

THE GOVERNMENT

DECREE No. 26/2003/ND-CP OF MARCH 19, 2003 ON SANCTIONING ADMINISTRATIVE VIOLATIONS IN THE DOMAIN OF PLANT PROTECTION AND QUARANTINE

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;*

*Pursuant to the July 2, 2002 Ordinance on the
Handling of Administrative Violations;*

*At the proposal of the Minister of Agriculture and
Rural Development,*

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1.- Scope of regulation

Administrative sanctions shall apply to individuals and organizations committing intentionally or unintentionally acts of violating the law provisions on the State management in the domain of plant protection and quarantine, which, however, do not constitute crimes, including:

1. Violations of regulations on the prevention and elimination of organisms that are harmful to plant resources.
2. Violations of regulations on plant quarantine.

3. Violations of regulations on the management of plant protection drugs.

Article 2.- Objects of application

1. Those who are between full 14 years and under 16 years of age shall be administratively sanctioned for intentional administrative violations; those who are full 16 years of age or older shall be administratively sanctioned for all administrative violations committed by themselves in the domain of plant protection and quarantine prescribed in the legislation on sanctioning administrative violations and the provisions in Chapter II of this Decree.

2. Organizations shall be administratively sanctioned for all administrative violations committed by themselves in the domain of plant protection and quarantine. After abiding by the sanctioning decisions, the sanctioned organizations shall identify individuals at fault so as to determine their legal liability in accordance with law provisions.

3. Foreign individuals and organizations that commit administrative violations in the domain of plant protection and quarantine within the territory, exclusive economic zone and continental shelf of the Socialist Republic of Vietnam shall be administratively sanctioned under the provisions of this Decree, unless otherwise provided for by the international agreements which Vietnam has signed or acceded to.

Article 3.- Principles for sanctioning administrative violations

1. The sanctioning of administrative violations in the domain of plant protection and quarantine must be effected by persons competent to sanction as specified in the Ordinance on the Handling of Administrative Violations and in Articles 19 and 20 of this Decree.

2. All acts of administrative violation in the domain of plant protection and quarantine must be detected in time and stopped immediately. The sanctioning must be effected quickly, fairly and thoroughly; all

consequences entailed by administrative violations must be remedied in accordance with law provisions.

3. An act of administrative violation shall be sanctioned only once; an individual committing many acts of administrative violation shall be sanctioned for each violation act. If many individuals commit one act of administrative violation, each of the violators shall be sanctioned.

4. The sanctioning of administrative violations must be based on the nature and seriousness of the violations, personal identification of the violators, aggravating and extenuating circumstances so as to decide on the sanctioning form and level as well as handling measures in accordance with the provisions of this Decree.

Cautions shall apply to minor, first-time violations or violations involving extenuating circumstances or to all administrative violations committed by minors aged between full 14 and under 16 years.

5. No administrative sanction shall be imposed in cases of emergency, legitimate self-defense or sudden events or if the violators are suffering from mental illnesses or other diseases which render them incapable of being aware of or controlling their acts.

Article 4.- Extenuating circumstances

1. Administrative violators have stopped, mitigated the harms of their violations or voluntarily overcome consequences and pay compensation for the damage.

2. Administrative violators have voluntarily confessed and shown honest repentance.

3. Committing violations in the state of being mentally provoked by illegal acts of others.

4. Committing violations due to coercion or material or spiritual dependence.

5. Violators are pregnant women, old and weak persons, persons who suffer from diseases or disabilities which limit their capability to be aware of

or control their acts.

6. Committing violations due to exceptionally difficult plights not caused by the violators.

7. Committing violations due to ignorance.

Article 5.- Aggravating circumstances

1. Committing violations in an organized manner.

2. Committing repeated violations or recidivism in the same fields.

3. Inciting and dragging minors to commit violations, forcing materially or spiritually dependent persons to commit violations.

4. Committing violations in the state of drunkenness as a result of using alcohol, beer or other stimulants.

5. Abusing ones' posts and powers to commit violations.

6. Taking advantage of war, natural calamity conditions or other exceptional difficulties of the society to commit violations.

7. Committing violations while serving criminal sentences or abiding by decisions on sanctioning administrative violations.

8. Continuing acts of administrative violation though competent persons have ordered the stoppage of such acts.

9. Hiding or concealing administrative violations after committing them.

Article 6.- Statute of limitations for sanctioning and time limit for being considered as not having been sanctioned for administrative violations

The statute of limitations for sanctioning in the domain of plant protection and quarantine is one year as from the date the administrative violations are committed.

The statute of limitations for sanctioning administrative violations in export, import or for administrative violations being acts of producing or trading in banned or fake plant protection drugs is two years as from the date the administrative violations are committed.

The time limit for being considered as not having been administratively sanctioned is one year as from the date the administratively sanctioned individuals or organizations completely serve the sanctioning decisions or the administratively sanctioned individuals or organizations shall be considered as not having been administratively sanctioned if they do not relapse into violations after the statute of limitations for executing the sanctioning decisions expires.

Article 7.- Sanctioning forms and remedial measures

When sanctioning administrative violations under this Decree, the persons with the sanctioning competence shall apply only the principal sanctioning forms, additional measures and remedial measures concretely as follows:

1. For each administrative violation, the violating individuals or organizations shall be subject to one of the following principal sanctioning forms:

a/ Caution;

b/ Fine.

The maximum amount of fine in the domain of plant protection and quarantine is VND 30,000,000.

2. The organizations or individuals that commit administrative violations shall, depending on the nature and seriousness of their violations, also be subject to one or several of the following additional sanctioning forms:

a/ Stripping of the right to use assorted permits for assay of new plant protection drugs, certificates of practicing production, processing, rebottling,

packaging and/or trading in plant protection drugs, or certificates of practicing steam disinfection;

b/ Confiscation of the material evidences and means used for committing administrative violations in the domain of plant protection and quarantine.

3. Apart from the sanctioning forms specified in Clauses 1 and 2 of this Article, organizations and individuals committing administrative violations may be also compelled to apply one or several of the following remedial measures:

a/ Forcible restoration of the original state which has been altered by the administrative violations;

b/ Forcible application of measures to overcome the environmental pollution or epidemic spread caused by administrative violations;

c/ Forcible destruction of the plant quarantine-labile articles, which have been infected with Vietnam's plant quarantine objects or strange harmful organisms which cannot be isolated and eliminated in Vietnam;

d/ Forcible bringing out of the Vietnamese territory or forcible re-export of the plant quarantine-labile articles and/or means, which have been infected with Vietnam's plant quarantine objects or strange harmful organisms which cannot be isolated and eliminated in Vietnam;

e/ Forcible destruction of drugs, raw materials thereof and plant protection drug packages banned from use, not on the list of those permitted for use or for restricted use in Vietnam; plant protection drugs which are faked, of unclear origin or useless due to expired use duration;

f/ Forcible bringing out of the Vietnamese territory or forcible re-export of plant protection drugs and raw materials thereof, which are banned from use, not on the lists of those permitted for use and restricted use in Vietnam; plant protection drugs which are fake, of unclear origin or useless due to expired use duration, and raw materials of plant protection drugs with active ingredient contents lower than the prescribed levels;

g/ Forcible re-processing of drugs and raw materials thereof of real quality inferior to that prescribed by the State.

Organizations and individuals committing administrative violations and thereby compelled to apply the remedial measures shall have to bear all expenses incurred therefrom.

Chapter II

SANCTIONING FORMS AND LEVELS FOR ACTS OF ADMINISTRATIVE VIOLATION IN THE DOMAIN OF PLANT PROTECTION AND QUARANTINE

Section A. SANCTIONING FORMS AND LEVELS REGARDING PLANT PROTECTION

Article 8.- Sanctioning forms and levels applicable to acts of violating the regulations on prevention and elimination of organisms harmful to plant resources

1. A caution or a fine of between VND 100,000 and 300,000 for one of the following acts of violation:

a/ Applying measures to prevent and eliminate organisms harmful to plant resources at variance with regulations;

b/ Persons who are directly providing plant protection services have no professional qualifications in plant protection as prescribed by law;

c/ Failing to apply the prescribed measures to prevent and eliminate organisms harmful to plant resources as directed and ordered by competent State agencies.

2. A fine of between VND 300,000 and 700,000 for the following act:

Bringing out of epidemic-hit areas plant resources infected with dangerously harmful organisms which have been announced as pests but not yet treated.

3. A fine of between VND 700,000 and 1,500,000

on the following act:

Transporting, trading in or using plant varieties seriously infected with pests or dangerous harmful organisms which have been announced by competent State bodies in charge of plant protection and quarantine as pests in various regions in the country.

4. A fine of between VND 1,500,000 and 5,000,000 for one of the following acts of violation:

a/ Producing and storing plant varieties seriously infected with pests;

b/ Multiplying and raising organisms dangerously harmful to plants.

5. Remedial measures:

a/ Forcible destruction of plant resources, dangerously harmful organisms or plant varieties, for acts of violation specified in Clauses 2 and 3, and at Point a, Clause 4 of this Article.

b/ Forcible remedy of consequences entailed by the acts of violation specified at Points a and c, Clause 1 of this Article.

Section B. SANCTIONING FORMS AND LEVELS REGARDING PLANT QUARANTINE:

Article 9.- Sanctioning forms and levels for acts of violating regulations on quarantine of exported, imported and transited plants

1. A fine of between VND 500,000 and 1,500,000 for one of the following acts of violation:

a/ Failing to complete the prescribed procedures for plant quarantine declaration before importing, exporting or transporting in transit plant resources;

b/ Bringing into the Vietnamese territory plant quarantine-liable articles without plant quarantine certificates issued by the exporting countries (except countries having no plant quarantine agencies) or not yet quarantined at the border gates.

2. A fine of between VND 1,500,000 and 3,000,000 for one of the following acts of violations:

a/ Failing to inspect and quarantine plant resources;

b/ Transporting in transit plant resources without permission of competent plant quarantine agencies as prescribed by Vietnamese laws;

c/ Transporting in transit plant resources without plant quarantine certificates issued by plant quarantine agencies of the places of origin (except countries having no plant quarantine agencies).

3. A fine of between VND 3,000,000 and 6,000,000 for one of the following acts of violations:

a/ Making false declaration, concealing or fraudulently exchanging plant quarantine-liable articles while the plant quarantine agencies are quarantining exported or imported goods lots;

b/ Putting additionally goods or substituting goods already granted the plant quarantine certificates with unquarantined ones.

4. A fine of between VND 6,000,000 and 10,000,000 for one of the following acts of violation:

a/ Bringing into the Vietnamese territory live objects of plant quarantine or live harmful organisms without permission of the Minister of Agriculture and Rural Development.

b/ Bringing into Vietnam soil infected with harmful organisms.

5. Additional sanctioning forms and remedial measures:

a/ Confiscation of plant quarantine certificates, for acts of violation specified in Clause 3 of this Article.

b/ Forcible bringing out of the Vietnamese territory or forcible re-export of plant quarantine-liable articles, for acts of violation specified at Points b, c, Clause 2 and Clause 4 of this Article;

c/ Forcible destruction of plant quarantine objects or strange harmful organisms, for acts of violation specified at Point a, Clause 4 of this Article.

Article 10.- Sanctioning forms and levels applicable to acts of violating the regulations on domestic plant quarantine

1. A caution or a fine of between VND 100,000 and 300,000 for the following act of violation:

Having no plant quarantine certificates issued by competent plant protection and quarantine State agencies of the departure places when bringing plant resources subject to plant quarantine out of epidemic-hit areas.

2. A fine of between VND 300,000 and 1,000,000 for the following act of violation:

Transporting, loading and unloading plant resources infected with plant quarantine objects at variance with regulations.

3. A fine of between VND 1,000,000 and 2,500,000 for one of the following acts of violation:

a/ Bringing plant quarantine objects to areas within the Vietnamese territory;

b/ Failing to observe the regulations on treatment of articles infected with Vietnam's plant quarantine objects or strange harmful organisms;

c/ Transporting and circulating plant resources which have been concluded to be infected with plant quarantine objects or strange harmful organisms but failing to strictly observe the regulations of competent plant quarantine agencies;

d/ Failing to abide by measures to zone off, block and eliminate niduses of harmful organisms subject to plant quarantine on orders of competent plant protection and quarantine State agencies.

4. A fine of between VND 2,500,000 and 5,000,000 for the following act of violation:

Failing to abide by the measures to treat plant

quarantine-liable articles prescribed by plant quarantine agencies when exporting or importing them.

5. A fine of VND 15,000,000 for one of the following acts of violation:

a/ Failing to thoroughly treat T.G termites in storehouses, which plant quarantine agencies have detected and prescribed measures to kill them;

b/ Failing to thoroughly treat plant quarantine objects which plant quarantine agencies have announced, detected and prescribed measures to kill them in the process of production, processing, preservation and transportation

6. A fine of VND 30,000,000 for the following act of violation:

Transporting plant quarantine-liable articles which have been infected with T.G termites and not yet thoroughly treated though plant quarantine agencies have detected and prescribed measures to kill them.

7. Remedial measures:

a/ Forcible application of measures to overcome environmental pollution and spread of plant quarantine objects, for acts of violation specified in Clause 2, at Points a and c, Clause 3 of this Article;

b/ Forcible destruction of articles seriously infected with TG termites, other plant quarantine objects already announced in each particular place and at each particular time (if thorough treatment is impossible), for acts of violation specified in Clauses 5 and 6 of this Article.

Article 11.- Sanctioning forms and levels applicable to acts of violating regulations on plant quarantine of imported plant varieties and useful organisms

1. A caution or a fine of between VND 200,000 and 500,000 for one of the following acts of violation:

a/ Growing imported plant varieties not at places

prescribed by plant quarantine agencies;

b/ Failing to declare to competent plant protection and quarantine State agencies in the localities where imported plant varieties are grown or used

2. A fine of between VND 1,000,000 and 3,000,000 for one of the following acts of violation:

a/ Growing or producing new plant varieties which are imported for the first time pending the conclusions of plant quarantine agencies on their infection conditions;

b/ Failing to observe the regulations of the Ministry of Agriculture and Rural Development on the import, multiplication for raising and use of useful organisms;

c/ Failing to observe the regulations of the Ministry of Agriculture and Rural Development on the period for monitoring harmful organisms for each group of imported plants.

3. A fine of between VND 3,000,000 and 5,000,000 for the following act of violation:

Importing and transiting plant varieties infected with strange harmful organisms or plant quarantine objects on Vietnam's list of plant quarantine objects.

4. Additional sanctioning forms and remedial measures:

a/ Forcible destruction of plant varieties, for acts of violation specified in Clause 3 of this Article;

b/ Confiscation of imported plant varieties, for acts of violation specified at Point a, Clause 2 of this Article;

c/ Forcible bringing out of the Vietnamese territory or forcible re-export of imported plant varieties, for acts of violation specified in Clause 3 of this Article.

Article 12.- Sanctioning forms and levels applicable to acts of violating regulation on steam disinfection

1. A fine of between VND 2,000,000 and 5,000,000

for one of the following acts of violation:

a/ *Failing to get a steam disinfection practice certificate;*

b/ *The contingent of officials and technical workers fails to meet the steam disinfection requirements as prescribed;*

c/ *Failing to have technical processes, lacking means and equipment for practicing steam disinfection as prescribed;*

d/ *Storehouses of disinfecting chemicals are not up to standards prescribed by competent agencies.*

2. A fine of between VND 5,000,000 and 10,000,000 for one of the following acts of violation:

a/ *Using steam disinfectants with their trade names not yet on the list of plant protection drugs permitted for use or restricted use in Vietnam;*

b/ *Using steam disinfectants of inferior quality, without labels as prescribed, or of unclear origin;*

c/ *Conducting steam disinfection at variance with prescribed technical processes.*

3. A fine of between VND 10,000,000 and 20,000,000 for one of the following acts of violation:

a/ *Using steam disinfectants on the list of plant protection drugs banned from use in Vietnam.*

b/ *Using steam disinfectants at variance with regulations, adversely affecting the quality of steam-disinfected articles or polluting the environment, adversely affecting the health of people and domestic animals.*

4. Additional sanctioning forms and remedial measures:

a/ *Stripping of the right to use steam disinfection practice certificates, for acts of violation specified in Clause 3 of this Article, which involve aggravating circumstances;*

b/ *Forcible application of measures to overcome environmental pollution, for acts of violation specified*

in Clause 3 of this Article;

c/ *Suspension of steam disinfection activities, for acts of violation of Clauses 1 and 2 of this Article.*

Section C. SANCTIONING FORMS AND LEVELS APPLICABLE TO THE MANAGEMENT OF PLANT PROTECTION DRUGS

Article 13.- Sanctioning forms and levels applicable to acts of violating the regulations on the production, processing, re-bottling and packaging of plant protection drugs:

1. A fine of VND 1,000,000 and 2,500,000 for one of the following acts of violation:

a/ *Persons directly administering the production, processing, re-bottling and packaging of drugs have no practicing certificates or have expired practicing certificates;*

b/ *Producing, processing, re-bottling or packaging drugs without equipment and facilities to ensure hygiene, labor safety and health safety for people, domestic animals and environment and to prevent and fight fires and explosions or with such equipment and facilities but they fail to ensure prescribed requirements.*

2. A fine of between VND 2,500,000 and 6,000,000 for one of the following acts of violation:

a/ *Producing, processing, re-bottling and packaging drugs not according to prescribed technological processes;*

b/ *Producing, processing, re-bottling and packaging drugs without waste-treating systems or with such systems but they fail to ensure the regulations of competent environmental agencies.*

3. A fine of between VND 6,000,000 and 15,000,000 for one of the following acts of violation:

a/ *Producing, processing, re-bottling and packaging drugs not on the list of plant protection*

drugs permitted for use or restricted use in Vietnam;

b/ Producing, processing, re-bottling and packaging drugs not up to qualitative and quantitative standards;

c/ Producing, processing, re-bottling and packaging drugs not up to technical standards as registered and inscribed on packages;

d/ Producing, processing, re-bottling and packaging drugs composed of raw materials not of registered origin;

e/ Producing, processing, re-bottling and packaging drugs in glass ampoules.

4. A fine of VND 30,000,000 for one of the following acts of violation:

a/ Producing, processing, re-bottling and packaging drugs on the list of plant protection drugs banned from use in Vietnam, with a quantity of under 100 kg (or liters) of finished drugs;

b/ Producing, processing, re-bottling and packaging fake drugs with a quantity equivalent to that of genuine drugs valued at up to under VND 30 million.

5. Additional sanctioning forms and remedial measures:

a/ Stripping of the right to use practicing certificates, for acts of violation specified in Clause 4 of this Article;

b/ Confiscation of drugs and raw materials thereof, for acts of violation specified at Points a, d and e, Clause 3 of this Article;

c/ Confiscation of drugs, raw materials thereof and production means, for acts of violation specified in Clause 4 of this Article;

d/ Forcible destruction of drugs and raw materials thereof, for acts of violation specified in Clause 4 of this Article;

e/ Forcible re-processing of drugs, for acts of

violation specified at Points b and c, Clause 3 of this Article.

Article 14.- Sanctioning forms and levels applicable to acts of violating the regulations on trading in plant protection drugs and raw materials thereof:

1. A caution or a fine of between VND 200,000 and 500,000 for one of the following acts of violation:

a/ Trading in drugs without practicing certificates or with expired ones;

b/ Trading in drugs without drug stores and storehouses or with such shops and storehouses but they fail to ensure prescribed requirements;

c/ Trading in drugs and raw materials thereof together with animal feeds, food and foodstuff, drinks, medicines, veterinary drugs and other consumer goods and supplies, except fertilizers;

d/ Trading in drugs in glass ampoules;

e/ Trading in drugs not on the lists of plant protection drugs permitted for use and restricted use in Vietnam, plant protection drugs which have expired use duration, fail to meet quality standards, or are of unclear origin, of a quantity of under 5 kg (or liters) of finished drugs;

f/ Trading in drugs banned from use in Vietnam, of a quantity of under 1 kg (or liter) of finished drugs.

2. A fine of between VND 500,000 and 1,000,000 for one of the following acts of violation:

a/ Trading in drugs and raw materials thereof not on the lists of plant protection drugs permitted for use and restricted use in Vietnam, plant protection drugs which have expired use duration, fail to meet quality standards, or are of unclear origin, of a quantity of between 5 kg (or liters) and under 20 kg (or liters) of finished drugs;

b/ Trading in drugs banned from use in Vietnam, of a quantity of between 1 and under 3 kg (liters) of finished drugs.

3. A fine of between VND 1,000,000 and 3,000,000 for one of the following acts of violation:

a/ Trading in drugs and raw materials thereof not on the lists of plant protection drugs permitted for use or restricted use in Vietnam, plant protection drugs which have expired use duration, fail to meet quality standards, or are of unclear origin, of a quantity of between 20 kg (or liters) and under 100 kg (or liters) of finished drugs;

b/ Trading in drugs banned from use in Vietnam, of a quantity of between 3 kg (or liters) and under 5 kg (liters) of finished drugs;

c/ Trading in drugs divided by the violators themselves from large-quantity boxes into small bottles or packages;

d/ Trading in drugs with quantities less than those inscribed on packages.

4. A fine of between VND 3,000,000 and 6,000,000 for one of the following acts of violation:

a/ Trading in drugs and raw materials thereof not on the lists of plant protection drugs permitted for use or restricted use in Vietnam, plant protection drugs which have expired use duration, fail to meet quality standards, or are of unclear origin, of a quantity of between 100 kg (or liters) and under 300 kg (or liters) of finished drugs;

b/ Trading in drugs banned from use in Vietnam, of a quantity of between 5 kg (or liters) and under 10 kg (liters) of finished drugs.

5. A fine of between VND 6,000,000 and 15,000,000 for one of the following acts of violation:

a/ Trading in drugs and raw materials thereof not on the lists of plant protection drugs permitted for use or restricted use in Vietnam, plant protection drugs which have expired use duration, fail to meet quality standards, or are of unclear origin, of a quantity of between 300 kg (or liters) and under 500 kg (or liters) of finished drugs;

b/ Trading in drugs banned from use in Vietnam, of a quantity of between 10 kg (or liters) and under 50 kg (or liters) of finished drugs;

c/ Trading in drugs with expired use duration, drug failing to meet quality standards, of a quantity of 500 kg (or liters) or over.

6. A fine of between VND 15,000,000 and 30,000,000 for one of the following acts of violation:

a/ Trading in drugs and raw materials thereof not on the lists of plant protection drugs permitted for use or restricted use in Vietnam, drugs of unclear origin, of a quantity of between 500 kg (or liters) and under 1,000 kg (or liters) of finished drugs;

b/ Trading in drugs banned from use in Vietnam, of a quantity of between 50 kg (or liters) and under 100 kg (or liters) of finished drugs;

c/ Trading in fake drugs of a quantity equivalent to that of genuine drugs valued at up to under VND 30 million.

7. Additional sanctioning forms and remedial measures:

a/ Stripping of the right to use practicing certificates, for acts of violation specified in Clauses 4, 5 and 6 of this Article;

b/ Confiscation of drugs, for repeated violation acts specified at Points a, b and c, Clause 1 of this Article;

c/ Confiscation of drugs, raw materials thereof, for acts of violation specified at Points d and e, Clause 1 and Point a, Clause 2, in Clause 3, Clause 4, Clause 5 and Clause 6 of this Article;

d/ Forcible destruction of drugs, for acts of violation specified at Point f of Clause 1, Point b of Clause 2, Point b of Clause 3, Point b of Clause 4, Point b of Clause 5 and Points b and c of Clause 6 of this Article.

Article 15.- Sanctioning forms and levels applicable to acts of violating regulations on transportation, preservation and use of plant

protection drugs

1. A caution or a fine of between VND 100,000 and 200,000 for one of the following acts of violation:

a/ Using, storing or preserving plant protection drugs not on the lists of plant protection drugs permitted for use or restricted use in Vietnam, plant protection drugs with expired use duration;

b/ Failing to ensure technical safety requirements on transportation and preservation of drugs and raw materials thereof, prescribed for transport means and storehouses;

c/ Preserving, transporting drugs and raw materials thereof together with domestic animals, animal feeds, food, foodstuff, drinks, medicines, veterinary drugs and other consumer goods and supplies, except fertilizers;

d/ Transporting drugs on public transport means;

e/ Using drugs contained in glass ampoules.

2. A fine of between VND 200,000 and 500,000 for one of the following acts of violation:

a/ Using plant protection drugs without ensuring technical requirements and isolation periods;

b/ Using plant protection drugs banned from use in Vietnam, drugs of unclear origin;

c/ Using plant protection drugs permitted for restricted use on wrong objects of prevention and elimination;

d/ Using plant protection drugs not for the purposes of preventing and eliminating organisms harmful to *plant resources*.

3. A fine of between VND 1,000,000 and 3,000,000 for the following act of violation

Using plant protection drugs at variance with technical requirements and prescribed isolation periods, thus causing danger to people, cattle and polluting the environment.

4. A fine of between VND 3,000,000 and 6,000,000 for the following acts of violation:

a/ Transporting drugs and raw materials thereof not on the lists of plant protection drugs permitted for use or restricted use in Vietnam;

b/ Transporting drugs banned from use in Vietnam, of a quantity of up to 100 kg (or liters) of finished drugs.

5. Additional sanctioning forms and remedial measures:

a/ Confiscation of drugs, for acts of violation specified at Point a of Clause 1, Points b and d of Clause 2, and Clause 4 of this Article;

b/ Forcible destruction of drugs, for acts of violation specified at Point b, Clause 4 of this Article;

c/ Forcible application of measures to overcome *the environmental pollution*, for acts of violation specified in Clause 3 of this Article.

Article 16.- Sanctioning forms and levels applicable to acts of violating regulations on import, export and assay of plant protection drugs

1. A fine of between VND 500,000 and 2,000,000 for one of the following acts of violation:

a/ Failing to make registration for State inspection of quality when importing drugs and raw materials thereof;

b/ Failing to make registration on time when being forced to make registration for State inspection of quality *within the prescribed time limit*.

2. A fine of between VND 2,000,000 and 6,000,000 for one of the following acts of violation:

a/ Importing drugs or raw materials thereof not on the list of plant protection drugs permitted for use in Vietnam without import permits of the Ministry of Agriculture and Rural Development;

b/ Importing drugs or raw materials thereof with expired use duration, drugs of unclear origin, drugs

contained in glass ampoules;

c/ Importing drugs on the list of plant protection drugs permitted for restricted use in Vietnam at variance with the permits' contents;

d/ Importing drugs and raw materials thereof of actual quality lower than the State-prescribed quality.

e/ Drugs and raw materials thereof are not in their original conditions when samples are taken for quality inspection;

f/ Part of whole of imported drugs and raw materials thereof are put into use pending the notification that the State inspection results show that they are of import quality;

g/ Assaying new plant protection drugs at variance with the permits' contents.

3. A fine of between VND 6,000,000 and 15,000,000 for one of the following acts of violation:

a/ Importing drugs and raw materials thereof of inferior quality, violating compulsory regulations on safety, hygiene and environmental protection;

b/ Importing drugs on the list of plant protection drugs permitted for restricted use in Vietnam without permits of the Ministry of Agriculture and Rural Development;

c/ Deliberately shirking the State inspection of the quality of imported or exported drugs and raw materials thereof;

d/ Assaying new plant protection drugs without permits.

4. A fine of VND 30,000,000 for the following act of violation:

Importing drugs or raw materials thereof on the list of plant protection drugs banned from use in Vietnam, of a quantity of up to 100 kg (or liters).

5. Additional sanctioning forms and remedial

measures:

a/ Forcible destruction or re-export of drugs and raw materials thereof, for acts of violation specified at Points a and b of Clause 2, Point a of Clause 3 and Clause 4 of this Article;

b/ Forcible re-processing or re-export of drugs and raw materials thereof, for acts of violation specified at Point d, Clause 2 of this Article;

c/ Stripping of the right to use permits, for acts of violation specified at Point g, Clause 2 of this Article.

Article 17.- Sanctioning forms and levels applicable to acts of violating the regulations on information, advertisement and labels of plant protection drugs

1. A fine of between VND 1,000,000 and 3,000,000 for one of the following acts of violation:

a/ Information on and advertisements for plant protection drugs, with their contents not yet approved by competent State agencies in charge of plant protection and quarantine;

b/ Information on and advertisements for drugs not for the right prevention and elimination objects inscribed in the plant protection drug registration certificates;

c/ Drug labels at variance with the contents of plant protection drug registration certificates.

2. A fine of between VND 3,000,000 and 10,000,000 for one of the following acts of violation:

a/ Information on and advertisements for drugs not on the list of plant protection drugs permitted for use in Vietnam;

b/ Advertisements for drugs on the list of plant protection drugs permitted for restricted use in Vietnam;

c/ Forging labels or names of registered drugs

currently in circulation on the market.

3. A fine of between VND 10,000,000 and 20,000,000 for one of the following acts of violation:

a/ Untrue advertisements, advertisements for the wrong quality of registered drugs;

b/ Advertisements with contents lowering the prestige and quality of drugs of other individuals or organizations.

4. A fine of between VND 20,000,000 and 30,000,000 for the following act of violation:

Advertising plant protection drugs banned from use in Vietnam.

5. Other violations regarding goods labels shall be administratively sanctioned under the provisions of the Government's decrees on administrative sanctions in the domain of trade.

6. Additional sanctioning forms and remedial measures:

Confiscation of drug labels and drugs with forged labels, for acts of violation specified at Point c, Clause 2 of this Article.

Article 13. - Sanctioning forms and levels applicable to acts of violating regulation on administrative management over plant protection, plant quarantine and plant protection drugs:

1. A fine of between VND 1,000,000 and 3,000,000 for one of the following acts of violation:

a/ Correcting or erasing the following papers:

- Permits for import of drugs on the list of plant protection drugs permitted for restricted use in Vietnam; permits for import of drugs not on the list of plant protection drugs permitted for use in Vietnam for assay or for use in foreign-invested projects, for processing and re-export under contracts signed between enterprises and foreign partners;

- Permits for assay of new plant protection drugs;

- Certificates of registration of plant protection drugs in Vietnam;

- Plant quarantine certificates;

- Certificates of inspection of plant protection drug quality or residues;

- Certificates of practicing the production, processing, re-bottling, packaging or trading of plant protection drugs, practicing steam disinfection.

b/ Obstructing and failing to satisfy the requests of plant protection and plant quarantine officers or specialized plant protection and quarantine inspectors on duty.

2. A fine of between VND 3,000,000 and 5,000,000 VND for one of the following acts of violation:

a/ Letting others use one's own permits or practicing certificates;

b/ Threatening to use or using force against plant quarantine and plant protection officers, specialized plant protection and quarantine inspectors on duty, but not seriously enough to be examined for penal liability.

3. A fine of between VND 3,000,000 and 10,000,000 for the following act of violation:

Making false declaration in dossiers so as to apply for the granting of assorted papers specified at Point a, Clause 1 of this Article.

4. A fine of between VND 10,000,000 and 20,000,000 for the following act of violation:

Forging assorted papers specified at Point a, Clause 1 of this Article.

5. Additional sanctioning forms and remedial measures:

Stripping of the right to use permits and/or practicing certificates, for acts of violation specified

at Point a, Clause 2, and Clause 3 of this Article.

Department shall have the right:

Chapter III

COMPETENCE TO SANCTION ADMINISTRATIVE VIOLATIONS IN THE DOMAIN OF PLANT PROTECTION AND QUARANTINE

Article 19.- Competence of specialized plant protection and quarantine inspectors to sanction administrative violations:

1. The plant protection and quarantine inspectors on duty shall have the right:

a/ To issue cautions or impose fines of up to VND 200,000;

b/ To confiscate material evidences and means used for committing administrative violations, which are valued at up to VND 2,000,000 and apply remedial measures specified at Points a, b and d, Clause 3, Article 12 of the Ordinance on the Handling of Administrative Violations.

2. The Chief Inspectors of the Plant Protection Sub-Departments of provinces and centrally-run cities shall have the right:

a/ To issue cautions or impose fines of up to VND 20,000,000;

b/ To strip of the right to use certificates of practicing the production, processing, re-bottling, packaging or trading of plant protection drugs, which are issued by the Plant Protection Sub-Departments of the provinces and centrally-run cities;

c/ To confiscate material evidences and means used for committing administrative violations and apply remedial measures specified at Points a, b and d, Clause 3, Article 12 of the Ordinance on the Handling of Administrative Violations.

3. The Chief Inspectors of the Plant Protection

a/ To issue cautions or impose fines of up to VND 30,000,000 VND;

b/ To strip of the right to use permits for assay of plant protection drugs, certificates of registration of plant protection drugs in Vietnam, certificates of practicing the production, processing, re-bottling, packaging or trading of plant protection drugs, which are issued by the Plant Protection Sub-Departments of provinces and centrally-run cities; and certificates of practicing steam disinfection;

c/ To confiscate material evidences and means used for committing administrative violations and apply remedial measures specified at Points a, b and d, Clause 3, Article 12 of the Ordinance on the Handling of Administrative Violations.

Article 20.- Sanctioning competence of the presidents of the People's Committees of all levels

1. The presidents of the commune-level People's Committees shall have the right to issue cautions or impose fines of up to VND 500,000, to confiscate material evidences and means used for committing administrative violations, which are valued at up to VND 500,000, force the application of measures to overcome environmental pollution or spread of epidemics caused by administrative violations, force the destruction of articles harmful to the health of people, plants and domestic animals.

2. The presidents of the district-level People's Committees shall have the right to issue cautions or imposes fines of up to VND 20,000,000, to confiscate evidences and means used for committing administrative violations and apply remedial measures specified at Points a, b and d, Clauses 3, Article 12 of the Ordinance on the Handling of Administrative Violations.

3. The presidents of the provincial-level People's Committees shall have the right to issue cautions or impose fines for acts of administrative violation specified in this Decree.

Article 21.- Sanctioning competence of other agencies:

Besides the persons specified in Articles 19 and 20 of this Decree, the persons competent to impose sanctions as prescribed in the Ordinance on the Handling of Administrative Violations, when detecting acts of administrative violation specified in this Decree that fall within the domain and scope of their respective management, shall have the right to impose sanctions according to their respective competence.

Article 22.- Principles for determining the competence to sanction administrative violations in the domain of plant protection and quarantine

1. Where an administrative violation comes under the handling competence of many agencies, it shall be handled by the agency which is the first to receive the dossier thereof.

2. The sanctioning competence of the persons specified in Article 19 and 20 is the competence applicable to one act of administrative violation.

In case of fines, the sanctioning competence shall be determined on the basis of the maximum level of the fine bracket prescribed for each specific act of violation.

Where, in addition to fines, remedial measures of forcing the bringing out of the Vietnamese territory or the re-export of plant quarantine-liable articles, plant protection drugs and raw materials thereof, may be applied, the dossiers of the administrative violations must be transferred to the provincial-level People's Committee presidents, the directors of the provincial/municipal Customs Departments or the director of the Anti-Smuggling Investigation Department under the General Department of Customs for handling according to the competence specified in Clause 5 of Article 30, at Point e of Clause 3, Point e of Clause 4, Article 34 of the Ordinance on the Handling of Administrative Violations.

3. In case of sanctioning one person for committing many acts of administrative violation, the sanctioning

competence shall be determined on the following principles:

a/ If the sanctioning forms and levels prescribed for each of such acts all fall under the competence of the sanctioning person, the sanctioning competence still rests with such person;

b/ If the sanctioning forms and levels prescribed for each of such acts are beyond the competence of the sanctioning person, such person must transfer the case of violation to the level competent to sanction;

c/ If such acts fall under the sanctioning competence of many persons of different branches, the sanctioning competence shall rest with the presidents of the People's Committees of the levels competent to sanction, of the places where the violations are committed.

Article 23.- Authorization of the sanctioning of administrative violations

Where the persons competent to handle administrative violations, who are specified in Articles 19 and 20 of this Decree, are absent, their authorized deputies shall have the competence to handle administrative violations and must be responsible for their decisions.

Chapter IV

PROCEDURES FOR SANCTIONING ADMINISTRATIVE VIOLATIONS IN THE DOMAIN OF PLANT PROTECTION AND QUARANTINE

Article 24.- Procedures for sanctioning administrative violations:

1. The procedure and order for sanctioning against administrative violations in the domain of plant protection and quarantine shall comply with the provisions of Articles 53, 54, 55, 56, 57 and 58 of the Ordinance on the Handling of Administrative Violations.

2. Organizations and individuals imposed with fines shall have to pay them at the places specified in the fining decisions and be entitled to get the fine receipts. In remote and isolated areas, on rivers or the sea, in areas where travel is difficult or when beyond the working hours, the sanctioned individuals and organizations may pay fines to the persons with the sanctioning competence, and they shall be entitled to refuse to pay fines if they are not given fine receipts

3. Except for cases of cautions or fines of up to VND 100,000, where the persons competent to sanction administrative violations shall issue on-spot fining decisions (according to simple procedures), acts of administrative violation must be recorded in dossiers made and archived fully at the agencies with the sanctioning competence within the concurrently prescribed time limits.

4. When applying the forms of confiscation of material evidences and means involved in administrative violations, the persons competent to sanction administrative violations shall have to strictly follow the procedures specified in Article 60 of the Ordinance on the Handling of Administrative Violations. The disposal of confiscated material evidences and means involved in administrative violations shall comply with the provisions in Article 61 of the Ordinance on the Handling of Administrative Violations.

5. The application of the sanctioning form of stripping of the right to use permits or practicing certificates must comply with the provisions in Article 59 of the Ordinance on the Handling of Administrative Violations.

6. The regime of management and use of the collected fines for administrative violations shall comply with the regulations of the State.

Article 25.- Implementation and forcible implementation of decisions on sanctioning administrative violations

1. Organizations and individuals that are

sanctioned for administrative violations under this Decree shall have to strictly implement the sanctioning decisions made by the persons with the sanctioning competence within the time limits specified in Article 64 of the Ordinance on the Handling of Administrative Violations.

2. If individuals or organizations sanctioned for administrative violations fail to voluntarily abide by the sanctioning decisions, they shall be forced to implement them with measures specified in Article 66 of the Ordinance on the Handling of Administrative Violation. When applying measures of forcible implementation of decisions to sanction administrative violations, the competent agencies or persons must follow the forcible implementation order and procedures prescribed in Article 67 of the Ordinance on the Handling of Administrative Violations.

Article 26.- Application of measures to prevent administrative violations

1. To prevent in time administrative violations and ensure the handling of administrative violations in the domain of plant protection and quarantine, the competent persons may apply measures to prevent administrative violations in accordance with Article 43 of the Ordinance on the Handling of Administrative Violations.

2. The competence, order and procedures for the application of measures to prevent administrative violations and to ensure the sanctioning of administrative violations in the domain of plant protection and quarantine shall comply with the provisions of Articles 44, 45, 46, 47, 48 and 49 of the Ordinance on the Handling of Administrative Violations.

Chapter V

COMPLAINTS, DENUNCIATIONS AND HANDLING OF VIOLATIONS

Article 27.- Complaints and denunciations

1. Individuals and organizations that are sanctioned for administrative violations or their lawful representatives may complain about decisions to sanction administrative violations, decisions to apply measures to prevent and ensure the handling of administrative violations.

2. Citizens may denounce to competent State agencies illegal acts committed in the handling of administrative violations in the domain of plant protection and quarantine.

3. The procedures, order, statute of limitations for complaints, and time-limits for settling complaints and denunciations shall comply with the law provisions on complaints and denunciations.

Article 28.- Commendation

Individuals and organizations that record achievements in the prevention and combating of administrative violations in the domain of plant protection and quarantine shall be commended and/or rewarded according to the general regime of the State.

It is strictly forbidden to use money collected from administrative violations or from the sale of confiscated material evidences and means for rewarding.

Article 29.- Handling of violations committed by persons competent to sanction administrative violations

If persons competent to sanction administrative violations in the domain of plant protection and quarantine commit acts of harassment for bribes, tolerating or covering up violations, failing to handle, or handling them not in time, improperly or beyond their vested power, illegally possessing or using money, goods, material evidences and means involved in the violations, obstructing the lawful circulation of goods, thus causing damage to organizations or individuals, they shall, depending on the nature and seriousness of their violations, be either disciplined or examined for penal liability; if causing

damage, they shall have to pay compensations therefor in accordance with the law provisions.

Article 30.- Handling of violations committed by persons sanctioned for administrative violations

If persons sanctioned for administrative violations commit acts of opposing people on official duty, delaying or shirking the implementation of sanctioning decisions or other acts, they shall, depending on the nature and seriousness of their violations, be administratively sanctioned or examined for penal liability; if causing damage, they shall have to pay compensations therefor in accordance with the law provisions.

Chapter VI

IMPLEMENTATION PROVISIONS

Article 31.- Implementation effect

This Decree takes effect 15 days after its publication on the Official Gazette.

This Decree replaces the Government's Decree No. 78/CP of November 29, 1996 on sanctioning administrative violations in the domain of plant protection and quarantine.

Article 32.- Guidance and implementation responsibilities

The Minister of Agriculture and Rural Development shall be responsible for guiding the implementation of this Decree.

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 the Government

Prime Minister

PHAN VAN KHAI