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POLICY

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New enforcement of plant quarantine regulations causes uncertainty

Report Categories:

Food and Agricultural Import Regulations and
Standards - Certification

Fresh Fruit

Dried Fruit

Potatoes and Potato Products

Snack Foods

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Report Highlights:

On August 15, 2012, Vietnam's Ministry of Agriculture and Rural Development (MARD) released Circular 40/2012/TT-BNNPTNT publishing the list of regulated articles subject to plant quarantine before entering Vietnam. The products outlined in Circular 40 must be accompanied by a Phytosanitary Certificate and undergo a plant quarantine inspection before being granted customs clearance. This Circular entered into force on September 29, 2012, however, it was not regularly enforced until recently. The inclusion of broad categories, such as "seeds," has generated confusion among importers and exporters following inconsistent implementation by Vietnamese authorities.

Summary:

On August 15, 2012, Vietnam's Ministry of Agriculture and Rural Development (MARD) released Circular 40/2012/TT-BNNPTNT publishing the list of regulated articles subject to plant quarantine before entering Vietnam. Circular 40 entered into force on September 29, 2012.

Article 1 of this Circular states that the List of regulated articles of Vietnam for export, import, transfer, re-export, re-import, and transit, includes:

1. Plants: Living plants and living part(s) of plants for planting or other purposes;
2. Plant products:
 - a. Tubers/bulbs, fruits, seeds, flowers, leaves, stems, branches, stocks, roots;
 - b. Broken rice, bran, dried plant meal, powders, fibers, sawdust, plants for medicine
 - c. Stem and fiber of tobacco, cigarettes, pipe tobacco, cigar, beer or alcohol yeast, feed yeast, tea, cotton, coconut fiber, cassava slice, rattan, bamboos, sedge mat, straw, grass, water hyacinth and sea plant (aquatic plants);
 - d. Wood and wooden products (exemption for Wood and wooden products exempted from inspection by regulations);
 - e. Arts or handicraft made from plant;
 - f. Packages, dunnage materials or growing media made from plant;
 - g. Feedstuff or materials for processing made from plant;
 - h. Rubber sap, plant sap or gel, paper powder, roll paper;
3. Mushrooms, wood ears.
4. Organic and bacterial fertilizers;
5. Fish meal, silkworm cocoon, silkworm cocoon without silk, feather, feather powder, leather, bone, horn, nail and sticklac.
6. Insects, spiders/mites, fungus, nematodes, bacteria, virus, phyto-plasma, viroid, weeds and plant specimen for diagnostics, training, biological control and research.
7. Means of conveyance, production, storage of regulated articles and other objects capable of harboring quarantine pests.

Products listed in Article 1 must undergo a plant quarantine inspection in order to clear Customs and be accompanied by a Phytosanitary Certificate (PC) for the product to be allowed entry into Vietnam. Circular 40 does not govern the Pest Risk Assessment process nor is it a definite list of the products that are allowed to enter Vietnam.

The broad nature of Article 1 has created confusion among importers and exporters conducting trade in Vietnam following inconsistent implementation by Vietnamese authorities. At the crux of the confusion are products categorized as # 2 on the List. Over past six months Vietnamese authorities have considered many processed plant products, such as plant origin products that have been subjected to

cooking or another process to be covered by the List and therefore required to obtain a PC to enter Vietnam, per Decree 2/2007/ND-CP. In many instances, USDA's Animal and Plant Health Inspection Service is unable to issue PCs for the products MARD's Plant Protection Department (PPD) is requiring.

In some instances, PPD's expanded coverage appears to run contrary to the principles of risk analysis outlined in the International Standards for Phytosanitary Measures (ISPM) Number 32 titled, "Categorization of Commodities According to Their Pest Risk" which suggests that many of the processes which products targeted by PPD have undergone cause the final product to pose minimal risk to plant health and therefore should not require PC. FAS-Vietnam is working with APHIS and other USDA agencies to get clarification from PPD regarding their enforcement of Circular 40 and how this compares to APHIS' policies for issuing PCs.

Looking ahead, FAS-Vietnam understands that PPD is working on a new list of regulated articles to supersede Circular 40 with more detailed guidance on the types of products subject to plant quarantine in Vietnam. The guidance will be Harmonized Tariff Schedule code specific and will differentiate products based on HS code. FAS-Vietnam will work closely with PPD to stay abreast of this work and to make sure this new regulation will be notified to the World Trade Organization's Sanitary and Phytosanitary Committee for review and comment by trading partners. Should U.S. exporters of plant and plant origin products have any questions please email FAS-Vietnam at: aghanoi@fas.usda.gov.

An unofficial translation of Circular 40/2012/TT-BNNPTNT, dated August 15, 2012, is found below.

**MINISTRY OF AGRICULTURE AND RURAL
DEVELOPMENT**

No: 40/2012/TT-BNNPTNT

**SOCIALIST REPUBLIC OF
VIETNAM
Independent – Freedom -
Happiness**

Hanoi, 15 August 2012

CIRCULAR

For publishing the list of regulated articles of the Socialist Republic of Vietnam

Pursuant to Decree No 01/2008/ND-CP on 3rd January 2008 of Government stipulating mission, power and structure for Ministry of Agriculture and Rural Development and Decree No.75/2009/ND-CP on 10th September 2009 of Government for amendment of Article 3 of Decree 01/2008/ND-CP on 3rd January 2008 of Government stipulating mission, power and structure for Ministry of Agriculture and Rural Development

Pursuant to Ordinance on Plant Protection and Quarantine No. 36/2001/PL-UBTVQH10 on 8 August 2001 by Present of Vietnam;

Referring to Decree No 02/2007/NĐ-CP on 05th January 2007 of Government on Plant Quarantine

At the proposal of the Director General of Plant Protection Department;

Hereafter is the guide by the Minister of Agriculture and Rural Development for publishing the list of regulated articles of the Socialist Republic of Vietnam:

Article 1. Publishing the list of regulated articles of Vietnam for export, import, transfer, re-export, re-import and transit, including:

1. Plants: Living plants and living part(s) of plants for planting or other purposes;
2. Plant products:
 - a. Tubers/bulbs, fruits, seeds, flowers, leaves, stems, branches, stocks, roots;
 - b. Broken rice, bran, dried plant meal, powders, fibers, sawdust, plants for medicine
 - c. Stem and fiber of tobacco, cigarettes, pipe tobacco, cigar, beer or alcohol yeast, feed yeast, tea, cotton, coconut fiber, cassava slice, rattan, bamboos, sedge mat, straw, grass, water hyacinth and sea plant (aquatic plants);
 - d. Wood and wooden products (exemption for Wood and wooden products exempted from inspection by regulations);
 - e. Arts or handicraft made from plant;
 - f. Packages, dunnage materials or growing media made from plant;
 - g. Feedstuff or materials for processing made from plant;
 - h. Rubber sap, plant sap or gel, paper powder, roll paper;
1. Mushrooms, wood ears.
2. Organic and bacterial fertilizers;
3. Fish meal, silkworm cocoon, silkworm cocoon without silk, feather, feather powder, leather, bone, horn, nail and sticklac.
4. Insects, spiders/mites, fungus, nematodes, bacteria, virus, phytoplasma, viroids, weeds and plant specimen for diagnostics, training, biological control and research.
5. Means of conveyance, production, storage of regulated articles and other objects capable of harboring quarantine pests.

Article 2. Articles for exporting not mentioned in Article 1 shall be implemented as requirements of importing country or international treaties that Vietnam signed or adhered.

Article 3. Entry into force

1. This circular will come in to force on September 29, 2012.
2. This Circular replaces the Decision 72/2005/QĐ-BNN published on November 14, 2005 of

Minister of Agriculture and Rural Development for publishing the list of regulated articles of the Socialist Republic of Vietnam.

During enforcement, all involved units submit reports on difficulties to the Ministry of Agriculture and Rural Development (via Department of Plant Protection) for consideration and appropriate amendment.

FOR MINISTER
VICE MINISTER
Bui Ba Bong