

**Circular No. 45/2012/TT-BCT of
December 28, 2012, providing in-
process inspection of food quality and
safety under the state management of
the Ministry of Industry and Trade**

*Pursuant to the Government's Decree
No. 95/2012/ND-CP of November 12, 2012,
defining the functions, tasks, powers and
organizational structure of the Ministry of
Industry and Trade;*

Pursuant to June 17, 2010 Law No. 55/2010/

QH12 on Food Safety and the Government's Decree No. 38/2012/ND-CP of April 25, 2012, detailing a number of articles of the Law on Food Safety;

Pursuant to November 21, 2007 Law No. 05/2007/QH12 on Product and Goods Quality and the Government's Decree No. 132/2008/ND-CP of December 31, 2008, detailing a number of articles of the Law on Product and Goods Quality;

Pursuant to the Government's Decree No. 94/2012/ND-CP of November 12, 2012, on liquor production and trading;

The Minister of Industry and Trade issues the Circular providing in-process inspection of food quality and safety under the state management of the Ministry of Industry and Trade as follows:

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Circular provides the principles, order and procedures for in-process inspection of food quality and safety under the state management of the Ministry of Industry and Trade, including:

1. Beer-liquor-soft drink;
2. Processed milk;
3. Vegetable oil;
4. Processed flour and starch products;
5. Confectionery and jam;
6. Packages and containers of the products

specified at Points 1, 2, 3, 4 and 5 of this Article.

Article 2. Subjects of application

This Circular applies to:

1. Organizations and individuals producing food products specified in Article 1 of this Circular and having registered relevant production and business lines in accordance with Vietnam's law.

2. Other related agencies, organizations and individuals.

Article 3. Interpretation of terms

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

1. Food production establishment (below referred to as production establishment) means an establishment which conducts one, some or all of the following activities: preliminarily processing, processing, packaging and preservation to turn out food products.

2. Food quality and safety inspection means the inspection of the observance of current laws on assurance of food quality and safety in the production process.

3. Food testing means the implementation of one or some activities of testing and assessing conformity with relevant standards or technical regulations by food, food additives, food processing aids, substances to be added to food, and food packages, containers and packaging materials.

4. Lot of food products means a definite quantity of products of the same name, quality,

materials and use duration which are produced at one establishment.

Article 4. Inspection principles

Food quality and safety inspection must comply with the following principles:

1. Keeping confidential information, documents and inspection results of inspection agencies and production establishments prior to official conclusion.

2. Taking responsibility before law for inspection results and related conclusions.

3. Assuring clear task assignment and decentralization and effective coordination; not causing harassments or troubles which affect operations of inspected production establishments.

4. Assuring objectivity, accuracy, publicity, transparency and non-discrimination; members of inspection teams must not have any relations involving direct or indirect economic interests with inspected production establishments.

Chapter II

ORDER AND PROCEDURES FOR IN-
PROCESS INSPECTION OF FOOD
QUALITY AND SAFETY

Article 5. Regular inspection

1. Based on the practical situation and requirements for food quality and safety inspection for each production establishment, inspection agencies shall elaborate annual food quality and safety inspection plans (below referred to as plans) and estimate

funds for implementation of such plans before November 1 every year for submission to competent authorities for approval. Inspection plans must clearly identify to-be-inspected products, number of to-be-inspected production establishments and inspection contents.

2. Frequency of inspection: No more than one inspection per year for each production establishment.

3. Inspection agencies shall notify inspection plans to production establishments at least fifteen (15) days before the date of inspection.

Article 6. Irregular inspection

1. Inspection agencies shall conduct irregular inspection in one of the following cases:

a/ Products in circulation fail to meet food quality and safety requirements or violate or are unconformable with announced applicable standards or relevant technical regulations.

b/ There are warnings about food quality and safety from domestic or international organizations.

c/ Such inspection is requested by competent state management agencies in charge of food quality and safety.

2. Inspection agencies are not required to notify in advance production establishments of the inspection.

Article 7. Inspection contents

A food quality and safety inspection covers:

1. Examination of dossiers related to a food

product and its production process.

2. Examination of the compliance with food quality and safety requirements in the production process at the production establishment.

Article 8. Grounds for food quality and safety inspection

1. Relevant standards, national technical regulations and in-house standards announced for application to food products under the management of the Ministry of Industry and Trade.

2. Current laws on food quality and safety in the production process.

3. Current laws on goods labeling.

Article 9. Examination of dossiers related to food and food production processes

1. Certificate of registration of relevant business lines in accordance with Vietnam's law.

2. Certificate of establishment's eligibility for food safety.

3. Liquor production license, for liquor production establishments.

4. Receipt of the regulation conformity statement or written certification of announcement of conformity with food safety regulations or certificate of product standards.

5. Regulation conformity statement or product information sheet and control sample.

6. Product testing results released within 12 months by an accredited or a Minister of Industry and Trade-designated laboratory.

7. Water quality testing slip.

8. Sample storage dossier for each lot of food products produced at the establishment.

9. Sale and purchase contracts, invoices and documents related to food materials, food additives, food processing aids and food preservatives.

10. Certificates of food safety training of the establishment's owner and persons directly engaged in food production.

11. Health certificates of the establishment's owner and persons directly engaged in food production or list of the establishment's employees directly engaged in production, issued by a district- or higher-level medial establishment according to regulations.

12. Contents of the product's label, which must be conformable with those registered with competent agencies.

13. Certificate of conformity with HACCP or ISO 22000 or equivalent standard and food quality and safety management dossiers (if any), for establishments applying HACCP or ISO 22000 quality control systems.

14. Record of the latest inspection or examination conducted by a competent state agency (if any).

Article 10. Inspection of a production establishment's current state

1. An inspection of a food production establishment's current state covers:

a/ Physical foundations: Location and the environment; designs, structures and layouts of workshops; ventilation systems; lighting systems; water, steam and compressed air supply systems; waste and garbage treatment systems; restrooms and locker rooms; garbage collection and treatment systems; and wastewater drainage and treatment systems.

b/ Food production and processing equipment and devices: Food production and processing equipment and devices; food-packaging equipment and devices; cleaning equipment and devices; control and measuring equipment; hand washing and sterilizing devices; sample storage and preservation; devices for preventing and controlling insects and harmful animals; use of detergent chemicals.

c/ Persons directly engaged in food production and processing: Personal protective clothes; personal hygiene.

d/ Preservation of food in production: Storehouses for preservation of food materials, packages, food additives, food processing aids and food products; stands and shelves of materials and finished products; temperature and humidity control equipment; and vehicles for carrying materials and finished products.

2. Inspection results shall be made according to Appendix I to this Circular, *not translated*.

3. The sampling of food suspected to violate quality and safety requirements for testing complies with Appendix II to this Circular, *not translated*.

Article 11. Handling of inspection results

1. Inspection teams shall make inspection records according to the form provided in Appendix I to this Circular and notify inspection results to competent management agencies in charge of food quality and safety and inspected production establishments.

2. In case a food product does not satisfy food quality and safety requirements as prescribed, the inspection team shall require the production establishment to remedy the product's inconformities within the time limit stated in the inspection record.

3. In case a production establishment fails to remedy the inconformities stated in the record of the previous inspection, the inspection team shall notify such to the provincial-level Industry and Trade Department of the locality in which the establishment is based and the competent food safety management agency for supervision and handling.

4. In case a production establishment again violates regulations on assurance of food safety in the production process or fails to remedy its violations as required in the inspection record, the inspection team shall propose in writing the competent food safety management agency to handle the establishment in accordance with law.

Article 12. Funds for inspection and testing

1. Funds for food quality and safety inspection of production establishments come from:

a/ Annual state budget expenditures according to current law:

b/ Other lawful funding sources.

2. Funds for taking and testing food samples complies with Articles 41 and 58 of the Law on Product and Goods Quality, Article 48 of the Law on Food Safety and other laws.

Chapter III

RESPONSIBILITIES AND POWERS OF INSPECTION AGENCIES, INSPECTION TEAMS AND RELATED ORGANIZATIONS AND INDIVIDUALS

Article 13. Responsibilities and powers of inspection agencies

Food quality and safety inspection agencies have the following responsibilities and powers:

1. To elaborate annual plans on food quality and safety inspection for submission to competent agencies for approval.

2. To decide on the formation of inspection teams to conduct planned regular inspection or irregular inspection.

3. To issue a handling decision within 3 working days after receiving an inspection team's report on suspension of production or business activities, sealing of food or suspension of advertising of unsafe food.

4. To handle violations detected through food quality and safety inspection according to Article 30 of the Law on Product and Goods Quality and related laws.

5. To notify production establishments of inspection results and relevant conclusions.

6. To settle complaints and denunciations about decisions of inspection teams or acts committed by inspection team members in accordance with the law on complaints and denunciations.

Article 14. Responsibilities and powers of inspection teams

When conducting food quality and safety inspection, an inspection team has the following responsibilities and powers:

1. To conduct food quality and safety inspection of production establishments in accordance with its formation decision approved by a competent authority.

2. To comply with law and adhere to the inspection principles specified in Article 4 of this Circular.

3. To summarize and report on food quality and safety inspection and inspection results to the provincial-level People's Committee, the Ministry of Industry and Trade and the competent food quality and safety management agency.

4. When necessary, to request the inspected production establishment to produce relevant documents.

5. To request the establishment producing food ineligible for food quality and safety to take remedies.

6. To take samples for testing when necessary.

Article 15. Responsibilities and powers of production establishments

1. To coordinate with inspection teams and inspection agencies in the course of food quality and safety inspection at the establishments.

2. To open and manage books to monitor and fully record matters related to food quality and safety at the establishments.

3. To preserve at the establishments and provide documents, technological processes and equipment related to inspected products in accordance with Articles 9 and 10 of this Circular.

4. To abide by food quality and safety inspection activities of inspection agencies and violation handling decisions of competent agencies.

5. To report on:

a/ The remedy of the ineligibility for food quality and safety in the production process to food quality and safety inspection agencies and provincial-level Industry and Trade Departments of the localities in which they are based according to Appendix V to this Circular, *not translated*;

b/ The observance of the law on assurance of food quality and safety upon request of competent agencies according to Appendix VI to this Circular, *not translated*.

6. To maintain food quality and safety assurance conditions in accordance with law.

7. To remedy the inconformities stated in inspection records as required by inspection agencies and inspection teams.

8. To complain about inspection teams' conclusions in accordance with law.

Chapter IV

IMPLEMENTATION PROVISIONS

Article 16. Effect

1. This Circular takes effect on February 20, 2013.

2. The Ministry of Industry and Trade's Circular No. 47/2010/TT-BCT of December 31, 2010, providing in-process inspection of food quality, hygiene and safety under the management of the Ministry of Industry and Trade, ceases to be effective on the effective date of this Circular.

Article 17. Organization of implementation

1. The Light Industry Department of the Ministry of Industry and Trade shall assume the prime responsibility for, and coordinate with related units in, inspecting production establishments referred to in Appendix VII to this Circular.

2. Provincial-level Industry and Trade Departments shall inspect production establishments other than those referred to in Appendix VII to this Circular in their localities and production establishments referred to in Clause 1 of this Circular as authorized by the Ministry of Industry and Trade.

3. The Light Industry Department and provincial-level Industry and Trade Departments shall receive and summarize reports on problems arising in the course of implementation of this Circular for reporting to the Minister of Industry and Trade for

consideration and amendment.-

*For the Minister of
 Industry and Trade*
 Deputy Minister
 NGUYEN NAM HAI

Appendix VII

**LIST OF PRODUCTION ESTABLISHMENTS
 SUBJECT TO FOOD QUALITY AND SAFETY INSPECTION BY
 THE MINISTRY OF INDUSTRY AND TRADE**

*(To the Minister of Industry and Trade's Circular No. 45/2012/TT-BCT of
 December 28, 2012)*

No.	Product	Scope
1	Liquor	Designed capacity of 3,000,000 liters of product/year or higher
2	Beer	Designed capacity of 50,000,000 liters of product/year or higher
3	Soft drink	Designed capacity of 20,000,000 liters of product/year or higher
4	Processed milk	Designed capacity of 20,000,000 liters of product/year or higher
5	Vegetable oil	Designed capacity of 50,000 tons of product/year or higher
6	Confectionery and jam	Designed capacity of 20,000 tons of product/year or higher
7	Processed flour and starch products	Designed capacity of 100,000 tons of product/year or higher
8	Packaging tools and packages and containers of above-mentioned products	