

THE MINISTRIES**THE MINISTRY OF AGRICULTURE AND
RURAL DEVELOPMENT**

DECISION No. 64/2008/QĐ-BNN OF MAY 23, 2008, PROMULGATING THE REGULATION ON MANAGEMENT OF PRODUCTION OF AND TRADING IN INDUSTRIAL AND PERENNIAL FRUIT TREE VARIETIES

**THE MINISTER OF AGRICULTURE AND
RURAL DEVELOPMENT**

Pursuant to the Government's Decree No. 01/2008/ND-CP of January 3, 2008, defining the functions, tasks, powers and organizational structure of the Ministry of Agriculture and Rural Development;

Pursuant to March 24, 2004 Ordinance on Plant Varieties No. 15/2004/PL-UDTVQH11, of the National Assembly Standing Committee;

At the proposal of the director of the Cultivation Department and the director of the Science, Technology and Environment Department,

DECIDES:

Article 1.- To promulgate together with this Decision the Regulation on management of production of and trading in industrial and perennial fruit tree varieties.

Article 2.- This Decision takes effect 15 (fifteen) days after its publication in "CONG

BAO" and replaces the Agriculture and Rural Development Minister's Decision No. 67/2004/QĐ-BNN of November 24, 2004, promulgating the Regulation on selection, accreditation, management and use of leading varieties and leading variety gardens of industrial and perennial fruit trees.

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

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

REGULATION ON MANAGEMENT OF PRODUCTION OF AND TRADING IN INDUSTRIAL AND PERENNIAL FRUIT TREE VARIETIES

(Promulgated together with the Agriculture and Rural Development Minister's Decision No. 64/2008/QĐ-BNN of May 23, 2008)

Chapter I

GENERAL PROVISIONS

Article 1.- Scope of regulation and subjects of application

1. This Regulation provides for the order and

procedures, and responsibilities of involved organizations and individuals for registration, certification and exploitation of variety sources, and certification of variety quality; conditions on the production of and trading in industrial and perennial fruit tree varieties by the cloning method.

2. This Regulation applies to Vietnamese and foreign organizations and individuals in Vietnam that conduct activities specified in Clause 1 of this Article.

Article 2.- Interpretation of terms

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

1. Industrial and perennial fruit trees means industrial and perennial fruit tree varieties with a basic texture period and trading period of many years.

2. Leading variety means trees with a high and stable yield and quality, and a resistance much better than other trees in a population of a variety selected and accredited for use as a propagating material source.

3. Leading variety garden means a garden propagated by the cloning method from leading varieties or domesticated original varieties, and assessed and accredited by a competent authority for use a propagating material source.

4. Variety source means a collective name indicating accredited leading varieties and leading variety gardens.

5. Citrus tree S_0 means a tree cloned from a leading variety citrus tree, inspected and certified to be free from Greening and Tristeza disease germs. Trees S_0 are used and exploited as propagating materials to produce trees S_1 .

6. Citrus tree S_1 means a tree cloned from a tree S_0 , inspected and certified to be free from Greening and Tristeza disease germs. Trees S_1 are

used and exploited as propagating materials to produce trees S_2 .

7. Citrus tree S_2 means a tree cloned from a tree S_1 , inspected and certified to be free from Greening and Tristeza disease germs. Trees S_1 are grown for fruits and not used and exploited as propagating materials.

8. Propagating materials means parts of a tree, such as roots, branches, buds, grafts, etc., exploited from a variety source for cloning.

9. Code of variety source means signs of a leading variety or leading variety garden given under regulations by a provincial-level Agriculture and Rural Development Service in the locality where that variety source exists

10. Code of seedling tree lot means signs of a seedling tree lot for identifying the origin of that lot given by the institutional or individual breeder itself/himself/herself under regulations.

11. Organization certifying quality standard conformity (referred to as certifying organization for short) means an organization that conducts the supervision, examination and grant of certificates of quality standard conformity and is designated by a competent state agency.

12. Quality standard conformity certificate means a certificate granted by a certifying organization to a seedling tree lot, ensuring the originality (propagated from the variety source), disease-free status and conformity with relevant standards.

13. Industrial and perennial fruit tree varieties subject to compulsory certification of quality standard conformity means varieties on the list of industrial and perennial fruit tree varieties subject to compulsory certification of conformity with quality standards promulgated by the Ministry of Agriculture and Rural Development.

14. Cloning cycle means a period from the commencement of breeding activities (sowing for rootstock seedling, layering cuttings, etc.) to the ex-gardening of seedling trees under technical processes.

Chapter II

ORDER OF REGISTRATION AND ACCREDITATION OF VARIETY SOURCES

Article 3.- Registration for accreditation of variety sources

1. Submission of dossiers

Organizations and individuals that wish to register for accreditation of variety sources shall send their dossiers to provincial-level Agriculture and Rural Development Services in localities where these variety sources exist. A dossier comprises:

a/ An application for registration for accreditation of a variety source, made according to a set form;

b/ Other relevant documents: the plan of the tree garden, a brief report on the history of the variety source: yield, quality and pest and unfavorable condition resistance of the variety source; results of previous researches or contests (if any).

2. Receipt of dossiers:

Provincial-level Agriculture and Rural Development Services shall receive and examine dossiers of registration for accreditation of variety sources. If dossiers are invalid or incomplete, they shall promptly notify such to concerned organizations and individuals for addition and completion.

Article 4.- Selection, assessment and accreditation of variety sources

1. Selection of leading variety trees

a/ Selection councils

Directors of provincial-level Agriculture and Rural Development Services shall issue decisions on setting up councils for selection of leading variety trees.

A council is composed of 7-9 members, including representatives of the provincial-level Agriculture and Rural Development Service, experts from specialized universities and research institutes and concerned organizations in the locality.

In case the variety source owner is a centrally managed unit, there must be a representative of the Cultivation Department.

The council chairman must be an expert in trees proposed for selection.

b/ Selection order

The selection council shall inspect technical contents and other relevant standards of leading variety trees.

When necessary, the council chairman shall send a group of experts to conduct field assessments of leading variety trees registered for accreditation and send reports to the council.

The council shall organize the selection and assessment and send a written request for accreditation (or non-accreditation) to the provincial-level Agriculture and Rural Development Service.

2. Assessment of leading variety tree gardens

a/ Assessment team

Directors of provincial-level Agriculture and Rural Development Services shall issue decisions on setting up teams for assessment of leading variety tree gardens.

An assessment team is composed of 3-5

members, including representatives of specialized sections of the Service and representatives of concerned organizations in the locality.

b/ Assessment order

The assessment team shall examine the dossier and conduct a field inspection of the registered garden; and send a written record of assessment and request for accreditation (or non-accreditation) to the provincial-level Agriculture and Rural Development Service.

3. Grant of variety source certificates

a/ Based on the written record of assessment of the selection council, the team for assessment of the leading variety tree garden and the director of the provincial-level Agriculture and Rural Development Service shall consider and decide on the grant of a variety source certificate.

b/ A variety source certificate is valid for 3 (three) years for leading variety and S_0 citrus tree gardens after being accredited.

4. Renewal of variety source certificates

a/ Three months before the expiration of their variety source certificates, if variety source owners wish to register for re-accreditation of their variety sources (including also those accredited by competent authorities before this Regulation is promulgated) they shall send dossiers to provincial-level Agriculture and Rural Development Services for consideration and handling.

b/ A dossier of registration for re-accreditation of a variety source comprises: an application for re-accreditation of the variety source; a copy of the latest accreditation decision; a variety source diagram; a brief report on growth, yield, quality and quantity of exploited propagating materials since the last time of variety accreditation.

c/ Provincial-level Agriculture and Rural Development Services shall organize the

inspection and assessment of variety sources and **reaccredit** these sources if they satisfy the specified conditions.

5. Management of exploitation of variety sources

a/ Certified variety sources will be given codes: For leading variety trees and citrus trees S_0 , these codes shall be affixed directly on those trees. Codes shall be given by provincial-level Agriculture and Rural Development Services;

b/ Variety sources may be put into use in production or business at the level stated in their certificates;

c/ Variety sources being leading variety trees must be preserved at places stated in their certificates: citrus trees S_0 must be preserved in standard nethouses to be free from disease vectors;

d/ Leading variety trees of citrus species must have their disease-free status inspected and assessed once a year. Trees infected with Greening or some other viral diseases will have their accreditation certificates revoked but may still be used as materials for disease elimination or as trees S_0 if all conditions are satisfied;

e/ Citrus trees S_0 must have their disease-free status inspected and assessed once a year. Trees infected with Greening or some other viral diseases will be removed and must not be used as propagating materials;

f/ Gardens of citrus trees S_1 must have their disease-free status inspected and assessed once a year. Trees infected with Greening or some other viral diseases must be promptly removed.

The duration for exploiting propagating materials from citrus trees S_0 and citrus trees S_1 must not exceed 3 (three) years.

6. Invalidation of variety source certificates

a/ Variety source certificates will be invalidated

in the following cases:

- Variety source owners fail to perform the responsibility specified in Clause 2, Article 5 of this Regulation after provincial-level Agriculture and Rural Development Services inspect and request them to take remedies for their violations.

- Accredited variety sources degenerate or infected with disease (for citrus trees) and fail to satisfy the set standards.

b/ Based on written records of inspection, directors of provincial-level Agriculture and Rural Development Services shall decide to invalidate variety source certificates.

7. Expenses for accreditation or re-accreditation of variety sources

Organizations and individuals that register for accreditation or re-accreditation of variety sources shall bear related expenses under the Finance Minister's Decision No. 11/2008/QĐ-BTC of February 19, 2008.

Article 5.- Rights and responsibilities of variety source owners

1. Rights

a/ To advertise and introduce their variety sources under the law on advertisement;

b/ To exploit and trade in propagating materials from variety sources according to variety source certificates;

c/ To lodge complaints and denunciations and claim compensations for damage caused by acts of illegally harming variety sources.

2. Responsibilities

a/ To care for, protect and exploit variety sources in strict compliance of technical processes;

b/ To supply propagating materials for organizations and individuals that produce and trade in plant varieties when so requested by

competent state agencies on the principle of harmonizing benefits of involved parties;

c/ To keep books for monitoring the supply of propagating materials;

d/ To annually report on results of exploitation, growth and development of variety sources and changes related to the transfer of ownership of variety sources (if any) to provincial-level Agriculture and Rural Development Services that have granted certificates.

Chapter III

CONDITIONS ON PRODUCTION OF OR TRADING IN INDUSTRIAL AND PERENNIAL FRUIT TREE VARIETIES

Article 6.- Conditions on production of or trading in industrial and perennial fruit tree varieties

1. An establishment producing industrial and perennial fruit tree varieties for commercial purposes must satisfy the following conditions:

a/ Having a plant variety production or trading registration certificate;

b/ Having or hiring skilled cultivation workers for breeding industrial and perennial fruit trees;

c/ Having variety sources or contracts on purchase of propagating materials from accredited variety sources;

d/ Having disease-free nurseries suitable to growth and development needs of produced varieties;

e/ Entering into contracts with accreditation organizations for supervising and granting quality standard conformity certificates for industrial and perennial fruit tree varieties subject to compulsory certification of quality standard conformity.

2. Households and individuals that produce

industrial and perennial fruit tree varieties for non-commercial purposes are not required to satisfy the conditions specified in Clause 1 of this Article but must ensure that the quality of their varieties conforms to the specified standards.

Article 7.- Responsibilities of owners of variety production establishments

1. To annually report on results of production of seedling trees (time, categories and quantity of ex-gardened trees) to provincial-level Agriculture and Rural Development Services.

2. To keep books for monitoring the propagation process in each lot of seedling trees, with diagrams and signboards showing the code of each lot in nurseries.

3. To issue sale invoices and documents related to variety origin to purchasers.

4. To pay expenses for quality certification under agreements with certifying organizations and the Finance Minister's Decision No. 11/2008/QĐ-RTC of February 19, 2008.

Article 8.- Labeling of industrial and perennial fruit tree varieties

1. Labeling must be carried out under the general provisions of the Government's Decree No. 89/2006/ND-CP and Article 39 of the Ordinance on Plant Varieties.

2. Mandatory information in labels includes name of variety, code of variety source name and address of production establishment date of seedling tree inspection, and inspector.

3. Labels shall be printed and affixed on each seedling tree or printed on rootstock bags (for seedling trees sowed for seedling in large-sized boxes), or printed on straps, boxes or bags (for seedling trees with uncovered rootstock or those with small-sized rootstock bags).

*Chapter IV***CERTIFICATION OF QUALITY OF INDUSTRIAL AND PERENNIAL FRUIT TREE VARIETIES**

Article 9.- Conditions on and procedures for registration and designation of certifying organizations

1. A unit may be designated as a certifying organization when satisfying the following conditions:

a/ Having the legal entity status;

b/ Having or hiring plant variety inspectors accredited by the Cultivation Department;

c/ Having a laboratory or entering into a contract with a laboratory capable of inspecting the viral disease-free status, for certification of disease-free citrus trees.

2. Units wishing to be designated as certifying organizations shall send their dossiers to the provincial-level Agriculture and Rural Development Service of a province or city (if they register for operation only in that province or city), or the Cultivation Department (if they register for operation in more than one province or city). A dossier comprises:

a/ An application of registration for being designated as a certifying organization, made according to a set form (*not printed herein*);

b/ A copy of the establishing decision or the business registration certification, or a document certifying the function of quality certification;

c/ A declaration of conditions of the organization, made according to a set form (*not printed herein*).

3. Within 15 (fifteen) working days after receiving valid dossiers, dossier-receiving agencies shall examine these dossiers and issue decisions

on designation of certifying organizations if all the specified conditions are satisfied.

If the specified conditions are not satisfied, dossier-receiving agencies shall notify in writing reasons for refusal to issue designation decisions and the time limit for satisfaction of these conditions.

4. A decision on designation of a certifying organization is valid for 3 (three) years. Upon the expiration of this duration, certifying organizations that wish to continue certification operations shall make re-registration.

Upon detecting that certifying organizations commit violations, the designating agencies shall issue decisions to cancel or invalidate designation decisions already issued to these certifying organizations.

If no organization registers for being designated as a certifying organization in its locality, the provincial-level Agriculture and Rural Development Service shall consider and designate a unit attached to it and satisfying all specified conditions as a certifying organization.

5. Certifying organizations shall pay fees and charges for dossier examination and grant certificates under current regulations.

Article 10.- Responsibilities of certifying organizations

1. To supervise the variety production and inspection of the quality of seedling trees before they are brought out of gardens.

In the course of supervision and inspection of standard conformity, if detecting violations, they shall promptly notify them to variety production establishments and local management agencies for handling.

2. To send reports on results of standard conformity certification to agencies which have

issued decisions to designate them as certifying organizations.

3. To take responsibility before law for results of their certification.

Article 11.- Order of registration, supervision and grant of certificates of variety quality standard conformity

1. Before commencing the production of plant varieties on the list of industrial and perennial fruit tree varieties subject to compulsory quality standard conformity certification, variety production establishments shall register with designated certifying organizations for supervision and grant of certificates.

Registrations must state standards of seedling trees applicable under current regulations.

2. Based on registrations of variety production establishments, certifying organizations shall supervise the propagation process (variety source, physical and technical conditions for propagation), inspect the quantity and quality of seedling tree lots and compare them with announced standards. If all conditions are satisfied, they shall grant quality standard conformity certificates for seedling tree lots.

3. A quality standard conformity certificate for each seedling tree lot is valid for no more than one cloning cycle of that tree species. Upon the expiration of the validity duration, if that seedling tree lot is not sold out, the variety production establishment shall notify such to the certifying organization for consideration and prolongation of the time limit for sale of remaining seedling trees.

Chapter V

ORGANIZATION OF IMPLEMENTATION

Article 12.- Inspection, and handling of

violations

1. Organizations and individuals that are owners of variety sources and engaged in the production of and trading in industrial and perennial fruit tree varieties, and certifying organizations shall submit to regular or extraordinary inspection by the Cultivation Department, provincial-level Agriculture and Rural Development Services, and competent state management agencies in localities.

2. Organizations and individuals that violate regulations on management of production or and trading in industrial and perennial fruit tree varieties shall be handled under the Government's Decrees No. 57/2005/ND-CP of April 27, 2005, on sanctioning of administrative violations in the domain of plant varieties, and Decree No. 172/2007/ND-CP of November 28, 2007, amending and supplementing a number of articles of Decree No. 57/2005/ND-CP of April 27, 2005

Article 13.- Assignment of responsibilities for performing the state management

1. The Cultivation Department shall directly assist the Agriculture and Rural Development Minister in performing the state management of the production of and trading in plant varieties nationwide, having the following responsibilities:

a/ To formulate and propose to the Agriculture and Rural Development Ministry for promulgation and direction implementation policies on management of the production or and trading in industrial and perennial fruit tree varieties;

b/ To propose plans on elaboration of new national standards and technical regulations on industrial and perennial fruit tree varieties, and review, amend and supplement existing ones and guide and inspect the implementation of these standards and technical regulations;

c/ To guide the selection, assessment and accreditation of industrial and perennial fruit tree variety sources;

d/ To elaborate and direct the implementation of regulations on inspection and testing of the quality of industrial and perennial fruit tree varieties.

To organize professional training and retraining for and grant certificates to plant variety inspectors and testers;

e/ To evaluate and designate certifying organizations that register for operation in more than one province or city;

f/ To sum up and publicize on an annual basis lists of variety sources and designated certifying organizations on its website;

g/ To inspect, examine and settle complaints and denunciations, and handle violations in the management of the production of and trading in industrial and perennial fruit tree varieties.

2. The Science, Technology and Environment Department shall:

a/ Organize the elaboration of new national standards and technical regulations on propagation of industrial and perennial industrial tree varieties, and review, amend and supplement existing ones;

b/ Coordinate with the Cultivation Department in monitoring and assessing variety sources in the course of selection and accreditation of variety sources, and participate in the Council for selection of leading variety trees in case variety source owners are centrally managed units.

3. The National Agricultural and Fishery Extension Center shall:

a/ Allocate funds from the National Agriculture Extension Program in support of caring for and preservation of industrial and perennial fruit tree variety sources;

b/ Organize propagation models for newly accredited plant varieties for the purpose of production expansion.

4. Provincial-level Agriculture and Rural Development Services shall:

a/ Organize the selection, assessment, grant or invalidation of certificates for industrial and perennial fruit tree variety sources in their localities; regularly monitor, manage and guide the effective exploitation of accredited variety sources;

b/ Evaluate and designate organizations to certify industrial and perennial fruit tree varieties, for organizations registering for operation within their provinces or centrally run cities;

c/ Direct, guide and inspect the implementation of national standards and technical regulations on industrial and perennial fruit tree varieties.

d/ Elaborate and propose to provincial-level People's Committees for approval and promulgation producer standards and local technical regulations on industrial and perennial fruit tree varieties, for varieties for which no national standard or technical regulation is available yet;

e/ Regularly update and publicly notify a list of accredited or discredited variety sources, and a list of designated certifying organizations on the mass media; and annually report to the Cultivation Department for summing up and posting on the Department's website;

f/ Inspect, examine, and settle complaints and denunciations, and handle violations in the management of the production of and trading in industrial and perennial fruit tree varieties in their localities.

Article 14.- Implementation provisions

1. Previously accredited and certified variety

sources will continue being accredited until the expiration of the validity of their certificates.

2. Labels of all kinds used before the effective date of this Regulation which are incompliant with this Regulation may be further used for no more than one year after the effective date of this Regulation.

. Any problems arising in the course of implementation should be reported in writing to the Ministry of Agriculture and Rural Development for supplementation or adjustment.

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