

**Voluntary Report** – Voluntary - Public Distribution

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## **Report Name:** Vietnam Revises Penalties for Administrative Violations

**Country:** Vietnam

**Post:** Hanoi

**Report Category:** Livestock and Products, Dairy and Products, Poultry and Products, Sanitary/Phytosanitary/Food Safety, Planting Seeds, Fishery Products

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### **Report Highlights:**

On January 3, 2020, the Government of Vietnam (GVN) issued Decree 04/2020/ND-CP revising and supplementing Decree 31/2016/ND-CP dated May 6, 2016, on penalties for administrative violations of regulations for plant varieties, plant protection, and quarantine and Decree 90/2017/ND-CP dated July 31, 2017, on penalties for administrative violations of regulations in the animal health sector. Decree 04/2020 took effect on February 18, 2020. Decree 04/2020 will have direct impacts on importers/exporters of animal and plant products that fail to strictly comply with Vietnamese regulations.

## Summary

On January 3, 2020, the GVN issued Decree 04/2020/ND-CP revising and supplementing Decree 31/2016/ND-CP dated May 6, 2016, on penalties for administrative violations of regulations on plant varieties, plant protection, and quarantine and Decree 90/2017/ND-CP dated July 31, 2017, on penalties for administrative violations of regulations in the area of animal health. The revisions and supplements to these decrees were proposed by the Ministry of Agriculture and Rural Development (MARD). None of the decrees were notified to the World Trade Organization (WTO).

Decree 04/2020 applies to organizations and individuals that have violated administrative policies related to plant and animal products. Accordingly, each violation shall receive a warning or a fine. Depending on the nature and seriousness of the violation, one or several additional forms of sanction may be imposed on an organization or individual that commits a violation. **Violations include errors on the health certificate, use of the wrong health certificate, failure to have a health/sanitary certificate or to meet veterinary hygiene requirements, discrepancy between the details on the product label/package and the information on the list of businesses eligible for export of animal products to Vietnam, and the export of animal products from unapproved facilities.**

### Revisions and Supplements to GVN Decree 31/2016/ND-CP

- Amendment to Article 2 to specify that organizations are subject to be sanctioned for administrative violations.
- Amendments and supplements to Article 19 to impose a fine on acts to carry quarantine plants from an announced pest area to another to initiate/create an outbreak that led to damaged assets.
- Additions to Article 20 include fines for violations related to carrying plants subject to quarantine into Vietnam without a phytosanitary certificate granted by the exporting country or failure to comply with laws and regulations on plant quarantine that initiate/create an outbreak that led to damaged assets.
- Amendments and additions to Article 25 increasing the fine levels for different violations based on the monetary value of the trading subjects, which are not listed in the List of Plant Pesticides Allowed for use in Vietnam.

These amendments were made in order to be consistent with other laws including the Law on Plant Protection and Quarantine and the Criminal Law 12/2017/QH14. Please refer to [GAIN report VM 6041](#) for a summary and an unofficial translation of Decree 31/2016/ND-CP.

## Revisions and Supplements to Decree 90/2017/ND-CP

11 out of the 54 articles in Decree 90/2017 were revised or supplemented under Decree 04/2020. The administrative violations prescribed in this Decree include those related to animal disease prevention and control, quarantine of animals and animal products, slaughter of terrestrial animals, preparation and processing of animals and animal products, veterinary hygiene inspection, veterinary drug management, and veterinary practice.

Under Decree 04/2020, the maximum monetary penalty imposed on each violation in the area of animal health remained unchanged at VND 50 million (approximately \$2,155 USD) for individuals and VND 100 million (approximately \$4,310 USD) for organizations. (USD values based on current exchange rates).

**Decree 90 Chapter II Section 2 Sub-section 2** includes violations on regulations for the quarantine of animals and animal products, which are imported, exported, temporarily imported for re-export, temporarily exported for re-import, or transited through the territory of Vietnam. Below is the table listing some key violations in ascending order of penalties.

Violations	Article	Penalties/Remedial measures
The quantity and volume of animals and animal products imported does not match those specified in the health certificate issued by the exporting country	Article 15, Clause 1, point a under Decree 90	VND 5-6 million (\$216-259)
Bringing animals and animal products imported for further processing for export into a processing facility which is different from the registered one	Article 2, Clause 6, point a under Decree 04	VND 6-7 million (\$259-302)
Regarding animal products imported for human consumption, the product package labels did not contain the name of the manufacturing facility and the facility's approval number as per the list of businesses eligible for export of animal products to	Article 2, Clause 6, point a under Decree 04	VND 6-7 million (\$259-302)

Vietnam		
Regarding animal products imported for human consumption, the facility's name and approval number did not match those indicated in the list of businesses eligible for export of animal products to Vietnam	Article 2, Clause 6, point a under Decree 04	VND 6-7 million (\$259-302)
Regarding animal products imported for human consumption, the facility's name and approval number on the label did not match what were shown in the Health Certificate issued by the exporting country.	Article 2, Clause 6, point a under Decree 04	VND 6-7 million (\$259-302)
Importation of animal products for human consumption from the facility which has not been included in the list of facilities registering for export to Vietnam	Article 15, Clause 5, point d under Decree 90	VND 10-15 million (\$431-\$647)  Forced re-export
Importation of animal products as animal and aquaculture feed <sup>1</sup> ingredients which are contaminated with products of other animals	Article 15, Clause 6 under Decree 90	VND 20-25 million (\$862-1,078)  Forced re-export or Destruction
Importation of animal products which contain harmful residues and are contaminated with microorganisms exceeding the permissible level	Article 15, Clause 7, point a under Decree 90	Penalties range from 10% to 15% of the shipment's value but not exceeding VND 50 million (\$2,155)  Forced re-export or heat treatment, conversion into animal feed ingredients

<sup>1</sup> The phrase "animal feed" under Decree 90 was replaced with the phrase "animal and aquaculture feed" in accordance with the provisions under Article 3 Clause 3 of Decree 04

Importation of animal products the hair, hide/skin, claws and other impurities of which have not been removed and fail to meet veterinary hygiene standards	Article 15, Clause 7, point b under Decree 90	Penalties range from 10% to 15% of the shipment's value but not exceeding VND 50 million (\$2,155)  Forced re-export or handling of veterinary hygiene
Importation of animal products the color and flavor of which were modified, animal products which are infested with insects, get watery, fail to meet veterinary hygiene requirements	Article 2, Clause 6, point c under Decree 04	Penalties range from 10% to 15% of the shipment's value but not exceeding VND 50 million (\$2,155)  Forced re-export or destruction
Importation of animals infected with dangerous infectious diseases	Article 15, Clause 8, point a under Decree 90	Penalties range from 20% to 25% of the shipment's value but not exceeding VND 50 million (\$2,155)  Forced export or destruction
Importation of animals and animal products originating from countries and territories which carry the pathogens on the List of animal diseases subject to disease declaration	Article 15, Clause 8, point b under Decree 90	Penalties range from 20% to 25% of the shipment's value but not exceeding VND 50 million (\$2,155)  Forced export or destruction
Using the wrong health certificate which is not relevant to the physical goods imported or the country of destination on the certificate is not Vietnam	Article 18, Clause 2, under Decree 90	VND 15-20 million (\$647-862)  Forced export or destruction
Failure to have a health certificate	Article 18, Clause 3, under Decree 90	VND 20-30 million (\$862-1,293)  Forced re-export or destruction

All USD values based on current exchange rates.

In order to avoid penalties, exporters should make sure that all the shipment details and details on all certificates are matching. Exporters should work closely with their Vietnamese importers to ensure that all requirements for product entry into Vietnam are met.

**U.S. exporters of meat and poultry products should ensure that when they register their facility for export to Vietnam, all of the information provided in the application, including the facility details (e.g. the facility's business name and approval number) and the label is consistent and matches exactly throughout the entire application including any attachments.** Exporters need to specifically list any variations or 'doing business as' (DBA) names and indicate clearly in their application which name they will use on the label. The name must match all export or commercial documents to avoid any clearance problems. To update facility information, a facility can write a letter to the Vietnam Department of Animal Health (DAH) and request that DAH update their registration information. U.S. companies should not ship products to Vietnam until their facility is listed on DAH's official website/approved to export list. This is particularly important to companies with multiple facilities - some of which are approved, and listed, while others are not.

U.S. exporters of dairy products should ensure that they use the health/export certificates issued by the USDA, Agricultural Marketing Service (AMS) for U.S. origin dairy products imported into Vietnam for human consumption.

Should U.S. exporters have any questions or need clarification, please email: [aghanoi@fas.usda.gov](mailto:aghanoi@fas.usda.gov).

Attached are unofficial translations of Decree 4 and Decree 90.

**Attachments:**

[Decree 04 2020 ND-CP 433457- ENGLISH.docx](#)

[Decree 90-2017-ND-CP administrative fine in animal health.doc](#)