does not agree with the results of the analysis may demand a repeated analysis within 15 days following that of acceptance of the results, which shall be carried out by another authorised or accredited laboratory for providing analysis of mineral fertilisers. Repeated analysis may also be demanded by the agricultural inspector. When the analysis produces a result different from that of the repeated analysis, the result obtained by the repeated analysis shall be determinant.
- (4) When it is established during laboratory testing that the mineral fertiliser does not meet the prescribed conditions as to the quality, costs of the laboratory analysis shall be covered by the manufacturer or importer.

Article 13

(powers of agricultural inspector)

An agricultural inspector shall have, on the basis of this Act and regulations issued on the basis thereof, the following powers:

- checking meeting the prescribed conditions as to the quality of mineral fertilisers placed on the market;
- checking whether mineral fertilisers placed on the market have been marked in the prescribed manner;
- taking samples of mineral fertilisers from storehouses, vehicles and other places, in order to send these to an authorised laboratory for analysis;
- checking business premises and storage facilities, books of accounts and other documents;
- checking manufacturer's record concerning the origin of mineral fertilisers;
- checking records and correctness of information submitted by the documentation on produced, sold and supplied quantities of ammonium nitrate fertilisers of high nitrogen content;
- performing other actions necessary for the implementation of this Act.

Article 14

(measures of agricultural inspector)

An agricultural inspector carrying out inspection pursuant to this Act may order the following measures:

- order the manufacturer or importer of mineral fertilisers to eliminate deficiencies or irregularities in relation to quality, labelling and other conditions to be met by a mineral fertiliser;
- prohibit circulation of a mineral fertiliser, which does not meet the conditions laid down in Regulation 2003/2003/EC or has not been issued a proper authorisation;
- prohibit the use of the designation »EC FERTILISER«, when the mineral fertiliser does not meet the conditions laid down in Regulation 2003/2003/EC;
- prohibit the placing on the market of a mineral fertiliser, when this does not meet the prescribed conditions as to the minimum quality of a mineral fertiliser;
- prohibit the placing on the market of a mineral fertiliser, when its regulatory maximum content of heavy metals or dangerous substances has been exceeded;
- order the manufacturer of mineral fertilisers to eliminate deficiencies concerning the keeping of registers on origin;
- order the manufacturer or importer of ammonium nitrate fertilisers of high nitrogen content to eliminate deficiencies concerning the informing and the keeping of registers;
- order other necessary measures for the implementation of this Act.

Article 15

(fines imposed on legal persons and individual entrepreneurs)

(1) A legal person manufacturing or importing mineral fertilisers shall be fined SIT 200,000 to SIT 5,000,000 if:

- a mineral fertiliser placed on the market and designated »EC FERTILISER« is not listed in Annex I of Regulation 2003/2003/EC and does not comply with the conditions laid down in this Regulation; (Article 3 of Regulation 2003/2003/EC);
- not maintaining the record on the import of mineral fertilisers designated »EC FERTILISER« (Article 8 of Regulation 2003/2003/EC);
- the packaging, labels and accompanying documents of a mineral fertiliser designated »EC FERTILISER« do not bear the markings specified in Article 9 of Regulation 2003/2003/EC (Article 9 of Regulation 2003/2003/EC);
- in the case of packaged EC fertilisers, a package is not closed in such a way or by such a device that, when it is opened, the fastening, fastening seal or the package itself is irreparably damaged (Article 12 of Regulation 2003/2003/EC);
- the nutrient content of EC fertilisers does not comply with the tolerances established in Annex II of Regulation 2003/2003/EC (first paragraph of Article 13 of Regulation 2003/2003/EC);
- not withdrawing a mineral fertiliser marked »EC FERTILISER« from circulation or not complying with the conditions provided for by the competent authority (first paragraph of Article 15 of Regulation 2003/2003/EC);
- not maintaining the record of ammonium nitrate fertilisers of high nitrogen content, marked »EC FERTILISER« (third paragraph of Article 26 of Regulation 2003/2003/EC);
- not providing the competent authority with the results of the test of resistance to detonation at least 5 days before placing on the market the high nitrogen content ammonium nitrate fertiliser, marked »EC FERTILISER« (Article 27 of Regulation 2003/2003/EC);

- a mineral fertiliser placed on the market, which fails to meet the conditions laid down in Regulation 2003/2003/EC, does not meet the prescribed conditions as to minimum quality (second paragraph of Article 4);
- placing on the market mineral fertilisers, which do not meet the conditions laid down in Regulation 2003/2003/EC, not provided with the prescribed authorisation (first paragraph of Article 5);
- not withdrawing from circulation or restricting the production, import, placing on the market of a mineral fertiliser, which fails to meet the conditions laid down in Regulation 2003/2003/EC, which has been issued a decision by the competent authority (Article 7);
- a mineral fertiliser placed on the market, marked »EC FERTILISER«, is not labelled in Slovene language (first paragraph of Article 8);
- the package or closing system or a seal are not made in such a way that, when it is opened, irreparable damages occur (sixth paragraph of Article 8);
- the information given on the package and accompanying documents are not clear and legible and so as to remain indelible or unremovable (seventh paragraph of Article 8);
- not maintaining the record of ammonium nitrate EC fertilisers of high nitrogen content (second paragraph of Article 9);
- not providing the competent authority with the results of the test of resistance to detonation at least 5 days before placing on the market the high nitrogen content ammonium nitrate fertiliser, not marked »EC FERTILISER« (fifth paragraph of Article 9).

(2) An individual entrepreneur shall be fined SIT 150,000 to SIT 3,000,000 for committing a violation under the previous paragraph.

(3) A responsible person of the legal entity or a responsible person of an individual entrepreneur shall be fined SIT 50,000 to SIT 500,000 for a violation under the first paragraph of this Article.

Article 16

(fines imposed on legal persons and individual entrepreneurs)

- (1) A legal person shall be fined SIT 150,000 to SIT 1,500,000 if:
- making available to the final user bulk ammonium nitrate fertilisers of high nitrogen content (Article 28 of Regulation 2003/2003/EC);
 - making available to the final user a bulk ammonium nitrate fertiliser of high nitrogen content, which does not meet the conditions laid down in Regulation 2003/2003/EC (fourth paragraph of Article 9);
 - not submitting the results of the test of resistance to detonation of the high nitrogen content ammonium nitrate fertiliser within the time limit (Article 27 of Regulation 2003/2003/ES);
 - not submitting the results of the test of resistance to detonation of the high nitrogen content ammonium nitrate fertiliser, which does not meet the conditions laid down in Regulation 2003/2003/EC, within the time limit (fourth indent of the second paragraph of Article 9).

(2) An individual entrepreneur shall be fined SIT 100,000 to SIT 2,000,000 for committing a violation under the previous paragraph.

(3) A responsible person of the legal entity or a responsible person of an individual entrepreneur shall be fined SIT 25,000 to SIT 250,000 for a violation under the first paragraph of this Article.

TRANSITIONAL AND FINAL PROVISIONS

Article 17

(transitional provisions)

- (1) The minister shall issue the regulation referred to in the third paragraph of Article 4 of this Act within nine months after the date of its entry into force, at the latest.
- (2) Mineral fertilisers which have been issued authorisation for the placing on the market of mineral fertilisers on the basis of the Mineral fertilisers act (Official Gazette RS, No 58/02) and the Rules on quality of mineral fertilisers (Official Gazette RS, No 16/03), shall be checked by the competent authority of its own motion in one year after the date of the entry into force of the regulation referred to in the second paragraph of Article 4 of this Act, for meeting the conditions concerning minimum quality of mineral fertilisers under this Act. Mineral fertilisers the markings on labels of which are changed during this process, may be marketed until stocks are exhausted.

- (3) Until the authorisation referred to in the first paragraph of Article 2 of this Act has been obtained, analysis in the Republic of Slovenia shall be carried out by institutions, laid down in the Decision on the designation of institutes for the analysis of mineral fertilizers in the territories of the Socialist Republic of Slovenia (Official Gazette RS, No 1/65).

Article 18

(regulations which cease to apply)

- (1) With the date of coming into force of this Act the Mineral fertilisers act (Official Gazette RS, No 58/02), the Rules on quality of mineral fertilisers (Official Gazette RS, No 16/03) and the Rules concerning quality requirements, methods of testing and procedures for determination of properties of ammonium nitrate fertilisers (Official Gazette RS, No 16/03) shall cease to apply.
- (2) The Rules on quality of mineral fertilisers (Official Gazette RS, No 16/03) shall be applicable until the entry into force of the regulation referred to in the third paragraph of Article 4 of this Act.

Article 19

(effective date of the act)

This Act shall take effect on the fifteenth day following its publication in the Official Gazette of the Republic of Slovenia.

No 322-13/90-1/5
Ljubljana, 6 March 2006
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President of the National
Assembly
of the Republic of Slovenia
France Cukjati, M.D.