

THE MINISTRY OF AGRICULTURE AND
RURAL DEVELOPMENT

**Circular No. 59/2012/TT-BNNPTNT
of November 9, 2012, on
management of safe vegetable, fruit
and tea production**

*Pursuant to the November 21, 2007 Law
on Product and Goods Quality;*

*Pursuant to the June 17, 2010 Law on
Food Safety;*

*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 the Government's 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, defining the functions, tasks, powers and organizational structure of the Ministry of Agriculture and Rural Development:

Pursuant to the Government's Decree No. 38/2012/ND-CP of April 25, 2012, detailing a number of articles of the Law on Food Safety:

At the proposal of the director of the Department of Plant Protection:

The Minister of Agriculture and Rural Development promulgates the Regulation on management of safe vegetable, fruit and tea production.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation and subjects of application

1. This Circular prescribes the conditions and certification of food safety eligibility for vegetable and fruit production, pre-processing and processing or tea production and processing establishments.

2. This Circular applies to organizations and individuals registering for production, pre-processing and processing of vegetables, fruits or tea that satisfy food safety conditions (below

referred to as safe vegetables, fruits and tea); agencies, organizations and persons related to the certification of food safety eligibility for vegetable, fruit and tea production, pre-processing and processing, and to the inspection and handling of violations in safe vegetable, fruit and tea production, pre-processing and processing in Vietnam.

Article 2. Interpretation of terms

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

1. Safe vegetable or fruit means fresh vegetable or fruit which is produced, pre-processed or processed in accordance with national technical regulations on food safety assurance conditions, or with the technical process of safe vegetable or fruit production and pre-processing approved by provincial-level Departments of Agriculture and Rural Development, or with food safety assurance regulations included in the Vietnamese process of good agricultural practices (VietGAP) for safe fresh vegetables and fruits or other GAP standards, with their typical samples achieving prescribed food safety indicators.

2. Safe tea means fresh tea buds produced in accordance with national technical regulations on food safety assurance conditions, or with the process of safe tea production (including tea products) or with food safety assurance regulations included in the VietGAP for safe fresh tea buds, or other GAP standards, and

processed according to technical regulations issued by the Ministry of Agriculture and Rural Development, with their typical samples achieving prescribed food safety indicators.

3. Safe vegetable, fruit or tea production, pre-processing or processing establishment means an establishment that is granted a certificate of food safety eligibility for vegetable and fruit production, pre-processing and processing of tea production and processing.

Chapter II

CONDITIONS FOR SAFE VEGETABLE, FRUIT AND TEA PRODUCTION, PRE-PROCESSING AND PROCESSING

Article 3. General conditions

Safe vegetable, fruit or tea production, pre-processing or processing establishments must ensure the conditions prescribed in Articles 23 and 25 of the 2010 Law on Food Safety.

Article 4. Conditions to assure food safety in vegetable and fruit production, pre-processing and processing

1. Conditions for vegetable and fruit production

To comply with the national technical regulations on conditions to assure food safety for vegetables and fruits in production issued by the Ministry of Agriculture and Rural Development or the technical process of safe

vegetable and fruit production approved by the provincial-level Department of Agriculture and Rural Development or food safety assurance regulations in VietGAP or other GAP.

2. Conditions for vegetable and fruit pre-processing

To comply with the national technical regulations on conditions to assure food safety for vegetables and fruits in production and pre-processing issued by the Ministry of Agriculture and Rural Development.

3. Conditions for vegetable and fruit processing

To comply with national technical regulation QCVN 01-09:2009/BNNPTNT on vegetable and fruit processing establishments - conditions to assure food safety.

Article 5. Conditions to assure food safety in tea production and processing

1. Conditions for tea production

To comply with the national technical regulations on conditions to assure food safety for fresh tea buds in production issued by the Ministry of Agriculture and Rural Development or food safety assurance regulations in VietGAP or other GAP applying safety limits not lower than those prescribed in VietGAP

2. Conditions for tea processing

To comply with national technical regulation QCVN 01-07:2009/BNNPTNT on tea

processing establishments - conditions to assure food safety.

Chapter III

GRANT OF CERTIFICATES OF FOOD SAFETY ELIGIBILITY FOR VEGETABLE AND FRUIT PRODUCTION, PRE-PROCESSING AND PROCESSING AND TEA PRODUCTION AND PROCESSING ESTABLISHMENTS

Article 6. Certificates of food safety eligibility for vegetable and fruit production, pre-processing and processing or tea production and processing establishments

1. Certificates of food safety eligibility are granted to vegetable and fruit production, pre-processing and processing or tea production and processing establishments (below referred to as establishments), except for small-sized initial production establishments.

2. Establishments meeting the requirements specified in Articles 3, 4 and 5 of this Circular are granted certificates of food safety eligibility for vegetable and fruit production, pre-processing and processing or tea production and processing.

3. Provincial-level Departments of Agriculture and Rural Development are competent to grant, re-grant or authorize their specialized agencies to grant and re-grant certificates of food safety eligibility to vegetable and fruit production, pre-processing and

processing or tea production and processing establishments (below referred to as the certificate).

4. The certificate is valid for 3 (three) years.

Six months prior to the expiry date of the certificate, the establishment shall submit 1 (one) set of dossier to request re-grant of a certificate to the agency that is competent to grant certificates. The dossier, order and procedures for re-grant of certificates comply with Article 9 of this Circular.

5. The certificate form is provided in Appendix 1 to this Circular (*not translated*).

6. Dossiers for grant of certificates must be kept at the agencies granting certificates and establishments applying for certificates.

7. Establishments that have VietGAP certificates may use such certificates to replace the certificates of food safety eligibility within the validity durations of such certificates.

Article 7. Order and procedures for granting certificates

1. Dossier submission:

a/ The establishment applying for a certificate can send a dossier directly or by post to the agency competent to grant certificates.

b/ Dossier quantity: 1 (one) set.

c/ The dossier will be checked whether it is complete and valid within 2 (two) working days.

If the dossier is complete and valid as prescribed, it will be accepted; if not, it will be required to be supplemented.

2. Dossier of application:

a/ An application for a certificate, made according to a set form;

b/ A written explanation of the conditions of safe vegetable and fruit production, pre-processing and processing or safe tea production and processing, made according to a set form;

c/ A copy of the business registration certificate or establishment decision;

d/ Copies of the certificates of training in food safety in vegetable, fruit and tea production, pre-processing and processing of the establishment's owner and direct workers (together with their originals for comparison), or certified copies;

e/ The health certificates of the establishment's owner and direct workers granted by a district- or higher-level medical establishment (only applicable to pre-processing and processing establishments).

3. Appraisal and grant of certificates

a/ Within 5 (five) working days from the date of receipt of a valid dossier as prescribed, the agency competent to grant certificates shall form an inspection team of 2-5 persons to appraise and evaluate the applying establishment.

b/ Within 5 (five) working days from the date of issuing the decision to form the inspection

team, the competent agency shall notify the establishment of the inspection plan at least 5 (five) working days prior to the time of the appraisal and evaluation. The inspection plan must specify the inspection contents and duration, and composition of the inspection team, and inspection requirements.

c/ Contents and methods of inspection

The inspection team shall conduct the appraisal and evaluation of the establishment's satisfaction of the conditions according to current regulations through field inspection, documentary inspection and interviews (if necessary), and, when finding it necessary, may take samples of soil, water and products for testing. The sampling must be done according to prescribed standards or relevant documents.

The inspection record, which must state all contents of the inspection and bear the certifying signatures of the establishment's representative and the inspection team's head, must be announced at the meeting at the end of the inspection. If the establishment is not qualified, the inspection team shall state clearly in the record the indicators that are not achieved and deadlines for the establishment to remedy.

If disagreeing with the inspection results of the team, the representative of the establishment may write his/her proposals in the end of the record before signing and stamping to certify. The inspection record is still legally valid in case the representative of the establishment does not sign it.

The form of inspection record, evaluation and guidelines for evaluation of vegetable, fruit and tea production establishments and vegetable and fruit pre-processing establishments are provided in Appendices 4, 5, 6 and 7 to this Circular (*not translated*); the form of evaluation and statistics of vegetable and fruit processing establishments are provided in Circular No. 14/2011/TT-BNNPTNT of March 29, 2011, of the Minister of Agriculture and Rural Development regulating the examination and evaluation of establishments producing and trading in agricultural supplies and agricultural, forest and aquatic products; the form of evaluation and statistics of tea processing establishments is provided in Circular No. 53/2011/TT-BNNPTNT of August 2, 2011, of the Minister Agriculture and Rural Development supplementing Circular No. 14/2011/TT-BNNPTNT.

d/ Grant of certificates

Within 5 (five) working days from the date of completing the inspection or date of the sample testing result of the inspection team, the establishment that meets all prescribed conditions shall be granted a certificate.

Any conditions that are not met must be clearly stated in the inspection record. After receiving the report on remedy, the competent agency shall consider and evaluate the report on remedy (if necessary, it shall send a representative to re-inspect). If all conditions are met, within 5 (five) working days after receiving the report on remedy of the establishment or of

the re-inspection result, the competent agency shall grant a certificate.

In case of refusal to grant a certificate, the competent agency shall issue a written reply clearly stating the reason.

Article 8. Re-grant and revocation of certificates

1. Cases of re-grant of a certificate

a/ The original certificate remains valid but is lost or misplaced.

b/ The original certificate remains valid but it is damaged and can no longer be used

c/ The certificate is detected to have errors caused by the establishment applying for the certificate or by the agency competent to grant the certificate.

d/ The establishment applying for the certificate has changed or added information relating to it in the certificate.

e/ The certificate expires.

f/ The certificate is revoked under Point a, Clause 2 of this Article.

2. Cases of revocation of certificates

a/ The cases specified in Article 13 of the Government's Decree No. 38/2012/ND-CP of April 25, 2012, detailing a number of articles of the Law on Food Safety.

b/ The case specified at Point c, Clause 2, Article 14 of this Circular.

3. Competence to revoke certificates

The agencies that are competent to grant the certificates are competent to revoke them.

Article 9. Order and procedures for re-grant of certificate:

1. Dossier submission

a/ The establishment requesting re-grant of a certificate shall submit a dossier to the agency competent to grant certificates directly, by post, via fax, email or electronic network (then send the original dossier).

b/ Dossier quantity: 1 (one) set

c/ The dossier will be checked whether it is complete and valid within 1 (one) working day. If the dossier is complete and valid according to regulations, it will be accepted; if not, it will be required to be supplemented.

2. Dossier for re-grant of a certificate:

a/ A written request for re-grant of a certificate of eligibility for safe vegetable and fruit production, pre-processing and processing or tea production and processing, made according to a set form.

b/ A written explanation of the conditions of vegetable and fruit production, pre-processing, processing or tea production and processing (if they have changed compared to the first registration).

c/ Copies of the certificates of training in food safety in vegetable, fruit and tea production, pre-

processing and processing of the establishment's owner and direct workers (together with their originals for comparison), or certified copies (for those newly added).

d/ The health certificates of the establishment's owner and direct workers granted by a district or higher-level health establishment (only applicable to pre-processing and processing establishments in the cases specified at Points d, e, f, Clause 1, Article 8 of this Circular).

e/ The report on remedy (for the cases of revocation of the certificate specified at Point e, Clause 2, Article 14 of this Circular).

f/ The granted certificate (for the cases specified at Points b and c, Clause 1, Article 8 of this Circular).

g/ The competent agencies' records of periodic inspection and evaluation of the conditions to assure food safety for vegetable and fruit production, pre-processing and processing or tea production and processing establishments according to regulations of the Minister of Agriculture and Rural Development (if any).

3. Appraisal and re-grant of certificates

a/ For the cases specified at Points a, b and c, Clause 1, Article 8 of this Circular, the agencies competent to re-grant certificates shall examine and compare with the original dossiers filed at the certificate-granting agency. The time for examination and re-grant is 1 (one) working

day from the date of receiving a valid dossier. The re-granted certificate will have the date of grant and validity duration like the original certificate and be appended with the "re-granted copy" mark.

b/ For the cases specified at Points d, e and f, Clause 1, Article 8 of this Circular, the time, order and time limit for re-grant of certificates comply with Clause 3, Article 7 of this Circular.

In case the establishment has annual inspection results of A level as prescribed by the Minister of Agriculture and Rural Development, the time limit for examining and re-granting a certificate is 5 (five) working days from the date of receiving a valid dossier; the certificate-granting agency shall not form an inspection team.

c/ In case of refusal to re-grant the certificate, the competent agency shall reply in writing clearly stating the reason.

Article 10. Provisions on sampling, sampling and testing costs

1. The methods of sampling and testing to determine heavy metals and harmful microorganisms in the soil and water are applied in accordance with the national technical regulations and implemented in testing laboratories under Circular No. 54/2011/TT-BNNPTNT of August 3, 2011, of the Minister of Agriculture and Rural Development, on capacity requirements for laboratories testing food quality and safety of agricultural, forest and

aquatic products and salt.

2. Establishments applying for certificates shall bear the costs of sampling and testing soil and water samples; cost of sampling and testing product samples; cost of certifying the food safety eligibility for vegetable and fruit production, pre-processing and processing or tea production and processing establishments, unless they are supported by the state budget.

3. The cost of sampling and testing samples in irregular or periodic inspection of safe vegetable, fruit and tea production, pre-processing, processing establishments will be paid by the inspection agency; if the inspection agency concludes that the establishments violate regulations, the establishments shall pay the costs of sampling, testing and announcement in the mass media.

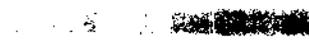
Chapter IV

RESPONSIBILITIES OF RELATED PARTIES IN THE GRANT OF CERTIFICATES

Article 11. Establishments applying for certificates

1. To carry out the procedures for grant and re-grant of certificates of food safety eligibility and comply with this Circular.

2. To provide adequate information and related documents and create favorable conditions for the certificate-granting agencies



to perform their tasks.

3. To regularly maintain the conditions for safe vegetable, fruit and tea production, pre-processing and processing as certified.

4. To remedy and correct errors mentioned in the inspection and evaluation records of the certificate-granting agencies.

5. To pay charges and fees as prescribed.

6. To judge complaints when disagreeing with the conclusions stated in the inspection and evaluation records.

Article 12. Certificate granting agencies

1. To grant, re-grant and revoke the certificates of food safety eligibility in accordance with this Circular and relevant law.

2. To form inspection teams to appraise and evaluate establishments applying for certificates.

3. To ensure objectivity and fairness in certificate-granting activities.

4. To periodically or irregularly inspect establishments that have been granted certificates at the request of competent agencies.

5. To handle violations and settle complaints and denunciations in accordance with law.

6. To monitor and request establishments to remedy errors in the conditions for safe vegetable, fruit and tea production, pre-processing and processing.

7. To ask establishments to provide dossiers and documents and facilitate the grant of certificates, and inspect the observance of the provisions of this Circular and other relevant legal documents.

Article 13. Teams of inspection and evaluation for granting certificates

1. To evaluate and consider the eligibility of establishments against the provisions of this Circular.

2. To assure objectivity in inspection and evaluation activities.

3. To report evaluation results truthfully to the agencies competent to grant certificates.

4. To keep secret information relating to the evaluated establishments and observe all provisions of current law.

5. To interview persons and examine books, documents and dossiers related to the establishments; to collect and record necessary information, require performance of professional work and provision of evidences for inspection and evaluation activities.

Chapter V

ORGANIZATION OF IMPLEMENTATION

Article 14. Inspection and handling of violations

1. Inspection

a/ The general departments and line departments under the Ministry of Agriculture and Rural Development and provincial-level Departments of Agriculture and Rural Development (below referred to as inspection agencies) are assigned according to their respective functions and duties to form inspection teams to periodically or irregularly inspect safe vegetable, fruit and tea production, pre-processing, processing establishments in accordance with the Law on Food Safety, the Law on Product and Goods Quality and guiding documents.

b/ Safe vegetable, fruit and tea production, pre-processing, processing establishments are subject to periodical or irregular inspections of the inspection agencies at central and local levels in accordance with law.

2. Handling of violations in the inspection process

a/ When detecting an establishment that fails to meet any of the conditions specified in Articles 3, 4 and 5 of this Circular, the inspection team shall request the establishment to immediately remedy within a specific time limit: to report within 24 hours to the inspection agency for handling according to its competence; before continuing to bring the products to the market, the establishment shall notify it in writing to the inspection agency.

If the establishment still continues its violation, within 7 (seven) working days from the date of

conclusion on the violation, the inspection agency shall publicize on the mass media the name and address of the violating establishment, names of uncomformable products and the level of their non-conformity.

After the publication in the mass media, if the violating establishment continues its violation, the inspection agency shall propose a competent agency to handle it under the guidance at Point c, Clause 2 of this Article and other regulations.

b/ Upon detection of signs of unsafe food, the inspection team may take samples for testing. If the test results confirm that the products do not meet food safety indicators as prescribed by the Ministry of Health, the inspection agency shall publicize these results in the mass media, suspend the production, pre-processing or processing of uncomformable products in order to remedy the violation. Depending on the seriousness of the violation, the inspection agency may propose a competent state agency to sanction, under the guidance at Point c, Clause 2 of this Article and other regulations.

c/ In case the establishment commits a serious violation or fails to remedy its violation after the publication in the mass media or commits the violation again after two consecutive inspections, its certificate may be revoked. Depending on the seriousness of the violation, the inspection agency shall propose a competent agency to impose an administrative sanction or examine penal liability according to regulations.

Article 15. Assignment of performance

1. The National Agro-Forestry and Fisheries Quality Assurance Department

a/ To direct and guide provincial-level Departments of Agriculture and Rural Development in granting certificates of food safety eligibility for vegetable and fruit production, pre-processing and processing or tea production and processing establishments in accordance with this Circular.

b/ To participate in training VietGAP standards and technical regulations for safe vegetable and fruit production, pre-processing and processing or tea production and processing establishments nationwide.

c/ To assume the prime responsibility for identifying causes and propose remedial measures when products fail to meet food safety requirements.

d/ To organize the performance of food safety inspection and monitoring tasks as assigned by the Minister of Agriculture and Rural Development.

2. The Department of Crop Production

a/ To guide the planning of consolidated safe vegetable, fruit and tea production zones nationwide; to direct the implementation of programs and projects to develop safe vegetables, fruits and tea; to submit to the Ministry for promulgation technical regulations in safe vegetable, fruit and tea production and

pre-processing.

b/ To assume the prime responsibility for, and coordinate with relevant units in, developing training programs on food safety in vegetable, fruit and tea production and pre-processing.

c/ To organize the performance of food safety inspection and monitoring tasks as assigned by the Minister of Agriculture and Rural Development.

3. The Department of Processing and Trade of Agro-Forestry and Fisheries Products and Salt Production

a/ To submit to the Ministry for promulgation technical regulations on conditions to assure food safety in safe vegetable, fruit and tea processing.

b/ To provide training in the standards and technical regulations on safe vegetable, fruit and tea preservation and processing nationwide.

c/ To organize the performance of food safety inspection and monitoring tasks as assigned by the Minister of Agriculture and Rural Development.

4. The Department of Plant Protection

a/ To provide training in and direct the application of integrated pest management (IPM and ICM) on vegetables, fruits and tea, and safe vegetable, fruit and tea production processes;

b/ To organize the performance of food safety inspection and monitoring tasks as assigned by the Minister of Agriculture and

Rural Development.

5. The National Center of Agricultural Extension

a/ To take part in training in and popularization of safe production processes;

b/ To provide public information to promote safe vegetable, fruit and tea production;

c/ To develop demonstration models on establishments meeting food safety conditions for vegetable and fruit production, pre-processing and processing or tea production and processing in key areas in order to encourage extension.

6. Provincial-level Departments of Agriculture and Rural Development

a/ To submit to provincial-level People's Committees master plans on consolidated safe vegetable, fruit and tea production zones and investment projects to develop safe vegetable, fruit and tea production in the localities.

b/ To promulgate safe vegetable, fruit and tea production processes suitable to local specific conditions on the basis of relevant technical regulations.

c/ To organize the grant of certificates of food safety eligibility for vegetable and fruit production, pre-processing and processing or tea production and processing establishments.

d/ To direct, guide and inspect their specialized agencies authorized to grant certificates of food safety eligibility for vegetable and fruit

production, pre-processing and processing or tea production and processing establishments.

e/ To propose policies to encourage and support safe vegetable, fruit and tea production in their localities.

f/ To inspect and monitor food safety of vegetables, fruits and tea as assigned by the Minister of Agriculture and Rural Development in their localities.

g/ To organize and guide the training in and grant of certificates of training in food safety in vegetable, fruit and tea production, pre-processing and processing in their localities.

h/ To examine and inspect safe vegetable, fruit and tea production, pre-processing and processing activities in their localities.

i/ To publicize in the mass media the list of establishments meeting food safety conditions for vegetable and fruit production, pre-processing and processing or tea production and processing, and establishments with VietGAP certificates.

Article 16. Reporting regime

1. Provincial-level Departments of Agriculture and Rural Development shall report biannually and annually to the National Agro-Forestry, Fisheries Quality Assurance Department on results of performance of the tasks specified in this Circular; summarize the list of certified establishments in their provinces. Reports must be submitted before June 15 and

December 15 every year.

2. The Department of Crop Production shall summarize and report biannually and annually to the National Agro-Forestry and Fisheries Quality Assurance Department on the management of vegetable, fruit and tea production and pre-processing.

3. The Department of Processing and Trade of Agro-Forestry and Fisheries Products and Salt Production shall summarize and report biannually and annually to the National Agro-Forestry and Fisheries Quality Assurance Department on the management of safe vegetable, fruit and tea processing.

4. Related units shall report biannually and annually to the National Agro-Forestry and Fisheries Quality Assurance Department on the tasks assigned in this Circular.

5. The National Agro-Forestry and Fisheries Quality Assurance Department shall summarize and report biannually and annually to the Ministry of Agriculture and Rural Development on the management of safe vegetable, fruit and tea production, and make a list of certified establishments nationwide.

Chapter VI

IMPLEMENTATION PROVISIONS

Article 17. Transitional provisions

Certificates of eligibility for safe vegetable and fruit production and pre-processing and

certificates of eligibility for safe tea processing granted before the effective date of this Circular continue to be valid until the expiry date stated in these certificates. Six months before the said certificates expire, if wishing to continue their operation, establishments shall apply for certificates of food safety eligibility for vegetable and fruit production, pre-processing and processing or tea production and processing in accordance with this Circular.

Article 18. Implementation provisions

1. This Circular takes effect on December 24, 2012.

2. This Circular replaces Decision No. 99/2008/QĐ-BNN of October 15, 2008, of the Minister of Agriculture and Rural Development promulgating the Regulation on management of safe vegetable, fruit and tea production and trading, and Article 2 of Circular No. 17/2011/TT-BNNPTNT of April 6, 2011, amending, supplementing and annulling a number of regulations on administrative procedures in the field of cultivation under December 15, 2010 Resolution No. 57/NQ-CP.

3. The National Agro-Forestry and Fisheries Quality Assurance Department shall act as the focal point in monitoring, guiding and organizing the implementation of this Circular. Any difficulties arising in the course of implementation should be reported to the Ministry of Agriculture and Rural Development (the National Agro-Forestry and Fisheries

Quality Assurance Department) for timely
settlement.-

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