DECREE No. 58/2002/ND-CP OF JUNE 3, 2002 PROMULGATING THE REGULATION ON PLANT PROTECTION, THE REGULATION ON PLANT QUARANTINE AND THE REGULATION ON MANAGEMENT OF PLANT PROTECTION DRUGS

THE GOVERNMENT

Pursuant to the December 25, 2001 Law on Organization of the Government;
Pursuant to the July 25, 2001 Ordinance on Plant Protection and Quarantine;
At the proposal of the Minister of Agriculture and Rural Development,

DECREES:

Article 1: To promulgate together with this Decree:
The Regulation on Plant Protection;
The Regulation on Plant Quarantine;
The Regulation on Management of Plant Protection Drugs;

Article 2: This Decree takes implementation effect 15 days after its signing.

This Decree shall replace Decree No. 92/CP of November 27, 1993 of the Government promulgating therewith the Regulations on plant protection, plant quarantine, and on management of plant protection drugs. The previous stipulations contrary to this Decree shall all be annulled.

Article 3: The ministers, the heads of the ministerial-level agencies, the heads of the agencies attached to the Government and the presidents of the People's Committees of the provinces and centrally-run cities shall have to implement this Decree.

On behalf of Government
Prime Minister

PHAN VAN KHAI

REGULATION ON PLANT QUARANTINE

(Issued together with the Government's Decree No. 58/2002/ND-CP of June 3, 2002)

Chapter I
GENERAL PROVISIONS

Article 1: This Regulation prescribes the work of quarantining imported, exported, transited and domestic plants and treating objects subject to plant quarantine by measure of disinfection vaporization.

Article 2: In this Regulation, the terms and phrases below shall be construed as follows:

1. The plant quarantine objects are harmful organisms having potential to cause serious harms to plant resources in a region where such organisms have not yet appeared or have appeared in narrow distribution;
2. Articles liable to plant quarantine are plants, plant products, means of production, preservation or transport or other articles which possibly carry plant quarantine objects;
3. Plant epidemic infection status means the extent and nature of the articles infection with harmful organisms;

4. Article inspection covers investigation, observation, monitoring, sampling, expertise and research in order to determine the infection status;

5. Article treatment covers the recycle, selection, sorting out, cleaning, sterilization, return to places of origin, or destruction of articles;

6. Disinfection means the annihilation of organisms which cause harms to articles liable to plant quarantine;

7. Epidemic focus is a place where exist one or several kinds of harmful organisms on the promulgated list of plant quarantine objects;

8. Epidemic region is a region infested with epidemic focuses;

9. Lot of articles means a given quantity of articles with similar conditions and factors on infection proneness;

10. Plant quarantine location is a place where articles liable to plant quarantine are inspected before being removed away.

Article 3: Articles liable to plant quarantine (also called articles in this Regulation) shall include:

1. Plants, plant products;

2. Means of production, preservation or transport, earth, storehouses or other articles which may carry plant quarantine objects.

Article 4: Responsibilities and powers of the plant quarantine bodies and articles owners are prescribed as follows:

1. The articles owners must monitor, prevent and annihilate harmful organisms, treat infected articles and those which fail to meet the import and/or export criteria or transport them out of epidemic regions according to regulation on plant quarantine.

Where the infected articles must be urgently treated while the articles owners are incapable of doing so, the plant quarantine bodies shall effect the treatment.

Where infected articles of various owners must be treated simultaneously while the article owners cannot reach agreement on the treatment thereof, the plant quarantine bodies shall make decisions and the articles owners must implement them.

The articles owners must bear all costs of treatment of the articles. Where the articles owners are not available, the means owners, the transport means operators, the articles preservers must implement the regulations on plant quarantine with regard to the means and the articles they carry, preserve on such means and bear all expenses for the treatment of articles.

2. The competent plant protection and quarantine State bodies (also called plant quarantine bodies in this Regulation) shall have to guide, supervise and certify the application of measures of monitoring, prevention, annihilation and treatment of articles.

Article 5: The vaporization for disinfection of export, import, transit, domestic articles, the articles infected with plant quarantine objects must be conducted by domestic organizations and/or individuals that meet all conditions prescribed in Article 30 of this regulation.

Article 6: Plant quarantine procedures:

1. The articles owners or persons authorized by articles owners shall have to:

a) Make declarations at least 24 hours in advance to the nearest plant quarantine offices;

For hand luggage and luggage accompanied on transport means, which are articles liable to plant quarantine, they must be declared in the entry/exit declaration form and inspected on spot by the plant quarantine bodies.

For articles liable to plant quarantine, which are exports or imports or being packed together with other exports, imports (except hand luggage, accompanied luggage of

passengers on exit, entry), the goods owners, when submitting the customs dossiers for customs clearance, must have the quarantine registration papers of the plant quarantine bodies.

b) To create favorable conditions for plant quarantine officials to inspect and sample articles by opening, closing transport means, storehouses, goods packages; to supply personnel for sampling;

c) To pay plant quarantine charges as prescribed

2. The plant quarantine bodies must inspect, re-inspect and give the results immediately within 24 hours after the articles owners make declaration. Where it is longer than 24 hours, the plant quarantine bodies must notify the articles owners thereof.

Article 7: In each period, the Minister of Agriculture and Rural Development shall determine and publicize:

1. The list of plant quarantine objects of Vietnam;
2. The list of articles liable to plant quarantine of Vietnam.

Article 8: The procedures for inspecting articles and compiling dossiers on plant quarantine must be applied uniformly nationwide under the stipulations of the Ministry of Agriculture and Rural Development.

Article 9: The plant quarantine officials, when performing their tasks:

1. Must wear uniform, badges, rank insignia and plant quarantine card;
2. May enter places where exist articles liable to plant quarantine;
3. For secret security and defense places and other special cases, they must be given conditions, and guided in the performance of their tasks by the competent authorities of those establishments in order to satisfy both requirements of confidentiality and plant quarantine.

Article 10: The coordination among agencies in the work of plant quarantine is prescribed as follows:

1. The customs offices shall have to coordinate with the plant quarantine bodies in inspecting and supervising articles. The customs procedures shall be completed for articles liable to plant quarantine only after all plant quarantine procedures are carried out. The contents of plant quarantine declaration are reflected in the entry/exit declarations.

For articles which the plant quarantine bodies force to re-export, force to destroy or which, after being quarantined and concluded, are allowed for export or import, the plant quarantine bodies shall have to notify such to the customs offices at the border gates where such articles shall be exported or imported, and at the same time take initiative in coordinating with the customs offices and other relevant agencies in settling and handling relevant matters at the request of the plant quarantine bodies.

2. The concerned State bodies (Port Authority, Customs, Post Office, Police, Border Guard, Market Management…) shall, within the ambit of their functions and tasks, have to coordinate with the plant quarantine bodies in inspecting, preventing and/or arresting subjects violating the plant quarantine bodies in inspecting, preventing and/or arresting subjects violating the plant quarantine regulations.

Chapter II
QUARANTINE OF IMPORTED PLANTS

Article 11: Objects imported into Vietnam must satisfy the following conditions:

1. Being granted plant quarantine certificates by competent plant protection and quarantine State agencies of the exporting countries;

2. Being free from plant quarantine objects and strange harmful organisms, if any, they have already gone through treatment.

The Minister of Agriculture and Rural Development shall prescribe plant quarantine criteria for imported articles.

Article 12: Procedures for quarantine of imported plants:

1. When the imported articles arrive at the first border gate, the articles owners must notify the nearest Vietnamese plant quarantine offices thereof. The plant quarantine bodies shall carry out the procedures at the first border gate. For special cases, the plant quarantine procedures shall be carried out at other places with isolation conditions;
2. The declaration, inspection, treatment and granting of the certificates of imported plants for imported articles shall comply with Articles 6 and 8 of this Regulation;
3. When water transport means carry articles liable to plant quarantine to buoy No. "0", the means owners shall have to make declaration and the Vietnamese plant quarantine offices shall conduct the inspection; if no plant quarantine objects are found, such means are allowed to enter ports; if plant quarantine objects are detected, they must be treated absolutely.

The inspection of imported articles carried on water transport means shall be conducted at the quarantine locations in Vietnamese ports;

4. Articles temporarily imported for re-export or temporarily exported for re-import must go through plant quarantine procedures like the imported articles.

Article 13:

1. Organizations and individuals that import plant varieties and useful organisms must satisfy the conditions prescribed in Article 11 of this Regulation.

a) For plant varieties allowed to be imported, they may be only transported to and sown or cultivated at places already registered at the import border gates. When arriving at the above-mentioned locations, the said organizations and individuals must make declaration with the competent plant protection and quarantine State bodies in the localities for further monitoring and inspecting the situation of harmful organisms;

b) For new plant varieties imported for the first time, they may be sown or cultivated only at places prescribed by the plant quarantine bodies in order to monitor the harmful organisms. Only after these bodies conclude that they do not carry plant quarantine objects of Vietnam can they be port into production; the duration of monitoring each plant group shall comply with the stipulations of the Ministry of Agriculture and Rural Development;

c) For useful organism, when having demands to import them, the articles owners must supply relevant documents to the plant quarantine bodies for consideration and decision by the Ministry of Agriculture and Rural Development.

2. The quarantine of plant varieties and useful organisms must comply with the technical process prescribed by the Ministry of Agriculture and Rural Development.
3. Organizations and individuals that import articles which may be used as strains must also comply with the provisions prescribed for the import of plant varieties.

Article 14: Responsibilities of plant quarantine bodies and articles owners in the transportation, preservation and use of articles are prescribed as follows:

1. The plant quarantine bodies shall have the right to supervise the plant quarantine of imported articles as from the time such articles are brought into the Vietnamese territory.
2. The articles owners must have the plant quarantine certificates granted by Vietnamese plant quarantine bodies and implement all measures prescribed at such certificates in the course of transportation, preservation and use of the articles.

Article 15: The plant quarantine bodies are allowed to coordinate with the plant quarantine agencies of the exporting countries in inspecting and treating the to be-imported articles in the exporting countries.

Article 16: It is strictly forbidden to introduce into Vietnam plant quarantine objects, strange harmful organisms still alive at any growth stage; where they need to be introduced into the country for research, the permission of the Minister of Agriculture and Rural Development is required.

Article 17:

1. The treatment of articles infected with plant quarantine objects shall be effected as follows:

a) If the articles are infected with plant quarantine objects not yet found in the Vietnamese territory but on Vietnam's list of plant quarantine objects, they shall not be allowed for import and must be returned to their places of origin or be destroyed. Where they can be absolutely treated by other measures, such measures shall be applied;

b) If the articles are infected with plant quarantine objects with narrow distribution in the Vietnamese territory and on Vietnam's list of plant quarantine objects or other strange harmful organisms, absolute treatment measures to be decided by the plant quarantine bodies must be taken before they are brought into the mainland. Where the treatment can not be effected under Vietnamese conditions, they can be returned to their place of origin or destroyed.

2. The treatment of articles adrift, dropped or leaked into Vietnam from overseas shall fall under the jurisdiction of the plant quarantine bodies in coordination with the local administration and relevant agencies.

Chapter III
QUARANTINE OF EXPORT PLANTS

Article 18: The plant quarantine bodies shall effect the plant quarantine of export articles in the following cases:

1. It is so requested under sale and purchase contracts, or prescribed by the international treaties which Vietnam has signed or acceded to;
2. The articles owners request plant quarantine.

Article 19: The procedures for quarantine of export articles shall include:

1. When the export articles arrive at the final border gate or at places where the articles are exported to foreign countries, the article owners must notify in advance the nearest plant quarantine bodies thereof;
2. The plant quarantine bodies shall carry out the quarantine procedures and can issue decisions or accept the requests of the articles owners to conduct the preliminary inspection at the production or preservation establishments lying deep in the mainland and re-inspect at the final border gate; for this case, the inspection and re-inspection must also be conducted to grant the plant quarantine certificates;
3. The declaration, inspection, treatment, granting of plant quarantine certificates for export articles shall comply with the provisions in Article 6 and 8 of this Regulation.

Article 20: Responsibilities of plant quarantine bodies and articles owners in the transportation of articles out of Vietnamese territory are prescribed as follows:

1. The plant quarantine bodies shall have the right to supervise the plant quarantine of export articles from the time the articles are inspected, re-inspected, granted plant quarantine certificates to the time they are transported out of Vietnamese territory;

2. The export articles owners must acquire plant quarantine certificates as provided for in Article 18 of this Regulation for the transportation of articles from the places of plant quarantine of export articles to foreign countries and must apply measures prescribed in such certificates.

Chapter IV
QUARANTINE OF TRANSIT PLANTS

Article 21: The transit or storage of articles in warehouses or yards in the Vietnamese territory must be notified in advance to and consented by the Vietnamese plant quarantine bodies; and the articles must be packed according to the commodity specifications in order to avoid the spread of harmful organisms in the process of transportation and storage.

Article 22: Procedures for quarantine of export plants shall include:

1. When the articles transit through the first Vietnamese border gate, the articles owners must declare with the nearest plant quarantine offices and produce the plant quarantine certificates of the countries of origin;
2. The Vietnamese plant quarantine bodies shall have the right to supervise such articles, inspect the transport means and the outside of the articles.

Article 23: If the articles transiting Vietnam are found with Vietnam's plant quarantine objects or packed improperly under the commodity specifications, the articles owners must apply treatment measures or re-pack them according to regulations.

The article owners must bear all expenses for treatment or re-packing.

Chapter V
QUARANTINE OF DOMESTIC PLANTS

Article 24: Contents of the quarantine of domestic plants:

1. Managing the situation of harmful organisms subject to Vietnam's plant quarantine, and useful organisms;
2. Controlling and applying treatment measures upon the detection of epidemic focuses.

Article 25: Responsibilities of the competent plant protection and quarantine State bodies:

1. To regularly investigate, monitor and supervise the situation of harmful organisms on imported plant varieties and plant products kept in storehouses;
2. When plant varieties and/or useful organisms are imported into the localities for sowing, cultivation or use, the local competent plant protection and quarantine State bodies shall have to:

a) Check the papers on plant quarantine of plant varieties and useful organisms;

b) Monitor and supervise places where they are sown, cultivated or used;

c) If the articles owners fail to comply with the imported plant quarantine procedures prescribed in Article 12 of this Regulation, the local competent plant protection and quarantine State bodies shall apply measures as prescribed by law;

3. Determine the boundary of epidemic region, locations for quarantine of domestic plants when articles are transported out of the epidemics region, conduct the inspection, grant certificate of quarantine of domestically transported plants, supervise the transportation of articles out of the epidemic region;
4. Check the plant quarantine certificates and monitor, supervise lots of objects brought from the epidemics region to localities;

5. Decide on measures to treat articles infected with plant quarantine objects; guide, supervise the articles owners in the application of treatment measures;

6. At places where exist may epidemics nests and signs that epidemics nests spread into epidemics region, the competent plant protection and quarantine State bodies shall have to immediately report thereon to the agencies competent to announce epidemics as provided for in Article 11 of the Ordinance on plant protection and quarantine.

Article 26: Responsibilities of the articles owners:

1. The article owners must regularly follow the situation on organisms harmful to plant resources they have owned or directly managed.

At places where import articles often gathered, transited or brought from epidemic regions, the above-mentioned monitoring must be effected upon requests and under the guidance of the competent plant protection and quarantine State bodies;

2. Upon detecting or doubting the existence of plant quarantine articles on the promulgated list or strange harmful organisms, the articles owners or the detectors shall have to apply necessary measures to eliminated and stop their spread, and at the same time to immediately report to the nearest competent plant protection and quarantine State bodies or local administration thereon;

3. To apply article-treating measures decided by the competent plant protection and quarantine State bodies;

4. To create all conditions for the competent plant protection and quarantine State bodies to further monitor and inspect the already-treated articles in the process of sowing and cultivation, use and preservation;

5. To bear all costs of applying the treatment measures; to inspect the granting of certificates of quarantine of domestically transported articles according to the law provisions.

Article 27: The declaration, inspection, treatment, and granting of certificates of quarantine of domestically transported articles shall comply with the provisions in Article 6 and 8 of this Regulation.

Article 28: The transportation of alive plant quarantine objects to epidemic-free regions is strictly forbidden. Where such transportation is carried out for the purpose of research, the permission of the Minister of Agriculture and Rural Development is required.

Chapter VI
TREATING ARTICLES BY MEASURE OF DISINFECTION VAPORIZATION

Article 29: Disinfection vaporization is a measure of disinfection with toxic chemical vaporization.

Article 30: Organization vaporization is a measure of disinfection vaporization activities must satisfy the following conditions:

1. Having the disinfection vaporization practice certificate;

2. The contingent of officials and technical workers satisfy the requirements on disinfection vaporization;

3. Having technical process, facilities and equipment in service of disinfection vaporization activities, ensuring safety for human beings, reared animals, environment, fire and explosion prevention and fighting;

4. Working places, equipment and chemicals storehouses must be up to the standards agreed upon by competent functional bodies.

Article 31: Conditions for granting disinfection steaming practice certificates:

1. The persons who directly manage, run the disinfection vaporization activities must possess:

a) Professional qualifications in chemicals or plant protection of the university or higher level;

b) Having worked in this domain for at least 3 years;

c) Having health certificates granted by health bodies of the district or higher level as provided for.

2. The persons directly conducting the disinfection vaporization:

a) Must go through a course of training on disinfection vaporization, and be tested on their professional qualifications and skills by the Plant Protection Department;

b) Having health certificates granted by health bodies of the district or higher level as provided for.

Article 32: Competence to grant certificates for disinfection vaporization practice is prescribed as follows:

1. The regional Sub-Departments for Plant Quarantine under the Plant Protection Department shall grant certificates for disinfection vaporization practice to organizations engaged in activities of disinfecting domestically preserved objects;

2. The Plant Protection Department shall grant certificates of disinfection vaporization practice to organizations engaged in activities of disinfecting export, import, transit articles and those infected with plant quarantine articles;

3. The appraisal and granting of professional practice certificates must be effected within 15 days as from the date of receiving the valid dossiers, in case of non-granting, the reasons therefore must be notified in writing to the applicants.

Article 33: Powers and obligations of disinfecting organizations when being granted certificates for disinfection vaporization practice:

1. Organizations and individuals engaged in disinfection vaporization activities may conduct the disinfection vaporization activities as from the time they fully meet the conditions prescribed in Article 30 of this Regulation and commit to strictly observe those conditions throughout their operation process;

2. They shall be granted certificates for disinfection vaporization for articles liable to plant quarantine;

3. When applying the measure of disinfection vaporization for articles infected with plant quarantine objects, they must be designated by the plant quarantine bodies and submit to the latter's supervision;

4. Organizations and individuals engaged in disinfecting activities, when carrying out the procedures for being granted the disinfection vaporization practice certificates or for the extension thereof shall have to pay charges and fees as provided for by law.

On behalf of the Government
Prime Minister

PHAN VAN KHAI