

**THE MINISTRY OF
INDUSTRY AND TRADE**

THE SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom - Happiness

No. 58/2014/TT-BCT

Hanoi, December 22, 2014

CIRCULAR

Providing the grant and revocation of certificates of food safety eligibility for establishments managed by the Ministry of Industry and Trade^(*)

Pursuant to June 17, 2010 Law No. 55/2010/QH12 on Food Safety;

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;

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 Joint Circular No. 13/2014/TTLT-BYT-BNNPTNT-BCT of April 9, 2014, of the Minister of Health, the Minister of Agriculture and Rural Development and the Minister of Industry and Trade, guiding assignment and coordination in state management of food safety;

At the proposal of the Director of the Department of Science and Technology;

The Minister of Industry and Trade promulgates the Circular providing the grant and revocation of certificates of food safety eligibility for establishments managed by the Ministry of Industry and Trade.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Circular provides dossiers, procedures and competence to grant and revoke certificates of food safety eligibility (below referred to as certificates) for food production and trading establishments managed by the Ministry of Industry and Trade; and general food trading establishments (below referred to as establishments).

Article 2. Subjects of application

1. Food production and trading establishments managed by the Ministry of Industry and Trade, including establishments producing or trading in liquor, beer, beverages, processed milk, vegetable oil, products processed from flour and starch, and confectionery, and integral packaging tools and materials that are exclusively used for the above food products.

2. General food trading establishments, excluding wholesale marketplaces and farm-produce auction marketplaces.

^(*) *Công Báo Nos 241-242 (15/2/2015)*

3. This Circular does not apply to:

a/ Small-scale food production and trading establishments;

b/ Street vendors;

c/ Establishments trading in prepackaged food which do not require special preservation conditions under regulations.

The subjects defined in this Clause shall register or commit to safety assurance for food production and trading with/to decentralized local competent agencies in accordance with the Law on Food Safety.

Article 3. Interpretation of terms

1. Small-scale food production and trading establishment means an establishment which is registered as a business household by an individual, a group of individuals or a household and not granted a business registration certificate, enterprise registration certificate or investment certificate as prescribed by law.

2. Street vendor means a food trader having no fixed place for trading.

3. General food trading establishment (including also supermarkets and trading establishments in a marketplace) means an establishment that trades in various food products subject to the management of 2 (two) ministries or more.

4. Special preservation conditions for food means the use of equipment and tools to maintain temperature, moisture, light and other conditions as required by producers for food quality and safety assurance.

5. Food safety specialist means a person who has been trained in food, food safety or food safety management discipline and possesses a diploma or certificate in such discipline, granted by a specialized university or certification organization designated by a competent state agency.

Chapter II

PROCEDURES FOR GRANT AND REVOCATION OF CERTIFICATES OF FOOD SAFETY ELIGIBILITY FOR ESTABLISHMENTS

Article 4. Dossier of application for a certificate

1. First-time grant

a/ An application for a certificate, made according to Form No. 1a (for production establishments) or Form No. 1b (for trading establishments) provided in Appendix I to this Circular;

b/ A business registration certificate, enterprise registration certificate or investment certificate stating the line of food production or trading (copy certified by the establishment);

c/ An explanatory report on physical foundations, made according to Form No. 2a (for production establishments) or Form No. 2b (for trading establishments) provided in Appendix II to this Circular;

d/ Certificates of food safety knowledge of the establishment's owner and persons directly engaged in food production or trading (copies certified by the establishment);

dd/ Health certificates of the establishment's owner and persons directly engaged in food production or trading (copies certified by the establishment).

2. Re-grant of a lost or damaged certificate

To submit an application for re-grant of a certificate, made according to Form No. 1c provided in Appendix I to this Circular, to the competent agency that has granted the certificate for considering the re-grant.

3. Re-grant of a certificate in case of relocation of the production and trading establishment; change or addition of production processes or products; or expiry of the certificate

An application for re-grant of a certificate shall be made according to Form No. 1c provided in Appendix I to this Circular;

A dossier for re-grant of a certificate must comply with Points b, c, d, dd, Clause 1 of this Article.

4. Re-grant of a certificate in case of change of the establishment's name, owner or authorized person or address without changing its geographical position, production process or products

a/ An application for re-grant of a certificate shall be made according to Form No. 1c provided in Appendix I to this Circular;

b/ The granted certificate of food safety eligibility for the establishment (copy certified by the establishment);

c/ Documents proving the changes (copies certified by competent agencies).

Article 5. Order and procedures for grant of certificates

Competent agencies specified in Article 6 of this Circular shall receive, and check the validity of, dossiers, conduct evaluation at establishments and grant certificates to establishments that fully meet food safety conditions. The order and procedures for grant of a certificate are as follows:

1. First-time grant

a/ Receipt and check of the validity of dossiers

Within 5 (five) working days after receiving a dossier, a competent agency shall check the validity of such dossier. For an invalid dossier, the competent agency shall notify such in writing to the applicant for dossier supplementation. Pass 30 (thirty) working days after sending the notification, if the applicant fails to supplement the dossier, the agency competent to grant certificates may cancel the dossier.

b/ Formation of an evaluation team at the establishment

Within 15 (fifteen) working days after checking the dossier and seeing that the dossier is complete and valid, a competent agency shall conduct an evaluation at the establishment. If wishing to authorize a subordinate competent agency to conduct an evaluation at the establishment, a superior competent agency shall make a written authorization. After evaluation, the subordinate competent agency shall send evaluation results to the superior competent agency for use as a basis for the grant of a certificate;

A team for conducting evaluation at an establishment shall be formed under a decision

of an agency competent to grant certificates or an agency authorized to conduct evaluation. The evaluation team shall be composed of between 3 (three) and 5 (five) members, at least 2/3 (two-thirds) of whom are those engaged in food safety specialization or management (independent experts in relevant disciplines may be invited to join the evaluation team). The head of the evaluation team shall take responsibility for the results of evaluation at the establishment.

c/ Contents of evaluation at establishments

To compare information and check the legality of dossiers of application for certificates submitted to the competent agency against the original dossiers kept at establishments.

To evaluate food safety conditions at establishments under regulations.

d/ Results of evaluation at establishments

The criterion “Pass”, “Failure” or “Pending dossier completion” must be stated in the written record of evaluation of food safety conditions for food production establishments, made according to Form No. 3a, or in the written record of evaluation of food safety conditions for food trading establishments, made according to Form No. 3b, provided in Appendix III to this Circular;

A general food trading establishment may be granted a certificate when the trading conditions for at least one group of products have been evaluated as “Pass”. The groups of products meeting the prescribed requirements shall be indicated in the certificate of the establishment’s food safety eligibility;

In case of “Failure” or “Pending dossier completion”, the reasons shall be clearly stated in the evaluation record. In case of “Pending dossier completion”, the time limit for completion is 60 (sixty) days. After making the completion as required by the evaluation team, the establishment shall submit a report on the results of such completion, made according to Form No. 4 provided in Appendix IV to this Circular, to a competent agency for re-evaluation under Point c of this Clause. The time limit for re-evaluation is 15 (fifty) working days after the competent agency receives the report;

If re-evaluation results still show “Failure”, the competent agency shall inform such in writing to a local management agency for supervision, and request the establishment to suspend operation until the certificate is granted;

An evaluation record must be made in 2 (two) copies of the same validity, 1 (one) to be kept by the evaluation team and 1 (one) kept by the establishment.

dd/ Grant of certificates

Within 7 (seven) working days after obtaining evaluation results as “Pass”, a competent agency shall grant a certificate to the establishment, made according to Form No. 5a (for production establishments evaluated by the Ministry of Industry and Trade), Form No. 5b (for trading establishments evaluated by the Ministry of Industry and Trade), Form No. 5c (for production establishments evaluated by provincial-level Industry and Trade Departments), or Form No. 5d (for trading establishments evaluated by provincial-level Industry and Trade Departments) provided in Appendix V to this Circular.

2. Re-grant of a certificate which is lost or damaged

Within 10 (ten) working days after receiving a valid application, based on the preserved dossier, the competent agency that has granted a certificate shall consider and re-grant a certificate to the establishment, or clearly state the reason in writing in case of refusal to re-grant the certificate.

3. Re-grant of a certificate in case of relocation of the production and trading establishment; change or addition of production processes or products; or expiry of certificates

The order and procedures for re-grant of a certificate must comply with Clause 1 of this Article.

4. Re-grant of a certificate in case of change of the establishment's name, owner or authorized person or address without changing its geographical position, production processes or products

The order and procedures for re-grant of a certificate must comply with Clause 2 of this Article.

Chapter III

VALIDITY OF, AND COMPETENCE TO GRANT AND REVOKE, CERTIFICATES OF FOOD SAFETY ELIGIBILITY FOR ESTABLISHMENTS

Article 6. Competence to grant certificates

1. The Ministry of Industry and Trade may grant certificates to:

a/ Establishments producing food products with an annual designed capacity of:

- At least 3 million liters, for liquor;
- At least 50 million liters, for beer;
- At least 20 million liters, for beverages;
- At least 20 million liters, for processed milk;
- At least 50,000 tons, for vegetable oil;
- At least 20,000 tons, for confectionary;
- At least 100,000 tons, for flour and starch;
- Integral packaging tools and materials exclusively used for the above food products.

b/ Food trading establishments under production establishments with a designed capacity specified at Point a of this Clause; and establishments trading in foods (including general foods) of distributors or wholesale traders or agents operating in 2 (two) provinces or centrally run cities or more.

2. Provincial-level Industry and Trade Departments may grant certificates to:

a/ Food production establishments with a designed capacity smaller than that of the establishments specified at Point a, Clause 1 of this Article;

b/ Establishments trading in food (including general food) of wholesale traders or agents operating in 1 (one) province or centrally run city; and food retailers in such province or city.

3. For production and trading establishments based in the same locality and falling within the certificate-granting competence of both the Ministry of Industry and Trade and the

provincial-level Industry and Trade Department of such locality, the Ministry of Industry and Trade shall process dossiers and grant certificates under regulations.

Article 7. Validity duration of certificates

1. A certificate is valid for 3 (three) years. At least 6 (six) months before the expiry date of a certificate, a food producer or trader that wishes to continue its production or trading shall submit a dossier for re-grant of a certificate according to Clause 3, Article 4 of this Circular. The validity duration of a new certificate shall be counted from the expiry date of the old certificate.

2. The validity duration of a certificate re-granted under Clause 2 or 4, Article 5 of this Circular is the same as that of the old certificate.

3. A certificate re-granted under Clause 3, Article 5 of this Circular is valid for 3 (three) years from the date of its signing.

Article 8. Examination after grant of certificates

1. The agencies competent to grant certificates defined in Article 6 of this Circular and competent functional agencies shall conduct examination after granting the certificates.

2. A superior competent agency may examine establishments possessing certificates granted by its subordinate competent agency.

3. Inspection shall be conducted no more than once per year for establishments possessing certificates of food safety eligibility and GMP, HACCP or ISO 22000 certificates or equivalent granted by competent agencies or organizations.

4. Inspection shall be conducted no more than 2 (two) times per year for establishments possessing certificates of food safety eligibility granted by competent agencies.

Article 9. Revocation of certificates

1. The revocation of certificates must comply with 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.

2. Competence to revoke certificates

a/ An agencies that has granted a certificate may revoke such certificate.

b/ A superior competent agency may revoke certificates granted by its subordinate competent agency.

Chapter IV

RESPONSIBILITIES OF RELATED PARTIES

Article 10. Responsibilities of certificate applicants

1. To comply with the order and procedures for grant of certificates provided in this Circular.

2. To create favorable conditions for evaluation teams to conduct evaluation at establishments.

3. To preserve dossiers of application for certificates under regulations.

4. To pay charges for evaluation and fees for grant of certificates in accordance with the law on charges and fees.

Article 11. Responsibilities of agencies competent to grant certificates

1. To grant certificates according to the order and procedures provided in this Circular.
2. To preserve dossiers of application for certificates under regulations.
3. To coordinate with related agencies in conducting inspection and examination and revoking certificates when receiving a complaint or denunciation or detecting a sign of violation of law-prescribed food safety conditions .
4. To manage charges and fees in accordance with law.

Chapter V

IMPLEMENTATION PROVISIONS

Article 12. Organization of implementation

1. For the Ministry of Industry and Trade:

a/ The Department of Science and Technology shall receive, and check the validity of, dossiers, conduct evaluation at establishments and propose the leaders of the Ministry of Industry and Trade to consider granting certificates to production establishments or production and trading establishments based in the same locality as specified at Point a, Clause 1, Article 6 of this Circular; and guide the implementation of this Circular nationwide;

b/ The Department of Domestic Market shall receive, and check the validity of, dossiers, conduct evaluation at establishments and propose the leaders of the Ministry of Industry and Trade to consider granting certificates to trading establishments specified at Point b, Clause 1, Article 6 of this Circular; and food production and trading establishments based in the same locality that are engaged in trading activities falling within the certificate-granting competence of the Ministry of Industry and Trade and production activities falling within the certificate-granting competence of provincial-level Industry of Trade Departments.

2. Provincial-level Industry and Trade Departments shall guide the implementation of this Circular in their localities; and submit proposals to provincial-level People's Committees for decentralization of food safety management for the production and trading establishments specified in Clause 3, Article 2 of this Circular.

Article 13. Effect

1. This Circular takes effect on February 6, 2015.

2. This Circular replaces the Minister of Industry and Trade's Circular No. 29/2012/TT-BCT of October 5, 2012, providing the grant and revocation of certificates of food safety eligibility for establishments managed by the Ministry of Industry and Trade.

3. Any problems arising in the course of implementation should be promptly reported to the Ministry of Industry and Trade for consideration and settlement.-

For the Minister of Industry and Trade

Deputy Minister
CAO QUOC HUNG

** All appendices to this Circular are not translated.-*