

Circular No. 75/2011/TT-BNNPTNT of October 31, 2011, providing the registration and certification of food advertisement contents under the management of the Ministry 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; and Decree No. 75/2009/ND-CP of September 10, 2009, amending Article 3 of the Government's Decree No. 01/2008/ND-CP of January 3, 2008;

Pursuant to Food Safety Law No. 55/2010/QH12, which was passed on June 17, 2010, by the XIIth National Assembly at its 7th session;

Pursuant to Advertisement Ordinance No. 39/2001/PL-UBTVQH of November 16, 2001;

Pursuant to the Government's Decree No. 24/2003/ND-CP of March 13, 2003, detailing the implementation of the Advertisement Ordinance;

The Ministry of Agriculture and Rural Development provides the registration and certification of food advertisement contents under its management as follows:

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Circular provides the order, procedures and competence for certification of food advertisement contents under the management of the Ministry of Agriculture and Rural Development; and responsibilities and powers of involved parties.

Article 2. Subjects of application

This Circular applies to domestic and foreign food producers and traders running advertisements in the Vietnamese territory or advertising service providers authorized by food producers or traders to make advertisement, (below referred to as establishments).

Article 3. Interpretation of terms

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

1. Food advertising means introduction of food products to consumers by food producers or traders or by other units in coordination with or under the finance or authorization of the former.

2. Blending food means food containing at least 2 (two) materials or food originating from at least 2 (two) out of the 3 (three) following groups: products of plant origin; products of terrestrial animal origin; and seafood and aquatic products.

Article 4. Conditions for obtaining advertisement content certification

1. Having a complete and valid registration

dossier under Article 7 of this Circular;

2. Food products manufactured by the establishment meeting food safety assurance conditions or products of establishments/countries on the list of eligible Vietnam-bound exporters promulgated by competent Vietnamese agencies;

3. Food advertisement contents being accurate, reflecting the quality and safety as announced and registered.

Article 5. Assignment of evaluation and certification of advertisement contents

1. At the central level: The National Agro-Forestry-Fisheries Quality Assurance Department shall assume the prime responsibility for, and coordinate with involved units under the Ministry, and invite outside experts (if necessary) in:

a/ Conducting evaluation for imported food products; and food products of producers and traders selling products both at home and abroad.

b/ The National Agro-Forestry-Fisheries Quality Assurance Department, as the standing agency, shall receive, process and evaluate dossiers, notify evaluation results and certify food advertisement contents for establishments under this Circular.

2. At the local level: Agro-Forestry-Fisheries Quality Assurance Sub-Departments or units assigned by provincial-level Agriculture and

Rural Development Departments shall assume the prime responsibility for, coordinate with involved units under the Departments, and invite outside experts (if necessary) in:

a/ Evaluating advertisement contents for food produced by local establishments for domestic sale;

b/ Agro-Forestry-Fisheries Quality Assurance Sub-Departments or units assigned by provincial-level Agriculture and Rural Development Departments, as standing agencies, shall receive, process and evaluate dossiers, notify evaluation results and certify food advertisement contents for establishments under this Circular.

3. Units engaged in the evaluation of registration dossiers of food advertisement content certification as assigned under Clauses 1 and 2 of this Article are those managing food safety in the production and trading for the following product groups:

a/ Products of plant origin;

b/ Products of terrestrial animal origin;

c/ Seafood and aquatic products;

d/ Salt;

e/ Blending food (under the management of the Ministry of Agriculture and Rural Development).

Article 6. Funds for implementation

1. Charges and fees for the evaluation of registration dossiers of advertisement content

certification comply with the Ministry of Finance's current regulations.

2. In case the Ministry of Finance has not yet provided the collection of the above charges and fees, standing agencies shall make annual state budget estimates and submit them to competent authorities for approval.

Chapter II

ORDER OF REGISTRATION, CERTIFICATION, AND CANCELLATION OF CERTIFICATION, OF FOOD ADVERTISEMENT CONTENTS

Article 7. Registration forms

1. First-time registration applies to establishments which have not had advertisement contents certified or have certified advertisement contents canceled.

2. Re-registration applies to establishments which have had advertisement contents certified but later change advertisement contents or whose certificates are expiry.

Article 8. Registration dossiers

Establishments specified in Article 2 of this Circular shall submit a complete registration dossier of advertisement content certification to the standing agencies specified in Article 5 of this Circular. A registration dossier comprises:

1. First-time registration:

a/ An application for certification of food advertisement contents, made according to the form provided in Appendix 1 to this Circular (*not printed herein*);

b/ A certified copy of the certificate of food safety eligibility or valid examination results of food safety assurance conditions issued by competent agencies (for domestic producers and traders);

c/ A certified copy of the business registration certificate of the producer or trader;

d/ A certified copy of the notice of receipt of regulation conformity announcement (for products subject to regulation conformity announcement) or standard conformity announcement (if any);

e/ Scientific documents proving product quality and use conformable with registered advertisement contents;

f/ For imported genetically modified and irradiated food, the Certificate of Free Sale (CFS) and other relevant papers under law;

g/ Draft advertisement (video clips, pictures, reports or articles);

h/ The establishment's written authorization (for registration by advertising service providers).

2. Re-registration:

a/ An application for certification of food advertisement contents, made according to the form provided in Appendix 2 to this Circular (*not printed herein*);

b/ A written explanation together with papers on modification of food advertisement contents;

c/ The papers specified at Point b, Clause 1 of this Article, which remain valid under regulations;

d/ Draft advertisement (video clips, pictures, reports or articles).

3. Registrations dossiers shall be submitted to **standing agencies** directly or by fax or e-mail or communication network (and later by post in the original).

4. In case advertisement contents for domestically sold food have been certified by a local **standing agency**, but the producer and trader later exports such food, it shall register certification of advertisement contents at the central **standing agency** upon expiration of the certificate issued by the local standing agency.

5. In case a certificate of advertisement content registration is lost, missing or damaged, the establishment shall submit an application for re-grant of such certificate to the standing agency. Within 5 (five) working days after receiving an application, the standing agency shall re-grant a certificate to the establishment.

Article 9. Receipt and handling of registration dossiers

1. The standing agencies specified in Article 5 of this Circular shall receive registration dossiers of advertisement contents certification submitted by establishments;

2. Within 3 (three) working days after receiving a registration dossier, a standing agency shall check it and guide the applicant in supplementing its dossier if it is neither complete nor valid as required.

Article 10. Evaluation and certification of advertisement contents

1. Within 20 working days after receiving a complete and valid dossier, a standing agency shall notify evaluation results to the applicant as follows:

a/ To certify advertisement contents according to the form provided in Appendix 3 to this Circular (*not printed herein*), if advertisement contents meet requirements;

b/ To inform in writing the applicant of its refusal to certify advertisement contents, clearly stating the reason and details to be modified, if advertisement contents fail to meet requirements.

2. Validity of advertisement content certification is based on:

a/ Validity of the certificate of food safety eligibility or examination results of food safety assurance conditions issued by competent agencies (for domestic producers);

b/ Validity of recognition by exporting countries or producers of exporting countries (for imported products).

Article 11. Cancellation of advertisement content certification

An establishment with certified advertisement contents shall be notified in writing by a standing agency of cancellation of advertisement contents certification when:

1. It advertises food products with expiry certified advertisement contents;
2. Advertisement contents in the registration dossier have been falsified or modified;
3. Its product is detected through examination to fail to meet food quality and safety requirements under regulations or fail to meet classification evaluation requirements under regulations.

Chapter II

RESPONSIBILITIES AND POWERS OF INVOLVED PARTIES

Article 12. Establishments registering certification of food advertisement contents

1. To register certification of food advertisement contents under Article 8 of this Circular;
2. To comply with the provisions on certification of advertisement contents under this Circular;
3. To be responsible before law for the accuracy and truthfulness of their declaration and registered advertisement contents under regulations;
4. To submit to the inspection, examination,

supervision and handling of competent agencies;

5. To advertise food only when their certificates of advertisement contents are valid;
6. To advertise nationwide food whose advertisement contents have been certified to meet requirements under regulations;
7. To pay charges and fees under the Ministry of Finance's current regulations.

Article 13. Standing agencies

1. To receive registration dossiers and guide registration procedures for certification of food advertisement contents;
2. To assume the prime responsibility for, and coordinate with involved units in:
 - a/ Evaluating registration dossiers and certifying advertisement contents under Articles 9 and 10 of this Circular;
 - b/ Publishing on their websites the list of certified establishments and products and those subject to advertisement content certification cancellation;
 - c/ Examining and supervising food advertising activities of certified establishments as assigned in Article 5 of this Circular;
 - d/ Handling violations of advertising regulations under regulations;
3. The central standing agency shall examine and supervise advertisement content certification by local standing agencies.

4. To assume the prime responsibility for, and coordinate with related units under the Ministry, and invite outside experts (if necessary) in evaluating registration dossiers of advertisement content certification as assigned under Article 5 of this Circular.

5. Biannually or irregularly (upon request), the central standing agency shall report to the Ministry of Agriculture and Rural Development, and local standing agencies shall report to provincial-level Agriculture and Rural Development Departments on the certification of food advertisement contents and violations of this Circular.

Article 14. Related units under the Ministry of Agriculture and Rural Development

1. To coordinate with the National Agro-Forestry-Fisheries Quality Assurance Department in evaluating registered advertisement contents for products under their management upon request:

2. To report to the Ministry of Agriculture and Rural Development (through the National Agro-Forestry-Fisheries Quality Assurance Department) when detecting establishments which fail to observe provisions on food advertisement content certification under this Circular.

Article 15. Provincial-level Agriculture and Rural Development Departments

1. To assign standing agencies to receive dossiers, evaluate, and certify food

advertisement contents for establishments as assigned under Article 5 of this Circular;

2. To direct and guide their attached units in examining and supervising the implementation of this Circular in their localities within their scope of assignment;

3. To biannually or irregularly (upon request) submit reports on the certification of food advertisement contents and violations of this Circular to the Ministry of Agriculture and Rural Development (through the National Agro-Forestry-Fisheries Quality Assurance Department).

Chapter IV

IMPLEMENTATION PROVISIONS

Article 16. Effect

This Circular takes effect 45 days from the date of its signing.

Article 17. Amendment and supplementation

Any difficulties or problems arising in the course of implementation should be promptly reported to the Ministry of Agriculture and Rural Development (through the National Agro-Forestry-Fisheries Quality Assurance Department) for consideration, amendment and supplementation.-

*Minister of
Agriculture and Rural Development*
CAO DUC PHAT