

THE GOVERNMENT

THE SOCIALIST REPUBLIC OF VIETNAM

Independence – Freedom – Happiness

No. 36/2014/ND-CP

Hanoi, 29 April 2014

DECREE

Pursuant to the Law on organization of Government dated December 25, 2001

Pursuant to the Law on Fisheries dated November 26, 2003

Pursuant to the National Assembly on product and goods quality dated June 17, 2010

Pursuant to the Law on Food Safety dated November 21, 2007

Pursuant to the Law on Trade dated June 14, 2005

At the proposal of Minister of the Ministry of Agriculture and Rural Development

The Government issues the Decree on farming, processing and exporting pangasius.

Chapter I

GENERAL PROVISION

Article 1: Corrected Range

The decree is to assign on pangasius farming, processing and exporting.

Article 2: Object of applying

The decree applies to Vietnamese organizations and individuals; international organizations and foreigners that involve in Pangasius farming, processing and exporting in Vietnam territory.

Chapter II

PANGASIOUS FARMING AND PROCESSING

Article 3: Planning of Pangasius farming and processing

1. Planning Principles:

- a/ Planning of Pangasius farming and processing has to promote local advantages and potentials, consistent with the possibility of pangasius consumption in the domestic and overseas markets;
- b/ Detail planning of Pangasius farming and processing at local level has to consistent with the general planning of pangasius farming and processing.
- c/ Planning of Pangasius farming and processing has to compatible with economic development planning at each region

2. Planning content:

- a/ To analyze the natural conditions, economic-social impacts to pangasius farming, processing and consumption.
- b/ To estimate the actuality of pangasius farming, processing and consumption.
- c/ To analyze, estimate and predict the demand, price and competitiveness of Vietnam pangasius at domestic and overseas markets.
- d/ To determine the area and production of pangasius farms as well as the capacity of pangasius processing factories.
- d/ To determine the technical conceptions, mechanism and policies for planning.
- e/ To determine the solution of environmental protection for pangasius farming and processing.

3. Authority of planning establishment and approval:

- a/ Ministry of Agriculture and Rural Development will host and coordinate with other Ministries, Sectors and localities to establish and approve the general planning of pangasius farming and processing.
- b/ The provincial People's Committees shall review, establish and approve the detailed planning of pangasius farming and processing based on the general planning of pangasius farming and processing approved by the Ministry of Agriculture and Rural Development.

4. The State should issue the policies to encourage pangasius farming, processing and exporting; invest infrastructure for pangasius farming and processing areas according to approved planning of pangasius farming and processing.

Article 4: Standard conditions for pangasius farming:

- 1. Location and area for pangasius farming has to consistent with the planning of pangasius farming and processing approved by Provincial People's Committees.

2. The area and production of pangasius farming should be registered by local authorities of aquaculture management.
3. Pangasius farms must qualify regulations and technical standards for aquaculture; and should be certificated and coded by local authorities of aquaculture management.
4. Use of breed, feed, veterinary medicine, biochemical products and microorganism must follow the regulations by laws.
5. Pangasius farms must apply and be VietGAP certificated on good aquaculture practice or granted the international certifications appropriate to Vietnam laws.

Article 5: Standard conditions for Pangasius processing factory

1. Certificate of business registration on fishery processing issued by authority bodies is a must.
2. Pangasius factory must locate within the area of the pangasius farming and processing planning approved or accepted by provincial People's Committees.
3. The traceability for pangasius should be applied.
4. The factory must apply quality control systems; implement technical regulations and standards of hygiene and food safety in fishery business and production. The factory must be certificated on qualifying food safety for fishery processing.
5. The factory has to assure the announced quality of finished pangasius; self-check and is responsible for announced pangasius quality; fulfill labeling appropriate to regulations by laws.
6. Regarding to the new factory, it has to be tested and recognized the eligibility for food safety by the MARD before operating.

Article 6: Quality and food hygiene and safety conditions on processed pangasius

1. Pangasius for processing must be raised from qualified farms according the regulations at Article 4 of the Decree.
2. Pangasius products processing must meet the requirements of food quality, hygiene and safety of Vietnam and importing countries.
3. Regarding to frozen pangasius fillet processing:
 - a/ Use of chemical, additive and supplement should be followed to the regulations of Vietnam and importing countries.
 - b/ Glazing on exported pangasius (water ratio in gross weight) should be appropriate to the regulations of importing countries. Other circumstances, glazing ratio should not excess 10% .

c/ Maximum content of water in pangasius fillet should not exceed 83% net weight (the weight of defrozen pangasius fillet)

4. Besides the fulfillment of existing regulations of Vietnam and importing countries on labeling, frozen pangasius fillet should be labeled following information: net weight, glazing, name of chemical, additive and supplement used during processing.

Chapter III

PANGASIOUS PRODUCT EXPORTING

Article 7: Conditions for pangasius product exporting

Organizations or individuals (hereinafter referred to as traders) exporting pangasius must meet the following conditions:

1. Having qualified (according to the regulations at Article 5 of the Decree) pangasius processing factory. Unless the trader has qualified pangasius processing factory, he should have the pangasius processing contract or pangasius purchasing contract from a qualified pangasius processing factory (according to the regulations at Article 5 of the Decree)
2. Submitting Registration of pangasius export contract to Vietnam Pangasius Association (VPA) according to the regulations of the Decree's Article 8. Custom clearance is only accepted for consignment of pangasius exporting contracts approved by VPA.

Article 8: Registration of pangasius exporting contract

1. Empowered subject of implement: Vietnam Pangasius Association
2. Object of implement: Pangasius traders
3. Required document: One (1) set
 - a/ Application for pangasius production exporting contract
 - b/ Legal copy of Registration Certificate on pangasius farming recognized by local aquaculture management authorities (applied for trader who uses the pangasius from his own farm)
 - c/ Legal copy of material pangasius purchasing contract from qualified farm according to the regulations at Article 4 of the Decree (applied for trader who uses the pangasius from other farms)

d/ Legal copy of Certificate of eligibility on food safety for fishery processing factory (including cases which trader purchases or processed pangasius from other factories)

d/ Legal copy of processed pangasius purchasing contract or pangasius processing contract from qualified pangasius processing factory according to the regulations at article 5 of the Decree (applied for trader who does not have pangasius processing factory)

4. Method and duration of implement

a/ Unless the document meets the requirement according to item 3 of article 8, VPA will inform in writing to trader for amendment within one working day.

b/ If the document meets the requirement according to item 3 of article 8, and if purchasing price of material pangasius is higher than/equal to floor price of material pangasius which announced by VPA at the time of document submission (applied for trader who use pangasius from other farm(s), VPA will consider the pangasius exporting contract for confirmation within 3 working days from the date of document submission.

Unless the document meets the requirement, VPA will not affirm the pangasius exporting contract in writing with refusal explanation.

5. Fee for consideration of pangasius trading business: Follow to the regulations and guideline of MOF.

Article 9: Violation handling in pangasius export

1. Trader who violates the regulations of this decree will be handled according to the regulations by laws applied on administration violation, he also be handled according to the regulations at items 2,3,4 of Article 9.
2. Suspend the consignment which does not meet the requirement on quality, food safety according to the regulations of Vietnam and importing countries.
3. Pause the right of pangasius exporting of trader who is required to halt by the authority of importing country due to the violation on quality and food safety.
4. In case of importing country does not require Vietnam authorities to test and certificate on exporting pangasius products, however, if there are many violated consignments, and this results the suspension of pangasius exporting from Vietnam, MARD will inspect the quality and food safety of all factories, therefore handle the violation of trader, factory whose consignment is violated according to Laws on Food safety, Laws on product and goods quality.

Chapter IV IMPLEMENT

Article 10: Responsibility of Authorities

1. Ministry of Agriculture and Rural Development

a/ Establishing, approving the general planning of pangasius farming and processing; instructing, inspecting, supervising the establishment and implement of planning of pangasius farming and processing at provinces and cities under the central government.

b/ Instructing, inspecting local aquaculture management authorities to confirm the registered area and production of pangasius farming, and coding the identification for pangasius farms.

c/ Instructing, inspecting, supervising the application of aquaculture practice program and recognizing the program.

d/ Constructing, issuing/submitting to authorities to issue national regulations, standards, specifications on pangasius farming, processing and exporting.

d/ Instructing, conducting, implementing the inspection of pangasius farms, factories; inspecting, supervising the quality of farming, processing and exporting pangasius at its authority.

e/ Instructing, inspecting and supervising VPA to fulfill the regulations of consideration, affirmation and pangasius trading consideration fee's collection.

g/ Instructing, inspecting, handling the violation of pangasius farming, processing and exporting at its authority.

h/ Providing, informing the regulations of food safety on pangasius of the markets importing pangasius from Vietnam.

i/ Suspending the consignment that does not meet the requirement of quality and food safety according to the regulations of Vietnam and importing countries; pausing the right of pangasius exporting of trader who is requested to pause due to the violation on food quality and food safety according to the regulations at items 2, 3, 4, Article 9 of the Decree. To assign the inspection and violation handling according to the regulations at Article 9 of the Decree.

k/ Making the traceability on Vietnam exporting pangasius according to regulations by laws

2. Ministry of Industry and Trade

- a/ Hosting, coordinating with MARD, Ministry of Foreign Affairs, and other authorities to handle the trade disputes and technical barriers on pangasius exporting.
- b/ Inspecting and handling the violation of pangasius farming, processing and exporting at its authority.
- c/ Conducting the Vietnam oversea commercial affairs bureaus to assist and support on pangasius promotion activities.
- d/ Inspecting, supervising the implement of the Decree according to regulations on anti-dumping.

3. Ministry of Finances

- a/ Instructing the price evaluation on material pangasius.
- b/ Assigning on pangasius trading consideration fee; instructing the implement of regulations on fee collecting, paying, managing and using.
- c/ Directing Bureau of custom to implement, inspect and supervise pangasius exporting according to regulations of the Decree; monthly reporting the production, exporting price and market information to MOF, MOIT and MARD .

Article 11. People’s Committees of Provinces and Cities under the Central Government (hereby named as Central Cities)

1. Establishing, approving and managing the detailed planning of pangasius farming, processing in accordance with the general planning of pangasius farming and processing approved by MARD.
2. Conducting local aquaculture management authorities to confirm the registered area and production of pangasius farming, and coding the identification for pangasius farms.
3. Directing the implement of pangasius farming, processing and exporting at local according to regulations by laws.
4. Inspecting the implement, handling the violation of pangasius farming, processing and exporting at its authority according to regulations by laws.

Article 12: Vietnam Pangasius Association

1. Hosting and implementing following activities:
 - a/ Implementing the registration, consideration, affirmation on pangasius trading business; collecting the considering fee according regulations.

- b/ Basing on the guideline of MOF on price calculation of material pangasius, announcing the floor price for material pangasius at least biannual and revising the floor price in accordance with market situation.
 - c/ Managing and using the fund from collecting pangasius trading business consideration fee according to the regulations by laws.
 - d/ Providing custom the approved list of pangasius exporters
 - d/ Having statistic figure on farming, processing and exporting; reporting to MARD, MOIT and MOF monthly, quarterly and annually.
2. Coordinating with involved associations to fulfill the following activities:
- a/ Instructing, campaigning its members to follow the regulations of pangasius farming, processing and exporting.
 - b/ Carrying out promotion activities for pangasius; analyzing, forecasting and informing the pangasius market situation.
 - c/ Protecting exporting activities, handling trade disputes and technical barriers in pangasius farming, processing and exporting.
 - d/ Assisting, providing the updated information of pangasius farming, processing and exporting to farmers, processors and exporters.

Article 13. Pangasius farmer, processor and exporter

1. Farmer, processor and exporters are responsible for following regulations by laws of pangasius farming, processing and exporting in accordance with the regulations of this Decree and other related regulations.
2. Responsibility of Pangasius exporter:
 - a/ Follow the regulations on quality management, inspection, certification, food safety according to the regulations of importing countries and Vietnam.
 - b/ Register pangasius exporting contract according to the regulations at Article 8 of the Decree, and responsible for the truth of the registered contract.
 - c/ Pay fee for pangasius trading business consideration according to regulations.

Chapter V EXECUTIVE PROVISION

Article 14. Assignment Provision

1. Despite of unsuitable to pangasius farming planning, pangasius farms have been operated before the validity date of this Decree and meet the requirement of

- pangasius farming according to regulations at items 2, 3 Article 4 of this Decree, are allowed to remain their activities.
2. From the validity date of this Decree until 31 December 2015, traders are allowed to buy the material pangasius for processing and exporting from farms that do not meet the requirement according to regulations at item 5 Article 4 of this Decree.
 3. Before the validity date of Circular of Registration on Pangasius farming area, production and coding (according to the regulations at Point b, Item 4, Article 8), the certificate of Pangasius farming Registration is not a compulsory document for pangasius exporting contract registration.
 4. From the validity date of this Decree until 31 December 2014, pangasius fillet meets the requirement of quality and food safety according to the regulations of importing country, is still allowed to export in spite of not meeting the requirement of quality according to the regulations at Point b, c, Item 3, Article 6 of the Decree.

Article 15. Validity of the Decree

This Decree is valid from 20 June 2014

Article 16. Responsibility for instruction and execution

1. Base on the assignment of specific responsibility according to the regulations of this Decree and other related regulations by laws, MARD, MOIT and MOF are responsible for instructing the execution of this Decree.
2. The ministers, Directors of Authorities, Head of Governmental Bureaus, Chairmen of Provincial and Central City People's Committees, Chairman of VPA, chairmen of other involved associations are responsible for executing this Decree.

To:

- Secretariat of the Party Central Committees
- Prime Minister, Vice Prime Ministers
- Ministry, ministerial-level authorities, Governmental Bureaus
- Provincial and Central City People's Committees
- Central offices and Committee of Party
- Office of General Secretary
- Office of the President
- Ethnic Council and Committees of Congress
- ONA
- The Supreme People's Court

On behalf of Government

The Prime Minister
(signed)
Nguyen Tan Dung

- Institute of Supreme People Procuracy
- Committee of the National Financial Supervision
- The State Auditor
- Bank for Social Policies
- Vietnam Development Bank
- Central Committee of the Vietnam Fatherland Front
- Central Authority of the Unions
- Governmental offices: Chairman, Vice chairmen,
Assistant to Prime Minister, CEO of Governmental
Electronic information gateway, Departments,
subordinate departments, Gazette
- Save: Clerical, KTN (3b)