

**REGULATION ON RECOGNITION OF NEW
AGRICULTURAL PLANT VARIETIES**

**THE MINISTER OF AGRICULTURE AND
RURAL DEVELOPMENT**

Pursuant to the Government's Decree No. 86/2003/ND-CP of July 18, 2003, defining the functions, tasks, powers and organizational structure of the Ministry of Agriculture and Rural Development;

Pursuant to the National Assembly Standing Committee's Ordinance No. 15/PL-UBTVQH11 of March 24, 2004, on plant varieties;

At the proposal of the director of the Cultivation Department,

DECIDES:

Article 1.- To promulgate together with this Decision the Regulation on recognition of new agricultural plant varieties.

Article 2.- This Decision takes effect 15 days after its publication in "CONG BAO" and replaces the Agriculture and Rural Development Minister's Decision No. 19/2006/QD-BNN of March 21, 2006, providing for the testing, trial production, recognition and naming of new agricultural plant varieties.

Article 3.- The directors of the Office, the Cultivation Department, the Science and Technology Department, and provincial/municipal Agriculture and Rural Development Services, heads of concerned organizations, and concerned individuals shall implement this Decision.

*For the Minister of
Agriculture and Rural Development
Vice Minister
BUI BA BONG*

**DECISION No. 95/2007/QD-BNN OF
NOVEMBER 27, 2007, PROMULGATING THE**

REGULATION ON RECOGNITION OF NEW AGRICULTURAL PLANT VARIETIES

(Promulgated together with the Agriculture and Rural Development Minister's Decision No. 95/2007/QĐ-BNN of November 27, 2007)

Part I

GENERAL PROVISIONS

Article 1 - Scope and subjects of application

1. This Regulation provides for the order of and procedures for the testing, trial production, recognition and naming of new agricultural plant varieties selected and created domestically or imported for inclusion in the list of plant varieties permitted for production and trading.

2. This Regulation applies to organizations and individuals involved in the testing, trial production, recognition and naming of new agricultural plant varieties.

Article 2 - Interpretation of terms

In this Regulation, the terms below are construed as follows:

1. *Testing of new plant varieties* means the process of checking and evaluation to identify the distinctness, uniformity, stability and cultivation value and use value of plant varieties in certain conditions and within a specified period of time.

2. *Official testing* means the testing of new varieties of plants on the list of major plants conducted by institutions under the designation by the Ministry of Agriculture and Rural Development (below referred to as testing establishments for short).

3. *Breeder testing* means the testing of new varieties of plants not on the list of major plants conducted by organizations or individuals domestically selecting and creating or importing varieties, or conducted by testing establishments under contracts with those organizations or

individuals.

4. *DUS (distinctness, uniformity, stability) testing* means the process of evaluating the distinctness, uniformity and stability of new agricultural plant varieties under the DUS regulations for each plant species.

5. *VCU (value of cultivation and use) testing* means the process of assessing the cultivation value and use value of new varieties such as productivity, quality, resistance against pests and unfavorable conditions, and capacity to produce seeds under the VCU testing regulations for each plant species.

6. *Trial production variety* means a new agricultural plant variety which has been tested, fully met set requirements and been recognized for trial production by the Ministry of Agriculture and Rural Development.

7. *Trial production* means the process of producing new plant varieties recognized for trial production on a certain acreage and ecological area in mass production conditions.

8. *Officially recognized variety* means a new agricultural plant variety which has been put into trial production and fully meets requirements specified in Clause 1, Article 10 of this Regulation or an excellent variety which has been tested, fully meets requirements specified in Clause 1, Article 11 of this Regulation, and been recognized by the Ministry of Agriculture and Rural Development.

9. *Grassroots science council* means the council established by an organization having a variety registered for testing; when such organization cannot establish the council itself, it should request a non-business unit to assist it in establishing the council; provincial/municipal Agriculture and Rural Development Services may establish this council for organizations or individuals under their management. The council shall operate to evaluate testing and trial production results and propose the level of recognition of new plant varieties.

Part II

SPECIFIC PROVISIONS

Article 3.- Testing forms

1. Official testing is required for new plant varieties on the list of major plants and is encouraged for other plant varieties.

2. Breeder testing is required for new plant varieties other than those on the list of major plants.

Article 4.- Testing contents

1. DUS testing

a/ New plant varieties on the list of major plants are subject to DUS testing upon official recognition.

b/ New plant varieties other than those on the list of major plants are encouraged to apply DUS testing.

2. VCU testing must be applied for all plant varieties registered for testing, including basic testing and production testing.

a/ Plants subject to testing regulations promulgated by the Ministry of Agriculture and Rural Development must be tested under regulations applicable to their species.

b/ Organizations or individuals registering for testing of plant varieties for which the Ministry of Agriculture and Rural Development has not promulgated testing regulations shall elaborate testing regulations on their own for compliance.

Article 5.- Testing establishments

1. Designated testing establishments must satisfy the following conditions:

a/ Having registered for plant variety testing activities;

b/ Having sites meeting requirements on testing, growth and development of each plant species;

c/ Having special-use equipment meeting testing requirements for each plant species;

d/ Having at least one technician possessing a university degree in cultivation or plant protection

and a certificate of plant variety testing training;

e/ DUS testing establishments must have a standard set of varieties under production and trading for comparison.

2. Procedures for designating testing establishments

a/ Establishments meeting plant variety testing requirements under Clause 1 of this Article shall submit a registration dossier to the Ministry of Agriculture and Rural Development's Cultivation Department. The dossier comprises:

- An application for designation as a testing establishment (Appendix 1, *not printed herein*);

- A copy of the establishment decision or the business registration certificate or the investment license.

b/ Within 45 (forty-five) days from the date of receiving valid dossiers, the Cultivation Department shall conduct appraisal and decide to designate testing establishments.

Article 6.- Testing order, procedures and scale

1. Official testing

a/ An organization or individual shall submit directly or by mail to the designated testing establishment a dossier, which comprises a testing application (Appendix 2, *not printed herein*) and a technical declaration (Appendix 3, *not printed herein*).

b/ The testing establishment shall receive the dossier and sign a testing contract if this dossier is valid; if the dossier is invalid, within 5 (five) working days from the date of receiving the dossier, the testing establishment shall notify the organization or individual thereof for completion of the dossier according to requirements.

c/ Based on the contract, the testing establishment shall conduct the testing according to testing regulations.

d/ The testing establishment shall send a testing result report to the Cultivation Department within 45 (forty-five) days after completing the testing.

2. Breeder testing

Before the testing, an organization or individual with a to-be-tested variety shall submit directly or by mail an application for testing (Appendix 2, *not printed herein*) to the National Center for Plant Variety and Product and Fertilizer Testing.

3. The maximum acreage for production testing of each plant species is specified in Appendix 4 (*not printed herein*).

Article 7.- Conditions and procedures for recognizing varieties for trial production

1. Conditions for recognizing a variety for trial production. The variety has been tested, has the cultivation value and use value meeting production requirements and outstrips the comparison variety in at least one of the following criteria:

- a/ Its productivity is at least 10% higher;
- b/ Its quality is remarkably better in the aspects of nutrition appearance, export and processing;
- c/ Its economic benefit is higher;
- d/ Its agronomic properties are better (appropriate growth time, resistance against pests or unfavorable external conditions).

2. Procedures for recognizing plant varieties for trial production

a/ An organization or individual having a new plant variety registered for recognition for trial production shall submit a dossier to the Cultivation Department, which comprises:

- An application for recognition of varieties for trial production (Appendix 5, *not printed herein*);
- A report on VCU testing results;
- The minutes of the grassroots science council's meeting proposing the trial production;
- DUS testing results when there are complaints or denunciations or the organization or individual is doubtful about the variety's distinctness.

b/ Within 30 (thirty) days from the date of receiving the dossier, the Cultivation Department shall

appraise it, if the dossier is valid, it shall decide to establish a professional science council to evaluate the testing results. Based on this council's proposal, the director of the Cultivation Department shall decide on recognition of the variety for trial production.

Article 8.- Trial production order

1. An organization or individual with a trial production variety or authorized to conduct trial production may transfer its seeds to producers and must meet the following requirements:

- a/ Providing specific guidance on the technical process of planting the trial production variety for producers;
- b/ Having contracts or a list which specifies the names and addresses of organizations and individuals conducting trial production, the time of transfer and quantity of seeds transferred;
- c/ Checking and evaluating the variety in the trial production process and compensating or supporting damage caused by the variety.

2. Within 30 (thirty) days from the time of completing the sowing crop, the organization or individual with the trial production variety or authorized to conduct trial production shall submit a report on the variety's name and the trial production site, acreage and time to the Cultivation Department and the Agriculture and Rural Development Service of the province/city where the trial production is conducted.

Article 9.- Trial production scale and time

1. Trial production varieties may be produced in provinces and ecological areas recognized for trial production. When expanding trial production to other ecological areas, organizations or individuals with trial production varieties shall make a written request which must be approved by the Cultivation Department.

2. The total acreage for trial production is specified in Appendix 6 (*not printed herein*).

3. The duration from trial production to official

2. Breeder testing

Before the testing, an organization or individual with a to-be-tested variety shall submit directly or by mail an application for testing (Appendix 2, *not printed herein*) to the National Center for Plant Variety and Product and Fertilizer Testing.

3. The maximum acreage for production testing of each plant species is specified in Appendix 4 (*not printed herein*).

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a/ Its productivity is at least 10% higher;

b/ Its quality is remarkably better in the aspects of nutrition appearance, export and processing;

c/ Its economic benefit is higher;

d/ Its agronomic properties are better (appropriate growth time, resistance against pests or unfavorable external conditions).

2. Procedures for recognizing plant varieties for trial production

a/ An organization or individual having a new plant variety registered for recognition for trial production shall submit a dossier to the Cultivation Department, which comprises:

- An application for recognition of varieties for trial production (Appendix 5, *not printed herein*);

- A report on VCU testing results;

- The minutes of the grassroots science council's meeting proposing the trial production;

- DUS testing results when there are complaints or denunciations or the organization or individual is doubtful about the variety's distinctness.

b/ Within 30 (thirty) days from the date of receiving the dossier, the Cultivation Department shall

appraise it, if the dossier is valid, it shall decide to establish a professional science council to evaluate the testing results. Based on this council's proposal, the director of the Cultivation Department shall decide on recognition of the variety for trial production.

Article 8.- Trial production order

1. An organization or individual with a trial production variety or authorized to conduct trial production may transfer its seeds to producers and must meet the following requirements:

a/ Providing specific guidance on the technical process of planting the trial production variety for producers;

b/ Having contracts or a list which specifies the names and addresses of organizations and individuals conducting trial production, the time of transfer and quantity of seeds transferred;

c/ Checking and evaluating the variety in the trial production process and compensating or supporting damage caused by the variety.

2. Within 30 (thirty) days from the time of completing the sowing crop, the organization or individual with the trial production variety or authorized to conduct trial production shall submit a report on the variety's name and the trial production site, acreage and time to the Cultivation Department and the Agriculture and Rural Development Service of the province/city where the trial production is conducted.

Article 9.- Trial production scale and time

1. Trial production varieties may be produced in provinces and ecological areas recognized for trial production. When expanding trial production to other ecological areas, organizations or individuals with trial production varieties shall make a written request which must be approved by the Cultivation Department.

2. The total acreage for trial production is specified in Appendix 6 (*not printed herein*).

3. The duration from trial production to official

- The technical process of cultivation;
- A report on DUS testing results for at least the first crop which shows that the variety has its distinctness and uniformity (obligatory for major plants).
- The minutes of the grassroots science council's meeting;
- A written request for exceptional recognition of the new plant variety by the Agriculture and Rural Development Service of the province or city where the trial production is conducted.

b/ Within 30 (thirty) days from the date of receiving the valid dossier, the Cultivation Department shall appraise it and propose to the Ministry to establish a professional science council for evaluation of testing results. Based on this council's proposal, the Cultivation Department shall propose the Minister of Agriculture and Rural Development to officially recognize the new agricultural plant variety.

Article 12.- Principles for naming new agricultural plant varieties

1. Each new plant variety may have a single name compliant with this Regulation when being put into production,

2. The variety's name must be easily distinguishable from those of other plant varieties of the same species;

3. The following ways of naming are not accepted:

- Consisting of numerals only;
- Being against social ethics;
- Easily causing misunderstanding of the variety's properties or its breeder's identity;
- Being identical or so similar that it may cause confusion with the trademark or origin appellation protected for the product.

Article 13.- Names of new agricultural plant varieties

1. When submitting a dossier of application for recognition, an organization or individual shall

register the new plant variety's name in the application for recognition, the testing result report and the trial production result report.

2. The Cultivation Department shall appraise the dossier and submit the variety's official name together with the dossier of application for the new agricultural plant variety to the Ministry.

3. The new agricultural plant variety's official name shall be specified in the decision to recognize the variety and in the list of plant varieties permitted for production and trading.

Article 14.- Examination, inspection, settlement of complaints and denunciations

1. The testing, trial production, recognition and naming of new agricultural plant varieties shall be examined and inspected in accordance with the Inspection Law and relevant legal documents.

2. Organizations or individuals may complain or denounce violations in the testing, trial production, recognition and naming of new agricultural plant varieties. The settlement of these complaints and denunciations complies with the Law on Complaints and Denunciations.

Article 15.- Testing fees and charges for recognition of new agricultural plant varieties

Organizations or individuals with new agricultural plant varieties registered for testing and recognition shall pay fees and charges according to regulations. In case state-prescribed fee rates are not available, testing fees may be agreed by parties in their contracts.

Article 16.- Assignment of tasks to concerned agencies

1. The Cultivation Department

a/ To perform the state management of testing, trial production, recognition and naming of plant varieties nationwide, having the tasks of:

- Proposing and setting standards and technical regulations, and economic-technical norms for plant

technical norms for plant variety testing;

- Appraising and designating testing establishments;
- Coordinating with the Science and Technology Department and provincial/municipal Agriculture and Rural Development Services in inspecting and evaluating varieties in the course of testing and trial production.

- Receiving and appraising dossiers of application for recognition of trial production varieties, establishing professional science councils for evaluation of testing results, and deciding on recognition of trial production varieties.

- Receiving and appraising dossiers of application for official recognition of new agricultural plant varieties, proposing to the Ministry to establish professional science councils for evaluation of testing results, and proposing the Ministry to officially recognize new agricultural plant varieties.

- Examining, inspecting, and settling complaints and denunciations in the domains of testing, trial production, recognition and naming of plant varieties.

b/ The National Center for Plant Variety and Product and Fertilizer Testing is the Cultivation Department's assistant agency:

- To act as the key agency in guiding, supervising and providing technical training for testing establishments nationwide. To uniformly manage names of plant varieties nationwide. To receive testing applications and supervise organizations and individuals in breeder testing.

- To directly test plant species under the designation of the Ministry of Agriculture and Rural Development.

2. The Science and Technology Department

- a/ To plan and organize the elaboration of technical criteria and standards for plant variety testing under approved plans and submit them to the Ministry for promulgation.

- b/ To coordinate with the Cultivation Department in monitoring and evaluating varieties in the course of testing and trial production and join the Science Council

in recognizing new agricultural plant varieties.

3. Provincial/municipal Agriculture and Rural Development Services

- a/ To monitor and supervise the testing and trial production of new plant varieties in their localities.

- b/ To comment on trial production results and propose exceptional recognition of new varieties.

- c/ To examine and inspect and settle complaints and denunciations concerning testing and trial production of plant varieties in their localities.

Article 17.- Final provision

In the course of implementation, organizations and individuals should send reports on arising problems to the Ministry of Agriculture and Rural Development for prompt consideration and settlement.

*For the Minister of
Agriculture and Rural Development
Vice Minister
BUI BA BONG*