On the basis of Article 95, item 3, of the Constitution of Montenegro, I hereby promulgate this Decree on Promulgating the Law on Changes and Amendments to the Law on Explosive Substances, as adopted by the 25th convocation of the Assembly of Montenegro at the eighth session of its first regular (spring) sitting in 2014, held on 16 June 2014.

Number: 01-824/2
Podgorica, 22 July 2014

President of Montenegro,
Filip Vujanović,
with his own hand

On the basis of Article 82, item 2, of the Constitution of Montenegro and Amendment IV, para 1, of the Constitution of Montenegro, the 25th convocation of the Assembly of Montenegro, at its eighth session of the first regular (spring) sitting in the year 2014, on 16 July 2014, adopted

THE LAW ON CHANGES AND AMENDMENTS
OF THE LAW ON EXPLOSIVE SUBSTANCES

Article 1
In the Law on Explosive Substances („The Official Gazette of Montenegro”, number 49/08), Article 3, para 3, is changed and now reads:
„Commercial explosives are explosive substances used for breaking, loosening and fragmenting of mineral and other raw materials, destruction of construction and other structures, during geophysical soil testing, as well as shaping of objects and materials by means of energy released through the chemical reaction of explosive degradation.”

Article 2
After Article 4, a new article is added which reads:
„Use of Gender-Sensitive Language

Article 4a
Terms and expressions used in this Law to denote physical persons of male gender shall imply the same terms also in the female gender.”

Article 3
In Article 5, para 1, item 1, the word „delaboration (in Montenegrin: deelaboracija)” is to be deleted. After the item 1, a new item is added which reads:
„1a) delaboration includes actions of dismantling certain types of ammunition (bullets, shells, mines) to individual components and removal of powder, explosive or other materials from such components and parts of ammunition”.

Item 11 is changed and now reads:
11) **Handy storage** is a special room within the facility for sale of arms and ammunition or sale of pyrotechnical products which is intended for the keeping of ammunition, hunting powder, caps for hunting ammunition, pyrotechnicals, provided that the total quantity of powder, including the powder contained in ammunition, does not exceed 20 kg of powder or 150 kg of gross pyrotechnical devices;”.

Item 12 is changed and now reads:

12) **Container for storage** is a ready-made movable storage made for storage of explosive substances;”.

After the item 12 a new item is added which reads:

13) **UN number** is a four-digit identification number of the hazardous substance as defined in the Rulebook attached to the 14th Amended Edition of UN Recommendations for Transportation of Hazardous Substances (ST/SG/AC.10/1/Rev.14).”

Article 4

In Article 6, para 1, and in Article 7, after the word „recycling”, in the relevant case form, a comma is added, and the word „deelaboration”, in the relevant case form, if the relevant case form, is replaced by „delaboration”, in the relevant case form.

Article 5

In Article 11, the item 2, is deleted.

Article 6

In Article 12, para 6, and in Article 15, para 2, the wording: „economic development” are replaced by the word „economy”.

Article 7

In Article 22, para 1 is changed and now reads:

„Production of explosive substances is an activity which can be engaged in by companies registered for the performance of such activity and holding licenses for the production of explosive substances (hereinafter: producer).”

Article 8

In Article 23, para 2, the wording: „diploma of higher education” is replaced by: „seventh level of the national framework of qualifications, sub-level 1 (VII-1)”.

Article 9

In Article 24, para 1, line 1, in Article 34, para 1, line 1, and in Article 48, para 1, line 1, the wording: „the Central Registry of the Commercial Court” is replaced by the wording: „Central Company Register”.

Article 10

Article 25 is changed and now reads:

„**Recycling, delaboration, and neutralization**

Article 25

The producer can perform the recycling, delaboration, and neutralization of explosive substances.”

Article 11

Article 27 is changed and now reads:

„The producer shall be obliged to place explosive substances in storage facilities.”

Article 12

After Article 30, a new sub-section is added with eight new articles which read:
3a. Production at the place of use

Permit for production at the place of use

Article 30a
Production of explosive substances at the place of use can be performed by any company registered for such activity and holding a permit for production of explosive substances at the place of use.

The permit from para 1 of this Article is issued by the Ministry.
The permit from para 1 of this Article is issued for a period of two years.

Conditions for production at the place of use

Article 30b
The company from Article 30a of this Law shall have:
- the person in charge;
- persons who shall handle explosive substances during production;
- specialized equipment for instant and direct production of explosive substances at the place of use;
- test certificate by the producer certifying that the raw materials for production are not explosive, in line with the UN number.
The person in charge from para 1, line 1, of this Article shall have the seventh degree of qualification from the National Qualification Framework, sub-level 1 (VII-1) in the relevant field and shall fulfill requirements for handling as set out in Article 19 of this Law.

Persons from para 1, line 2, of this Article, shall have at least third level of qualification from the National Qualification Framework (III) and shall fulfill requirements for handling as set out in Article 19 of this Law.

Application for permit for production at the place of use

Article 30c
The company from Article 30a of this Law, when filing the application for permit for production of explosive substances at the place of use, apart from evidence of fulfilling requirements from Article 6 and 7, and Article 24 para 1 lines 1, 2, 3, 7, and 8 of this Law, shall also attach to the application:
- data on the place of use at which production is to take place;
- data on the time in which production is to take place;
- reasons justifying the production at the place of use.

Explosive substances produced at the place of use

Article 30d
The company from Article 30a of this Law can produce at the place of use the following explosive substances:
- ammonium nitrate instantly and directly mixed with oil-derivates based oils, natural refined oils or synthetic oils;
- ammonium nitrate instantly and directly mixed with other substances in order to produce explosive substances which is not sensitive to explosive cap;
- explosive substances which are not produced by instant or direct mixing based on ammonium nitrate and other substances and which, in themselves, are not explosive.
Prohibition of packaging and storing

Article 30e

The company from Article 30a of this Law shall be obliged to make instant and direct use of the explosive substance produced at the place of use by pouring the substance into already prepared mine boreholes at the place of use.

The company from Article 30a of this Law shall not package and store the produced explosive substances.

Place of use

Article 30f

The place of use at which production of explosive substances is carried out shall be within the building site or within the surveying-exploitation boundaries, and at a safe distance from settlements, public roads, underground or above ground installations, in compliance with the design documentation.

Permanent physical protection

Article 30g

The place of use at which production of explosive substances shall be under permanent physical protection, in compliance with the regulations on protection of persons and property.

Permit expiry

Article 30h

The permit for production of explosive substances at the place of use shall expire at the request of the company from Article 30a of this Law, if such a company no longer fulfills the requirements from Article 30b of this Law, or at the time of expiry of the period of validity of the permit.

The company from para 1 of this Article shall be obliged to submit to the Ministry the records which it maintained in compliance with this Law, within eight days of the decision on expiry of the permit for production of explosive substances at the place of use becoming final.”

Article 13

Article 31, para 2, is changed and now reads:

„The trade in explosive substances, for the purposes of this Law, shall not mean retail sale of pyrotechnicals of class I, ammunition, powder, or initial caps for ammunition in sales facilities of companies, other legal entities and entrepreneurs to whom permits have been issued for trade, in accordance with separate regulations.”

Article 14

In Article 33, para 2, the wording: „diploma of higher education” is replaced by: „seventh level of the national framework of qualifications, sub-level 1 (VII-1) in the field of mining or other appropriate technical faculty”.

Article 15

In Article 37, para 1, after the wording: „physical person” a full-stop is added, and the wording: „holding the permit for use of explosive substances” is deleted.

Article 16

The Article 38, para 5, is changed and now reads:

„The physical person who is acquiring pyrotechnicals of class I for one’s own needs shall
not be obliged to have an acquisition permit.”.

Article 17

Article 42 is changed and now reads:

“... The company, other legal entity or entrepreneur shall be obliged to place in containers the unused explosive substances.

Exceptionally from para 1 of this Article, in case of single use, the unused quantities of explosive substances shall be destroyed at the construction site.

The maximum quantity of explosive substances which can be stored in storage containers is 1,000 kg of commercial explosives and 2,000 pieces of ignition pieces.”

Article 18

In Article 43, para 1, the words: „or use” are deleted.

Article 19

Article 45 is changed and now reads:

„Pyrotechnicals are:
1) pyrotechnicals for fireworks, which are pyrotechnicals intended for entertainment, as follows:
   - pyrotechnicals of class I, which pose a low level of risk, create neglectable noise, and which are intended for indoor use,
   - pyrotechnicals of class II, which pose a low level of risk, create neglectable noise, and which are intended for outdoor use,
   - pyrotechnicals of class III, which pose a medium level of risk and which are intended for use in big outdoor spaces, whose level of noise is not damaging to human health and which can be used only by technically qualified persons from Article 19 of this Law,
   - pyrotechnicals of class IV, which pose a high level of risk, whose level of noise is not damaging to human health, and which can be used only by technically qualified persons from Article 19 of this Law;

2) pyrotechnicals for use in theatres, which are used on indoor or outdoor stages, including film and TV production, as follows:
   - pyrotechnicals of class T1, which pose a low level of risk,
   - pyrotechnicals of class T2, which are to be used only by technically qualified persons from Article 19 of this Law;

3) other pyrotechnicals, as follows:
   - pyrotechnicals of class P1, which pose a low level of risk, and which also include pyrotechnicals which are an integral part of vessels intended for rescue at sea,
   - pyrotechnicals of class P2, which pose a high level of risk, and which include anti-hail rockets and which can be used only by technically qualified persons from Article 19 of this Law.

The classification of pyrotechnicals, depending on manner of use and intended use, level of risk and noise, shall be performed by the producer.

Safety requirements to be fulfilled by pyrotechnicals depending on their characteristics and the marking of pyrotechnicals shall be prescribed by the Ministry.”

Article 20

After Article 45, four new articles are added which read as follows:
„Conditions for sale of pyrotechnicals „

Article 45a

For the purposes of sale of pyrotechnicals of classes II and P1, apart from requirements prescribed in Article 33 of this Law, the company, another legal person, or entrepreneur from Article 32 of this Law shall have:
- sales premises, and
- at least one employee who is a technically qualified person from Article 19 of this Law.

Premises for sale of pyrotechnicals

Article 45b

Premises for sale from Article 45a of this Law, apart from minimum technical and other requirements prescribed by the regulations on internal trade, shall also fulfill special safety requirements.

Special safety requirements from para 1 of this Article shall be prescribed by the Ministry, with the consent of the public administration body in charge of internal trade.

Sale of pyrotechnicals

Article 45c

Pyrotechnicals of class I can be sold throughout the year and can be sold only to persons older than 16 years of age, provided that it is allowed in premises from Article 31 para 2 of this Law to hold only 100 kg gross weight of pyrotechnicals of class I.

Pyrotechnicals of class P1 can be sold throughout the year and can be sold only to legal and physical persons who own registered vessels (boats, yachts, ships, etc.) which are required, according to regulations on safety of sea navigation, to be equipped with pyrotechnicals for the purposes of rescue at the sea.

Pyrotechnicals of class II can be sold in the period from 20 December to 15 January and can be sold only to persons older than 18 years of age.

The Ministry may, in order to protect lives, public health or safety, the environment or property, order shorter periods for the sale of pyrotechnicals from this para 3 of this Article, or it may limit the sale and use of certain types of pyrotechnicals of class II.

The orders from para 4 of this Article shall be published by the Ministry in public information media, not later than 1 November of the current year.

Prohibitions

Article 45d

The use of pyrotechnicals of class II shall be prohibited:
- during the year, from 16 January to 19 December;
- indoors in closed rooms;
- in areas of assembly of a great number of people.”

Article 21

In Article 47 para 2, the wording: „college of university degree” shall be replaced by: „at least the fifth level of the national qualifications framework (V)”.

Para 3 is deleted.

Article 22

In Article 50 para 3, the wording: „of class I, II, III, and IV” is replaced by: „of class I, II, III, IV, T1, and T2”.
Article 23

In Article 51 para 2 is changed and now reads:

„The permit for performance of public fireworks shall state the type and class of pyrotechnicals for this purpose, the place and time of performing the public fireworks, and the name of the person in charge and the person performing the fireworks.”

After para 2, two new paragraphs are added which read as follows:

„the application from para 1 of this Article shall enclose:
- the plan for performance of public fireworks;
- the consent of owner or user of land, or the structure from which the performance of public fireworks is planned;
- written evidence that the presence of the protection and rescue unit of the unit of local self-government shall be present at the performance.

More details and safety measures for the performance of public fireworks and the content of the plan for performance of public fireworks shall be prescribed by the Ministry.”

Article 24

In Article 54 para 2 the wording: „college of university degree” shall be replaced by: „at least the fifth level of the national qualifications framework (V) of faculties in the field of mining or other technical faculty”.

Article 25

In Article 55 para 1 the word „tasks” is replaced by the word „activity”, and in the line 1 the wording: „the Central Registry of the Commercial Court” is replaced by the wording: „Central Company Register”.

Article 26

In Article 57 para 2 the wording: „diploma of higher education” is replaced by: „seventh level of the national framework of qualifications, sub-level 1 (VII-1)”.

Article 27

In Article 58 para 3 line 1 the wording: „secondary school college or faculty degree” shall be replaced by: „at least the fourth level of qualification from the national qualifications framework (IV)”.

In line 3 the wording: „secondary school diploma” is replaced by: „the fourth level of qualification of the national qualifications framework (IV)”, and the wording: „college of university degree” shall be replaced by: „at least the fifth level of the national qualifications framework (V)”.

Article 28

In Article 59 para 3 line 1 the wording: „college of university degree” shall be replaced by: „at least the fifth level of the national qualifications framework (V)”.

In the line 3 the wording: „college of university degree” shall be replaced by: „at least the fifth level of the national qualifications framework (V)” and the wording: „diploma of higher education” is replaced by: „seventh level of the national framework of qualifications, sub-level 1 (VII-1)”.”

Article 29

In Article 61 para 3 line 1 the wording: „secondary school diploma, college or faculty diploma” is replaced by: „at least the fourth level of qualification from the national qualifications framework (IV)”.

In line 3 the wording: „secondary school diploma” is replaced by: „the fourth level of qualification from the national qualifications framework (IV)”, and the wording: „diploma of college or faculty degree” by: „at least the fifth level of qualification of the national framework of qualifications”.
Article 30

In Article 63 para 1 line 2 the wording: „secondary school diploma” is replaced by: „the fourth level of qualification of the national qualifications framework (IV)”.

Article 31

In Article 75 after the word „distance” the following is added: „and boundaries of safety zones”.

Article 32

Article 76 is changed and now reads:
„The Ministry shall maintain records on:
- legal and physical persons authorized or appointed to assess compliance of explosive substances;
- explosive substances for which marketing permits have been issued;
- issued permits for production, trade, and acquisition of explosive substances, performing the activity of fireworks, performing public fireworks, performing the activity of blasting and performing the tasks of blasting, and;
- issued permits for production of explosive substances at the place of use;
- issued decisions on termination of validity of permits for production and trade of explosive substances, performing the activity of public fireworks, performing the activity of blasting;
- issued decisions on termination of validity of permits for production of explosive substances at the place of use;
- seized samples of explosive substances.

The company engaged in producing explosive substances shall maintain records on the type and quantity of produced, sold, used, destroyed, returned, missing or stolen explosive substances.

The company, other legal entity or entrepreneur engaged in the trade, acquisition and/or use of explosive substances, shall maintain records on the type and quantity of acquired, sold, used, destroyed, returned, missing or stolen explosive substances.

Records from para 1 and 2 of this article shall be maintained for a period of 10 years, and records from para 3 and 4 of this article for a period of five years.

The content and manner of keeping records from para 1, 2, 3, and 4 of this article shall be prescribed by the Ministry.

Article 33

In Article 79 para 1 after line 7 two new lines are added as follows:
„- prohibit the production of explosive substances at the place of use due to irregularities made in undertaking certain measures which can put at risk the lives and health of people or the environment;
- prohibit the performance of public fireworks, if it is determined on the spot that requirements for such performance have not been fulfilled”.

Article 34

Article 80 is changed and now reads:
„A monetary fine amounting to EUR 1,500 to EUR 16,000 shall be imposed for an offence by a legal person if it:
1) fails to adopt the general act from article 6 para 1 of this Law (Article 6 para 2);
2) fails to ensure permanent physical and technical protection of the structures in which explosive substances are produced or stored (Article 8);
3) fails to organize and perform control over the enforcement of prescribed protection measures (Article 9);
4) fails to notify the Ministry and the public administration body in charge of police of the loss or theft of explosive substances without delay and latest within one hour of
finding out about it (Article 10);
5) puts on the market and uses explosive substances for which no marketing permit is issued (Article 12 para 1);
6) performs activities from article 13 of this law without the relevant permit (Article 14);
7) allows handling of explosive substances by persons not fulfilling requirements for handling of explosive substances (Article 19 para 1);
8) begins production of explosive substances without the relevant permit of the Ministry or continues production once it no longer fulfills requirements from Article 23 of this Law (Article 22 para 2, and Article 23);
9) performs research of new types of explosive substances without the relevant permit of the Ministry (Article 28 para 2 and 3);
10) produces explosive substances at the place of use without the permit for the production of explosive substances at the place of use, issued by the Ministry (Article 30 para 1 and 2);
11) does not use the explosive substances produces at the place of use instantly and directly by pouring into previously prepared mine boreholes (Article 30 para 1);
12) packs and stores explosive substances produced at the place of use (Article 30 para 2);
13) at the place of use where production of explosive substances is carried out fails to ensure permanent physical protection (Article 30g);
14) performs trade of explosive substances without the permit for trade of explosive substances, issued by the Ministry (Article 32 para 1 and 2);
15) engages in sales of explosive substances to companies, other legal entities, entrepreneurs or physical persons who do not have the permit for acquisition of explosive substances and in a manner contrary to quantities stated in the permit for acquisition of explosive substances (Article 35);
16) acquires explosive substances without the relevant permit of the Ministry (Article 37 para 1);
17) sells pyrotechnicals of class I to persons under the age of 16, or keeps them in premises from Article 31 para 2 of this Law in quantities exceeding 100 kg of pyrotechnicals of class I (Article 45c para 1);
18) sells pyrotechnicals of class P1 to legal and physical persons who do not have registered vessels (boat, yacht, ship, etc.) (Article 45c para 2);
19) sells pyrotechnicals of class II in the period when sale is prohibited, or sells pyrotechnicals of class II to persons under the age of 18 (Article 45c para 3);
20) performs public fireworks without the permit for performing the activity of public fireworks and the permit to perform the public fireworks issued by the Ministry (Article 46);
21) performs blasting activity without the permit of the Ministry (Article 53);
22) when undertaking blasting, fails to undertake safety measures for the protection of lives, health and safety of persons, animals and plants, the environment and property (Article 57 para 1);
23) by destruction of explosive substances contrary to regulations and in a technically non-qualified manner poses a threat to the life, health and safety of persons, animals and plants, the environment and property (Article 64 para 1 and 2);
24) fails to build and equip production and storage facilities for explosive substances in a manner ensuring the protection of life, health and safety of persons, animals and plants, the environment and property (Article 65);
25) builds production and storage facilities for explosive substances without acquiring the opinion on the location and the consent for the design and investment-technical
uses production and storage facilities without the permit of the Ministry (Article 74).

For offences from para 1 of this Article, monetary fines equivalent to EUR 300 to EUR 1,500 shall also be imposed on persons in charge in the legal person.

For offences from para 1 of this Article, monetary fines equivalent to EUR 750 to EUR 4,000 shall also be imposed on entrepreneurs.”

Article 35

Article 81 is changed and now reads:

„ A monetary fine amounting to EUR 1,500 to EUR 10,000 shall be imposed for an offence by a legal person if:

1) explosive substances are handled by a person who is not qualified and is not under the supervision by a person who is qualified for handling of explosive substances and if such a person has not in advance been informed about the methods of work, hazards and occupational safety measures (Article 20 para 1);

2) within eight days of the decision coming into effect on termination of validity of permit for production of explosive substances it fails to submit to the Ministry the records which it maintained in accordance with this Law (Article 26 para 2);

3) within eight days it fails to notify the Ministry on the commencement, changes or termination of performing the activity (Article 30);

4) within eight days of the decision coming into effect on termination of validity of permit for trade of explosive substances it fails to submit to the Ministry the records which it maintained in accordance with this law (Article 36 para 2);

5) it acquires explosive substances necessary for performing the activity of blasting and pyrotechnicals for the performance of public fireworks in quantities which it cannot store (Article 40);

6) it sells explosive substances and does not keep a copy of the permit or fails to write on the permit the type and quantity of sold explosive substances (Article 41 para 2);

7) fails to store the unused explosive substances in a storing container (Article 42 para 1);

8) fails to destroy at the construction site the unused quantities of explosive substances for single use (Article 42 para 2);

9) stores in containers greater quantities of commercial explosive substances and ignition than prescribed (Article 42 para 3);

10) uses explosive substances in places in which the competent authority has stated a prohibition for performance of works for such works which require the use of such materials (Article 44 para 2);

11) within eight days of the decision coming into effect on termination of validity of permit for activity of performing public fireworks it fails to submit to the Ministry the records which it maintained in accordance with this law (Article 49 para 2);

12) it performs public fireworks without the permit or if it performs public fireworks in a place, at a time, with the type or class of pyrotechnical devices contrary to the permit for performing public fireworks (Article 51 para 2);

13) within eight days of the decision coming into effect on termination of validity of permit for performing the activity of blasting it fails to submit to the Ministry the prescribed records (Article 56 para 2);

14) it fails to develop a blasting plan or fails to perform the blasting according to the blasting plan (Article 57 para 1);
15) it performs the tasks of blasting in a settlement or in the vicinity of a settlement without notifying 24 hours in advance in writing the Ministry, the authority of public administration in charge of police, or fails to notify three days in advance by means of public information the public, and companies managing roads, railroads, water supply, power and telephone and similar lines (Article 57 para 3);

16) tasks of surface blasting, special blasting, underground blasting or blasting during de-mining are performed by persons not having permits for the performance of the activity of blasting or for the specific types of blasting (Articles 58, 59, 60, and 61);

17) preparatory or auxiliary works for blasting are performed by physical persons not fulfilling the requirements from Article 63 of this Law;

18) in the production or storage facilities, the handy storage and containers for storage of different types of explosive substances it fails to keep such substances separately or in specially installed separations, or if it keeps ignition devices together with explosive substances (Article 68);

19) if it does not maintain and keep the prescribed records on types and quantities of produced, sold, destroyed, returned, missing or stolen explosive substances (Article 76 para 2 and 5);

20) if it does not maintain and keep the prescribed records on types and quantities of produced, used or destroyed explosive substances produced in the place of use (Article 76 para 3 and 5);

21) if it does not maintain and keep the prescribed records on types and quantities of acquired, destroyed, returned, missing or stolen explosive substances (Article 76 para 4 and 5).

For offences from para 1 of this Article, monetary fines equivalent to EUR 300 to EUR 1,000 shall also be imposed on persons in charge in the legal person.

For offences from para 1 of this Article, monetary fines equivalent to EUR 750 to EUR 2,500 shall also be imposed on entrepreneurs.”

Article 36

Article 82 is changed and now reads:

„A monetary fine amounting to EUR 200 to EUR 550 shall be imposed for an offence by a legal person if:

1) after the completion of works, to return the remaining quantities of explosive substances to the company, other legal person or entrepreneur from whom it acquired them, or if such substances are not destroyed by a qualified person and it fails to so notify the Ministry and the public administration body in charge of police (Article 38 para 4);

2) uses pyrotechnicals of class II outside of the allowed time period (Article 45d, para 3, line 1);

3) uses pyrotechnicals within the allowed time period but indoors (Article 45d para 1 line 2);

4) performs the tasks of surface blasting, special and/or underground blasting and/or blasting during de-mining without having the relevant permit for the performance of such tasks (Article 58 para 1, Article 59 para 1, Article 60 para 1, and Article 61 para 1);

5) performs the tasks of preparations for mining without fulfilling the requirements from Article 63 para 1 of this Law.”

Article 37
After Article 83 a new article is added which reads as follows:

„Deadline for adoption of by-laws

Article 83a
By-laws from Article 45b para 2 and Article 51 para 4 of this Law shall be adopted within six months of the coming into effect of this Law."

Article 38
After Article 87 a new article is added which reads as follows:

„Going out of effect

Article 87a
As of the day of this Law coming into effect, the Article 14 of the Law on Changes and Amendments of the Law Prescribing Monetary Fines for Misdemeanor Offences shall cease to be in effect („the Official Gazette of Montenegro”, number 40/11).”

Article 39
This Law shall come into effect eight days after the publishing in the "Official Gazette of Montenegro".

Nr. 01-1/14-2/4
EPA 406 XXV
Podgorica, 16 July 2014

Assembly of Montenegro, 25th convocation
President
Ranko Krivokapić
with his own hand