

REPUBLIC OF CHILE
MINISTRY OF AGRICULTURE
UNDER SECRETARIAT
JURIDICAL ADVISORY
MCG/FTJ/xvi

APPROVES REGULATION OF
Law N° 20.089 THAT CREATED
NATIONAL CERTIFICATION
SYSTEM OF AGRICULTURAL
ORGANIC PRODUCTS

SANTIAGO: **April 13, 2006**

N° 36 / HAVING REGARD: Provisions of Law Decree N° 294, as of 1960, Organic Law of the Ministry of Agriculture; Law N° 18.755, that establishes the organization and attributions of the Agriculture and Livestock Service; Law N° 20.089 that created the National Certification System of Agricultural Organic Products; Law Decree N° 1/19.653, that set out the refunded, coordinated and systematized text of Law N° 18.575, Organic Constitutional of General Bases of the State Administration; Articles 32nd , N° 6 of the Political Constitution of the Republic, and Resolution N° 520 as of 1996, of the General Comptroller of the Republic.

CONSIDERING

That on January 17, 2006, the Official Journal published Law N° 20.089 that created a National Certification System of Agricultural Organic Products, which in its Article 5th established that the regulation for its application should be approved by Supreme Decree of the Ministry of Agriculture.

I ADOPTED THE FOLLOWING DECISION

IT IS APPROVED the following purview of Law 20.089 Regulation that created the National Certification System of Agricultural Organic Products:

CHAPTER 1: GENERAL PROVISIONS

Article 1.- This Regulation has as an objective to establish the requirements and protocols for the adscription to the National Certification System of Agricultural Organic Products and to regulate the other aspects necessary for the adequate operation of the system, in accordance with Law N° 20.089.

Provisions of this Regulation will be applicable to certifying agents and other participating agencies that work in the scope of organic agriculture.

Article 2.- Without prejudice of the definitions established by Law, for the effects of this Regulation, it will be understood by:

- a) **Law:** Law N° 20.089 that created the National Certification System of Agricultural Organic Products.
- b) **Service:** The Agriculture and Livestock Service.
- c) **Technical Standards, International Standards or equivalent Chilean Technical Standards:** those that are officialized by decrees of the Ministry of Agriculture, for the effects of provision in Articles 5° and 6° of the Law.

Article 3.- As established by Law, denominations as “organic products” or its equivalents, such as “ecological products” or “biological products” can only be used by those products of forestry and livestock origin that in their production, elaboration, preservation and commercialization have complied with the requirements and protocols established in the Regulations herein and the technical standards that are approved and officialized in accordance with Law.

Article 4.- All forestry and livestock product originated in a productive organic product, to be recognized as such, should be certified by a duly accredited and registered entity, in accordance with provisions of this Regulation.

Article 5.- For effects of adscription to the System, in accordance with Articles 3° and 5° of the Law, the Service will be authorized to establish and manage lists with different participants that wish to participate in the System.

Article 6.- The Service will be the competent authority, in charge of supervising the compliance of the Law, of this Regulation and its complementary standards and to sanction infringements indicated in Articles 9° and 10° of the Law, according to the procedure of sanction and demand included in paragraph IV of Title I of Law N° 18.755. Likewise, it will correspond to the Service to manage and control the use of the official seal, in accordance with provisions of the Regulation herein.

CHAPTER II: REGISTRY OF CERTIFYING AGENTS

PARAGRAPH 1ST: General Conditions of Registry

Article 7.- The inscription in this Registry will be compulsory for all certifying entities, national or expatriate, public or private.

Article 8.- It will not be allowed to register as certifying agents, juridical persons that have among its partners: directors, administrators, managers, stockholders or workers, persons that are officers, workers or persons hired on fee bases, in the Service, in the Ministry of Agriculture or in any of the entities related or dependent of the said Ministry. This inability will be prolonged for six months after the separation date of the above referred persons.

Article 9.- The Service will establish and keep an updated Registry of certifying agents, in which it will indicate the number or code given to the certifying agency, name of the same, inscription date in the Registry and expiration date, when corresponding.

Article 10.- For the inscription in the Registry, the Service will be allowed to charge tariffs that will be determined in the way indicated in letter ñ) of Article 7 of Law 18.755.

Article 11.- The decision to accept or reject the registration application, or to suspend or cancel one already existing, will be based on the information obtained during the supervision and auditing, as well as by any other information that the Service might consider pertinent for said effect.

Article 12.- Registered certifying agencies, can request the Service to issue a certificate accrediting such quality.

Article 13.- Certifying agencies will deliver to their own inspectors, for the development of their works, a credential that will contain the individualization of the inspector and the characteristics and mentions that for said effects determine the Service.

PARAGRAPH 2º: Requirements to Register Certifying Agencies

Article 14: To be admitted in the Registry of certifying agencies of organic products, these agencies have to demonstrate that they comply with formalities, requirements, technical and professional protocols necessary for the performance of certification works considered in the Law, the Regulation herein and its complementary standards.

Article 15.- The interested agency should submit to the Service a Registration inscription application form. Besides, previously to the application presentation, it has to pay corresponding applicable fee, which payment receipt has to be attached

to the application. This fee will not be reimbursed to the interested party in case of rejection of the application.

Article 16.- The application form should be submitted attaching following antecedents:

- a) Sworn declaration where the applicant declares not to be affected by established inabilities established in Article 8 of the Regulation herein.
- b) Notarized copy of the registered deed of agency forming and its amendments, with the corresponding authorization of the legal representative.
- c) Agency in force certificate, not over ninety days, issued by the corresponding competent authority.
- d) Copy of receipt of payment made to apply to the registry, according to the in force fee system.
- e) A guarantee of faithful compliance of its activities, for an amount of two hundred "unidades de fomento", by a bank's promissory note payable at sight or a bank's promissory note, at the name of the Service, and
- f) Sign or identification symbol of the agency.

Article 17.- Certifying agencies should demonstrate that they comply with the following technical and professional requirements:

- a) To comply with general certification criteria settled in the in force official technical standard.
- b) To accredit competences and experience according to stipulations of the corresponding technical standard.
- c) Description of the technical and administrative facilities, which should be adequate for certification effects.

Article 18.- The Service will analyze all applications received and will send them back to the interested agency in the case of incomplete antecedents, so said agency can re-submit the application with all required antecedents within a term of 30 days.

Once this indicated time has elapsed without having re-entered this application, the interested agency will have to submit a new application to enter in this Registry, and also pay the corresponding fee again.

Article 19.- Once the application has been submitted with all required antecedents and complied with all requirements referred to in this Regulation, the Service will proceed with the incorporation of the applicant agency in the Registry, with mentions indicated in Article 9^o of this Regulation.

Article 20.- The registered agency should permanently comply with the requirements established to enter into this Registry.

Article 21.- The registered agency should inform the Service, as soon as there is any variation in the antecedents submitted for its incorporation to the Registry.

PARAGRAPH 3RD: Obligations of Certifying Agencies

Article 22.- The following will be the obligations of certifying agencies:

- a) To allow inspections, release information and comply with requirements determined by the Service, in the scope of their supervising duties;
- b) To issue for the Service, and deliver each year on March 31st an annual memory of performed activities;
- c) To keep in confidence the information obtained from users or clients, in the frame of their certification activities;
- d) To denounce unto the Service the existence of plagues or diseases of obligatory control, and
- e) To comply with all requirements and protocols established in the Regulation herein and with in force official technical standards.

Article 23.- In the case of foreign certifying agencies, to comply their certification activities in Chile, these should fulfill with all requirements settled in Chapter II of the Regulation herein and have a legal representative addressed in Chile, where they have to keep all required documentation to carry out their supervising and auditing activities.

PARAGRAPH 4TH: Inabilities of Certifying Agencies

Article 24.- Certifying agencies will not be allowed to take part in certification processes in which they might have partnership interests or the agency personnel or those in their position of consort, sons, adopted or relatives up to third level of consanguinity and inclusive second of affinity, in respect to said partners or personnel. Likewise, certifying agencies will not be allowed to take part in those certifying processes that by any circumstance take away impartiality.

CHAPTER III: ADSRIPTION TO CERTIFICATION SYSTEM OF ORGANIC PRODUCTS AND USE OF THE OFFICIAL SEAL

PARAGRAPH 1st: About the General System

Article 25.- In order that a forest and agricultural product receives the denomination of organic, biological or ecological, it has to come from a productive process where requirements and protocols set up in the Regulation herein and in the in force Official Technical Standards have been applied.

PARAGRAPH 2nd: System for Small Ecological Farmers

Article 26.- In the case of direct commercialization to consumers of small ecological farmers (small producers, relatives, peasants and indigenous people), insert in their own processes of social and organization control, to be registered in the Service and be allowed to use the denomination of organic or equivalent in their products, should comply with the following requirements:

- a) To belong to an organization legally constituted;
- b) To comply with production requirements established in the Regulation herein and in the in force Official Technical Standards;
- c) To have registration files of their productive activities that allow to establish a traceability system;
- d) To give free access to their productive and commercialization units to Service Inspectors;
- e) To allow inspections, deliver information and comply with requirements determined by the Service, in the frame of their auditing duties;
- f) To deliver each March 31st to the Service, an annual report of their activities, and
- g) To submit an internal control system and corresponding procedures.

Article 27.- The organizations indicated in the above Article, will be subject to the Service supervision and control.

PARAGRAPH 3rd: Use of the Official Seal

Article 28.- The term organic, biological or ecological and the use of the Official Seal, will only be used in the labeling of forest and agricultural products that have this quality, duly certified, including components that have been produced, handled and commercialized according to specifications set up in the Regulation herein and in the in force Official Technical Standards.

Article 29.- The Official Seal should be legible and with permanent ink and the graphic characteristics shall be established by a resolution of the Service.

Article 30.- The Official Seal will only be used in those products that comply with conditions and protocols of Regulation herein and in the in force Official Technical Standards and certifies as such by a certifying agency duly registered as established in Chapter II of this Regulation.

Article 31.- The use and administration of the Official Seal, will be entrusted to certifying agencies duly registered as set up in Chapter II of this Regulation. For these effects, the Service is allowed to authorize the agencies the use of seals which numbers will be previously assigned, together with the code of its inscription in the Registry.

ARTICLE IV: IDENTIFICATION OF THIRD COUNTRIES AND IMPORTATIONS

Article 32.- Imported organic products could be commercialized when they come from a third country which competent authority certifies that they have been obtained through an organic production method equivalent to that established in the Regulation herein and in the in force Official Technical Standards.

Article 33.- The Service will be able to identify, regarding imported commodities, those certifications carried out in accordance with national certification systems of organic products of third countries, as long as the importer of said commodities accredits before the Service the following:

- a) That the organic production system is equivalent or complies with the technical requirements established in the Chilean legislation, and
- b) That the certification of imported product is acknowledged by the competent agency of origin country.

Article 34.- The Service can demand all necessary information to obtain antecedents mentioned in precedent article. Besides, it can request from experts the necessary reports with regard to the production standards and control measures applied in the product's country of origin.

The importer must allow the Service necessary access to perform their inspection to facilities, and in particular to importation certificates.

Imported products should comply with the same legislation applicable to national products, without prejudice of the special regulations set up in the Law, in this Regulation and in the in force official technical standards.

Article 35.- Imported commodities should be labeled according to in force legislation.

CHAPTER V: PENALTIES

Article 36.- The Service will be the competent authority in charge of supervising the fulfillment of this Law and its complementary regulation, and to sanction infringements indicated in Articles 9 and 10 of the Law, according to penalties and demand procedures specified in Paragraph IV of Title I of Law N° 18.755.

Transitory Article.- The present Regulation will be in force 180 days after the date of its publication in the Official Journal

Within said term, by Decrees of the Ministry of Agriculture, the technical standards referred to in this Regulation should be officialized.

TO BE REGISTERED, COMMUNICATED AND PUBLISHED

**MICHELLE BACHELET JERIA
PRESIDENT OF THE REPUBLIC**

**ALVARO ROJAS MARIN
MINISTRY OF AGRICULTURE**