THE GOVERNMENT -------	THE SOCIALIST REPUBLIC OF VIETNAM Independence - Freedom - Happiness ----------
No. 109/2018/ND-CP	*Hanoi, August 29, 2018*

DECREE

ORGANIC AGRICULTURE

Pursuant to the Law on Government Organization dated June 19, 2015;

Pursuant to the Law on Investment dated November 26, 2014;

Pursuant to the Law on Technical Standards and Regulations dated June 29, 2006;

Pursuant to the Law on Product and Goods Quality dated November 21, 2007;

Pursuant to the Law on Food Safety dated June 17, 2010;

Pursuant to the Law on Pharmacy dated June 14, 2015;

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

The Government hereby promulgates a Decree on organic agriculture.

Chapter I

GENERAL PROVISIONS

Article 1. Scope

1. This Decree provides for production, certification, labeling, logo, traceability, sale and state inspection of products from organic agriculture in the fields of cultivation, husbandry, forestry and aquaculture, and policies on encouragement of organic agriculture development.

2. Production and sale of products from organic agriculture encouraged to apply.

Article 2. Regulated entities

This Decree applies to enterprises, cooperatives, cooperative groups, farms, households or groups of households producing and trading products from organic agriculture (hereinafter referred to as “facilities”); organizations and individuals related to production and sale of products from organic agriculture within the territory of Vietnam.

Article 3. Definitions

For the purposes of this Decree, the terms below shall be construed as follows:

1. “organic agriculture” means a production system which sustains the health of soils, ecosystems and people. It relies on ecological processes, biodiversity and cycles adapted to natural conditions, rather than the use of inputs with adverse effects. Organic agriculture combines tradition, innovation and science to benefit the shared environment and promote fair relationships and a good quality of life for all involved.

2. “organic agriculture production” (hereinafter referred to as “organic production”) means a system that involves the production, preliminary processing, processing, packaging, transport and storage of organic products in compliance with organic agriculture standards.

3. “products from organic agriculture” (hereinafter referred to as “organic products”) means products, herbal ingredients (including herbal drugs and traditional drugs), cosmetics and other products or plant varieties and animal breeds; animal feeds and aquaculture feeds that are produced, certified and labeled in accordance with regulations of this Decree.

4. “organic agriculture standard used to certify conformity” means a national standard (TCVN) for organic agriculture (hereinafter referred to as “TCVN”) or an international, regional or foreign standard applied during organic production.

5. “certification of organic products” means the procedure by which a certification organization (third party) assesses and certifies a product that is produced in accordance with organic agriculture standards.

Chapter II

ORGANIC PRODUCTION

Article 4. Principles of organic production

1. Natural resources (including soil, water and air) should be managed in a long-term, ecological and systems-based manner.

2. Synthetic inputs at all stages of the organic production chain, exposure of people and the environment to harmful chemicals, and pollution of production units and surrounding environment should be avoided/minimized.

3. Genetic modification, irradiation and other technologies that harm organic production should not be employed.

4. Animals and plants should be managed in a responsible manner and with a caution to promote their natural health.

5. Organic products should be certified by a third party in accordance with TCVN or international, regional or foreign standards applied during organic production.

Article 5. Organic agriculture standards

1. TCVN shall be prepared, published and applied in accordance with regulations of the law on technical standards and regulations.

2. Regarding international, regional and foreign standards:

a) In the case of production for export: the facility shall apply the standard under the agreement with the importer;

b) In the case of production or import for domestic sale: the facility may apply the standard to which Vietnam is a signatory or the standard under the mutual recognition agreement or the foreign standard approved to be applied in Vietnam.

The Ministry of Agriculture and Rural Development shall take charge and cooperate with the Ministry of Health, Ministry of Industry and Trade, relevant Ministries and agencies to assess and publish the list of international, regional and foreign standards harmonized with TCVN applied in Vietnam.

3. It is recommended to use national, international, regional and foreign standards as basic standards.

Article 6. Inputs for organic production

1. Inputs permitted for use in organic production are prescribed in organic agriculture standards. It is prohibited to use pesticides, fertilizers, preservatives and additives that are synthetic chemicals; antibiotics, genetically modified organisms, growth hormone.

2. In the case of use of inputs:

a) Organic plant varieties and animal breeds; organic animal and aquatic feeds must be certified conformable with organic agriculture standards and comply with other relevant technical regulations;

b) Fertilizers, soil conditioners, pesticides, substances used for harmful organism control, food processing aids, additives; cleansers and disinfectants used in husbandry and aquaculture must be produced using materials and methods in accordance with organic agriculture standards and comply with other relevant technical regulations.

Chapter III

CERTIFICATION OF ORGANIC PRODUCTS

Article 7. Organizations responsible for certifying products conformable with TCVN

1. Every organization responsible for certifying products conformable with TCVN (hereinafter referred to as "the certification organization") shall satisfy conditions for provision of product and control system certification services prescribed in Article 17 of the Government's Decree No. 107/2016/ND-CP dated July 01, 2016 (hereinafter referred to as "the Decree No. 107/2016/ ND-CP").

2. The application for issuance of the certificate of registration of certification of product/control system's conformity with TCVN standards (hereinafter referred to as "the certificate of certification registration") shall comply with Article 18 of the Decree No. 107/2016/ND-CP.

3. Methods, procedures and time for issuance and reissuance of and amendment to the certificate of certification registration shall comply with Articles 19 and 20 of the Decree No. 107/2016/ ND-CP The certificate of certification registration shall comply with the Form No. 01 in the Appendix hereof.

4. The Ministry of Agriculture and Rural Development shall receive applications for issuance, reissuance or amendment to the certificate of registration of certificate and manage operations of the organization issued with the certificate.

Article 8. Certifying products conformable with TCVN

1. Methods for assessing organic products:

An organic product shall be certified conformable with TCVN by using assessing and supervising the manufacturing process, and testing the representative sample taken at the production site or on the market if it is suspected that inputs that are not included in the list in TCVN are used or the product contains heavy metals or harmful microorganisms beyond the maximum permissible limits specified in a technical regulation.

2. The certificate of conformity with TCVN shall be issued by the certification organization according to the Form No. 02 in the Appendix hereof and remain valid for 02 years.

3. The Ministry of Agriculture and Rural Development shall provide guidelines for assessment and supervision after issuing the certificate of conformity with TCVN.

Article 9. Certifying products conformable with international, regional and foreign standards for organic agriculture

1. In the case of production for export: products shall be certified by a certification organization that is recognized in writing by the organization or country that publishes the international, regional or foreign standard.

2. In the case of production for domestic sale: products shall be certified by the certification organization that is recognized as prescribed in Clause 1 of this Article and obtains the certificate of certification registration as prescribed in Article 7 of this Decree.

3. A recognized foreign or Vietnamese certification organization shall:

a) submit electronic annual or ad hoc reports on certification of conformity with international/ regional/foreign standards (then submit originals or certified copies of such reports) that are made using the Form No. 7 in the Decree No. 107/2016/ND-CP to the specialized authority assigned by the Ministry of Agriculture and Rural Development;

b) be subject to inspection by the specialized authority assigned by the Ministry of Agriculture and Rural Development and face penalties if violations against law are suspected.

4. The certification organization that has been recognized and obtained the certificate of certification registration shall assume the responsibilities prescribed in the Decree No. 107/2016/ ND-CP.

5. The Ministry of Agriculture and Rural Development shall manage and provide guidelines for implementation of the regulations specified in this Article.

Article 10. Inspection of certification organizations

1. The Ministry of Agriculture and Rural Development shall inspect operations of the certification organizations that have been issued with the certificate of certification registration and take actions against violations in accordance with applicable regulations.

2. The Ministry of Agriculture and Rural Development shall inspect operations of the certification organizations that have been recognized to certify products conformable with international, regional and foreign standards if violations are suspected and take actions against violations in accordance with applicable regulations.

Chapter IV

PUBLISHING OF APPLIED STANDARDS, LABELING, LOGO AND TRACEABILITY OF ORGANIC PRODUCTS

Article 11. Publishing of applied standards and labeling of organic products

1. Publishing of applied standards:

a) Publish name and code of applied standards for organic agriculture and other requirements prescribed by law;

b) Regarding organic cosmetics, in addition to publishing the name and code as prescribed in Point a of this Clause, publish such organic cosmetics in accordance with regulations of the Ministry of Health.

2. The labeling shall comply with regulations of the Decree No. 43/2017/ND-CP on goods labels, regulations on labeling of food, herbal ingredients, cosmetics, animal feeds and aquatic feeds, and the following regulations:

a) The terms "100% hữu cơ" ("100% organic"), "hữu cơ" ("organic") or "sản xuất từ thành phần hữu cơ" ("made with organic ingredients") and the ingredients written on organic product labels shall comply with organic agriculture standards;

b) Organic products made in Vietnam shall clearly specify the certificate number, date of issue, full name or abbreviated name and code number of the certification organization;

c) Imported organic products whose label fails to comply with all regulations of this Decree shall carry a supplementary label as prescribed.

3. It is recommended to use codes/barcodes, attach "Nhãn xanh Việt Nam" ("Vietnam Green Label") and ecolabels to organic product labels as prescribed by law.

Article 12. Logo for Vietnamese organic products

1. "100% organic" and "organic" products that contain at least 95% of organic ingredients and are certified conformable with TCVN shall carry Vietnamese organic logo. Logo of a facility shall be used concurrently with the Vietnamese organic logo.

2. After its products are certified organic, the facility may print logo design in accordance with regulations of the Ministry of Agriculture and Rural Development and attach it to the container, and shall be responsible for use of logo as prescribed by law.

3. The Ministry of Agriculture and Rural Development shall decide on design logo and manage the use of logo as prescribed by law.

Article 13. Traceability, recall and disposal of unqualified organic products

1. Each facility shall keep records of products and establish a system for tracing origin of products at each stage of production and sale according to TCVN.

2. The facility shall trace origin of organic products in the following cases:

a) Its organic products have to be traced as requested by a competent authority;

b) The facility finds that its organic products are not conformable with organic agriculture standards or corresponding technical regulations; labels and logo are not compliant with regulations; products are expired or damaged (hereinafter referred to as "unqualified products").

3. An organic product shall be recalled in the following cases:

a) Its label and logo are not compliant with regulations;

b) It is still marketed after its shelf life.

c) It is not conformable with organic agriculture standards or corresponding technical regulations;

d) It is damaged during the storage, transport or trading;

dd) It contains prohibited substances or contaminants beyond the maximum permissible limits;

e) The imported product that is reported by a competent authority of the exporting country or another country or an international organization to contain contaminants that are harmful to human health and life.

4. Methods for disposing recalled organic products:

a) Correct label or logo error (due to printing error). In case the label or logo is yet to be compliant with regulations and other violations are found, the shipment of recalled products shall be disposed as prescribed in Points b, c and d of this Clause;

b) Repurpose the shipment of products that are expired or not conformable with initial purposes or organic agriculture standards but do not threaten health and environment;

c) Destroy the shipment of products that are damaged, of unknown origin or contain prohibited substances or contaminants beyond the maximum permissible limits that threaten health and environment;

d) Re-export the shipment of exported organic products that are not conformable with organic standards or technical regulations of Vietnam or expired.

5. Responsibility of the facility when organic products are found unqualified

a) Identify and notify shipments of unqualified products;

b) Request product trading agents to cease the distribution and marketing, report number of shipments of unqualified products, products left in stock and being marketed;

c) Submit a consolidated report on recall plans and disposal methods to the competent authority;

d) Recall products and dispose of recalled products within the time limit prescribed by the competent authority.

6. Responsibility of the competent authority:

a) Inspect and supervise the traceability by the facility;

b) Decide on the recall, disposal methods and time limit for completion;

c) Inspect the recall of products and disposal of recalled products;

d) Take actions against violations of regulations on food quality and safety as prescribed.

7. The Ministry of Agriculture and Rural Development, Ministry of Health and Ministry of Industry and Trade shall provide for recall and disposal of unqualified organic products under their management.

Chapter V

INSPECTION AND TESTING OF ORGANIC PRODUCT QUALITY

Article 14. Inspection of organic product quality

1. Procedures for inspecting and taking actions against violations of regulations on organic product quality in accordance with regulations of law on product quality and food safety.

2. The Ministry of Agriculture and Rural Development, Ministry of Health and Ministry of Industry and Trade shall provide for inspecting authorities and application of methods for inspecting quality of organic products under their management.

Article 15. Testing of organic product sample

1. Sample collectors and sampling process are subject to applicable regulations on each product and field.

2. Chemicals, additives or preservatives contained in “100% organic” products but not included in the list in organic agriculture standards shall be determined by:

a) running a quick test on specific substance as prescribed;

b) carrying out laboratory analysis in the testing laboratory that has registered testing operation and has been recognized or appointed as prescribed by law. If the sample is tested positive for the substance that is not on the prescribed list, it will be considered a violation.

3. Maximum permissible limits of harmful organisms and heavy metals contained in organic products shall be determined in accordance with national technical regulations on safe products.

4. The Ministry of Agriculture and Rural Development, Ministry of Health and Ministry of Industry and Trade shall elaborate Clauses 1 and 2 of this Article regarding the products under their management.

Chapter VI

POLICIES ON ENCOURAGEMENT OF ORGANIC AGRICULTURE DEVELOPMENT

Article 16. Prioritizing application of policies tailored for organic agriculture development

1. Priority shall be given to funding for science and agricultural extension to execute agricultural extension research or projects, especially on insect resistant varieties, organic fertilizers, biological pesticides and veterinary herbal drugs.

2. Producers and traders of organic products or inputs for organic production are prioritized to be eligible for the applicable investment encouragement policies tailored for agriculture and rural areas:

a) Policies on assistance for small and medium enterprises; policies on encouragement of investment in agriculture and rural areas;

b) Policies on assistance for agricultural cooperatives; policies on cooperation in production and sale of farm produce, and building large scale fields; policies on vocational training for rural laborers;

c) Credit policies for agriculture and rural development; policies for granting loans to encourage investment in hi-tech and clean agriculture development;

d) Policies on varieties, capital, and technology in cultivation and harvest of herbal ingredients;

dd) Policies on assistance for trade promotion and trademark development;

e) Policies on assistance for "Vietnam Green Label" attachment, for environmentally friendly facility;

g) Other relevant policies;

h) At the same time and for the same purpose, the facility shall only select one of the policies prescribed in Points a, b, c, d, dd, e and g of this Clause.

3. Contents of assistance policies, assistance, conditions for provision of assistance, funding sources and mechanism for provision of assistance from state budget shall comply with applicable documents concerning the assistance policies in Clauses 1 and 2 of this Article.

Article 17. Some special policies on assistance for small enterprises, cooperatives, farms, households and groups of households producing organic products

1. Contents eligible for assistance, and assistance:

a) Provide assistance to cover 100% of expenses for determining areas eligible for organic production: baseline survey, topographical survey, and soil, water and air sample analysis approved by the competent authority;

b) Provide lump sum assistance to cover 100% of expenses for applying for issuance of the certificate of conformity with TCVN (applicable to first or reissued certificate);

c) Regarding provision of assistance in training in organic production, provide assistance in accordance with the Government's regulations on agricultural extension;

d) Regarding provision of assistance in building and multiplying organic production models according TCVN, provide assistance to cover expenses for purchasing insect resistant varieties, organic fertilizers and biological pesticides, regarding cultivation models; expenses for purchasing breeds, organic feeds and permitted veterinary drugs, regarding husbandry and aquaculture models and expenses for multiplying models in accordance with the Government's regulations on agricultural extension.

2. Funding sources:

a) Assistance covered by state budget in accordance with applicable regulations;

b) Funding from other programs and projects that are being executed;

c) Donations from domestic and foreign organizations and individuals;

d) Other legal capital raised as prescribed by law.

3. Principle of providing assistance

a) The central government budget shall provide assistance for projects the expenditures on which are to be covered by the central government and approved by the central government authority. The assistance shall be provided in accordance with this Decree and applicable regulations on the basis of balancing financial resources and development policies in each period. The disadvantaged areas that are yet to balance budget within the central government budget's balancing capability shall be eligible for partial assistance by the central government budget;

b) The local government budget shall provide assistance for projects the expenditures on which are to be covered by the local government and approved by the People's Committee of the province or authorized specialized authority and for local small enterprises, cooperatives, farms, households and groups of households producing organic products as prescribed in Point b Clause 1 of this Article. Where necessary, the People's Committee of the province shall, according to current situation and local government's financial resource balancing capability, request the People's Council to consider deciding to promulgate additional assistance policies in addition to the policies specified in this Decree;

c) Regarding the projects funded by grant aid, the assistance provided by a donator under the donation agreement or assistance agreed upon by the representative of the donator, Ministry of Finance and governing body shall be provided. If the donator's representative and the Ministry of

Finance have yet to agree upon the assistance, the assistance specified in this Decree shall be provided.

4. Conditions and procedures for providing assistance:

a) Regarding the contents eligible for assistance specified in Points a, c and d Clause 1 of this Article:

The contents eligible for assistance must be included in the project approved by the competent authority;

A commitment to provision of reciprocal capital (in addition to the assistance by the budget and the state) for completion of the items included in the approved project shall be made.

The facility is eligible for assistance in investment according to the progress of the project.

Procedures for proposing, appraising and approving a project shall comply with the Law on Public Investment, Law on State Budget and their instructional documents; relevant regulations of law on management and use of funding for agricultural extension, funding for performance of science and technology tasks, funding from other programs and other funding.

a) Regarding the contents eligible for assistance specified in Point b Clause 1 of this Article:

Small enterprises, cooperatives, farms, households and groups of households producing organic products shall submit a written request for assistance in applying for issuance of the certificate of conformity with TCVN, enclosed with satisfactory result of internal self-assessment of conformity with TCVN and copy of the first certificate of conformity with TCVN (in the case of applying for reissuance) to an authorized specialized authority (the Department of Agriculture and Rural Development or Department of Health or Department of Industry and Trade).

The specialized authority shall, according to the written request and self-assessment result, select a certification organization in accordance with regulations of the law on bidding and provide certification funding for the certification organization that wins the bid.

5. Farmers, organizations and individuals are encouraged to participate in Participatory Guarantee System (PGS, which is a system based on the active participation of farmers, sellers, consumers and other entities). Organizations and individuals participating in PGS are eligible for the policies specified in Points b and c Clause 1 of this Article.

Chapter VII

IMPLEMENTATION ORGANIZATION

Article 18. Responsibility for state management of organic agriculture

1. The Ministry of Agriculture and Rural Development that perform state management of organic agriculture shall:

a) Manage operations of certification organizations and recognized certification organizations; update and notify approved international, regional and foreign standards;

b) Perform state management of production and sale of organic products, organic animal and aquatic feeds and other organic products under its management;

c) Promote international cooperation; provide training and disseminate information; inspect and take actions against violations within its jurisdiction;

d) Annually, aggregate the assistance provided for projects under its management and demand for assistance for disadvantaged areas with the annual estimate of the Ministry of Agriculture and Rural Development, and submit it to the Ministry of Finance, which will submit it to a competent authority for approval as prescribed by the Law on State Budget.

2. The Ministry of Health shall perform state management of production and sale of organic herbal ingredients, organic cosmetics and organic foods under its management.

3. The Ministry of Industry and Trade shall perform state management of production and sale of organic foods and organic products under its management; perform market management of organic products.

4. The Ministry of Science and Technology shall take charge and cooperate with the Ministry of Agriculture and Rural Development, Ministry of Health and Ministry of Industry and Trade in formulating, amending and publishing national standards for organic agriculture as prescribed.

5. Ministries and ministerial agencies shall, within its jurisdiction, take charge and cooperate with ministries in performing state management of organic products under their management.

6. People's Committees of provinces and central-affiliated cities shall:

a) Promulgate encouragement policies; approve local organic production planning, plans and projects;

b) Provide funding for implementation of organic agriculture development policies in accordance with regulations of this Decree within their area;

c) Organize the inspection; inspect and take actions against violations within their area.

7. Associations and professional associations shall carry out dissemination and raise public awareness; participate in providing training and supervising their members producing and trading organic products as prescribed by law.

Article 19. Effect

This Decree comes into force from October 15, 2018.

Article 20. Implementation organization

1. Within 06 months after the effective date of this Decree, every organized certification organization that is operating in Vietnam shall send an electronic notification (then send physical notification or certified copy of the notification), which specifies its name, address, telephone, fax, email and website; name and code number of international, regional or foreign standard recognized and certified in Vietnam; result of certification by the reporting date to the specialized authority assigned by the Ministry of Agriculture and Rural Development.

2. Ministers, heads of ministerial agencies, heads of Governmental agencies, Presidents of People's Committees of provinces and central-affiliated cities and relevant organizations and individuals are responsible for the implementation of this Decree./.

ON BEHALF OF THE GOVERNMENT
THE PRIME MINISTER

Nguyen Xuan Phuc

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