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GOV promulgates provisions of some articles of the Plant Health Law

Report Categories:

Fresh Fruit

Pest/Disease Occurrences

Sanitary/Phytosanitary/Food Safety

Planting Seeds

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Report Highlights:

On December 4, 2014, the Vietnamese Office of the Government released Decree 116/2014/ND-CP promulgating detailed provisions of some articles of the Law on Plant Protection and Quarantine. Decree 116/2014 replaces the Plant Protection Charter and the Charter on management of pesticides promulgated in conjunction with Decree 58/2002/ND-CP and Decree 2/2007/ND-CP on plant quarantine. Decree 116/2014 will enter into force on January 18, 2015.

Summary: On December 4, 2014, the Vietnamese Office of the Government released Decree 116/2014/ND-CP promulgating detailed provisions of some articles of the Law on Plant Protection and Quarantine. Decree 116/2014 replaces the Plant Protection Charter and the Charter on management of pesticides promulgated in conjunction with Decree 58/2002/ND-CP and Decree 2/2007/ND-CP on plant quarantine. Decree 116/2014 will enter into force on January 18, 2015.

Article 1 of the Decree 116 outlines the governing scope of the Law on Plant Protection and Quarantine. This Decree promulgates detailed provisions and provides guidelines for implementation of Article 9, Article 17, Article 21, and Article 35 of the Law on Plant Protection and Quarantine with respect to the specialized plant protection and quarantine agencies; announcement of plant epidemics; funding for fighting the epidemic; temporary suspension of export, import; and prohibition from export and import of objects subject to plant quarantine.

Chapter II covers the process of declaring plant epidemics in Vietnam and the process of funding the government and farmer response to an epidemic.

Chapter III regulates the provisions on temporary suspension or prohibition of import and export of regulated articles subject to plant quarantine and outlines the conditions to permit the continuance of export and import of regulated articles subject to plant quarantine.

Article 8 of this Decree regulates the conditions for temporary suspension of the import of regulated articles subject to plant quarantine as follows: *a) Regulated articles, which are imported from countries or territories having high risk of carrying quarantine pests of Vietnam, but have not had thorough mitigation treatment; b) Regulated articles, which are imported from countries or territories, detected to be infested with quarantine pests or exotic pests that the Plant Protection Department in Hanoi issues an announcement of incompliance with the plant quarantine regulations of Vietnam; and c) Regulated articles from countries or territories, where there is official information on an outbreak of quarantine pests of Vietnam.*

Article 9 of this Decree regulates the conditions to permit continued of the import of regulated articles subject to plant quarantine as follows: *a) National Plant Quarantine agencies in the exporting country report on the determinate causes that made the regulated articles infested with quarantine pests, and thorough remedy measures have been taken; and b) Regulated articles are inspected, supervised and confirmed by the Plant Protection Department in Hanoi as successfully implemented the remedial measures and the risk as regulated in Point 2, Article 8 of this Decree, is controlled.*

Article 10 regulates the conditions for prohibition of the import of regulated articles subject to plant quarantine as follows: *a) Regulated articles subject to plant quarantine imported from countries or territories identified as high risk of carrying quarantine pests, threatening domestic agricultural production, national food security, but that there are no thorough treatment measures. b) Regulated articles imported applied with treatment measures due to the temporary suspension of import, but still*

fail to apply the remedy measures or have applied the remedy measures, but which still fail to meet the regulations of imported plant quarantine of Vietnam.

The regulated articles subject to plant quarantine are listed in the Article 1 of the Circular 30/2014/TT-BNNPTNT. Please refer to Post voluntary GAIN report [VM4057](#).

The draft of Decree 116/ND-CP was notified to the World Trade Organization (WTO) Sanitary and Phytosanitary Committee as G/SPS/N/VNM/61 on August 15, 2014. Should U.S. exporters of plant and plant origin products have any questions regarding this new Circular, please email: aghanoi@fas.usda.gov with questions.

An unofficial English translation of Decree 116/2014, dated December 4, 2014, follows:

THE GOVERNMENT SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom – Happiness

No.116/2014/ND-CP

Hanoi, 4 December, 2014

DECREE

Promulgating detailed provisions of some articles of the Law on Plant Protection and Quarantine

Pursuant to the Law on Organization of the Government dated December 25, 2001;

Pursuant to the Law on Plant Protection and Quarantine dated November 25, 2013;

At the request of the Minister of Agriculture and Rural Development;

The Government hereby promulgates Decree to regulate detailed provisions of some articles of the Law on Plant Protection and Quarantine.

Chapter I

GENERAL PROVISIONS

Article 1. Governing scope

This Decree promulgates detailed provisions and provides guidelines for implementation of Article 9, Article 17, Article 21, and Article 35 of the Law on Plant Protection and Quarantine in respect to the specialized plant protection and quarantine agencies; announcement of plant epidemics; funding for fighting the epidemic; temporary suspension of export, import; prohibition from export, and import of objects subject to plant quarantine.

Article 2. Applicability

This Decree will be applied for all domestic, foreign organizations and individuals involved in the plant protection and quarantine activities in Vietnam.

Article 3. System of specialized plant protection and quarantine agencies

1. The specialized plant protection and quarantine agency of the central level, which belongs to the Ministry of Agriculture and Rural Development, has the function of advising the Minister of Agriculture

and Rural Development, and implementing state management in the field of fighting and prevention against plant pests; plant quarantine and management of pesticides nationwide.

2. The specialized plant protection and quarantine agencies of the provincial level, which belong the Provincial Departments of Agriculture and Rural Development (DARDs), have the function of advising Directors of the Provincial DARDs and implementing state management in the field of prevention and fighting against plant pests; domestic plant quarantine and management of pesticides in centrally-run provinces and cities and subject to the professional direction of the specialized plant protection and quarantine agency of the central level.

3. The specialized plant protection and quarantine agencies of the district levels, which belong to the specialized plant protection and quarantine agencies of the provincial level, shall have the function of implement all assignments in district levels in coordination with Divisions of Agriculture and Rural Development in assisting the District People's Committees to implement the state management in the field of prevention and fighting against of plant pests; domestic plant quarantine and management of pesticides in the district areas.

4. The specialized plant protection and quarantine agencies in localities shall operate in accordance with the guidelines of the Minister of the Interior and the Minister of Agriculture and Rural Development.

Chapter II

ANNOUNCEMENT OF PLANT EPIDEMIC, FUNDING FOR FIGHTING EPIDEMIC

Article 4. Conditions for announcement of plant epidemic

1. For plant pests, which are not quarantine pests or exotic pests

a) Plant pests dramatically increase both in number and damaged area and damage degree as compared with the average level of two previous years from the announcement time and forecast by specialized plant protection and quarantine agency of the provincial level or higher level; risk of rapidly spreading out in large scale, serious impact on production, environment, people's lives, beyond plant owners' control.

b) The measures of pest management have been applied by plant owners in accordance with the guidelines of specialized plant protection and quarantine agency, but fails to achieve efficiency, emergency measures must be applied to force plant owners, relevant organizations and individuals in the locality, where there is epidemic, to strictly implement for a certain period of time to rapidly control and extinguish the epidemic.

2. For plant pests, which are quarantine pests or exotic pests

When detecting quarantine pests or exotic pests in the territory of Vietnam, and there is a risk of the establishment of population, which spreads out to a large area, emergency measures must be applied, plant owners, relevant organizations and individuals in the locality, where there is epidemic, are forced to strictly implement thorough treatment of the quarantine or exotic pests.

Article 5. Order and procedure for announcement of plant epidemic

1. The order and procedure for announcement of plant epidemic

a) Pursuant to the provisions of Article 4 of this Decree, the specialized plant protection and quarantine agencies of the central level shall report to the Minister of Agriculture and Rural Development; specialized plant protection and quarantine agencies of the provincial level shall present to the Director of the Department of Agriculture and Rural Development to report the Chairmen/chairwomen of Provincial People's Committees on the pest situation, the actual data that proves the eligibility for announcement of epidemic, the need for announcement of epidemic, the proposal on scope of epidemic announcement and anti-epidemic solutions.

b) The Minister of Agriculture and Rural Development shall base on report of the specialized plant protection and quarantine agency at central level; The Chairmen of the provincial People's Committees shall base on report of the Directors of Provincial Departments of Agriculture and Rural Development to decide the announcement of epidemic;

In case of necessity, the competent epidemic-announcing persons shall establish the Advisory Council to ask for opinions. The competent epidemic-announcing persons or his deputy shall act as chairman of the Council, head of the specialized plant protection and quarantine agency of the central level or the Director of Provincial Agriculture and Rural Development acts as deputy Chairman, members are the representatives of relevant agencies, organizations and experts with experiences in the field of plant protection.

Advisory Council is responsible for reviewing the reports of specialized plant protection and quarantine agencies, proposing the competent persons in respect to the epidemic announcement, scope of epidemic, anti-epidemic measures.

2. Decision on announcement of epidemic

a) Contents of a decision on announcement of epidemic include plant pests, damaged objects, scope of epidemic announcement, solutions to fight the epidemic and effectiveness of the decision.

b) Within 24 hours after announcement of epidemic, a decision on announcement of epidemic must be announced publicly on the mass media of the central and local levels; the authorities of the locality, where the epidemic is announced, shall have to notify plant owners, relevant organizations and individuals in the locality for knowledge and implementation.

Article 6. Order and procedure for announcement of epidemic end

1. When plant epidemic has been controlled and there is no risk of causing serious harms, the specialized plant protection and quarantine agency of the central level shall present results of epidemic fighting and propose for announcement of epidemic end to the Minister of Agriculture and Rural Development; the specialized plant protection and quarantine agency of the provincial level shall present to the Director of Provincial Department of Agriculture and Rural Development the reports on epidemic fighting and propose for announcement of epidemic end to the Chairman of Provincial People's Committee.

2. Contents of report on results of epidemic fighting and proposal for announcement of epidemic end should include: Epidemic process status and forecast of development tendency of the pests; solutions for recovering all damages caused by the epidemic, and stabilizing people's lives and recovering production; measures of sustainable pest control; legal framework and practical and scientific-base evidences of the proposal for announcement of epidemic end.

3. Minister of Agriculture and Rural Development refers to reports of the Head of the specialized plant protection and quarantine agency of the central level; Chairman of Provincial People's Committee refers to reports of the Director of Provincial Department of Agriculture and Rural Development to decide the announcement of epidemic end.

4. Within 24 hours after the authorized person's signing of decision for announcement of the epidemic end, the Decision on announcement of epidemic end shall have to be announced publicly on the mass media of the central and local levels.

Article 7. Funding for fighting the epidemic

1. Funding sources for fighting the epidemic

a) State budget.

b) Funding of organizations, individuals or plant owners, who have a right to own or to use plants;

c) Contributions and donations from domestic and foreign organizations and individuals, international organizations and other legitimate sources.

2. Subjects that State budget assists funding for fighting the epidemic:

a) The plant owners who have their plants damaged by epidemic or forced to adopt anti-epidemic measures as required by the competent state agency;

b) Anti-epidemic participants.

3 Contents of supports for epidemic fighting

a) Disseminating, training, organizing anti-epidemic activities;

b) Vehicles, equipment, pesticides for epidemic fighting;

c) Damages caused by epidemic;

d) Damage due to application of plant treatment measures required by the competent state agencies and expenses on treatment.

4. Support levels for epidemic fighting

a) For support contents, which have no norms and standards stipulated by the State, the support levels (from national budget) are recommended by the Minister of Finance in accordance with the Minister of Agriculture and Rural Development to the Prime Minister for decision; Chairman of Provincial People's Committee will decide support levels from provincial budget.

5. Sources of funding from the State budget

a) Funding to fight the epidemic in the localities is allocated by the provincial People's Committees from the reserve budget of the localities as stipulated by the Law on the State Budget.

In cases that the expenses are beyond the financial capacity of the localities, the provincial People's Committees shall report to the Minister of Finance and the Minister of Agriculture and Rural Development to present the Prime Minister for decision of support.

b) Funding for anti-epidemic activities of the central agencies is allocated from the central budget in accordance with the provisions of the Law on the State Budget.

6. Funding of plant owners for epidemic fighting

The expenses are used to fight the epidemic other than the support funding from the state budget, funding from domestic and foreign organizations and individuals and international organizations (if any).

7. Funding sources for epidemic fighting contributed or donated by domestic and foreign organizations and individuals, international organizations and other lawful sources.

a) Sources of contributions and donations from domestic and foreign organizations and individuals belonging to the state budget and shall comply with the provisions of the Law on State Budget.

b) Other sources of lawful contributions and sponsors shall be implemented at the request of the donors.

Chapter III

PROVISIONS ON TEMPORARY SUSPENSION OR PROHIBITION OF IMPORT, EXPORT OF REGULATED ARTICLES SUBJECT TO PLANT QUARANTINE

Article 8. Suspension of export, import of regulated articles subject to plant quarantine

1. Temporary suspension of export of regulated articles subject to plant quarantine is implemented in the following cases:

a) Articles have high risk of carrying quarantine pests of the exporting country and have not had thorough treatment measures;

b) Articles violating the regulations of the importing country, but there has no measures for thoroughly remedying the causes of violations and risk of losing export markets.

2. To temporary suspend the import of regulated articles subject to plant quarantine in the following cases:

a) Regulated articles, which are imported from countries or territories having high risk of carrying quarantine pests of Vietnam, but have not had thorough treatment measures;

b) Regulated articles, which are imported from countries or territories, detected to be infested with quarantine pests or exotic pests that the specialized plant protection and quarantine agency of the central level issues announcement of non-compliance with the plant quarantine regulations of Vietnam.

c) Regulated articles from countries or territories, where there is official information on outbreaks of quarantine pests of Vietnam.

Article 9. Conditions to permit the continuance of export and import of regulated articles subject to plant quarantine

1. Conditions to permit the continuance of export of regulated articles subject to plant quarantine

a) Sufficient remedy measures have been taken for regulated articles in accordance with the guidelines of the competent specialized plant protection and quarantine agency;

b) Regulated articles are inspected, supervised and confirmed by the specialized plant protection and quarantine agency of the central level for efficient implementation of remedial measures and risk as regulated in Point 1, Article 8 of this Decree, is controlled.

2. Conditions to permit the continuance of import of regulated articles

- a) National Plant Quarantine agencies of the exporting country report on determinate causes that made regulated articles infested with quarantine pests, and thorough remedy measures have been taken;
- b) Regulated articles are inspected, supervised and confirmed by the specialized plant protection and quarantine agency of the central level for efficient implementation of remedial measures and risk, as regulated in Point 2, Article 8 of this Decree, is controlled.

Article 10. Prohibition of export and import of regulated articles subject to plant quarantine

1. To prohibit export of regulated articles subject to plant quarantine in the following cases:

- a) Regulated articles are on the List of products of import prohibition of importing countries.
- b) Regulated articles for which there is no treatment measures in satisfaction of the regulations of importing countries.

2. To prohibit import of regulated articles subject to plant quarantine in the following cases:

- a) Regulated articles subject to plant quarantine imported from countries or territories identified at high risk of carrying quarantine pests, threatening domestic agricultural production, national food security, but there are no thorough treatment measures.
- b) Regulated articles imported have been applied with treatment measures of temporary suspension of import, but still fail to apply the remedy measures or have been applied with the remedy measures, but fail to meet the regulations on imported plant quarantine of Vietnam.

Article 11. The authority to suspend or prohibit the export or import of regulated articles or to permit the continuance of export and import of plant

The Minister of Agriculture and Rural Development shall decide the temporary suspension or prohibition of export, import or the permission for continuance of export, import of regulated articles in accordance with the provisions of this Decree.

Article 12. Order and procedures for the temporary suspension or prohibition of export, import of regulated articles subject to plant quarantine

1. Pursuant to the provisions of Article 8 and Article 10 of this Decree, the specialized plant protection and quarantine agency of the central level shall determine specific category of articles, causes for temporary suspension or prohibition of export, import in respect to a specific country or territory and shall report to the Minister of Agriculture and Rural Development.
2. The Minister of Agriculture and Rural Development shall base on the report of the specialized plant protection and quarantine agency of the central level to consider or in necessary cases to organize a meeting to ask for opinions of relevant ministries and branches before deciding the temporary suspension or prohibition of export, import of the regulated articles.
3. Decision to suspend or prohibit the export, import of regulated articles must specify the following contents:
 - a) Name of regulated articles, including scientific name;

- b) Name of the country or territory from which the regulated articles are exported to Vietnam or imported from Vietnam;
- c) Causes, for which the export, import is suspended or prohibited, including legal basis, technical demonstration and scientific basis.
- d) Decision takes effect after 2 months (60 days) from the date of its signing and must be officially published within a 24 hour time-limit in the mass media and shall be notified to the competent plant quarantine agency of exporting country or territory.

Article 13. Order and procedure to permit the continuance of export, import of regulated articles subject to plant quarantine

1. Pursuant to the provisions of Article 9 of this Decree, the specialized plant protection and quarantine agency of the central level shall inspect, monitor and determine effective implementation of remedy measures and report the Minister of Agriculture and Rural Development.
2. The Minister of Agriculture and Rural Development shall base on report of the specialized plant protection and quarantine agency of the central level to consider decision of permission for continuance of export, import of those regulated articles.
3. Decision to permit the continuance of export, import of regulated articles shall be of effect from the date of its signing and must be officially published within a 24 hour time-limit in the mass media and shall be notified to the competent plant quarantine agency of exporting country or territory.

Chapter IV

IMPLEMENTING PROVISIONS

Article 14. Implementation effectiveness

1. This Decree shall be of full force and effect from January 18, 2015.
2. Plant Protection Charter, Charter on management of pesticides promulgated in conjunction with Decree No. 58/2002/ND-CP dated June 3, 2002 of the Government; Decree No. 02/2007/ND-CP dated January 5, 2007 of the Government on plant quarantine shall expire from the date on which this Decree takes effect.

Article 15. Responsibility for implementation

Ministers, heads of ministerial-level agencies, heads of agencies belonging to the Government, Chairmen of People's Committees of centrally-run provinces and cities and relevant agencies shall implement this Decree./.

Recipients:

- Party's Central Committee Secretariat;
- The Prime Minister, Deputy Prime Ministers;
- The ministries, ministerial-level agencies, agencies belonging to the Government;
- People's councils and people's committees of centrally-run provinces and cities;
- Central Office and Committees of the Party;
- Office of the General Secretary;
- Office of the State President;
- Ethnicity Council and Committees of National Assembly;
- National Assembly's Office;
- The Supreme People's Court;
- The Supreme People's Prosecutor of Vietnam;
- National Financial Supervisory Commission;

**ON BEHALF OF
GOVERNMENT**

**(Signed)
PRIME MINISTER
Nguyen Tan Dung**

- The State Audit;
- Bank for Social Policies;
- Vietnam Development Bank;
- Central Committee of the Vietnam Fatherland Front;
- The central offices of the unions;
- Government Office: Minister, Chairman/Chairwoman of the Office of the Government, deputy Chairman/Chairwoman, Assistants to the PM, e-payment gateway, Departments, Divisions, attached units, Official Gazette;
- Archives, Office, Legal Department (3b).