

THE GOVERNMENT

Decree No. 26/2011/ND-CP of April 8, 2011, amending and supplementing a number of articles of the Government's Decree No. 108/2008/ND-CP of October 7, 2008, detailing and guiding a number of articles of the Chemical Law

THE GOVERNMENT

Pursuant to the December 25, 2001 Law on Organization of the Government;

Pursuant to the November 21, 2007 Chemical Law;

At the proposal of the Minister of Industry and Trade and the Minister of Health,

DECREES:

Article 1. To amend and supplement a number of articles of the Government's Decree No. 108/2008/ND-CP of October 7, 2008, detailing and guiding a number of articles of the Chemical Law, as follows:

1. To amend and supplement the title and Point b, Clause 1 of Article 4 and add Point d to Clause 1 Article 4 as follows

“**Article 4.** Lists of chemicals subject to conditional production or trading, chemicals restricted from production or trading, banned chemicals and toxic chemicals

1. To promulgate together with this Decree lists of chemicals specified in Articles 14, 15, 19 and 23 of the Chemical Law, including:

b/ The amended list of chemicals restricted from production or trading (Appendix II);

d/ The list of toxic chemicals for which sale and purchase control slips are required (Appendix VI).”

2. To amend and supplement Article 5 as follows

“**Article 5.** Lists of hazardous chemicals for which chemical-related incident prevention and response measures or plans and safety distances are required

1. To promulgate together with this Decree:

a/ The amended list of hazardous chemicals for which organizations and individuals engaged in the production, trading, storage, preservation and use of chemicals are required to elaborate chemical-related incident prevention and response plans under Article 38 of the Chemical Law and to establish safety distances (Appendix IV);

b/ The list of hazardous chemicals for which organizations and individuals engaged in the production, trading, storage, preservation and use of chemicals are required to elaborate chemical-related incident prevention and response measures (Appendix VII).

2. To meet management requirements in each period, the Ministry of Industry and Trade shall assume the prime responsibility for, and coordinate with line ministries in, studying and proposing amendments to the lists of chemicals specified in Clause 1 of this Article to the Government for decision.”

3. To supplement Clause 1, Article 6 as follows

“Article 6. List of chemicals subject to compulsory declaration

1. To promulgate together with this Decree an amended list of chemicals subject to compulsory declaration (Appendix V).”

4. To amend and supplement Article 7 as follows

“Article 7. Conditions for production or trading of chemicals subject to conditional production or trading in the industrial sector

1. Conditions for chemical production

a/ The director or technical deputy director or technical officer in charge of chemical production of an establishment producing chemicals subject to conditional production or trading in the industrial sector must hold a university or higher degree in a chemical discipline;

b/ The officer in charge of chemical safety control must be trained or re-trained in chemical safety techniques;

c/ Laborers in direct exposure to chemicals must be trained or re-trained in chemical safety techniques;

d/ The establishment’s physical and technical foundations must satisfy the requirements specified in Article 12 of the Chemical Law;

e/ The establishment must have appropriate equipment and devices or enter into a contract with a capable unit accredited by a competent agency to test the concentration and components of chemicals;

f/ The establishment’s chemical-related

incident prevention and response measures or plans must be certified or approved by competent agencies,

g/ The establishment must have fire and explosion prevention and control devices and equipment according to the Law on Fire Prevention and Fighting; have devices and equipment for hazardous waste control, collection and treatment, or enter into contracts on hazardous waste transportation, disposal and destruction according to the Law on Environmental Protection.

2. Conditions for chemical trading

a/ The person in charge of chemical safety of a chemical trading establishment must hold an intermediate or higher degree in a chemical discipline;

b/ Persons in direct exposure to chemicals must be trained or re-trained in chemical safety techniques;

c/ The establishment’s physical and technical foundations must satisfy the requirements specified in Article 12 of the Chemical Law;

d/ The establishment’s chemical-related incident prevention and response measures or plans must be certified or approved by competent agencies;

e/ The establishment must have fire and explosion prevention and control devices and equipment according to the Law on Fire Prevention and Fighting; have devices and equipment for hazardous waste control, collection and treatment, or enter into contracts on hazardous waste transportation, disposal or destruction according to the Law on Environmental Protection.”

5. To add the following Article 7a below Article 7

“Article 7a. Training in chemical safety techniques

1. Organizations and individuals engaged in chemical-related activities shall send their leaders, managers and laborers to training courses in chemical safety techniques.

2. To be trained in chemical safety techniques are: leaders and managers of sections directly engaged in chemical-related activities; persons directly engaged in the production, trading, transportation, storage, preservation and use of chemicals.

3. Contents of training in chemical safety techniques in chemical-related activities must be suitable to working positions of trainees and kinds of chemicals. Specifically:

a/ Leaders and managers of sections directly engaged in chemical-related activities shall be trained in legal knowledge about management of chemical-related activities and fire prevention and fighting, regulations on safety distances and implementation of chemical-related incident prevention and response measures and plans;

b/ Persons directly engaged in the production, trading, transportation, storage, preservation and use of chemicals shall be trained and re-trained in current standards, regulations and legal documents concerning safety in the production, trading, use, preservation and transportation of chemicals;

c/ Line ministries shall specify programs and contents of training in chemical safety techniques in chemical-related activities for the

trainees specified in Clause 2 of this Article.

4. Qualified trainees shall be granted certificates after completing training courses on technical safety techniques.

5. Line ministries shall guide and authorize specialized agencies under provincial-level People’s Committees to organize training courses on chemical safety techniques according to the contents and programs specified in Clause 3 of this Article and to grant certificates of training in chemical safety techniques to organizations and individuals engaged in chemical-related activities in their localities.

6. Before December 31 every year, certificate-granting agencies specified in Clause 5 of this Article shall report on the training in chemical safety techniques to line ministries for reporting on training activities under their respective management to the Ministry of Industry and Trade no later than January 15 of the subsequent year.

7. Line ministries shall examine the training in chemical safety techniques by certificate-granting agencies under their management.”

6. To add the following Article 7b below Article 7

“Article 7b. Dossiers and procedures for and agencies in charge of certifying chemical-related incident prevention and response measures

1. Organizations and individuals engaged in the production, trading, storage, preservation and use of hazardous chemicals shall work out chemical-related incident prevention and response measures under Clauses 2 and 3.

Article 36 of the Chemical Law.

2. A dossier of request for certification of chemical-related incident prevention and response measures comprises:

a/ A written request of the organization or individual engaged in the production, trading, storage, preservation and use of hazardous chemicals;

b/ Chemical-related incident prevention and response measures;

c/ Enclosed documents (if any).

3. Agencies competent to certify chemical-related incident prevention and response measures shall conduct physical inspection at establishments engaged in the production, trading, storage, preservation and use of hazardous chemicals before granting certificates. The time limit for certifying chemical-related incident prevention and response measures is 20 working days after receiving a complete and valid dossier mentioned in Clause 2 of this Article.

4. Organizations and individuals requesting certification of chemical-related incident prevention and response measures shall pay a fee according to law.

5. Line ministries shall:

a/ Assume the prime responsibility for, and coordinate with state management agencies in charge of fire prevention and fighting and relevant state management agencies in, certifying chemical-related incident prevention and response measures;

b/ Conduct regular or irregular examination of the management and implementation of measures for prevention of and response to

chemical-related incidents under their management;

c/ Specify requirements on the contents and grant of certificates of chemical-related incident prevention and response measures.”

7. To add the following Article 7c below Article 7

“**Article 7c.** Registration of chemical use

1. Organizations and individuals using chemicals under Chapter V and Articles 63 and 64 of the Chemical Law shall register the use of chemicals.

2. Line ministries shall specify the registration of the use of chemicals under their management; and conduct regular or irregular examination of the registration of the use of chemicals.”

8. To amend and supplement Article 8 as follows

“**Article 8.** Conditions for production or trading of chemicals subject to conditional production or trading in the healthcare sector

1. Conditions on production and trading of chemicals in the pharmacy sector

Establishments producing or trading in chemicals used in the pharmacy sector must satisfy the conditions on managers in charge of professional affairs, physical and technical foundations and personnel prescribed in the Pharmacy Law and the Government’s Decree No. 79/2006/ND-CP of August 9, 2006, detailing a number of articles of the Pharmacy Law.

2. Conditions for production of insecticidal and germicidal chemicals and preparations for

family and medical use

An establishment producing insecticidal and germicidal chemicals and preparations for family and medical use must satisfy the following conditions:

a/ The person directly regulating production activities possesses a university or higher degree in a chemical discipline;

b/ The establishment's physical and technical foundations satisfy the requirements specified in Article 12 of the Chemical Law;

c/ The establishment has adequate quality control equipment and devices or enter into a contract with a capable unit to inspect the quality of goods;

d/ The establishment has worked out measures for fire and explosion and chemical-related incident prevention and response, waste treatment and environmental protection according to law.

3. Conditions for trading in insecticidal and germicidal chemicals and preparations for family and medical use

An establishment trading in insecticidal and germicidal chemicals and preparations for family and medical use must satisfy the following conditions:

a/ The person in charge of chemical safety possesses an intermediate or higher degree in a chemical discipline, except cases of trading in ordinary insecticidal and germicidal preparations, including mosquito-repellent incenses, insect-repellent sprays and creams, electric-operated mosquito-repellent chemical plates and solutions, mosquito-repellent nets and cockroach and fly baits;

b/ The establishment's physical and technical foundations satisfy the requirements specified in Article 12 of the Chemical Law;

c/ The establishment has worked out measures for fire and explosion and chemical-related incident prevention and response, waste treatment and environmental protection according to law.

4. Conditions for production of chemicals for use in medical equipment and devices

Establishments producing chemicals for use in medical equipment and devices must satisfy the conditions stated in Clause 2 of this Article.

5. Conditions for trading in chemicals for use in medical equipment and devices

Establishments trading in chemicals for use in medical equipment and devices must satisfy law-prescribed conditions on trading in medical equipment and devices."

9. To supplement the title of Article 12 as follows

"Article 12. Conditions on production and trading of chemicals on the list of chemicals restricted from production and trading"

10. To amend and supplement Article 13 as follows

"Article 13. Responsibility to establish safety distances

1. Investment projects on the production, trading, storage, preservation and use of hazardous chemicals on the list provided in Appendix IV to this Decree shall establish safety distances between chemical-producing, -trading, -storing, -preserving and -using

facilities and residential areas, public works, historical or cultural relics, scenic places, beauty spots, nature reserves, national parks, biosphere reserves, species-habitat conservation areas, marine conservation areas and daily-life water sources according to this Decree and observe technical regulations on safety distances.

2. The Ministry of Industry and Trade shall assume the prime responsibility for, and coordinate with line ministries and provincial-level People's Committees in, examining and evaluating safety distances of operating establishments producing, trading, storing, preserving or using hazardous chemicals which fail to satisfy the conditions on safety distances prescribed in this Decree.

Operating establishments which have not yet established safety distances shall work out a roadmap for establishment of safety distances and report implementation results to line management ministries and provincial-level People's Committees. The establishment of safety distances must be completed before December 30, 2012."

11. To amend and supplement Article 18 as follows

"Article 18. Procedures for chemical declaration

1. For chemical producers

a/ Provincial-level Industry and Trade Departments shall receive declaration dossiers of organizations and individuals producing chemicals on the list of chemicals subject to compulsory declaration in their respective localities;

b/ A declarant shall make 1 dossier set comprising a written declaration of the chemical and a chemical safety data sheet in Vietnamese, for hazardous chemicals.

In case there is no change in the ingredients of a hazardous chemical which has been declared to the provincial-level Industry and Trade Department, the producer is not required to re-submit the chemical safety data sheet;

c/ Producers of chemicals on the list of chemicals subject to compulsory declaration shall send a written declaration of chemicals produced in a year to provincial-level Industry and Trade Departments before January 31 of the subsequent year.

2. For chemical importers

a/ The Ministry of Industry and Trade shall receive declaration dossiers of importers of chemicals on the list of chemicals subject to compulsory declaration;

b/ A declarant shall make 1 dossier set comprising a written declaration of the chemical; chemical sale and purchase invoices and other papers (if any). For hazardous chemicals on the list of chemicals subject to compulsory declaration provided in Appendix V to this Decree, the declaration dossier must be enclosed with a chemical safety data sheet in Vietnamese, made according to a form provided by the Ministry of Industry and Trade, and its English version for comparison when necessary.

In case there is no change in the ingredients of a hazardous chemical which has been previously declared to the Ministry of Industry and Trade, the importer is not required to re-

submit the chemical safety data sheet. This provision does not apply to organizations and individuals declaring imported chemicals electronically;

c/ Importers of chemicals shall declare chemicals to the Ministry of Industry and Trade before enjoying customs clearance for these chemicals;

d/ The time limit for the Ministry of Industry and Trade to certify the declaration of imported chemicals is 7 working days after the receipt of a complete and valid dossier specified at Point b, Clause 2 of this Article.

3. The Ministry of Industry and Trade shall provide for forms of chemical declaration and chemical declaration certificate and specify the electronic declaration of imported chemicals and reporting of chemicals.

4. Cases exempt from declaration

Chemicals produced or imported only once for security, defense or response to natural disasters or emergency circumstances of diseases or epidemics.

5. Chemical declaration fee

Declarants of produced or imported chemicals shall pay a declaration fee according to law.”

12. To add the following Article 18a below Article 18

“**Article 18a.** Certification of chemical safety data sheets for exported chemicals

Before exporting chemicals, exporters shall fully fill in the chemical safety data sheets as required and have these sheets evaluated and certified by the Ministry of Industry and Trade.”

13. To amend Clause 2, Article 20 as follows

“2. The Ministry of Industry and Trade shall assume the prime responsibility for, and coordinate with line ministries and localities in, elaborating a scheme on building the national chemical database and making a national list of chemicals for submission to the Prime Minister for consideration and approval.”

14. To amend Clause 2, Article 22 as follows

“2. This Decree replaces the Government’s Decree No. 68/2005/ND-CP of May 20, 2005, on chemical safety.”

Article 2. Effect

This Decree takes effect on June 1, 2011.

Article 3. Implementation responsibility

Ministers, heads of ministerial-level agencies, heads of government-attached agencies, chairpersons of provincial-level People’s Committees and concerned organizations and individuals shall implement this Decree.-

On behalf of the Government
Prime Minister
NGUYEN TAN DUNG